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

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 530 and 575

RIN: 3206–AK81

Recruitment, Relocation, and Retention Incentives

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management is issuing final regulations on recruitment, relocation, and retention incentives. The final regulations revise the interim regulations by making a number of technical modifications, corrections, and clarifications. The final regulations continue to provide agencies with additional flexibility to help recruit and retain Federal employees and better meet agency strategic human capital needs.

DATES: *Effective Date:* January 2, 2008.

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

SUPPLEMENTARY INFORMATION: On May 13, 2005, the Office of Personnel Management (OPM) published interim regulations (70 FR 25732) to implement section 101 of the Federal Workforce Flexibility Act of 2004 (Pub. L. 108–411, October 30, 2004). Section 101 amended 5 U.S.C. 5753 and 5754 by providing a new authority to make recruitment, relocation, and retention payments. The amended law replaced the former recruitment and relocation bonus and retention allowance authority provided by 5 U.S.C. 5753 and 5754. The 60-day comment period for the interim regulations ended July 12, 2005.

During the comment period, we received comments from eight agencies, one employee organization, and eight individuals. A number of the commenters stated they are pleased with the flexibilities provided by the interim regulations. They believe the enhanced recruitment, relocation, and retention incentive (3Rs) authorities will allow agencies to be more competitive with the private sector and assist in recruiting and retaining highly qualified employees and candidates. The commenters support the approach taken by OPM to provide agencies with maximum flexibility and discretion to craft plans for administering the incentives to best meet their needs.

The Supplementary Information for the interim regulations posed a number of questions about whether the 3Rs regulations should provide agencies with the authority to pay recruitment incentives to help recruit current employees (as authorized by 5 U.S.C. 5753(b) under conditions that would be described in OPM regulations) and to pay retention incentives to help retain employees likely to leave for a different Federal position (as authorized by 5 U.S.C. 5754(b) under conditions that would be described in OPM regulations) and, if so, under what circumstances.

The comments we received in response to these questions are not addressed in these final regulations, but will be addressed in a future **Federal Register** notice. This **Federal Register** notice addresses the remaining comments and makes a number of technical revisions and clarifications in the 3Rs regulations, which are summarized below.

Comments Applicable to Recruitment, Relocation, and Retention Incentives

Definition of Basic Pay (§§ 530.202, 575.102, 575.202, and 575.302)

An individual expressed confusion about the definition of *basic pay* in the aggregate limitation on pay regulations at § 530.202 and the definition of *rate of basic pay* in the recruitment, relocation, and retention incentive regulations at §§ 575.102, 575.202, and 575.302, respectively. The commenter questioned why the terms themselves are different and why they are defined differently.

Similar terms may be used and defined in different ways in title 5, Code of Federal Regulations, depending on the purpose of the term and statutory requirements. Differences in the term *basic pay* for the purpose of the aggregate limitation on pay and the term *rate of basic pay* for the purpose of the 3Rs are necessary based on how each term is used in its respective subpart of the regulations. Each term must be read only within the context of the subpart of the regulation in which it is defined. In the aggregate limitation on pay regulations, an employee's *basic pay* is added to certain other payments authorized under title 5, United States Code, to determine whether the employee's total pay has reached the aggregate limitation on pay in the calendar year. In the 3Rs regulations, an employee's *rate of basic pay* is used to compute recruitment and relocation incentive payment limits and retention incentive payments.

Eligible Categories of Employees (§§ 575.103, 575.203, and 575.303)

An agency questioned whether employees under administratively determined (AD) pay systems are covered by the 3Rs authorities. The agency wanted to ensure that AD employees are covered.

OPM has not regulated that all AD positions are eligible for recruitment, relocation, and retention incentives. Under 5 U.S.C. 5753(a)(1)(B) and 5754(a)(1)(B), OPM may approve coverage of a category of non-General Schedule (non-GS) employees under the 3Rs authorities at the request of the head of an Executive agency. When we issued the interim regulations implementing the new authorities, OPM approved those categories of non-GS employees that were previously covered under the former recruitment and relocation bonus and retention allowance authorities for coverage under the new authorities, except when such categories are excluded by law (5 U.S.C. 5753(a)(2) and 5754(a)(2)) or regulation (§§ 575.104, 575.204, and 575.304). (See CPM 2005–08 on OPM's Web site at *http://www.opm.gov/oca* for additional information and a list of approved single-agency categories of employees.) If a category of AD employees (or other employee category) is not already approved for coverage, the head of an Executive agency may request OPM approval for coverage of such employees. The coverage of each category of AD positions requires separate OPM approval.

The same agency noted the regulations at §§ 575.103, 575.203, and

575.303 cover employees in a position under the Executive Schedule paid under 5 U.S.C. 5311–5317. The agency stated Executive Schedule positions are filled using presidential appointments and such appointments are excluded from coverage under §§ 575.104, 575.204, and 575.304. The agency commented that the regulations appear to be contradictory and suggested the coverage of Executive Schedule positions be restated or clarified.

We agree most Executive Schedule positions are filled using presidential appointments and, thus, employees appointed to such positions would not be eligible for 3Rs payments under §§ 575.104, 575.204, and 575.304. However, we are retaining the provision in §§ 575.103, 575.203, and 575.303 stating employees appointed to or in Executive Schedule positions are eligible for 3Rs payments to ensure that an employee in an Executive Schedule position that is not otherwise excluded by § 575.104, 575.204, and 575.304 (*e.g.*, not a presidential appointee) remains eligible for such payments.

Another agency asked for clarification on whether employees of nonappropriated fund instrumentalities (NAFI) are eligible for recruitment, relocation, and retention incentives. We have not made a change to the regulations in response to this comment. An employee in a NAFI position meeting the definition of a prevailing rate position in 5 U.S.C. 5342(a)(3) is eligible for recruitment, relocation, and retention incentives, as long as the position is not otherwise excluded by §§ 575.104, 575.204, and 575.304. (See §§ 575.103(f), 575.203(f), and 575.303(f).) As of the date of publication of these final regulations in the **Federal Register**, all other categories of NAFI positions (*e.g.*, ''white collar'' NAFI positions) are ineligible for 3Rs payments. However, because a NAFI employee is covered by the definition of employee in 5 U.S.C. 5753(a)(3) and 5754(a)(3) and §§ 575.102, 575.202, and 575.302 of the regulations, OPM may extend coverage of the 3Rs authorities to currently excluded categories of NAFI employees upon request of the head of an Executive agency.

Finally, we are revising the introductory text in §§ 575.103, 575.203, and 575.303 to clarify that only an *Executive agency* (as defined in §§ 575.102, 575.202, and 575.302) may pay recruitment, relocation, and retention incentives to the categories of non-GS employees listed in those sections. (See 5 U.S.C. 5753(a)(1)(B) and 5754(a)(1)(B).) These sections continue to provide that an agency in the executive branch or legislative branch may pay recruitment, relocation, and retention incentives to GS employees. (See the definition of agency in §§ 575.102, 575.202, and 575.302.)

Payment Approval Levels (§§ 575.107, 575.207, and 575.307)

An individual questioned whether the authority to approve 3Rs requests could be delegated to the immediate supervisor of the employee receiving the 3Rs incentive provided the supervisor is the head of a departmental element who reports to the head of an agency and the employee receiving the incentive is not a member of the Senior Executive Service. The commenter noted the second-level supervisory or managerial approval requirement seems contrary to OPM's intent to expeditiously hire and retain the best and brightest and stated ''this new requirement will actually slow the process and hamper efforts to review and approve 3R incentives in a timely manner.''

We understand the need for streamlined and efficient agency approvals of 3Rs incentives. However, this need must be balanced with an appropriate and judicious use of the authorities. We note that the second-level supervisory or management approval of 3Rs incentives is not a new requirement-*i.e.*, it was required by the regulations for the former recruitment and relocation bonus and retention allowance authorities and was carried over into the new regulations. Since no additional approval levels have been added, we foresee no slowing of the approval process because of the new regulations.

We note that several provisions in the regulations make it possible to approve incentives without a second-level supervisory or managerial review. For example, the regulations at § 575.107(b)(2) allow an agency to establish criteria in advance so an employment candidate's supervisor or equivalent-level official may offer a recruitment incentive within a pre-established range without further review or approval. Also, the relocation incentive regulations at § 575.207(b)(2) do not require higher-level approval when approving coverage of individual employees under a previously approved group relocation incentive authorization under § 575.208(b). Finally, under § 575.307(b)(2), second-level supervisory or managerial approval is not required when approving coverage of individual employees under a previously approved group retention incentive authorization.

In addition, agencies have considerable discretion when they craft their 3Rs plans to decide which officials will have approval authority for these incentives. (See §§ 575.107(a)(1), 575.207(a)(1), and 575.307(a)(1).) If agencies require very high-level reviews for these incentives, the approval process may become slow and unwieldy. However, this is a matter that must be decided at the agency level.

Paying Recruitment, Relocation, and Retention Incentives Concurrently (§§ 575.109, 575.209, and 575.309)

Two agencies requested the regulations specify whether the service agreement periods for more than one type of incentive should be served concurrently or sequentially. Another agency pointed out the regulations do not address the ability to offer a recruitment incentive followed by a relocation incentive and suggested the explanation of the order of and the basis for offering multiple incentives be described more thoroughly in each respective section under §§ 575.109, 575.209, and 575.309.

We agree that the regulations should clarify these issues. The interim retention incentive regulations at § 575.309(g) provided an agency may not commence a retention incentive service agreement (or begin paying a retention incentive without a service agreement) during a period of employment established under a service agreement required for the payment of a recruitment incentive or a relocation incentive. After a retention incentive service agreement has commenced (or retention incentive payments without a service agreement have commenced), the retention incentive regulations allowed an agency to pay a relocation incentive without affecting the payment of an existing retention incentive. However, the interim recruitment and relocation incentive regulations were silent on paying recruitment, relocation, and retention incentives concurrently and whether employees should serve multiple 3Rs service agreements concurrently or sequentially.

These final regulations provide the following rules regarding concurrent recruitment, relocation, and retention incentive payments:

- New § 575.105(c) provides that an agency may not commence a recruitment incentive service agreement during (1) a period of employment established under a service agreement required for a relocation incentive, or (2) during a period of employment established under a service agreement for a previously authorized retention incentive or for which an employee is receiving a previously authorized retention incentive without a service agreement.

• New § 575.205(d) provides that an agency may not commence a relocation incentive service agreement during (1) a period of employment established under any service agreement required for a recruitment incentive, or (2) a period of employment established under any service agreement required for a previously authorized relocation incentive.

• New § 575.205(e) provides that an agency may commence a relocation incentive service agreement during a period of employment established under a service agreement for a previously authorized retention incentive or for which an employee is receiving previously authorized retention incentive payments without a service agreement. (This provision was formerly in § 575.309(g).) This new paragraph also clarifies that the service period under two such service agreements must run concurrently.

• Revised § 575.309(g) provides that an agency may not commence a retention incentive service agreement (or begin paying a retention incentive without a service agreement) during (1) a period of employment established under any service agreement required for payment of a recruitment incentive or a relocation incentive or (2) a period of employment established under a service agreement for a previously authorized retention incentive or for which an employee is receiving a previously authorized retention incentive without a service agreement.

Except as provided in § 575.205(e), these regulatory changes prohibit the simultaneous payment of multiple incentives and prohibit concurrent 3Rs service agreements. However, the recruitment, relocation, and retention incentive authorities provide substantial flexibility to make sizable incentive payments in situations in which offering multiple incentives may otherwise be attractive. For example, if an employee fulfilling a recruitment incentive service agreement is relocated to a different geographic area in a difficult to fill position, the regulations provide the agency the flexibility to terminate the recruitment incentive service agreement under § 575.111(a) and authorize a relocation incentive under 5 CFR part 575, subpart B, in its place. In this case, the employee would not be disadvantaged because under § 575.111(e), the employee would be entitled to all recruitment incentive payments attributable to completed service and to retain any portion of a recruitment incentive payment already received that is attributable to uncompleted service. The agency could consider any remaining recruitment incentive payments and time remaining under the recruitment incentive service agreement in determining the amount of the relocation incentive and length of the relocation incentive service agreement.

Similarly, if an employee receiving a group retention incentive under § 575.305(b) is still likely to leave Federal service and has unusually high or unique qualifications that are not adequately covered by the group retention incentive authorization, the agency could terminate the group retention incentive under § 575.311(a) for the individual employee and authorize an individual retention incentive under § 575.305(a) for the employee. The agency could consider the amount of the group retention incentive and time remaining under the group retention incentive service agreement, if any, in determining the amount of the new retention incentive and length of any new retention incentive service agreement.

Definition of ''Fully Successful'' (§§ 575.110(d), 575.111(b), 575.205(c), 575.210(d), 575.211(b), 575.305(d), 575.306(c)(2), 575.310(d), 575.311(b), and 575.311(f)(5)(ii))

An agency requested clarification of the definition of ''fully succeed'' [sic] due to variances in Federal performance ratings. The agency questioned whether the intent is to limit the payment of recruitment incentives to only those employees whose rating of record is at the highest level under the applicable performance appraisal system and recommended that employees at least one level below the highest level be eligible, so as to accommodate the ratings of new hires.

Because recruitment incentives may be paid only to newly-appointed Federal employees (or former employees with a 90-day break in service), the regulations do not require an employee to have a ''Fully Successful'' or higher rating of record to receive a recruitment incentive. However, the regulations at §§ 575.205(c) and 575.305(d) provide that a relocation and retention incentive may be paid to an employee only when the employee's rating of record (or official performance appraisal or evaluation under a system not covered by 5 U.S.C. chapter 43 or 5 CFR part 430) is at least ''Fully Successful'' or equivalent. In addition, the regulations at §§ 575.110(d), 575.111(b), 575.210(d), 575.211(d), 575.310(d), 575.311(b), and 575.311(f)(5)(ii) require agencies to terminate 3Rs service agreements and retention incentive payments when no service agreement is required if the employee receives a rating of record of less than ''Fully Successful'' or equivalent. We note ''Fully Successful'' is not intended to refer to a rating of record that is the highest level under an applicable performance appraisal system, unless the performance appraisal system is a pass-fail system.

Repayment Waivers (§§ 575.111(g) and 575.211(g))

Sections 575.111(g) and 575.211(g) of the interim regulations provided that the head of an agency may use the authority in 5 U.S.C. 5584 to waive a debt resulting from an employee's failure to reimburse the agency for the full amount of a recruitment or relocation incentive repayment requirement when the employee fails to fulfill a required service period. An individual commented that OPM appears to have the authority to permit agencies to waive repayment of recruitment and relocation incentives without reliance on 5 U.S.C. 5584 because 5 U.S.C. 5753(g) permits OPM to promulgate ''regulations relating to repayment of a bonus under this section under appropriate circumstances when the agreed upon service period has not been completed.'' The commenter also noted such waivers should not be routine, but circumstances are likely to arise under which repayment of unliquidated amounts would constitute an undue hardship, such as for unforeseen and compelling personal reasons.

We agree that it is appropriate for OPM to use its regulatory authority at 5 U.S.C. 5753(g) to provide agencies with the authority to waive the requirement to repay recruitment or relocation incentive payments attributable to uncompleted service when a service agreement is terminated under §§ 575.111(b) and 575.211(b), rather than relying on the agency's authority to waive recovery of an erroneous payment under 5 U.S.C. 5584. We are revising the regulations at §§ 575.111(g) and 575.211(g) to remove the reference to an agency's authority to waive a debt under 5 U.S.C. 5584. We also are adding new paragraphs §§ 575.111(h) and 575.211(h) to provide an authorized agency official with the authority to waive the requirement for an employee to repay recruitment or relocation incentive payments attributable to uncompleted service under §§ 575.111(f) and 575.211(f) when collection of the excess payments from the employee would be against equity and good conscience and not in the best interests of the United States. Agencies should ensure such waiver authority is used judiciously. (See also the conforming changes in §§ 575.107(a)(1) and 575.207(a)(1).)

Agencies continue to have the authority under 5 U.S.C. 5584 to waive recovery of recruitment or relocation incentives or other pay or allowances that are paid erroneously.

Reporting Requirements (§§ 575.113, 575.213, and 575.313)

An agency requested the **SUPPLEMENTARY INFORMATION** or final regulations clarify that the Department of Defense (DOD) and United States Coast Guard (USCG) are not expected to report incentives paid to prevailing rate employees from non-appropriated funds in its submission for OPM's report to Congress. The agency stated, although NAFI prevailing NAFI rate employees are included in the definition of *employee* and in the eligible categories of employees for each type of incentive, a 3Rs payment paid to those employees is paid out of funds not appropriated by Congress.

We do not agree. Incentives paid from non-appropriated funds should be included in the annual report to OPM required by §§ 575.113(b), 575.213(b) and 575.313(b). The congressional reporting requirement in section 101(c) of the Federal Workforce Flexibility Act of 2004 does not make a distinction between appropriated and non-appropriated fund positions. Agencies should report required 3Rs data and information for both types of employees.

Comments Applicable to Recruitment Incentives

Definition of ''Newly Appointed'' (§ 575.102)

An agency asked for clarification on whether the regulations permit the payment of recruitment incentives to employees moving from either prevailing rate or white-collar NAFI positions to positions covered by the recruitment incentive regulations (e.g., GS). Under 5 U.S.C. 5753(b)(2)(A), a recruitment incentive may be paid to an employee ''newly appointed as an employee of the Federal Government.'' *Newly appointed* is defined in § 575.102 as referring to (1) the first appointment as an employee of the Federal Government, (2) an appointment of a former employee of the Federal Government following a 90-day break-in-service, or (3) an appointment as an employee of the Federal Government when the employee's Federal service during the 90-day period immediately preceding the appointment was limited to certain types of employment (e.g., a time-limited appointment).

Under the interim regulations, certain categories of NAFI employees in DOD and USCG were considered *newly appointed* and eligible to receive a recruitment incentive under the conditions prescribed in 5 CFR part 575, subpart A, when moving to a position listed in § 575.103 (i.e., NAFI employees who moved to a position in the same agency after more than a 3-day break in service and NAFI employees who moved to a position in a different agency with or without a break in service). Such NAFI employees did not need the 90-day break in service required by paragraph (2) of the definition of *newly appointed* to receive a recruitment incentive. (See the exemptions in paragraphs (3)(iv) and (v) of that definition in the interim regulations.)

Based on the definition of *employee* in § 575.102 and the definition of *employee* in 5 U.S.C. 5753(a)(3), both of which specifically include a DOD and USCG NAFI employee, as described in 5 U.S.C. 2105(c), we believe it would be more consistent to revise the definition of *newly appointed* in these final regulations to remove the special exemptions from the 90-day break-in-service requirement in paragraphs (3)(iv) and (v) of the definition of *newly appointed* for DOD and USCG NAFI employees. In other words, all DOD and USCG NAFI service will be considered Federal service in applying the 90-day break-in-service rule. DOD and USCG NAFI employees must have a 90-day break-in-service to be eligible for a recruitment incentive upon movement to a position listed in § 575.103 (unless one of the remaining exclusions in the definition of *newly appointed* applies).

Payment and Repayment Requirements (§ 575.111)

An agency recommended amending § 575.111(b) and (f) to state employees must repay recruitment incentive payments for any part of the service period in which they did not meet all of the terms of the service agreement; e.g., for periods of unsatisfactory performance. The same agency recommended the regulations require full repayment of a recruitment incentive if employment is terminated due to falsified employment documents or pre-employment conditions.

The regulations at § 575.111(b) require an agency to terminate a recruitment incentive service agreement when an employee receives a rating of record of less than ''Fully Successful'' or equivalent or when an employee otherwise fails to fulfill the terms of the service agreement. If an agency terminates a service agreement for such reasons, § 575.111(f) provides that the employee is entitled to keep any portion of recruitment incentive payments already received that are attributable to completed service; however, the employee is obligated to repay any recruitment incentive payments received attributable to uncompleted service. Under this section, if an employee has received recruitment incentive payments less than the amount attributable to completed service when the service agreement is terminated, the agency is not obligated to pay the employee the amount attributable to completed service, unless the agency agreed to such payment in the employee's service agreement. Agencies may want to consider not paying all of a recruitment incentive as an up-front, lump-sum payment in advance of the employee fulfilling a service period and, instead, paying all or part of a recruitment incentive after an employee successfully completes all or part of the service period.

We agree the regulations should require full repayment of a recruitment incentive if employment is terminated due to falsified employment documents or pre-employment conditions. We are adding a new paragraph (j) to § 575.111 to require an employee to repay all recruitment incentive payments if an agency terminates a service agreement when an employee is separated as a result of material false or inaccurate statements or deception or fraud in examination or appointment, or as a result of failing to meet employment qualifications.

An individual commented, if an applicant accepts an offer of employment along with a recruitment incentive, an agency should not be able to cancel the agreement (unless for poor performance) without paying out the full amount of the incentive (regardless of the installment plan). The individual stated if an applicant accepts a recruitment incentive offer in good faith, allowing the agency to terminate the service agreement without paying the full incentive seemed unfair.

We disagree. The regulations provide appropriate protections for an employee if the agency terminates a service agreement when the employee is not at fault. Section 575.111(e) provides that such an employee is entitled to receive recruitment incentive payments attributable to completed service and to keep any recruitment incentive payments already received for completed and uncompleted service. An agency should not be obligated to pay additional recruitment incentive payments for service that is not completed under a terminated service agreement.

An agency commented the recruitment incentive repayment

requirements are not consistent with the student loan repayment regulations which require full repayment if a service agreement is not completed. The student loan repayment program is based on a different statutory authority with different repayment requirements if the service agreement is not fulfilled. Under 5 U.S.C. 5379, an employee is obligated to reimburse the paying agency for the full amount of the student loan repayment benefits provided when the employee voluntarily separates from Federal service, or is separated involuntarily due to misconduct or poor performance, and does not complete the terms of the student loan repayment service agreement. There is no similar statutory requirement for recruitment incentives in 5 U.S.C. 5753. Under 5 U.S.C. 5753(c)(2), OPM has the authority to regulate the terms and conditions under which recruitment incentives are payable, including the conditions under which a service agreement may be terminated and the effect of the termination. Consistent with the former recruitment bonus authority, the recruitment incentive regulations at § 575.111 generally require a pro-rated repayment of incentive payments received that are attributable to uncompleted service if a service agreement is not fulfilled.

The same agency commented that § 575.111(f) is vague and stated clarification is needed on whether agencies have the discretion to define completed service as the duration of the service agreement. The agency questioned whether it may require full repayment if the employee fails to complete a service period or must the repayment amount be prorated based on the portion of the agreement served.

Under § 575.110(a), a service period is the period of employment that an employee agrees to fulfill in exchange for a recruitment incentive, as documented in the employee's service agreement. ''Completed service,'' as used in § 575.111, is the amount of time the employee has fulfilled under the service agreement, and ''uncompleted service'' is the amount of time the employee has not fulfilled under the service agreement. We are clarifying the recruitment and relocation incentive regulations by adding a new paragraph (i) to §§ 575.111 and 575.211 to provide that in determining the amount of recruitment and relocation incentive payments attributable to completed and uncompleted service, agencies must prorate the full amount of the authorized incentive payments across the length of the service period. (See the fact sheet at *http://www.opm.gov/oca/PAY/HTML/rectermcalc.asp* for additional information.)

Additional Changes

We are making the following additional changes to the recruitment incentive regulations to correct technical errors and make minor clarifications:

- Revising the definition of *employee* and replacing the definition of *employee of the Federal Government* with *Federal Government* in § 575.102 to eliminate redundancy and circular language regarding NAFI employees. These final regulations also revise paragraphs (2) and (3) in the definition of *newly appointed* in § 575.102 consistent with these new definitions.
- Revising paragraph (3)(i) of the definition of *newly appointed* in § 575.102 to clarify a ''nonpermanent appointment'' excludes a Schedule C appointment under 5 CFR part 213. An agency may not pay a recruitment incentive to an employee moving from a Schedule C appointment to a non-Schedule C appointment, unless the employee has a 90-day break in service.
- Adding employment under the Student Career Experience Program under 5 CFR 213.3202(b) as a new paragraph (3)(vi) in the definition of *newly appointed* in § 575.102. A similar provision was included in the former recruitment bonus regulations, but it was inadvertently left out of the interim recruitment incentive regulations.
- Adding an appointment as an expert or consultant under 5 U.S.C. 3109 and 5 CFR part 304 as a new paragraph (3)(iv) in the definition of *newly appointed* in § 575.102. Service under a temporary expert and consultant appointment is already not counted as Federal service in applying the 90-day break-in-service requirement in the existing definition of *newly appointed.* This addition will ensure that service under an intermittent ''expert and consultant'' appointment that is not a temporary appointment also is disregarded in applying the 90-day break-in-service requirement.
- Revising § 575.106(b)(1) to clarify a factor for determining when a position is likely to be difficult to fill is the availability and quality of candidates possessing the competencies required for the position, including the success of recent efforts to recruit candidates for ''the position or similar positions.'' The language in the interim regulations stated only the success of recent efforts to recruit candidates for ''similar positions.''
- Clarifying § 575.107(b)(1) to provide an authorized agency official must review and approve the recruitment incentive determination before paying the incentive to the employee.

Comments Applicable to Relocation Incentives

Definition of Temporary Relocation (§ 575.205(a)(2))

An agency commented that the Supplementary Information of the interim regulations stated that a relocation incentive may be paid for a temporary relocation. The agency suggested ''temporary relocation'' should be defined.

We do not agree. Section 575.205(a) provides an agency may pay a relocation incentive to an employee who must relocate to a different geographic area ''permanently or temporarily.'' Because there is no minimum length for a relocation incentive service agreement as there is for recruitment incentives, it is not necessary to define what is meant by ''temporary relocation.'' Note that under § 575.205(b) employees must establish a residence in the new geographic area before an agency may pay a relocation incentive to an employee, even when the employee is relocated to a different geographic area on a temporary basis.

Payment to Former NAFI Employees (§ 575.205(a))

An agency requested clarification of whether relocation incentives may be paid to DOD or USCG NAFI employees who move to appropriated fund positions. An agency may pay a relocation incentive to a white-collar or prevailing rate NAFI employee in a DOD or USCG NAFI position who moves without a break in service to an appropriated fund position that is eligible for relocation incentives under § 575.203 and that is in a different geographic area. Consistent with the definition of *employee* in 5 U.S.C. 5753(a)(3), *employee* is defined in § 575.202 to mean an employee as defined in 5 U.S.C. 2105 ''except that the term also includes an employee described in 5 U.S.C. 2105(c) * * *.'' Section 2105(c) of title 5, United States Code, covers DOD and USCG NAFI employees.

To help clarify this further, § 575.202 includes a revised definition of *employee* and replaces the definition of *employee of the Federal Government* with *Federal Government* to eliminate redundancy and circular language regarding NAFI employees. Also, we are revising § 575.205(a) to provide that an agency may pay a relocation incentive under the conditions in 5 CFR part 575, subpart B, to an *employee* (as that term is newly defined) who (1) relocates to a

different geographic area (temporarily or permanently) to accept a position listed in § 575.203 in an agency that is likely to be difficult to fill and (2) is an *employee* of the *Federal Government* (as those terms are newly defined) immediately before the relocation.

Additional Changes

We are making the following additional changes to the relocation incentive regulations to correct technical errors and make minor clarifications:

- Revising § 575.206(a)(4) to replace the term ''recruitment incentive'' with ''relocation incentive.''
- Revising § 575.206(b)(1) to clarify a factor for determining when a position is likely to be difficult to fill is the availability and quality of candidates possessing the competencies required for the position, including the success of recent efforts to recruit candidates for ''the position or similar positions.'' The language in the interim regulations stated only the success of recent efforts to recruit candidates for ''similar positions.''
- Revising § 575.207(b)(1) to clarify an authorized agency official must review and approve a relocation incentive determination before paying the incentive to the employee.
- Revising § 575.210(e) by removing the words ''agree to'' in the second sentence so that the language is parallel to § 575.110(e) of the recruitment incentive regulations.

Comments Applicable to Retention Incentives

Group Retention Incentives (§ 575.309(a)(2))

An agency recommended that the limit on an agency's authority to approve group retention incentives under § 575.309(a)(2) be raised from 10 percent to 25 percent. The agency stated with the increase in the maximum retention incentive amount from 25 to 50 percent, it would be appropriate to raise the agency authority to approve group retention incentives from the current 10 percent to 25 percent.

We do not agree. The 10 percent limitation on an agency's authority to approve group retention incentives is provided by statute at 5 U.S.C. 5754(e)(1)(B). The law requires OPM approval of group retention incentives in excess of 10 percent. (See 5 U.S.C. 5754(f).)

Computing Lump-Sum Retention Incentives (§ 575.309(d))

An agency recommended the regulations describe how to calculate the total basic pay earned during a full service period for the purpose of calculating a retention incentive paid at the end of the service period. We are adding an example to § 575.309(d) that shows how to compute a retention incentive for the full period of service under a service agreement (including the total amount of basic pay earned during the full period of service) consistent with the example in § 575.309(c)(1).

Grandfathered Retention Allowances (§ 575.314)

An individual requested clarification on why an agency would not renew or continue a retention allowance that was originally authorized before May 2005 after the issuance of the new retention incentive regulations. The commenter observed that terminating retention allowances seems counterproductive to the purpose of the allowances which is to recruit and retain persons with unique skills.

Under section 101(d)(3) of Public Law 108–411 and § 575.314 of the regulations, retention allowances authorized before May 1, 2005, were required to continue to be paid until the allowance was reauthorized or terminated, but not later than April 30, 2006. Agencies were required to pay such grandfathered retention allowances subject to regulations applicable to retention allowances before May 1, 2005. Under the former retention allowance regulations, agencies had the flexibility to terminate retention allowances if a retention allowance was not needed to retain the employee, labor-market factors made it more likely to recruit a candidate with the qualifications possessed by the employee, the agency's need for the employee's services was reduced to a level that made paying an allowance unnecessary, or budgetary considerations made it difficult to continue paying the allowance. When a grandfathered retention allowance was terminated, an agency could have authorized a new retention incentive in its place under the conditions described in 5 CFR part 575, subpart C, as in effect starting on May 13, 2005. Any decision to terminate a grandfathered retention allowance before April 30, 2006 (the required termination date under the statute), and whether to replace that allowance with a new retention incentive was subject to agency discretion based on the needs of the agency and the requirements of the retention incentive law and regulations. We note that, by law, all grandfathered retention allowances should have been terminated by April 30, 2006.

Additional Changes

We are making the following additional changes to the retention incentive regulations to correct technical errors and make minor clarifications:

- Revising § 575.307(a)(6)(iii) to remove the requirement that agency retention incentive plans address the obligations of an employee if an agency terminates a service agreement. Because retention incentive payments are not paid in advance of an employee fulfilling the period of service attributable to the payments, employees do not have repayment obligations if a service agreement is terminated.
- Revising § 575.307(b)(1) to clarify an authorized agency official must review and approve each retention incentive before paying an incentive to an employee.
- Revising the examples in § 575.309(c)(1) and (c)(2) to clarify how the amount of pay an employee earned during the service period is computed.
- Revising § 575.311 to clarify and make consistent the conditions under which agencies have the discretion and are required to terminate a retention incentive paid under a service agreement and a retention incentive paid without a service agreement. We also are adding a new paragraph to this section to clarify how to compute retention incentive payments that may be owed to an employee for completed service if an agency terminates a retention incentive service agreement.

Finally, a number of commenters noted that the reference to paragraph (g) in § 575.310(a) should be changed to paragraph (f). This error was corrected in the **Federal Register** notice published on December 19, 2005 (70 FR 74995).

Miscellaneous Changes to Other Regulations

Commenters noted incorrect references to the special rate regulations (5 CFR part 530, subpart C) in the aggregate limitation on pay (5 CFR part 530, subpart B), supervisory differential (5 CFR part 575, subpart D), and extended assignment incentive (5 CFR part 575, subpart E) regulations. A commenter also noted an incorrect reference to the prevailing rate night differential authority at 5 U.S.C. 5343(f) in the supervisory differential regulations. These references are corrected in these final regulations.

We are revising the definition of *discretionary payment* in the aggregate limitation on pay regulations at § 530.202 to remove ''extended assignment incentives'' as an example of a discretionary payment, consistent

with the removal of retention incentives as an example of a discretionary payment in the interim regulations. We also are clarifying the definition to provide payments that are authorized to an employee under the terms of a service agreement are not discretionary payments.

Also, to conform with the new §§ 575.111(h) and 575.211(h) and OPM's authority in 5 U.S.C. 5757(f) to prescribe regulations on an employee's entitlement to retain extended assignment incentive payments when an agreement is canceled, these final regulations add a new § 575.513(g) to the extended assignment incentive regulations to provide an authorized agency official with the authority to waive the requirement under § 575.513(b) and (c)(1) to repay excess extended assignment incentive payments if an extended assignment incentive service agreement is terminated when collection of the excess amount would be against equity and good conscience and not in the best interest of the United States. We are removing the reference to 5 U.S.C. 5584 in § 575.513(c)(1) as the authority for waiving recovery of such excess payments.

E.O. 12866, Regulatory Review

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

Regulatory Flexibility Act

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

List of Subjects in 5 CFR 530 and 575

Government employees, Reporting and recordkeeping requirements, Wages.

Office of Personnel Management

Linda M. Springer,

Director.

■ Accordingly, OPM amends 5 CFR parts 530 and 575 as follows:

PART 530—PAY RATES AND SYSTEMS (GENERAL)

■ 1. The authority citation for part 530 continues to read as follows:

Authority: 5 U.S.C. 5305 and 5307; subpart C also issued under 5 U.S.C. 5338 and sec. 4 of the Performance Management and Recognition System Termination Act of 1993 (Pub. L. 103–89), 107 Stat. 981.

Subpart B—Aggregate Limitation on Pay

■ 2. In § 530.202, revise the first sentence in the definition of *basic pay* and the definition of *discretionary payment* to read as follows:

§ 530.202 Definitions.

* * * * *

Basic pay means the total amount of pay received at a rate fixed by law or administrative action for the position held by an employee, including any special rate under 5 CFR part 530, subpart C, or any locality-based comparability payment under 5 CFR part 531, subpart F, or other similar payment under other legal authority, before any deductions. * * *

* * * * *

Discretionary payment means a payment an agency has discretion to make to an employee. Payments that are authorized to be made to an employee under the terms of a service agreement or preauthorized to be made to an employee at a regular fixed rate each pay period are not *discretionary payments.*

* * * * *

PART 575—RECRUITMENT, RELOCATION, AND RETENTION INCENTIVES; SUPERVISORY DIFFERENTIALS; AND EXTENDED ASSIGNMENT INCENTIVES

■ 3. The authority citation for part 575 continues to read as follows:

Authority: 5 U.S.C. 1104(a)(2) and 5307; subparts A and B also issued under 5 U.S.C. 5753 and sec. 101 of the Federal Workforce Flexibility Act of 2004, Public Law 108–411, 118 Stat. 2305; subpart C also issued under 5 U.S.C. 5754 and sec. 101 of the Federal Workforce Flexibility Act of 2004, Public Law 108–411, 118 Stat. 2305; subpart D also issued under 5 U.S.C. 5755; subpart E also issued under 5 U.S.C. 5757 and sec. 207 of Public Law 107–273, 116 Stat. 1780.

Subpart A—Recruitment Incentives

■ 4. In § 575.102—

■ A. Revise the definition of *employee,*

■ B. Remove the definition of *employee of the Federal Government,*

■ C. Add a new definition of *Federal Government,* and

■ D. Revise paragraphs (2) and (3) in the definition of *newly appointed.*

The revisions and addition read as follows:

§ 575.102 Definitions.

* * * * *

Employee has the meaning given that term in 5 U.S.C. 2105, except that the term also includes an employee described in 5 U.S.C. 2105(c). For the purpose of determining whether an individual was an employee of the Federal Government during the 90-day period referred to in the definition of *newly appointed, employee* also includes an employee described in 5 U.S.C. 2105(e). For the purpose of § 575.109(d), an *employee* means an individual not yet employed who has received a written offer to be newly appointed or reappointed and has signed the written service agreement required by § 575.110 before payment of the recruitment incentive.

* * * * *

Federal Government means all entities of the Government of the United States, including the United States Postal Service and the Postal Regulatory Commission.

* * * * *

Newly appointed refers to—* * *

(2) An appointment of a former employee of the Federal Government following a break in Federal Government service of at least 90 days; or

(3) An appointment of an individual in the Federal Government when his or her service in the Federal Government during the 90-day period immediately preceding the appointment was limited to one or more of the following:

(i) A time-limited appointment in the competitive or excepted service;

(ii) A non-permanent appointment (excluding a Schedule C appointment under 5 CFR part 213) in the competitive or excepted service;

(iii) Employment with the government of the District of Columbia (DC) when the candidate was first appointed by the DC government on or after October 1, 1987;

(iv) An appointment as an expert or consultant under 5 U.S.C. 3109 and 5 CFR part 304;

(v) Employment under a provisional appointment designated under 5 CFR 316.403; or

(vi) Employment under the Student Career Experience Program under 5 CFR 213.3202(b).

* * * * *

■ 5. In § 575.103—

■ A. Redesignate paragraphs (a) through (g) as paragraphs (a)(1) through (a)(7), respectively,

■ B. Designate the introductory sentence as paragraph (a) introductory text and revise it, and

■ C. Add a new paragraph (b).

The revision and addition read as follows:

§ 575.103 Eligible categories of employees.

(a) Except as provided in § 575.104, an Executive agency may pay a recruitment incentive to an employee appointed or placed in the following categories of positions:

* * * * *

(b) Except as provided in § 575.104, a legislative agency may pay a recruitment incentive to an employee appointed or placed in a General Schedule position paid under 5 U.S.C. 5332 or 5305 (or similar special rate authority).

■ 6. In § 575.105, add a new paragraph (c) to read as follows:

§ 575.105 Applicability to employees.

* * * * *

(c) An agency may not commence a recruitment incentive service agreement during—

(1) A period of employment established under any service agreement required for a relocation incentive under 5 CFR part 575, subpart B, or

(2) A period of employment established under any service agreement required for a retention incentive or for which an employee receives retention incentive payments without a service agreement under 5 CFR part 575, subpart C.

■ 7. In § 575.106, revise paragraph (b)(1) to read as follows:

§ 575.106 Authorizing a recruitment incentive.

* * * * *

(b) * * *

(1) The availability and quality of candidates possessing the competencies required for the position, including the success of recent efforts to recruit candidates for the position or similar positions using indicators such as offer acceptance rates, proportion of positions filled, and the length of time required to fill similar positions;

* * * * *

■ 8. In § 575.107, revise paragraphs (a)(1) and (b)(1) to read as follows:

§ 575.107 Agency recruitment incentive plan and approval levels.

(a) * * *

(1) The designation of officials with authority to review and approve payment of recruitment incentives (subject to paragraph (b) of this section), including the circumstances under which an official has the authority to approve payment without higher-level approval under paragraph (b)(2) of this section, and the designation of officials with authority to waive the repayment of a recruitment incentive under § 575.111(h);

* * * * *

(b)(1) Except as provided in paragraph (b)(2) of this section, an authorized agency official who is at least one level higher than the employee's supervisor must review and approve each determination to pay a recruitment incentive to a newly appointed employee, unless there is no official at a higher level in the agency. The authorized agency official must review and approve the recruitment incentive determination before the agency may pay the incentive to the employee.

* * * * *

■ 9. In § 575.111—

■ A. Revise the first sentence and the last sentence in paragraph (f),

■ B. Remove the last sentence in paragraph (g), and

■ C. Add new paragraphs (h), (i), and (j).

The revision and additions read as follows:

§ 575.111 Termination of a service agreement.

* * * * *

(f) Except as provided in paragraph (j) of this section, if an authorized agency official terminates a service agreement under paragraph (b) of this section, the employee is entitled to retain recruitment incentive payments previously paid by the agency that are attributable to the completed portion of the service period. * * * If the employee received recruitment incentive payments in excess of the amount that would be attributable to the completed portion of the service period, he or she must repay the excess amount, except when an authorized agency official waives the requirement to repay the excess amount under paragraph (h) of this section.

* * * * *

(h) If an employee received recruitment incentive payments in excess of the amount that would be attributable to the completed portion of the service period under paragraph (f) of this section, an authorized agency official may waive the requirement to repay the excess amount when, in the judgment of the official, collection of the excess amount would be against equity and good conscience and not in the best interest of the United States.

(i) The full amount of the authorized recruitment incentive must be prorated across the length of the service period to determine the amount of the recruitment incentive attributable to completed service and uncompleted service under this section.

(j) Notwithstanding paragraph (f) of this section, if an agency terminates a service agreement under paragraph (b) of this section when an employee is separated as a result of material false or inaccurate statements or deception or fraud in examination or appointment, or as a result of failing to meet employment qualifications, the employee must repay all recruitment incentive payments received under that service agreement.

Subpart B—Relocation Incentives

■ 10. In § 575.202—

■ A. Revise the definition of *employee,*

■ B. Remove the definition of *employee of the Federal Government,* and

■ C. Add a new definition of *Federal Government.*

The revision and addition read as follows:

§ 575.202 Definitions.

* * * * *

Employee has the meaning given that term in 5 U.S.C. 2105, except that the term also includes an employee described in 5 U.S.C. 2105(c). For the purpose of determining whether an individual had status as an employee of the Federal Government immediately prior to the relocation (i.e., in § 575.205(a)(2)), *employee* also includes an employee described in 5 U.S.C. 2105(e).

* * * * *

Federal Government means all entities of the Government of the United States, including the United States Postal Service and the Postal Regulatory Commission.

* * * * *

■ 11. In § 575.203—

■ A. Redesignate paragraphs (a) through (g) as paragraphs (a)(1) through (a)(7), respectively,

■ B. Designate the introductory sentence as paragraph (a) introductory text and revise it, and

■ C. Add a new paragraph (b).

The revision and addition read as follows:

§ 575.203 Eligible categories of employees.

(a) Except as provided in § 575.204, an Executive agency may pay a relocation incentive to an employee in the following categories of positions:

* * * * *

(b) Except as provided in § 575.204, a legislative agency may pay a relocation incentive to an employee in a General Schedule position paid under 5 U.S.C. 5332 or 5305 (or similar special rate authority).

■ 12. In § 575.205, revise paragraph (a) and add new paragraphs (d) and (e) to read as follows:

§ 575.205 Applicability to employees.

(a) An agency may pay a relocation incentive under the conditions prescribed in this subpart to an employee who—

(1) Relocates to a different geographic area (permanently or temporarily) to accept a position listed in § 575.203 in an agency when the position is likely to be difficult to fill, as determined under § 575.206; and

(2) Is an employee of the Federal Government immediately before the relocation.

* * * * *

(d) An agency may not commence a relocation incentive service agreement during—

(1) A period of employment established under any service agreement required for a recruitment incentive under 5 CFR part 575, subpart A, or

(2) A period of employment established under any service agreement required for a relocation incentive previously authorized under this subpart.

(e) An agency may commence a relocation incentive service agreement during a period of employment established under a service agreement for a previously authorized retention incentive or for which an employee is receiving previously authorized retention incentive payments without a service agreement under 5 CFR part 575, subpart C. The service period under such a relocation incentive service agreement and the service period required by the retention incentive service agreement, if applicable, must be fulfilled concurrently.

■ 13. In § 575.206, revise paragraphs (a)(4) and (b)(1) to read as follows:

§ 575.206 Authorizing a relocation incentive.

(a) * * *

(4) Request a waiver from OPM of the limitation on the maximum amount of a relocation incentive under § 575.209(c); and

* * * * *

(b) * * *

(1) The availability and quality of candidates possessing the competencies required for the position, including the success of recent efforts to recruit candidates for the position or similar positions using indicators such as offer acceptance rates, proportion of positions filled, and the length of time required to fill similar positions;

* * * * *

■ 14. In § 575.207, revise paragraphs (a)(1) and (b)(1) to read as follows:

§ 575.207 Agency relocation incentive plan and approval levels.

(a) * * *

(1) The designation of officials with authority to review and approve payment of relocation incentives (subject to paragraph (b) of this section) and the designation of officials with authority to waive the repayment of a relocation incentive under § 575.211(h);

* * * * *

(b)(1) Except as provided in paragraph (b)(2) of this section, an authorized agency official who is at least one level higher than the employee's supervisor must review and approve each determination to pay a relocation incentive, unless there is no official at a higher level in the agency. The authorized agency official must review and approve the relocation incentive determination before the agency pays the incentive to the employee.

* * * * *

■ 15. In § 575.210(e), revise the second sentence to read as follows:

§ 575.210 Service agreement requirements.

* * * * *

(e) * * * The service agreement must specify the effect of the termination under § 575.211, including the conditions under which the agency will pay an additional relocation incentive payment for partially completed service under § 575.211(e) and (f).

* * * * *

■ 16. In § 575.211—

■ A. Revise the last sentence in paragraph (f),

■ B. Remove the last sentence in paragraph (g), and

■ C. Add new paragraphs (h) and (i).

The revision and additions read as follows:

§ 575.211 Termination of a service agreement.

* * * * *

(f) * * * If the employee received relocation incentive payments in excess of the amount that would be attributable to the completed portion of the service period, he or she must repay the excess amount, except when an authorized agency official waives the requirement to repay the excess amount under paragraph (h) of this section.

* * * * *

(h) If an employee received relocation incentive payments in excess of the amount that would be attributable to the completed portion of the service period under paragraph (f) of this section, an authorized agency official may waive the requirement to repay the excess amount when, in the judgment of the official, collection of the excess amount would be against equity and good conscience and not in the best interest of the United States.

(i) The full amount of the authorized relocation incentive must be prorated across the length of the service period to determine the amount of the relocation incentive attributable to completed service and uncompleted service under this section.

Subpart C—Retention Incentives

■ 17. In § 575.303—

■ A. Redesignate paragraphs (a) through (g) as paragraphs (a)(1) through (a)(7), respectively,

■ B. Designate the introductory sentence as paragraph (a) introductory text and revise it, and

■ C. Add a new paragraph (b).

The revision and addition read as follows:

§ 575.303 Eligible categories of employees.

(a) Except as provided in § 575.304, an Executive agency may pay a retention incentive to a current employee who holds—

* * * * *

(b) Except as provided in § 575.304, a legislative agency may pay a retention incentive to a current employee who holds a General Schedule position paid under 5 U.S.C. 5332 or 5305 (or similar special rate authority).

■ 18. In § 575.307, revise paragraph (a)(6)(iii) and add a new sentence at the end of paragraph (b)(1) to read as follows:

§ 575.307 Agency retention incentive plan and approval levels.

(a) * * *

(6) * * *

(iii) The obligations of the agency if the agency terminates a service agreement; and

* * * * *

(b)(1) * * * The authorized agency official must review and approve the retention incentive determination before the agency pays the incentive to the employee.

* * * * *

■ 19. In § 575.309—

■ A. Revise the fourth sentence in paragraph (c)(1) and the fourth sentence in paragraph (c)(2),

■ B. Add four new sentences at the end of paragraph (d), and

■ C. Revise paragraph (g).

The revisions and additions read as follows:

§ 575.309 Payment of retention incentives.

* * * * *

(c)(1) * * * The employee earns $15,000 during the 6 pay periods of service ($2,500 biweekly rate of basic pay × 6). * * *

(2) * * * The employee earns $15,000 during the 6 pay periods of service ($2,500 biweekly rate of basic pay × 6). * * *

* * * * *

(d) * * * For example, an agency establishes a retention incentive percentage rate of 10 percent for an employee. The employee has a service agreement that provides for a single lump-sum retention incentive payment after completion of the full service period required by the service agreement (i.e., 26 pay periods). The employee earns $65,000 during the 26 pay periods of service ($2,500 biweekly rate of basic pay x 26). Upon completion of the full service period, the employee will receive a single lump-sum retention incentive payment of $6,500 ($65,000 × .10).

* * * * *

(g) An agency may not commence a group or individual retention incentive service agreement or provide a group or individual retention incentive without a service agreement under § 575.310(f) for any biweekly pay period during—

(1) A period of employment established under any service agreement required for the payment of a recruitment incentive under 5 CFR part 575, subpart A, or a relocation incentive under 5 CFR part 575, subpart B, (see 5 CFR 575.205(e) regarding the authority to commence a relocation incentive service agreement during a period of employment established under a service agreement for a previously authorized retention incentive or for which an employee is receiving previously authorized retention incentive payments without a service agreement); or

(2) A period of employment established under a service agreement for a previously authorized retention incentive or for which an employee is receiving a previously authorized retention incentive without a service agreement under § 575.310(f) (including a group retention incentive with or without a service agreement).

* * * * *

■ 20. Revise § 575.311 to read as follows:

§ 575.311 Continuation, reduction, and termination of retention incentives.

(a)(1) An authorized agency official must terminate a retention incentive service agreement when conditions change such that the original determination to pay the retention incentive no longer applies (e.g., when the agency assigns the employee to a different position that is not within the terms of the service agreement) or when payment is no longer warranted after considering factors such as—

(i) Whether a retention incentive is needed to retain the employee (or group of employees),

(ii) Whether labor-market factors make it more likely (or reasonably likely) to recruit a candidate with competencies similar to those possessed by the employee (or group of employees), or

(iii) Whether the agency's need for the services of the employee (or group or category of employees) has been reduced to a level that makes it unnecessary to continue paying a retention incentive.

(2) An authorized agency official may terminate unilaterally a retention incentive service agreement based solely on the management needs of the agency, even if the conditions giving rise to the original determination to pay the incentive still exist. For example, an agency may terminate a service agreement when there are insufficient funds to continue the planned retention incentive payments.

(b) An authorized agency official must terminate a retention incentive service agreement when—

(1) The employee is demoted or separated for cause (i.e., for unacceptable performance or conduct);

(2) The employee receives a rating of record (or an official performance appraisal or evaluation under a system not covered by 5 U.S.C. chapter 43 or 5 CFR part 430) of less than ''Fully Successful'' or equivalent; or

(3) The employee otherwise fails to fulfill the terms of the service agreement.

(c) If an authorized agency official terminates a service agreement under paragraph (a) of this section, the employee is entitled to retain any retention incentive payments that are attributable to completed service and to receive any portion of a retention incentive payment owed by the agency for completed service.

(d) If an authorized agency official terminates a service agreement under paragraph (b) of this section, the employee is entitled to retain retention incentive payments previously paid by the agency that are attributable to the completed portion of the service period. If the employee received retention incentive payments that are less than the amount that would be attributable to the completed portion of the service period, the agency is not obligated to pay the employee the amount attributable to completed service, unless the agency agreed to such payment under the terms of the retention incentive service agreement.

(e) To determine the amount of retention incentive payments that may be owed to an employee for completed service under paragraphs (c) and (d) of this section, multiply the total rate of basic pay the employee earned during the completed portion of the service period by the retention incentive percentage rate established for the employee under § 575.309(a) and subtract the amount of retention incentive payments already paid to the employee from this product. The difference is the amount owed to the employee for completed service.

(f)(1) For retention incentives that are paid when no service agreement is required under § 575.310(f), an agency must review each determination to pay the incentive at least annually to determine whether payment is still warranted. An authorized agency official must certify this determination in writing.

(2) An agency may continue paying a retention incentive to an employee when no service agreement is required as long as the conditions giving rise to the original determination to pay the incentive still exist.

(3) An authorized agency official must reduce or terminate a retention incentive authorization when no service agreement is required whenever conditions change such that the original determination to pay the retention incentive no longer applies (e.g., when the agency assigns the employee to a different position that is not within the terms of the original determination) or when payment is no longer warranted at the level originally approved or at all after considering factors such as—

(i) Whether a lesser amount (or none at all) would be sufficient to retain the employee (or group or category of employees);

(ii) Whether labor-market factors make it more likely (or reasonably likely) to recruit a candidate with competencies similar to those possessed by the employee (or group or category of employees); or

(iii) Whether the agency's need for the services of the employee (or group or category of employees) has been reduced to a level that makes it unnecessary to continue payment at the level originally approved (or at all).

(4) An authorized agency official may terminate unilaterally a retention incentive authorization when no service agreement is required based solely on the management needs of the agency, even if the conditions giving rise to the original determination to pay the

incentive still exist. For example, an agency may terminate a retention incentive when there are insufficient funds to continue the planned retention incentive payments.

(5) An authorized agency official must terminate a retention incentive authorization when no service agreement is required when—

(i) The employee is demoted or separated for cause (i.e., for unacceptable performance or conduct), or

(ii) The employee receives a rating of record (or an official performance appraisal or evaluation under a system not covered by 5 U.S.C. chapter 43 or 5 CFR part 430) of less than ''Fully Successful'' or equivalent.

(g) The termination of a retention incentive service agreement or the reduction or termination of a retention incentive under this section is not grievable or appealable.

(h) If an agency terminates a retention incentive service agreement or reduces or terminates a retention incentive paid without a service agreement under this section, the agency must notify the employee in writing. When a retention incentive is terminated under paragraph (f) of this section, the employee is entitled to receive any scheduled incentive payments through the end of the pay period in which the written notice is provided or until the date of separation, if sooner.

Subpart D—Supervisory Differentials

■ 21. In § 575.402, revise paragraph (b) to read as follows:

§ 575.402 Delegation of authority.

* * * * *

(b) A supervisory differential may not be paid on the basis of supervising a civilian employee whose rate of basic pay exceeds the maximum rate of basic pay established for grade GS–15 on the pay schedule applicable to the GS supervisor, including a schedule for any applicable special rate under 5 CFR part 530, subpart C; locality-based comparability payment under 5 CFR part 531, subpart F; or similar payment or supplement under other legal authority.

* * * * *

■ 22. In § 575.403, revise the definition *of rate of basic pay* to read as follows:

§ 575.403 Definitions.

* * * * *

Rate of basic pay means the rate of pay fixed by law or administrative action for the position to which the employee is or will be appointed before deductions and including any special rate under 5 CFR part 530, subpart C; locality-based comparability payment under 5 CFR part 531, subpart F; or similar payment or supplement under other legal authority, but excluding additional pay of any other kind. For example, *rate of basic pay* excludes a night differential under 5 U.S.C. 5343(f), an environment differential under 5 U.S.C. 5343(c)(4), or a similar payment under other legal authority.

* * * * *

■ 23. Revise § 575.405(d)(1) to read as follows:

§ 575.405 Calculation and payment of supervisory differential.

* * * * *

(d) * * *

(1) Basic pay, excluding a night or environmental differential under 5 U.S.C. 5343(f) or 5343(c)(4), respectively, or similar payment under other legal authority;

* * * * *

Subpart E—Extended Assignment Incentives

■ 24. In § 575.502, revise the first sentence in the definition of *rate of basic pay* to read as follows:

§ 575.502 Definitions.

* * * * *

Rate of basic pay means the rate of pay fixed by law or administrative action for the position held by an employee, including any special rate under 5 CFR part 530, subpart C; locality-based comparability payment under 5 CFR part 531, subpart F; or similar payment under other legal authority, but before deductions and exclusive of additional pay of any other kind. * * *

* * * * *

■ 25. In § 575.513—

■ A. Revise paragraph (b) introductory text,

■ B. Revise paragraph (c)(1),

■ C. Remove the last sentence in paragraph (f), and

■ D. Add a new paragraph (g).

The revisions and addition read as follows:

§ 575.513 What are the agency's and the employee's obligations when an employee fails to fulfill the terms of a service agreement?

* * * * *

(b) Except as provided in paragraph (g) of this section, an employee is indebted to the Federal Government and must repay the paying agency for an appropriate portion of an extended assignment incentive received by the employee if—

* * * * *

(c)(1) If an employee does not fulfill the terms of a service agreement under the circumstances prescribed in paragraph (b) of this section and has received incentive payments whose value as a percentage of the planned total sum of incentive payments for the entire service period exceeds the percentage reflecting the portion of the service period completed by the employee, he or she must repay the excess payment and any additional repayment penalty imposed by the agency under paragraph (e) of this section, except when an authorized agency official waives the requirement to repay the excess amount under paragraph (g) of this section.

* * * * *

(g) If an employee received extended assignment incentive payments in excess of the amount that would be attributable to the completed portion of the service period under paragraph (c) of this section, an authorized agency official may waive the requirement to repay the excess amount when, in the judgment of the official, collection of the excess amount would be against equity and good conscience and not in the best interest of the United States.

[FR Doc. E7–23411 Filed 11–30–07; 8:45 am]

BILLING CODE 6325–39–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–28980 Directorate Identifier 2007–CE–071–AD; Amendment 39–15282; AD 2007–25–01]

RIN 2120–AA64

Airworthiness Directives; Aircraft Industries, a.s. (Type Certificate No. G24EU Formerly Held by LETECKÉ ZÁVODY a.s. and LET Aeronautical Works) Model L–13 Blanik Gliders

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

ACTION: Final Rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for the products listed above. This AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation

product. The MCAI describes the unsafe condition as:

This Airworthiness Directive (AD) is prompted by the discovery of cracks on L13 BLANIK sailplanes in zones where the forward and aft control sticks are attached to the connecting rod, designated as ''control bridge'' in the relevant Illustrated Parts Catalogues (IPC). If left uncorrected, cracks could propagate and lead to failure of the connecting rod with subsequent loss of control of the sailplane.

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

DATES: This AD becomes effective January 7, 2008.

On January 7, 2008, the Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Greg Davison, Glider Program Manager, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4130; fax: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on October 4, 2007 (72 FR 56700). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

This Airworthiness Directive (AD) is prompted by the discovery of cracks on L13 BLANIK sailplanes in zones where the forward and aft control sticks are attached to the connecting rod, designated as ''control bridge'' in the relevant Illustrated Parts Catalogues (IPC). If left uncorrected, cracks could propagate and lead to failure of the connecting rod with subsequent loss of control of the sailplane.

For the reasons described above, this AD requires an inspection of the control bridge to detect cracks and replacement, if necessary. In addition, this AD requires an update of the aircraft Maintenance Manual (MM) to incorporate repetitive inspections of the control bridge.

Comments

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

Conclusion

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

Differences Between This AD and the MCAI or Service Information

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

We might also have required different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are highlighted in a NOTE within the AD.

Costs of Compliance

We estimate that this AD will affect 190 products of U.S. registry. We also estimate that it will take about 2 work-hours per product to comply with basic requirements of this AD. The average labor rate is $80 per work-hour.

Based on these figures, we estimate the cost of this AD to the U.S. operators to be $30,400 or $160 per product.

In addition, we estimate that any necessary follow-on actions would take about 7 work-hours and require parts costing $2,000, for a cost of $2,560 per product. We have no way of determining the number of products that may need these actions.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://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 the NPRM, 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.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2007–25–01 Aircraft Industries, a.s. (Type Certificate No. G24EU formerly held by Letecké Závody a.s. and LET

Aeronautical Works): Amendment 39–15282; Docket No. FAA–2007–28980; Directorate Identifier 2007–CE–071–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective January 7, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Model L–13 Blanik gliders, all serial numbers, certificated in any category.

Subject

(d) Air Transport Association of America (ATA) Code 27: Flight Controls.

Reason

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

This Airworthiness Directive (AD) is prompted by the discovery of cracks on L13 Blanik sailplanes in zones where the forward and aft control sticks are attached to the connecting rod, designated as ''control bridge'' in the relevant Illustrated Parts Catalogues (IPC). If left uncorrected, cracks could propagate and lead to failure of the connecting rod with subsequent loss of control of the sailplane.

For the reasons described above, this AD requires an inspection of the control bridge to detect cracks and replacement, if necessary. In addition, this AD requires an update of the aircraft Maintenance Manual (MM) to incorporate repetitive inspections of the control bridge.

Actions and Compliance

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

(1) Within the next 3 months after January 7, 2008 (the effective date of this AD) and repetitively thereafter at intervals not to exceed 12 months, inspect the control bridge for cracks. Follow the procedures in LET Aircraft Industries, a.s. Mandatory Bulletin MB No.: L13 / 105a, dated May 22, 2007, except use a 10X magnifier and do a dye penetrant inspection following the procedures in chapter 5, section 5, of FAA Advisory Circular AC 43.13–1B CHG 1, dated September 27, 2001.

(2) If cracks are found during any inspection in paragraph (f)(1) of this AD, before further flight, install a new control bridge Dwg. No. (part number (P/N)) A740 370 N or Dwg. No. (P/N) A401 001N following the procedures in LET Aircraft Industries, a.s. Mandatory Bulletin MB No.: L13 / 105a, dated May 22, 2007.

FAA AD Differences

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

(1) The service information requires a visual inspection with a 6X magnifier. We are requiring a dye penetrant inspection and a 10X magnifier to detect cracks that could go undetected using only a 6X magnifier.

(2) The MCAI requires updating the maintenance manuals to add ''type A based'' repetitive inspections of the control bridge. Since the maintenance manual is only one way of establishing a maintenance program, the only way we can mandate these repetitive inspections is through an AD action.

Other FAA AD Provisions

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

(1) Alternative Methods of Compliance (AMOCs): The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Greg Davison, Glider Program Manager, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4130; fax: (816) 329–4090. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

(3) Reporting Requirements: For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120–0056.

Related Information

(h) Refer to MCAI European Aviation Safety Agency (EASA) AD No. 2007–0212, dated August 7, 2007; and LET Aircraft Industries, a.s. Mandatory Bulletin MB No.: L13 / 105a, dated May 22, 2007, for related information.

Material Incorporated by Reference

(i) You must use LET Aircraft Industries, a.s. Mandatory Bulletin MB No.: L13 / 105a, dated May 22, 2007, to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact Aircraft Industries, a.s., Na Záhonech 1177, 686 04 Kunovice, Czech Republic; phone: +420 572 817 660; fax: +420 572 816 112; e-mail: *ots@let.cz.*

(3) You may review copies at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Kansas City, Missouri, on November 23, 2007.

Steven W. Thompson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–23222 Filed 11–30–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–27532 Directorate Identifier 2007–CE–021–AD; Amendment 39–15281; AD 2007–24–15]

RIN 2120–AA64

Airworthiness Directives; Piaggio Aero Industries S.p.A. Model P–180 Airplanes

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

ACTION: Final Rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for the products listed above. This AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

One P 180 aircraft experienced a jamming of its longitudinal flight control cables. Investigations revealed that its fuselage drain holes were plugged, and water was trapped in the lower fuselage.

As a consequence of plugged drain holes, water can accumulate and freeze when the aircraft reaches and holds altitudes where temperature is below the freezing point. If not corrected this may cause the loss of control of the airplane.

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

DATES: This AD becomes effective January 7, 2008.

On January 7, 2008 the Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Sarjapur Nagarajan, Aerospace Engineer,

FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106–; telephone: (816) 329–4145; fax: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on October 12, 2007 (72 FR 58028). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

> One P 180 aircraft experienced a jamming of its longitudinal flight control cables. Investigations revealed that its fuselage drain holes were plugged, and water was trapped in the lower fuselage.
>
> As a consequence of plugged drain holes, water can accumulate and freeze when the aircraft reaches and holds altitudes where temperature is below the freezing point. If not corrected this may cause the loss of control of the airplane.
>
> The aim of this Airworthiness Directive (AD) is to check for proper operation, fuselage drain holes and the passenger evaporator drain line and to introduce a temporary revision of the Aircraft Maintenance Manual (AMM).

Comments

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

Conclusion

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

Differences Between This AD and the MCAI or Service Information

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

We might also have required different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are highlighted in a NOTE within the AD.

Costs of Compliance

We estimate that this AD will affect 60 products of U.S. registry. We also estimate that it will take about 5 work-hours per product to comply with basic requirements of this AD. The average labor rate is $80 per work-hour.

Based on these figures, we estimate the cost of this AD to the U.S. operators to be $24,000 or $400 per product.

In addition, we estimate that any necessary follow-on actions would take about 13 work-hours and require parts costing $125, for a cost of $1,165 per product. We have no way of determining the number of products that may need these actions.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://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 the NPRM, 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.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2007–24–15 Piaggio Aero Industries S.p.A.: Amendment 39–15281; Docket No. FAA–2007–27532; Directorate Identifier 2007–CE–021–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective January 7, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to model P–180 airplanes, serial numbers 1004 through 1112, certificated in any category.

Subject

(d) Air Transport Association of America (ATA) Code 53: Fuselage.

Reason

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

> One P 180 aircraft experienced a jamming of its longitudinal flight control cables. Investigations revealed that its fuselage drain holes were plugged, and water was trapped in the lower fuselage.
>
> As a consequence of plugged drain holes, water can accumulate and freeze when the aircraft reaches and holds altitudes where temperature is below the freezing point. If not corrected this may cause the loss of control of the airplane.
>
> The aim of this Airworthiness Directive (AD) is to check for proper operation, fuselage drain holes and the passenger evaporator drain line and to introduce a temporary revision of the Aircraft Maintenance Manual (AMM).

Actions and Compliance

(f) Unless already done, at the next scheduled maintenance inspection or within 1 month after the effective date of this AD, whichever occurs later, do the following actions:

(1) Inspect fuselage drain holes and the passenger evaporator drain line for proper operation and do all the necessary corrective actions, following the accomplishment instructions of the Piaggio Aero Industries S.p.A. Mandatory SB–80–0220, dated August 8, 2006.

(2) Incorporate into your maintenance program the following PIAGGIO P.180 AVANTI/AVANTI II MAINTENANCE MANUAL (AMM) sections, which are included in Piaggio Aero Industries S.p.A. Mandatory SB–80–0220, dated August 8, 2006:

(i) AMM Chapter 12–24–02 Exterior Cleaning—Maintenance Practices

(ii) AMM Chapter 51–25–00 Processes—Stripping and Painting

(iii) AMM Chapter 53–00–00 Fuselage—Maintenance Practices

(3) Replace/add the following pages of the AMM that are included in Piaggio Aero Industries S.p.A. Mandatory SB–80–0220, dated August 8, 2006:

(i) replace: AMM Chapter 12–24–02, pages 201/202

(ii) replace: AMM Chapter 51–25–00, pages 5/6

(iii) replace: AMM Chapter 53–00–00, pages 203/204

(iv) add: AMM Chapter 53–00–00, pages 205/206

FAA AD Differences

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

Other FAA AD Provisions

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

(1) Alternative Methods of Compliance (AMOCs): The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Sarjapur Nagarajan, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4145; fax: (816) 329–4090. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

(3) Reporting Requirements: For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120–0056.

Related Information

(h) Refer to MCAI EASA AD No. 2007–0031, dated February 9, 2007; and Piaggio Aero Industries S.p.A. Mandatory SB–80–0220, dated August 8, 2006, for related information.

Material Incorporated by Reference

You must use Piaggio Aero Industries S.p.A. Mandatory SB–80–0220, dated August 8, 2006, to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact PIAGGIO AERO INDUSTRIES S.p.A, Via Cibrario 4, 16154 Genoa, Italy; telephone: +39 010 6481 856; facsimile: +39 010 6481 374.

(3) You may review copies at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html*.

Issued in Kansas City, Missouri, on November 23, 2007.

Steven W. Thompson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–23227 Filed 11–30–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–0269; Directorate Identifier 2007–NM–158–AD; Amendment 39–15287; AD 2007–25–05]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A330 Airplanes

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

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for the products listed above. This AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

It has been discovered that a batch of sleeves and pins of the Rolls-Royce Trent 700 Thrust Reverser Unit (TRU) hinge n° [number] 5 has not been subjected to the correct precipitation hardening.

This production quality issue, if not corrected, can lead to the complete failure of the hinge n° 5—the remaining hinges may not sustain ultimate load—resulting in the worst case to the TRU release from the pylon, which constitutes an unsafe condition.

The degradation of the mechanical specifications of these parts puts into question the current design life goal of these parts. * * *

The unsafe condition is possible detachment of the thrust reverser unit from the airplane, which could result in reduced controllability and possible damage to the airplane. This AD requires actions that are intended to address the unsafe condition described in the MCAI.

DATES: This AD becomes effective December 18, 2007.

The Director of the Federal Register approved the incorporation by reference of a certain publication, listed in the AD as of December 18, 2007.

We must receive comments on this AD by January 2, 2008.

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, Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

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 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.

FOR FURTHER INFORMATION CONTACT: Tim Backman, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA,

1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2797; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

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 2007–0166, dated June 15, 2007 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> It has been discovered that a batch of sleeves and pins of the Rolls-Royce Trent 700 Thrust Reverser Unit (TRU) hinge n° [number] 5 has not been subjected to the correct precipitation hardening.
>
> This production quality issue, if not corrected, can lead to the complete failure of the hinge n° 5—the remaining hinges may not sustain ultimate load—resulting in the worst case to the TRU release from the pylon, which constitutes an unsafe condition.
>
> The degradation of the mechanical specifications of these parts puts into question the current design life goal of these parts. Consequently, the 2/2 sleeve and affected pin on the TRU hinge n° 5 must be removed from service by means of this AD.

The unsafe condition is possible detachment of the thrust reverser unit from the airplane, which could result in reduced controllability and possible damage to the airplane. The corrective action is removing the affected sleeves and pins and replacing them with new, properly hardened sleeves and pins. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Airbus has issued Service Bulletin A330–78–3017, Revision 01, dated May 3, 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 AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are issuing this AD because we evaluated all pertinent information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

There are no products of this type currently registered in the United States. However, this rule is necessary to ensure that the described unsafe condition is addressed if any of these products are placed on the U.S. Register in the future.

Differences Between the AD and the MCAI or Service Information

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

We might also have required different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are highlighted in a NOTE within the AD.

FAA's Determination of the Effective Date

Since there are currently no domestic operators of this product, notice and opportunity for public comment before issuing this AD are unnecessary.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2007–0269; Directorate Identifier 2007–NM–158–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

We will post all comments we receive, without change, to *http://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.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2007–25–05 Airbus: Amendment 39–15287. Docket No. FAA–2007–0269; Directorate Identifier 2007–NM–158–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective December 18, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Airbus Model A330–243, –341, –342, and –343 airplanes, certificated in any category, all serial numbers, except those on which Airbus modification 56129 has been embodied in production or Airbus Service Bulletin A330–78–3017 has been embodied in service.

Subject

(d) Air Transport Association (ATA) of America Code 78: Engine Exhaust.

Reason

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

It has been discovered that a batch of sleeves and pins of the Rolls-Royce Trent 700 Thrust Reverser Unit (TRU) hinge n° [number] 5 has not been subjected to the correct precipitation hardening.

This production quality issue, if not corrected, can lead to the complete failure of the hinge n° 5—the remaining hinges may not sustain ultimate load—resulting in the worst case to the TRU release from the pylon, which constitutes an unsafe condition.

The degradation of the mechanical specifications of these parts puts into question the current design life goal of these parts. Consequently, the 2/2 sleeve and affected pin on the TRU hinge n° 5 must be removed from service by means of this AD.

The unsafe condition is possible detachment of the thrust reverser unit from the airplane, which could result in reduced controllability and possible damage to the airplane. The corrective action is removing the affected sleeves and pins and replacing them with new, properly hardened sleeves and pins.

Actions and Compliance

(f) Within 13 months after the effective date of this AD, unless already done, do the following actions, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A330–78–3017, Revision 01, dated May 3, 2007. Actions done before the effective date of this AD in accordance with Airbus Service Bulletin A330–78–3017, dated January 24, 2007, are considered acceptable for compliance with this paragraph.

(1) Replace all sleeves of the thrust reverser unit hinge number 5 (left- and right-hand (LH and RH)) with new, properly hardened sleeves.

(2) Identify and replace all affected pins of the thrust reverser unit hinge number 5 (LH and RH) with new, properly hardened pins.

FAA AD Differences

Note 1: 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: Tim Backman, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–2797; 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 Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2007–0166, dated June 15, 2007; Airbus Service Bulletin A330–78–3017, dated January 24, 2007; Airbus Service Bulletin A330–78–3017, Revision 01, dated May 3, 2007; and Rolls-Royce Alert Service Bulletin RB.211–78–AF273, dated January 2, 2007, for related information.

Material Incorporated by Reference

(i) You must use Airbus Service Bulletin A330–78–3017, Revision 01, dated May 3, 2007, to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France.

(3) You may review copies at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Renton, Washington, on November 23, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–23343 Filed 11–30–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–0268; Directorate Identifier 2007–NM–129–AD; Amendment 39–15286; AD 2007–25–04]

RIN 2120–AA64

Airworthiness Directives; Fokker Model F27 Mark 050 Airplanes

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

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for the products listed above. This AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

During scheduled MRB (maintenance review board) mid-life X-ray inspections of Fokker 50 (F27 Mark 050) engine mount frames, severe internal corrosion of the tubes was discovered. In some locations, the depth of the corrosion spots appeared to be more than 50 percent of material thickness. * * * This condition, if not corrected, could ultimately lead to failure of the engine mounting frame in cases where multiple tubes are severely affected. * * *

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

DATES: This AD becomes effective December 18, 2007.

The Director of the Federal Register approved the incorporation by reference of a certain publication, listed in the AD as of December 18, 2007.

We must receive comments on this AD by January 2, 2008.

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, Docket Operations office (telephone (800) 647–5527) is in the

ADDRESSES section. Comments will be available in the AD docket shortly after receipt.

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 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.

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

SUPPLEMENTARY INFORMATION:

Discussion

The Civil Aviation Authority—The Netherlands (CAA–NL), which is the aviation authority for the Netherlands, has issued Dutch airworthiness directive NL–2006–005, dated April 13, 2006 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

During scheduled MRB (maintenance review board) mid-life X-ray inspections of Fokker 50 (F27 Mark 050) engine mount frames, severe internal corrosion of the tubes was discovered. In some locations, the depth of the corrosion spots appeared to be more than 50 percent of material thickness. In these cases, Fokker Services advised repair of the affected tubes of the engine mount frames and supplemental inspections. The interior of the tubes and end-fittings of the engine mount frames have been preserved with a film of preservation oil. Premature degradation of this synthetic preservation oil is considered to be the cause of the corrosion. This condition, if not corrected, could ultimately lead to failure of the engine mounting frame in cases where multiple tubes are severely affected. [T]his Airworthiness Directive requires a one-time inspection of the engine mount tubing and end fittings for corrosion, the reporting of the inspection results to Fokker Services and corrective action, as necessary. This is considered to be an interim action; a requirement for a mandatory repetitive inspection will be detailed in a future revision of the MRB document.

The corrective action includes contacting the CAA–NL (or its designated agent) for repair instructions and doing repair or replacement of corroded tubes and end fittings of the engine mounting frame. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Fokker Services B.V. has issued Fokker Service Bulletin SBF50–71–047 and Fokker Component Service Bulletin F8200–035–71–12, both dated February 15, 2006. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are issuing this AD because we evaluated all pertinent information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

There are no products of this type currently registered in the United States. However, this rule is necessary to ensure that the described unsafe condition is addressed if any of these products are placed on the U.S. Register in the future.

Differences Between the AD and the MCAI or Service Information

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

We might also have required different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are highlighted in a NOTE within the AD.

FAA's Determination of the Effective Date

Since there are currently no domestic operators of this product, notice and opportunity for public comment before issuing this AD are unnecessary.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2007–0268; Directorate Identifier 2007–NM–129–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2007–25–04 Fokker Services B.V.: Amendment 39–15286. Docket No. FAA–2007–0268; Directorate Identifier 2007–NM–129–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective December 18, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Fokker Model F27 Mark 050 airplanes, certificated in any category, all serial numbers, unless the engine mount frames have been inspected previously in accordance with the Fokker 50/60 Maintenance Review Board (MRB) Document, Task Numbers 712000–00–09 and 712000–00–10.

Subject

(d) Air Transport Association (ATA) of America Code 71: Powerplant.

Reason

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

During scheduled MRB (maintenance review board) mid-life X-ray inspections of Fokker 50 (F27 Mark 050) engine mount frames, severe internal corrosion of the tubes was discovered. In some locations, the depth of the corrosion spots appeared to be more than 50 percent of material thickness. In these cases, Fokker Services advised repair of the affected tubes of the engine mount frames and supplemental inspections. The interior of the tubes and end-fittings of the engine mount frames have been preserved with a film of preservation oil. Premature degradation of this synthetic preservation oil is considered to be the cause of the corrosion. This condition, if not corrected, could ultimately lead to failure of the engine mounting frame in cases where multiple tubes are severely affected. [T]his Airworthiness Directive requires a one-time inspection of the engine mount tubing and end fittings for corrosion, the reporting of the inspection results to Fokker Services and corrective action, as necessary. This is considered to be an interim action; a requirement for a mandatory repetitive inspection will be detailed in a future revision of the MRB document.

The corrective action includes contacting the Civil Aviation Authority—The Netherlands (CAA–NL) (or its designated agent) for repair instructions and repair or replacement of corroded tubes and end fittings of the engine mounting frame.

Actions and Compliance

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

(1) Within 24 months after the effective date of this AD, perform an X-ray inspection for corrosion on the engine mount tubing and end fittings, in accordance with the Accomplishment Instructions of Fokker Service Bulletin SBF50–71–047, dated February 15, 2006.

(2) For any engine mount tubing or end fitting found to be outside the corrosion limits specified in Fokker Service Bulletin SBF50–71–047, dated February 15, 2006, during the inspection required by paragraph (f)(1) of this AD, contact the CAA–NL (or its designated agent) for repair instructions and, before further flight, repair or replace the corroded tubing or fitting.

(3) Within 30 days after the accomplishment of the inspection required by paragraph (f)(1) of this AD or within 30 days after the effective date of this AD, whichever occurs later, and in accordance with the procedure described in the Accomplishment Instructions of Fokker Service Bulletin SBF50–71–047, dated February 15, 2006, report all inspection results to the type certificate holder, Fokker Services B.V., Technical Services Dept., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands.

(4) As of 24 months after the effective date of this AD, no spare engine mount may be installed on any aircraft as a replacement part, unless it has been X-ray inspected in accordance with Section 3 of Fokker Component Service Bulletin F8200–035–71–12, dated February 15, 2006, and the engine mount tubing and end fittings have been found to be within the corrosion limits specified in the service bulletin.

FAA AD Differences

Note: This AD differs from the MCAI and/or service information as follows: The MCAI does not specify a corrective action; however, this AD requires contacting the CAA–NL (or its designated agent) for repair instructions, and repair before further flight.

Other FAA AD Provisions

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

(1) Alternative Methods of Compliance (AMOCs): The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–1137; fax (425) 227–1149. 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 Mandatory Continuing Airworthiness Information (MCAI) Dutch airworthiness directive NL–2006–005, dated April 13, 2006; Fokker Service Bulletin SBF50–71–047, dated February 15, 2006; and Fokker Component Service Bulletin F8200–035–71–12, dated February 15, 2006; for related information.

Material Incorporated by Reference

(i) You must use Fokker Service Bulletin SBF50–71–047, dated February 15, 2006; to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

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

(3) You may review copies at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Renton, Washington, on November 23, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–23346 Filed 11–30–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1300

[Docket No. DEA–260F]

RIN 1117–AA94

Definition of ''Positional Isomer'' as It Pertains to the Control of Schedule I Controlled Substances

AGENCY: Drug Enforcement Administration (DEA), Department of Justice.

ACTION: Final Rule.

SUMMARY: On May 25, 2006, DEA published a Notice of Proposed Rulemaking which proposed the addition of a specific definition for the term ''positional isomer'' to allow for the systematic determination of which isomers of schedule I substances would be considered to be ''positional,'' and therefore, subject to schedule I control. This rulemaking finalizes that definition.

The Controlled Substances Act (CSA) and its implementing regulations specify which hallucinogenic substances are considered schedule I controlled substances. The CSA states that all salts, isomers, and salts of isomers of these substances are also schedule I controlled substances. In non-technical terms, an isomer of a substance is a different compound, but a compound which has the same number and kind of atoms. The terms ''optical isomer'' and ''geometric isomer'' are specific scientific terms and it is easy to determine whether one substance is an optical or geometric isomer of another. The term ''positional isomer,'' however, is subject to scientific interpretation.

The addition of a definition for the term ''positional isomer'' will assist legitimate research[ers] and industry in determining the control status of materials that are ''positional isomers'' of schedule I hallucinogens. While the DEA will remain the authority for ultimately determining the control status of a given material, providing a specific definition for ''positional isomer'' will ensure consistent criteria are utilized in making these determinations.

This rule does not change existing laws, regulations, policies, processes, and procedures regarding the determination of control status for schedule I hallucinogenic substances. This rule merely makes available to the public the longstanding definition of ''positional isomer'' which DEA has used when making these scheduling determinations.

This rule is relevant only to specialized forensic or research chemists. Most of these individuals are existing DEA registrants who are authorized by the DEA to handle schedule I hallucinogenic substances.

DATES: Effective January 2, 2008.

FOR FURTHER INFORMATION CONTACT: Christine A. Sannerud, Ph.D., Chief, Drug and Chemical Evaluation Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537 at (202) 307–7183.

SUPPLEMENTARY INFORMATION:

Background

On May 25, 2006, DEA published a Notice of Proposed Rulemaking (NPRM) [71 FR 30097] which proposed the addition of a specific definition for the term ''positional isomer.'' As DEA discussed in the NPRM, in many instances, the control of a substance under the CSA often includes the specific substance listed under the CSA, as well as the substance's salts, isomers, and/or salts of isomers. In most instances, the term isomer includes only optical isomers. In other instances, however, the term isomer includes positional and/or geometric isomers.

As DEA discussed in its NPRM, in non-technical terms, isomers are different compounds that have the same molecular formula (the same number and types of atoms). The terms ''optical isomer'' and ''geometric isomer'' are specifically defined and well understood scientific terms, and it is easy to determine whether one substance is an optical or geometric isomer of another. The term ''positional isomer,'' however, is not universally defined, and, therefore, is subject to scientific interpretation. In order to ensure that consistent criteria are utilized in determining whether one substance is considered a ''positional isomer'' of another, the DEA is establishing a specific definition for ''positional isomer.'' This definition will be added to 21 CFR 1300.01(b)(21).

Existing CSA and CFR References to ''Positional Isomers''

The CSA and its implementing regulations (21 CFR 1308.11(d)) specify which hallucinogenic substances are considered schedule I controlled substances. Under the CSA and its implementing regulations, there are only three references to the term ''positional isomer'':

(1) Pursuant to 21 U.S.C. 802(14), ''the term 'isomer' means the optical isomer, except as used in schedule I(c) and schedule II(a)(4). As used in schedule I(c), the term 'isomer' means any optical, positional, or geometric isomer. As used in schedule II(a)(4), the term 'isomer' means any optical or geometric isomer.''

(2) Under 21 CFR 1300.01(b)(21), ''The term 'isomer' means the optical isomer, except as used in §§ 1308.11(d) and 1308.12(b)(4) of this chapter. As used in § 1308.11(d) of this chapter, the term 'isomer' means the optical, positional, or geometric isomer. As used in § 1308.12(b)(4) of this chapter, the term 'isomer' means the optical or geometric isomer.''

(3) 21 CFR 1308.11(d) states, ''*Hallucinogenic substances*. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of the following hallucinogenic substances, or which contains any of its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of this paragraph only, the term 'isomer' includes the optical, positional and geometric isomers).''

Why Definition Is Needed

As DEA discussed in the NPRM, the CSA (21 U.S.C. 802(14) and 21 U.S.C. 812(c)(I)(c)) and its implementing regulations (21 CFR 1308.11(d)) specify which hallucinogenic substances are considered schedule I controlled substances. The CSA further states that all salts, isomers, and salts of isomers of these substances are also schedule I controlled substances.

Under the definition of ''isomer'' found in 21 CFR 1300.01(b)(21), ''The term 'isomer' means the optical isomer, except as used in §§ 1308.11(d) and 1308.12(b)(4) of this chapter. As used in § 1308.11(d) of this chapter, the term 'isomer' means the optical, positional, or geometric isomer. As used in § 1308.12(b)(4) of this chapter, the term 'isomer' means the optical or geometric isomer.''

Therefore, according to this definition as it specifically applies to hallucinogens, the term ''isomer'' includes all optical, positional, or geometric isomers. As such, all salts, isomers (including optical, positional, or geometric isomers), and salts of isomers (including optical, positional, or geometric isomers) of the hallucinogenic substances listed in 21 U.S.C. 812(c)(I)(c) and 21 CFR 1308.11(d) are considered schedule I controlled substances.

Because the determination as to whether a substance is considered a ''positional isomer'' can be subject to scientific interpretation, the DEA believes it is necessary to specifically define the term ''positional isomer''. This definition will only pertain to those substances that are ''positional isomers'' of schedule I controlled substances pursuant to 21 U.S.C. 812(c)(I)(c) and 21 CFR 1308.11(d).

As DEA noted in the NPRM, DEA is not establishing definitions for either optical or geometric isomers. The DEA believes that these terms are highly specific and are not subject to differing scientific interpretation.

Comments

The definition of ''positional isomer'' will be used in the determination of the control status of substances as schedule I controlled substances pursuant to 21 CFR 1308.11(d). This definition is highly technical in nature and the DEA has sought to provide specific criteria for determination as to whether a substance is a ''positional isomer'' of schedule I hallucinogens. In writing the definition contained in this rulemaking, DEA consulted a wide variety of reference sources including, but not limited to, Chemical Abstracts, the IUPAC Compendium of Chemical Terminology, World Health Organization (WHO) documents, and various encyclopedias and chemistry textbooks.

The NPRM sought input from all interested parties regarding the proposed definition of ''positional isomer.'' DEA received one comment in response to the proposed definition. That comment did not raise any specific objections to the definition, but expressed the opinion that instead of DEA adding this definition, this duty should be the responsibility of Congress and the definition added via legislation.

DEA disagrees. 21 U.S.C. 821 authorizes the Attorney General to ''promulgate rules and regulations and to charge reasonable fees relating to the registration and control of the manufacture, distribution, and dispensing of controlled substances.'' Expanding on this authority, 21 U.S.C. 871(b) further provides that the Attorney General ''may promulgate and enforce any rules, regulations, and procedures which he may deem necessary and appropriate for the efficient execution of his functions.'' The authority has been delegated by the Attorney General to the Administrator of DEA pursuant to 28 CFR 0.100, and redelegated to the Deputy Administrator pursuant to 28 CFR 0.104.

It is, therefore, well within the Deputy Administrator's purview to issue a notice of proposed rulemaking to define a term relating to the control of certain schedule I controlled substances. By inviting comment to the proposed definition, DEA ensured that potentially affected persons, such as researchers, were given the opportunity to review the definition and submit comments or changes. No other comments were received by DEA. Therefore, this rulemaking finalizes the definition exactly as it was proposed in the NPRM.

Criteria That Will Apply to Positional Isomers

Pursuant to 21 U.S.C. 802(14), 21 U.S.C. 812(c)(I)(c), and 21 CFR 1308.11(d), positional isomers of schedule I hallucinogens are any and all substances which:

(1) Are not already controlled in a different schedule I category, or are listed in another schedule, or are specifically exempted from control by law; and

(2) Have the same molecular formula and core structure as a schedule I hallucinogen; and

(3) Have the same functional group(s) and/or substituent(s) as those found in the respective schedule I hallucinogen, attached at any position(s) on the core structure, but in such manner that no new chemical functionalities are created and no existing chemical functionalities are destroyed relative to the respective schedule I hallucinogen; except that

(4) Rearrangements of alkyl moieties within or between functional group(s) or substituent(s), or divisions or combinations of alkyl moieties, that do not create new chemical functionalities or destroy existing chemical functionalities, would be within the definition of positional isomer (and therefore be controlled).

As clarification, note that the ''core structure'' is the parent molecule that is the common basis for the class; for example, tryptamine, phenethylamine, or ergoline. The following are examples of rearrangements resulting in creation and/or destruction of chemical functionalities. These rearrangements result in compounds which are not positional isomers: ethoxy to *alpha*-hydroxyethyl, hydroxy and methyl to methoxy, or the repositioning of a phenolic or alcoholic hydroxy group to create a hydroxyamine. Examples of rearrangements resulting in compounds that would be positional isomers include, but are not limited to: *tert*-butyl to *sec*-butyl, methoxy and ethyl to isopropoxy, N,N-diethyl to N-methyl-N-propyl, or *alpha*-methylamino to N-methylamino.

Impact of Rule Limited to Specialized Forensic or Research Chemists

As DEA discussed in the NPRM, the addition of a definition for the term ''positional isomer'' as it applies to 21 CFR 1308.11(d) will assist legitimate research[ers] and industry in determining the control status of substances that are isomers of schedule I hallucinogens. While the DEA will remain the authority on ultimately determining the control status of a given substance, providing a specific definition for ''positional isomer'' will greatly reduce any potential confusion or inconsistencies in making these determinations.

This definition will enable researchers and industry to determine definitively whether a substance is a ''positional isomer'' of a schedule I hallucinogen. As such, they will be able to know the control status of a particular substance when considering new research.

This rule is relevant only to specialized forensic or research chemists. Most of these individuals are existing DEA registrants who are authorized by the DEA to handle schedule I hallucinogenic substances.

Specific Changes and Definition

As currently defined in 21 CFR 1300.01(b)(21), the term ''isomer'' means the optical isomer, except as used in § 1308.11(d) and § 1308.12(b)(4) of this chapter. As used in § 1308.11(d) of this chapter, the term ''isomer'' means any optical, positional, or geometric isomer. As used in § 1308.12(b)(4) of this chapter, the term ''isomer'' means any optical or geometric isomer.

Pursuant to this Final Rule, 21 CFR 1300.01(b)(21) is revised to include a specific definition for the term ''positional isomer''. The modification specifies that, as used in § 1308.11(d), the term ''positional isomer'' means any substance possessing the same molecular formula and core structure and having the same functional group(s) and/or substituent(s) as those found in the respective schedule I hallucinogen, attached at any position(s) on the core structure, but in such manner that no new chemical functionalities are created and no existing chemical functionalities are destroyed relative to the respective schedule I hallucinogen. Rearrangements of alkyl moieties within or between functional group(s) or substituent(s), or divisions or combinations of alkyl moieties that do not create new chemical functionalities or destroy existing chemical functionalities, would be within the

definition of positional isomer. For purposes of this definition, the ''core structure'' is the parent molecule that is the common basis for the class. Some examples would include tryptamine, phenethylamine, or ergoline. Examples of non-permissible rearrangements resulting in creation and/or destruction of chemical functionalities (that therefore would not be considered positional isomers) include, but are not limited to: ethoxy to *alpha*-hydroxyethyl, hydroxy and methyl to methoxy, or the repositioning of a phenolic or alcoholic hydroxy group to create a hydroxyamine. Examples of permissible rearrangements (that are within the definition of positional isomers) include: *tert*-butyl to *sec*-butyl, methoxy and ethyl to isopropoxy, N,N-diethyl to N-methyl-N-propyl, or *alpha*-methylamino to N-methylamino.

Scientific/Technical Nature of Definition

As DEA discussed in its NPRM, DEA understands that the definition is highly technical and laden with scientific terms. However, the DEA believes that such a highly technical definition is necessary to ensure that consistent criteria are utilized in determining whether one substance is a ''positional isomer'' of another.

Regulatory Certifications

Regulatory Flexibility Act

The Deputy Administrator hereby certifies that this rulemaking has been drafted in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation, and by approving it certifies that this regulation will not have a significant economic impact on a substantial number of small entities. The inclusion of the definition of positional isomer set forth herein is unlikely to subject any new substances to CSA control. Also, this rule does not require the obtaining of new DEA registrations. Most persons affected by this rule are already DEA registrants (or would have to become registrants even absent this rule in order to handle schedule I hallucinogens). Further, this rule does not impose any additional regulatory burden on the regulated community. The change simply will ensure that consistent criteria are utilized in making scheduling determinations.

Executive Order 12866

The Deputy Administrator further certifies that this rulemaking has been drafted in accordance with the principles in Executive Order 12866 § 1(b). It has been determined that this is a significant regulatory action. Therefore, this action has been reviewed by the Office of Management and Budget.

Executive Order 12988

This regulation meets the applicable standards set forth in §§ 3(a) and 3(b)(2) of Executive Order 12988 Civil Justice Reform.

Executive Order 13132

This rulemaking does not preempt or modify any provision of state law; nor does it impose enforcement responsibilities on any state; nor does it diminish the power of any state to enforce its own laws. Accordingly, this rulemaking does not have federalism implications warranting the application of Executive Order 13132.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $120,000,000 or more (adjusted for inflation) in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Congressional Review Act

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996 (Congressional Review Act). This rule will not result in an annual effect on the economy of $114,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

List of Subjects in 21 CFR Part 1300

Controlled substances, Definitions, Drug Traffic Control.

■ For the reasons set out above, 21 CFR part 1300 is amended as follows:

PART 1300—DEFINITIONS [AMENDED]

■ 1. The authority citation for Part 1300 continues to read as follows:

Authority: 21 U.S.C. 802, 871(b), 951, 958(f).

■ 2. Section 1300.01 is amended by revising paragraph (b)(21) to read as follows:

§ 1300.01 Definitions relating to controlled substances.

* * * * *

(b) * * *

(21) (i) *The term isomer* means the optical isomer, except as used in § 1308.11(d) and § 1308.12(b)(4) of this chapter. As used in § 1308.11(d) of this chapter, the term ''isomer'' means any optical, positional, or geometric isomer. As used in § 1308.12(b)(4) of this chapter, the term ''isomer'' means any optical or geometric isomer.

(ii) As used in § 1308.11(d) of this chapter, the term ''positional isomer'' means any substance possessing the same molecular formula and core structure and having the same functional group(s) and/or substituent(s) as those found in the respective schedule I hallucinogen, attached at any position(s) on the core structure, but in such manner that no new chemical functionalities are created and no existing chemical functionalities are destroyed relative to the respective schedule I hallucinogen. Rearrangements of alkyl moieties within or between functional group(s) or substituent(s), or divisions or combinations of alkyl moieties, that do not create new chemical functionalities or destroy existing chemical functionalities, are allowed i.e., result in compounds which are positional isomers. For purposes of this definition, the ''core structure'' is the parent molecule that is the common basis for the class; for example, tryptamine, phenethylamine, or ergoline. Examples of rearrangements resulting in creation and/or destruction of chemical functionalities (and therefore resulting in compounds which are not positional isomers) include, but are not limited to: ethoxy to *alpha*-hydroxyethyl, hydroxy and methyl to methoxy, or the repositioning of a phenolic or alcoholic hydroxy group to create a hydroxyamine. Examples of rearrangements resulting in compounds which would be positional isomers include: *tert*-butyl to *sec*-butyl, methoxy and ethyl to isopropoxy, N,N-diethyl to N-methyl-N-propyl, or *alpha*-methylamino to N-methylamino.

* * * * *

Dated: November 21, 2007.

Michele M. Leonhart,

Deputy Administrator,

[FR Doc. E7–23413 Filed 11–30–07; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Parts 351, 353, 359, 360, and 363

Offering and Governing Regulations for Series EE and Series I Savings Bonds, TreasuryDirect

AGENCY: Bureau of the Public Debt, Fiscal Service, Treasury.

ACTION: Final rule.

SUMMARY: This rule lowers the annual purchase limitation per person for Series EE and Series I savings bonds, and eliminates the definitive $10,000 denomination for Series I savings bonds.

DATES: Effective: January 1, 2008.

ADDRESSES: You can download this final rule at the following Internet addresses: *http://www.publicdebt.treas.gov* or *http://www.gpoaccess.gov/ecfr.*

FOR FURTHER INFORMATION CONTACT: Elisha Whipkey, Director, Division of Program Administration, Office of Securities Operations, Bureau of the Public Debt, at (304) 480–6319 or *elisha.whipkey@bpd.treas.gov.*

Susan Sharp, Attorney-Adviser, Dean Adams, Assistant Chief Counsel, Edward Gronseth, Deputy Chief Counsel, Office of the Chief Counsel, Bureau of the Public Debt, at (304) 480–8692 or *susan.sharp@bpd.treas.gov.*

SUPPLEMENTARY INFORMATION: This rule lowers the annual purchase limitation for Series EE and Series I savings bonds. Prior to this rule, an investor could purchase $30,000 each of definitive and book-entry Series EE savings bonds and $30,000 each of definitive and book-entry Series I savings bonds per person, per calendar year. This rule will permit an investor to purchase a principal amount of $5,000 each of definitive and book-entry Series EE savings bonds and $5,000 each of definitive and book-entry Series I savings bonds per person, per calendar year. As a result of the change in the annual purchase limitation, we are withdrawing the $10,000 Series I definitive savings bond denomination on original issue.

The change will permit Treasury to continue to offer savings options for investors with limited means and market opportunities, while encouraging those with greater financial resources to participate in marketable Treasury securities auctions, which are a more efficient means for Treasury to issue debt. Both savings bonds and marketable securities are offered to individuals through TreasuryDirect, which is an internet-accessed, book-entry system for purchasing, holding, and conducting transactions in Treasury securities. Reducing the cap on yearly purchases will not affect the vast majority of current savings bond purchasers, approximately 98 percent of whom buy less than $5,000, our new cap, annually.

Procedural Requirements

This final rule does not meet the criteria for a ''significant regulatory action'' as defined in Executive Order 12866. Therefore, a regulatory assessment is not required.

Because this final rule relates to matters of public contract and procedures for United States securities, notice and public procedure and delayed effective date requirements are inapplicable, pursuant to 5 U.S.C. 553(a)(2).

As no notice of proposed rulemaking is required, the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) does not apply.

We ask for no new collections of information in this final rule. Therefore, the Paperwork Reduction Act (44 U.S.C. 3507) does not apply.

List of Subjects

31 CFR Part 351

Bonds, Federal Reserve system, Government securities.

31 CFR Part 353

Banks and banking, Government securities, Federal Reserve system.

31 CFR Part 359

Bonds, Federal Reserve system, Government securities, Securities.

31 CFR Part 360

Bonds, Federal Reserve system, Government securities, Securities.

31 CFR Part 363

Bonds, Electronic funds transfer, Federal Reserve system, Government securities, Securities.

■ Accordingly, for the reasons set out in the preamble, 31 CFR Chapter II, Subchapter B, is amended as follows:

PART 351—OFFERING OF UNITED STATES SAVINGS BONDS, SERIES EE

■ 1. The authority citation for Part 351 continues to read as follows:

Authority: 5 U.S.C. 301; 12 U.S.C. 391; 31 U.S.C. 3105.

■ 2. Amend § 351.44 by revising the first sentence to read as follows:

§ 351.44 What amount of definitive Series EE savings bonds may I purchase per year?

The principal amount of definitive Series EE savings bonds that may be purchased in the name and TIN of any person in any calendar year is limited to $5,000.

* * * * *

■ 3. Revise § 351.65 to read as follows:

§ 351.65 What amount of book-entry Series EE savings bonds may I acquire per year?

The principal amount of book-entry Series EE savings bonds that you may acquire in your name and TIN per calendar year is limited to $5,000.

PART 353—REGULATIONS GOVERNING DEFINITIVE UNITED STATES SAVINGS BONDS, SERIES EE AND HH

■ 4. The authority citation for Part 353 continues to read as follows:

Authority: 5 U.S.C. 301; 12 U.S.C. 391; 31 U.S.C. 3105, 3125.

■ 5. Revise the heading for Part 353 to read as set forth above.

■ 6. Amend § 353.10 by revising paragraph (a)(1) to read as follows:

§ 353.10 Amounts which may be purchased.

* * * * *

(a) *Series EE*—(1) *General annual limitation.* $5,000 (principal amount).

* * * * *

PART 359—OFFERING OF UNITED STATES SAVINGS BONDS, SERIES I

■ 7. The authority citation for part 359 continues to read as follows:

Authority: 5 U.S.C. 301; 12 U.S.C. 391; 31 U.S.C. 3105.

■ 8. Revise the first sentence of § 359.25 to read as follows:

§ 359.25 What are the denominations and prices of definitive Series I savings bonds?

Definitive Series I saving bonds are issued in denominations of $50, $75, $100, $200, $500, $1,000, and $5,000. * * *

■ 9. Revise § 359.29 to read as follows:

§ 359.29 What amount of definitive Series I savings bonds may I purchase per year?

The principal amount of definitive Series I savings bonds that may be purchased in the name and TIN of any person in any calendar year is limited to $5,000.

■ 10. Revise § 359.50 to read as follows:

§ 359.50 What amount of book-entry Series I savings bonds may I acquire per year?

The principal amount of book-entry Series I savings bonds that you may acquire in your name and TIN in any calendar year is limited to $5,000.

PART 360—REGULATIONS GOVERNING DEFINITIVE UNITED STATES SAVINGS BONDS, SERIES I

■ 11. The authority citation for Part 360 continues to read as follows:

Authority: 5 U.S.C. 301; 31 U.S.C. 3105 and 3125.

■ 12. Amend § 360.10 by revising paragraph (a) to read as follows:

§ 360.10 Amounts which may be purchased.

* * * * *

(a) General annual limitation, $5,000 (par value).

* * * * *

PART 363—REGULATIONS GOVERNING SECURITIES HELD IN TREASURYDIRECT

■ 13. The authority citation for part 363 continues to read as follows:

Authority: 5 U.S.C. 301; 12 U.S.C. 391; 31 U.S.C. 3102, *et seq.*; 31 U.S.C. 3121, *et seq.*

■ 14. Amend § 363.52 by revising the heading and paragraph (a) to read as follows:

§ 363.52 What amount of book-entry Series EE and Series I savings bonds may I purchase in one year?

(a) *Purchase limitation*. The amount of book-entry savings bonds that you may purchase in any calendar year is limited to $5,000 for Series EE savings bonds and $5,000 for Series I savings bonds.

* * * * *

Dated: August 16, 2007.

Kenneth E. Carfine,

Fiscal Assistant Secretary.

[FR Doc. 07–5888 Filed 11–30–07; 8:45 am]

BILLING CODE 4810–39–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2007–0401; FRL–8496–6]

Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; State Implementation Plan Revision To Implement the Clean Air Interstate Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Massachusetts on March 30, 2007. This revision addresses the requirements of EPA's Clean Air Interstate Rule (CAIR), promulgated on May 12, 2005 and subsequently revised on April 28, 2006 and December 13, 2006. EPA has determined that the SIP revision fully implements the CAIR requirements for Massachusetts. Therefore, as a consequence of the SIP approval, the Administrator of EPA will also, in a separate document, issue a final rule to withdraw the Federal Implementation Plan (FIP) concerning NO_X ozone-season emissions for Massachusetts.

In the SIP revision that EPA is approving, Massachusetts will meet CAIR requirements by participating in the EPA-administered cap-and-trade program addressing NO_X ozone-season emissions. Massachusetts's SIP revision is based on EPA's model CAIR NO_X ozone season rule and is, in most respects, substantively identical to that model rule. The Massachusetts CAIR program has two major substantive differences from that model rule (expanded applicability, and a different methodology for allocating NO_X allowances), both of which are consistent with the flexibility allowed under CAIR for state participation in the EPA-administered cap-and-trade program. The SIP revision complies with the statutory and regulatory requirements for approval of a CAIR NO_X ozone-season program. This action is being taken in accordance with the Clean Air Act.

EFFECTIVE DATE: This rule is effective on December 3, 2007.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R01–OAR–2007–0401. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information may not be publicly available, i.e., 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 Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

Copies of the documents relevant to this action are also available for public inspection during normal business hours, by appointment at Division of Air Quality Control, Department of Environmental Protection, One Winter Street, 8th Floor, Boston, MA 02108.

FOR FURTHER INFORMATION CONTACT: If you have questions concerning today's action, please contact Alison C. Simcox, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100 (CAQ), Boston, MA 02114–2023, telephone number (617) 918–1684, fax number (617) 918–0684, e-mail *simcox.alison@epa.gov.*

SUPPLEMENTARY INFORMATION:

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I. What Action Is EPA Taking?

EPA is approving a revision to Massachusetts's SIP, submitted on March 30, 2007. This SIP revision includes a new regulation, 310 CMR 7.32, ''Massachusetts Clean Air Interstate Rule,'' and amendments to existing regulation 310 CMR 7.28, ''NO_X Allowance Trading Program.'' In its SIP revision, Massachusetts will meet CAIR requirements by requiring certain electric generating units (EGUs) to participate in the EPA-administered State CAIR cap-and-trade program addressing NO_X ozone-season emissions. EPA has determined that the Massachusetts SIP as revised meets the applicable requirements of CAIR. On August 1, 2007, EPA proposed approval of the Massachusetts SIP (see 72 FR 41970). No public comments were received on EPA's notice of proposed rulemaking (NPR).

As a consequence of the SIP approval, the Administrator of EPA will also, in a separate document, issue a final rule to withdraw the FIP concerning NO_X ozone-season emissions for Massachusetts. That action will delete and reserve 40 CFR 52.1140. The withdrawal of the CAIR FIP for Massachusetts is a conforming amendment that must be made once the

SIP is approved because EPA's authority to issue the FIP was premised on a deficiency in the SIP for Massachusetts. Once the SIP is fully approved, EPA no longer has authority for the FIP. Thus, EPA will not have the option of maintaining the FIP following the full SIP approval. Accordingly, EPA does not intend to offer an opportunity for a public hearing or an additional opportunity for written public comment on the withdrawal of the FIP.

II. What Is the Regulatory History and General Requirements of CAIR and the CAIR FIPs?

The Clean Air Interstate Rule (CAIR) was published by EPA on May 12, 2005 (70 FR 25162). In this rule, EPA determined that 28 States and the District of Columbia contribute significantly to nonattainment and interfere with maintenance of the national ambient air quality standards (NAAQS) for fine particles ($PM_{2.5}$) and/or 8-hour ozone in downwind States in the eastern part of the country. As a result, EPA required those upwind States to revise their SIPs to include control measures that reduce emissions of SO_2, which is a precursor to $PM_{2.5}$ formation, and/or NO_X, which is a precursor to both ozone and $PM_{2.5}$ formation. For jurisdictions that contribute significantly to downwind $PM_{2.5}$ nonattainment, CAIR sets annual State-wide emission reduction requirements (i.e., budgets) for SO_2 and annual State-wide emission reduction requirements for NO_X. Similarly, for jurisdictions that contribute significantly to 8-hour ozone nonattainment, CAIR sets State-wide emission reduction requirements for NO_X for the ozone season (May 1st to September 30th). Under CAIR, States may implement these reduction requirements by participating in the EPA-administered cap-and-trade programs or by adopting other control measures. The first phase of NO_X reductions starts in 2009 and continues through 2014, while the first phase of SO_2 reductions starts in 2010 and continues through 2014. The second phase of reductions for both NO_X and SO_2 starts in 2015 and continues thereafter.

More information on the regulatory history and requirements of CAIR and the CAIR FIPs is available in the NPR for this SIP Revision and will not be restated here.

III. EPA Analysis of Massachusetts's CAIR SIP Submittal

A brief summary of EPA's review of Massachusetts's CAIR program is given below. Additional details regarding requirements of Massachusetts's 310 CMR 7.32 regulation and EPA's evaluation of this regulation are detailed in a memorandum dated July 16, 2007, entitled ''Technical Support Document (TSD) for revisions to the Massachusetts SIP: 310 CMR 7.32 ('Massachusetts Clean Air Interstate Rule')'' and in the NPR for this SIP revision. The TSD and Massachusetts's CAIR SIP submittal are available in the docket supporting this action.

A. State Budgets for Allowance Allocations

The CAIR NO_X annual and ozone season budgets were developed from historical heat input data for EGUs. Using these data, EPA calculated annual and ozone season regional heat input values, which were multiplied by 0.15 pounds per million British thermal units (lb/mmBtu), for phase 1 of the CAIR program (2009–2014) and by 0.125 lb/mmBtu, for phase 2 of the CAIR program (2015 and thereafter) to obtain regional NO_X budgets for 2009–2014 and for 2015 and thereafter, respectively. EPA derived the State NO_X annual and ozone season budgets from the regional budgets using State heat input data adjusted by fuel factors. Massachusetts, however, is only required to participate in the CAIR NO_X ozone-season program, not the CAIR NO_X annual or SO_2 trading programs. Therefore, only CAIR NO_X ozone-season budgets apply to the Massachusetts CAIR program.

In today's action, EPA is approving Massachusetts's SIP revision of 310 CMR 7.32. This SIP revision adopts the budgets established for the State in CAIR, i.e., 7,551 tons of NO_X ozone-season emissions for CAIR phase 1 and 6,293 tons for CAIR phase 2, plus an additional 363 tons of NO_X ozone-season emissions for both phases 1 and 2 to account for NO_X emissions from ''non-EGU'' units from the Massachusetts NO_X SIP Call trading program (see section III C below). The total NO_X ozone-season budget is therefore 7,914 tons of NO_X ozone-season emissions for CAIR phase 1 and 6,656 tons for CAIR phase 2. Massachusetts's SIP revision sets this budget as the total number of allowances (with each allowance authorizing one ton of NO_X ozone-season emissions) available for allocation for each year under the EPA-administered CAIR cap-and-trade program.

B. CAIR Cap-and-Trade Programs

The CAIR NO_X annual and ozone-season model trading rules both largely mirror the structure of the NO_X SIP Call model trading rule in 40 CFR part 96, subparts A through I. While the provisions of the NO_X annual and ozone-season model rules are similar, there are some differences. For example, the NO_X ozone season model rule reflects the fact that the CAIR NO_X ozone season trading program replaces the NO_X SIP Call trading program after the 2008 ozone season and is coordinated with the NO_X SIP Call program. The NO_X ozone season model rule provides incentives for early emissions reductions by allowing banked, pre-2009 NO_X SIP Call allowances to be used for compliance in the CAIR NO_X ozone-season trading program. In addition, States have the option of continuing to meet their NO_X SIP Call requirement by participating in the CAIR NO_X ozone season trading program and including all their NO_X SIP Call trading sources in that program.

In the SIP revision, Massachusetts will implement its CAIR budgets by requiring EGUs (as well as ''non-EGUs'' from its NO_X SIP Call trading program, as discussed below) to participate in EPA-administered cap-and-trade programs for NO_X ozone-season emissions. Massachusetts has adopted a full SIP revision that adopts, with certain allowed changes discussed below, the CAIR model cap-and-trade rules for NO_X ozone-season emissions.

C. Applicability Provisions for Non-EGU NO_X SIP Call Sources

In general, the CAIR model trading rules apply to any stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine serving at any time, since the later of November 15, 1990 or the start-up of the unit's combustion chamber, a generator with nameplate capacity of more than 25 MWe producing electricity for sale.

States have the option of bringing in, for the CAIR NO_X ozone-season program only, those units in the State's NO_X SIP Call trading program that are not EGUs as defined under CAIR (herein called ''non-EGUs''). Under this option, the CAIR NO_X ozone-season program must cover all large industrial boilers and combustion turbines, as well as any small EGUs (*i.e.* units serving a generator with a nameplate capacity of 25 MWe or less) that the State currently requires to be in the NO_X SIP Call trading program.

Massachusetts has chosen to expand the applicability provisions of the CAIR NO_X ozone season trading program to include all units in the State's NO_X SIP Call trading program. Units in the Massachusetts NO_X SIP Call trading program include units that burn more than 50-percent fossil fuel and that have

a maximum heat-input capacity of 250 million British thermal units (MMBtu) or more, or serve a generator with a nameplate capacity of 15 MWe or more. These units are included in the Massachusetts NO_X SIP Call trading program whether or not they produce electricity for sale, and will be included in the Massachusetts CAIR program beginning with the control period in 2009. EPA has determined that Massachusetts 310 CMR 7.32 includes the allowable CAIR applicability provisions relating to adding all NO_X SIP Call trading program units to the Massachusetts CAIR NO_X ozone season program.

D. NO_X Allowance Allocations

Under the NO_X allowance-allocation methodology in the CAIR model trading rules and in the CAIR FIP, NO_X annual and ozone-season allowances are allocated to units that have operated for five years (*i.e.*, ''existing units''), based on heat input data from a three-year period that are adjusted for fuel type by using fuel factors of 1.0 for coal, 0.6 for oil, and 0.4 for other fuels. The CAIR model trading rules and the CAIR FIP also provide a new unit set-aside from which units without five years of operation are allocated allowances based on the units' prior year emissions.

States may establish in their SIP submissions a different NO_X allowance-allocation methodology that will be used to allocate allowances to sources in the States if certain requirements are met concerning the timing of submission of units' allocations to the Administrator for recordation and the total amount of allowances allocated for each control period. In adopting alternative NO_X allowance-allocation methodologies, States have flexibility with regard to:

1. The cost to recipients of the allowances, which may be distributed for free or auctioned;
2. The frequency of allocations;
3. The basis for allocating allowances, which may be distributed, for example, based on historical heat input or electric and thermal output; and
4. The use of allowance set-asides and, if used, their size.

Massachusetts has chosen to replace the provisions of the CAIR NO_X ozone-season model trading rule concerning allowance allocations with its own methodology. Massachusetts's CAIR program codified at 310 CMR 7.32 distributes NO_X ozone-season allowances based upon historical electric and thermal output, rather than heat input. Massachusetts also provides a percentage of allowances for Public Benefit and new unit set-asides.

Massachusetts's CAIR program includes both a Public Benefit set-aside (PBSA) to encourage Energy Efficiency Projects (EEPs) and Renewable Energy Projects (REPs), and a new unit set-aside to allow for addition of new units. Both of these types of set-asides were included in the State's NO_X SIP Call trading program.

Massachusetts has set a new unit set-aside at 5 percent of the State's CAIR budget for both phases of the CAIR program. Therefore, the new unit set-aside includes 396 CAIR NO_X ozone-season allowances during CAIR phase 1 (2009–2014), and 333 allowances during CAIR phase 2 (2015 and thereafter). Massachusetts has set a PBSA at 10 percent of the State's CAIR budget for both phases of the CAIR program. Therefore, the PBSA includes 791 CAIR NO_X ozone-season allowances during CAIR phase 1 (2009–2014), and 666 allowances during CAIR phase 2 (2015 and thereafter). Information on the Banking and Transferring of Set-Asides in the Massachusetts CAIR program is available in the NPR and will not be restated here.

Massachusetts has chosen to replace the provisions of the CAIR NO_X ozone-season model trading rule concerning allowance allocations with a methodology similar to that used in the Massachusetts NO_X SIP Call trading program. This methodology, which is based on energy output, allocates allowances to existing units and, to the extent possible, to new units based on their steam and/or electricity output. More details on Massachusetts's methodology for allocating CAIR allowances, as well as information on Massachusetts CAIR permits and requirements for facilities to report emissions data, can be found in the TSD and the NPR and will not be restated here.

E. Individual Opt-in Units

The Massachusetts CAIR SIP does not include opt-in provisions because the State has chosen to allocate CAIR allowances using an energy-output methodology that cannot be used for opt-in sources under the model CAIR NO_X ozone-season trading rule. The Massachusetts NO_X SIP Call trading program (310 CMR 7.28), however, does allow for opt-in sources (although no sources have opted into this program to date). Therefore, sources that wish to be part of the Massachusetts CAIR program can take advantage of the opt-in provisions of the State's NO_X SIP Call program until the end of 2008. Beginning with the 2009 ozone season, the NO_X SIP Call program will be replaced by the State's CAIR Program, and no further opt-in units will be allowed.

IV. Final Action

EPA is approving state regulations 310 CMR 7.32 (''Massachusetts CAIR'') and amendments to 310 CMR 7.28 (''NO_X Allocation Trading Program'') as a revision to the Massachusetts SIP. Under this SIP revision, Massachusetts will participate in the EPA-administered cap-and-trade program for NO_X ozone-season emissions. The SIP revision meets the applicable requirements in 40 CFR 51.123(o) and (aa), with regard to NO_X ozone season emissions. EPA has determined that the SIP as revised meets the requirements of CAIR. As a consequence of the SIP approval, the Administrator of EPA will also issue, without providing an opportunity for a public hearing or an additional opportunity for written public comment, a final rule to withdraw the CAIR FIP concerning NO_X ozone-season emissions for Massachusetts. That action will delete and reserve 40 CFR 52.1140 in Part 52.

V. When Is This Action Effective?

EPA finds that there is good cause for this approval to become effective on the date of publication of this action in the **Federal Register**, because a delayed effective date is unnecessary due to the nature of the approval, which allows the State to make allocations under its CAIR rules. The expedited effective date for this action is authorized under both 5 U.S.C. 553(d)(1), which provides that rule actions may become effective less than 30 days after publication if the rule ''grants or recognizes an exemption or relieves a restriction'' and 5 U.S.C. 553(d)(3), which allows an effective date less than 30 days after publication ''as otherwise provided by the agency for good cause found and published with the rule.'' CAIR SIP approvals exempt states and CAIR sources within states from being subject to allowance allocation provisions in the CAIR FIPs that otherwise would apply, allowing States to make their own allowance allocations based on their SIP-approved State rule. The exemption from these obligations is sufficient reason to allow an expedited effective date of this rule under 5 U.S.C. 553(d)(1). In addition, Massachusetts's exemption from these obligations provides good cause to make this rule effective on the date of publication of this action in the **Federal Register**, pursuant to 5 U.S.C. 553(d)(3). The purpose of the 30-day waiting period prescribed in 5 U.S.C. 553(d) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. Where,

as here, the final rule grants an exemption rather than imposing obligations, and where the effect of the final rule is simply to approve for Federal purposes obligations that are already effective under state law, affected parties, such as the State of Massachusetts and CAIR sources within the State, do not need time to adjust and prepare before the rule takes effect.

VI. Statutory and Executive Order Reviews

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

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it approves a state rule implementing a Federal standard.

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

The Congressional Review Act, 5 U.S.C. section 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. section 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 1, 2008. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Electric utilities, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide.

Dated: November 5, 2007.

Robert W. Varney,

Regional Administrator, EPA New England.

■ Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart W—Massachusetts

■ 2. Section 52.1120 is amended by adding and reserving paragraphs (c)(133) and (c)(134) and by adding paragraph (c)(135) to read as follows:

§ 52.1120 Identification of plan.

* * * * *

(c) * * *

(133) [Reserved]

(134) [Reserved]

(135) Revisions to the State Implementation Plan submitted by the Massachusetts Department of Environmental Protection on March 30, 2007.

(i) Incorporation by reference.

(A) 310 CMR 7.32 entitled ''Massachusetts Clean Air Interstate Rule (Mass CAIR),'' effective in the Commonwealth of Massachusetts on May 4, 2007.

(B) Amendments to 310 CMR 7.28 entitled ''NO_X Allowance Trading Program,'' effective in the Commonwealth of Massachusetts on May 4, 2007.

(C) Massachusetts Regulation Filing, dated April 19, 2007, amending 310 CMR 7.28 entitled ''NO_X Allowance Trading Program,'' and adopting 310 CMR 7.32 entitled ''Massachusetts Clean Air Interstate Rule (Mass CAIR).''

■ 3. In § 52.1167, Table 52.1167 is amended by adding two new entries to existing state citation for 310 CMR 7.28; and by adding a new state citation and entry for 310 CMR 7.32 in numerical order to read as follows:

§ 52.1167 EPA-approved Massachusetts State regulations.

* * * * *

TABLE 52.1167.—EPA-APPROVED RULES AND REGULATIONS

State citation	Title/subject	Date submitted by State	Date approved by EPA	**Federal Register** citation	52.1120(c)	Comments/unapproved sections
*	*	*	*	*	*	*
310 CMR 7.28 ...	NO_X Allowance Trading Program.	03/30/07	[12/3/07]	[Insert **Federal Register** page number where the document begins].	135	
.....	.....	03/30/07	[12/3/07]	[Insert **Federal Register** page number where the document begins].	135	Massachusetts Regulation Filing, dated April 19, 2007, substantiating May 4, 2007, State effective date for amended 310 CMR 7.28 "NO_X Allowance Trading Program."
*	*	*	*	*	*	*
310 CMR 7.32 ...	Massachusetts Clean Air Interstate Rule (Mass CAIR).	03/30/07	[12/3/07]	[Insert **Federal Register** page number where the document begins].	135	
.....	.....	03/30/07	[12/3/07]	[Insert **Federal Register** page number where the document begins].	135	Massachusetts Regulation Filing, dated April 19, 2007, substantiating May 4, 2007, State effective date for adopted 310 CMR 7.32 "Massachusetts Clean Air Interstate Rule (Mass CAIR)."
*	*	*	*	*	*	*

Notes:
1. This table lists regulations adopted as of 1972. It does not depict regulatory requirements which may have been part of the Federal SIP before this date.
2. The regulations are effective statewide unless otherwise stated in comments or title section.

[FR Doc. E7–23246 Filed 11–30–07; 8:45 am]
BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[CC Docket No. 96–45; FCC 05–46]

Office of Management and Budget Approval of Public Information Collections

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: The Federal Communications Commission received Office of Management and Budget (OMB) approval for the information collections contained in sections 54.202 and 54.209 of the Commission's rules, 47 CFR 54.202 and 54.209 on October 14, 2005, as published in the **Federal Register** on November 2, 2005, at 70 FR 66407.

DATES: Sections 54.202 and 54.209 of the Commission's rules, 47 CFR 54.202 and 54.209 published at 70 FR 29978, May 25, 2005 became effective on October 14, 2005.

FOR FURTHER INFORMATION CONTACT: Thomas Butler, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554, (202) 418–1492, or via the Internet at *Thomas.Butler@fcc.gov*.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–1081.

OMB Approval Date: 10/14/2005.

Expiration Date: 10/31/2008.

Title: Federal-State Joint Board on Universal Service, CC Docket No. 96–45, Report and Order, 70 FR 29960, May 25, 2005.

Form No.: N/A.

Estimated Annual Burden: 22 responses; 242 total annual burden hours; approximately 11 hours average per respondent.

Needs and Uses: In the Report and Order, the Commission adopted additional mandatory requirements for eligible telecommunication carrier (ETC) designation proceedings in which the Commission acts pursuant to section 214(e)(6) of the Communications Act of 1934, as amended (the Act). Consistent with the recommendations of the Federal-State Joint Board on Universal Service, and expanding the mandatory requirements, the Commission adopted rules 54.202 and 54.209, 47 CFR 54.202, 54.209, which imposed additional requirements for designation and annual certifications. These requirements ensure that ETCs continue to comply with the conditions of the ETC designation and that universal service funds are used for their intended purposes. Specifically, every ETC must submit, on an annual basis: (1) Progress reports on the ETC's five-year service quality improvement plan; (2) detailed information on any outage lasting at least 30 minutes; (3) the number of unfulfilled requests for service from potential customers within its service areas; (4) the number of complaints per 1,000 handsets or lines; (5) certification that the ETC is complying with applicable service quality standards and consumer protection rules; (6) certification that the ETC is able to function in emergency situations; (7) certification that the ETC is offering a local usage plan comparable to that offered by the incumbent local exchange carrier (LEC) in the relevant service areas; and (8) certification that the carrier acknowledges that the

Commission may require it to provide equal access within the service area. The Commission will use the information collected to ensure that each ETC satisfies its obligation under section 214(e) of the Act to provide services supported by the universal service mechanism throughout the area for which each ETC is designation. The Commission published notice of this OMB approval in the **Federal Register** on November 2, 2005, 70 FR 66407, November 2, 2005.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E7–23280 Filed 11–30–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 07–4504; MB Docket No. 07–1; RM–11356]

Radio Broadcasting Services; Hemet, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Audio Division grants a Petition for Rule Making filed by Southern California Public Radio, requesting the reservation of vacant Channel 273A at Hemet, California for noncommercial educational use. The reference coordinates for Channel *273A at Hemet, California are 33–44–44 NL and 116–59–18 WL.

DATES: Effective December 17, 2007.

ADDRESSES: Secretary, Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Rolanda F. Smith, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MB Docket No. 07–1, adopted October 31, 2007, and released November 2, 2007. The *Notice of Proposed Rule Making* proposed the reservation of vacant Channel 273A at Hemet, California for noncommercial educational use. *See* 72 FR 35210, published June 27, 2007. The full text of this Commission decision is available for inspection and copying during regular business hours at the FCC's Reference Information Center, Portals II, 445 Twelfth Street, SW., Room CY–A257, Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20054, telephone 1–800–378–3160 or *http://www.BCPIWEB.com.* The Commission will send a copy of the *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

■ As stated in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under California, is amended by removing Channel 273A and by adding Channel *273A at Hemet.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. E7–23261 Filed 11–30–07; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 071127755–7759–01]

RIN 0648–XE20

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 1,580 nm^2 (5,419 km^2), 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 December 5, 2007, through 2400 hours December 19, 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 nm^2 (139 km^2)) such that right whale density is equal to or greater than 0.04 right whales per nm^2 (1.85 km^2). 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 November 20, 2007, an aerial survey reported an aggregation of seven right whales in the proximity of 43° 01′ N latitude and 70° 09′ 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° 21′ N., 70° 26′ W. (NW Corner)
43° 21′ N., 69° 42′ W.
42° 40′ N., 69° 42′ W.
42° 40′ N., 70° 35′ W.
43° 12′ N., 70° 35′ W. and follow the coastline north to
43° 13′ N., 70° 35′ W.
43° 16′ N., 70° 35′ W. and follow the coastline north and east to
43° 21′ N., 70° 26′ 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. The breaking strength of each net panel weak link must not exceed 1,100 lb (498.8 kg). The weak link requirements apply to all variations in net panel size. One weak link must be placed in the center of the floatline and one weak link must be placed in the center of each of the up and down lines at both ends of the net panel. Additionally, one weak link must be placed as close as possible to each end of the net panels on the floatline; or, one weak link must be placed between floatline tie-loops between net panels and one weak link must be placed where the floatline tie-loops attach to the bridle, buoy line, or groundline at each end of a net string;
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 December 5, 2007, through 2400 hours December 19, 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: November 27, 2007.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 07–5906 Filed 11–28–07; 2:38 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 071127753–7758–01]

RIN 0648–XE21

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 1,939 nm^2 (6,650 km^2), south of Rockland, 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 December 5, 2007, through 2400 hours December 19, 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 nm^2 (139 km^2)) such that right whale density is equal to or greater than 0.04 right whales per nm^2 (1.85 km^2). 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 November 20, 2007, an aerial survey reported an aggregation of 21 right whales in the proximity of 43° 21′ N latitude and 68° 35′ W longitude. The position lies approximately 50nm south of Rockland, 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° 42′ N., 69° 04′ W. (NW Corner)
43° 42′ N., 68° 02′ W.
42° 59′ N., 68° 02′ W.
42° 59′ N., 69° 04′ W.
43° 42′ N., 69° 04′ 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 portions of Northern Nearshore Lobster Waters 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 the Other Northeast Gillnet Waters 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. The breaking strength of each net panel weak link must not exceed 1,100 lb (498.8 kg). The weak link requirements apply to all variations in net panel size. One weak link must be placed in the center of the floatline and one weak link must be placed in the center of each of the up and down lines at both ends of the net panel. Additionally, one weak link must be placed as close as possible to each end of the net panels on the floatline; or, one weak link must be placed between floatline tie-loops between net panels and one weak link must be placed where the floatline tie-loops attach to the bridle, buoy line, or groundline at each end of a net string;

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 December 5, 2007, through 2400 hours December 19, 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: November 27, 2007.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 07–5907 Filed 11–28–07; 2:38 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 72, No. 231
Monday, December 3, 2007

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–0263; Directorate Identifier 2007–NM–207–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–600, –700, –700C, –800, and –900 Series Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all Boeing Model 737–600, –700, –700C, –800, and –900 series airplanes. This proposed AD would require repetitive inspections for any cracking of or damage to the left side and right side flight deck No. 2, No. 4, and No. 5 windows, as necessary, and corrective actions if necessary. This proposed AD results from reports of in-flight departure and separation of the flight deck windows. We are proposing this AD to detect and correct cracking in the vinyl interlayer or damage to the structural inner glass panes of the flight deck No. 2, No. 4, and No. 5 windows, which could result in loss of a window and rapid loss of cabin pressure. Loss of cabin pressure could cause crew communication difficulties or crew incapacitation.

DATES: We must receive comments on this proposed AD by January 17, 2008.

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 Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207.

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: Wayne Lockett, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6447; fax (425) 917–6590.

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–2007–0263; Directorate Identifier 2007–NM–207–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

We have received one report of in-flight departure of the flight deck No. 3 window, on a Boeing Model 747 series airplane, which resulted in rapid loss of cabin pressure and an emergency landing. That airplane had accumulated 36,131 total flight hours and 5,607 total flight cycles. We have also received two reports of in-flight separation of the left side flight deck No. 5 window, on two Boeing Model 737 series airplanes. One of the Model 737 series airplanes experienced cabin pressure loss at 12,500 feet due to separation of the forward, aft, and upper edges of the left side flight deck No. 5 window. That airplane had accumulated 25,673 total flight hours and 15,669 total flight cycles. The other Model 737 series airplane experienced a pressure leak at 29,000 feet due to partial separation of the upper aft corner of the left side flight deck No. 5 window. That airplane had accumulated 28,139 total flight hours and 16,566 total flight cycles. Vinyl interlayer cracking of the flight deck No. 2, No. 4, and No. 5 windows could decrease the load carrying capability of the affected windows during cabin pressurization if the structural glass pane of the window becomes broken. Vinyl interlayer cracking could also decrease the bird impact resistance capability of the flight deck No. 2 and No. 4 windows. Cracking in the vinyl interlayer or damage to the structural inner glass panes of the flight deck No. 2, No. 4, and No. 5 windows, if not corrected, could result in loss of a window and rapid loss of cabin pressure. Loss of cabin pressure could cause crew communication difficulties or crew incapacitation.

Other Related Rulemaking

On July 18, 2007, we issued AD 2007–15–10, amendment 39–15139 (72 FR 41438, July 30, 2007), to address the unsafe condition on all Model 747 airplanes. A correction was issued on September 10, 2007 (72 FR 53923, September 21, 2007), to fix a typographical error in AD 2007–15–10. That AD requires an inspection of the No. 2 and No. 3 windows on the left and right sides of the airplane to determine their part numbers, and related investigative and corrective actions if necessary. On October 5, 2007, we issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an airworthiness directive (AD) that would apply to all Boeing Model 737–100, –200, –200C, –300, –400, and

–500 series airplanes. That NPRM was published in the **Federal Register** on October 17, 2007 (72 FR 58766). That NPRM proposed to require repetitive inspections for any cracking of or damage to the left side and right side flight deck No. 2, No. 4, and No. 5 windows and corrective actions if necessary.

Relevant Service Information

We have reviewed Boeing Alert Service Bulletin 737–56A1022, dated July 18, 2007. The service bulletin describes procedures for doing repetitive internal and external detailed inspections for any cracking of or damage to the left side and right side flight deck No. 2, No. 4, and No. 5 windows, as applicable, that exceeds the limits given in the Accomplishment Instructions of the service bulletin. The service bulletin specifies an initial compliance time ranging between 6 months and 24 months, depending on the window location and number of window flight hours. If a replacement window is not new or has an unknown number of flight hours, the service bulletin specifies accomplishing the initial inspections before installation. If a replacement window is new or has zero flight hours, the service bulletin specifies accomplishing the initial inspections at the following times: (1) 7,500 window flight hours or 36 months, whichever occurs first, for flight deck No. 2 windows, and (2) 6,000 window flight hours or 24 months, whichever occurs first, for flight deck No. 4 and No. 5 windows. The service bulletin also specifies a repetitive interval of (1) 7,500 window flight hours or 36 months, whichever occurs first, for flight deck No. 2 windows, and (2) 6,000 window flight hours or 24 months, whichever occurs first, for flight deck No. 4 and No. 5 windows.

The service bulletin also describes procedures for accomplishing corrective actions if necessary. The corrective actions include replacing any cracked or damaged window with a new or serviceable window. The service bulletin specifies accomplishing the corrective actions before further flight.

Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other airplanes of this same type design. For this reason, we are proposing this AD, which would require accomplishing the actions specified in the service information described previously.

Costs of Compliance

There are about 2,127 airplanes of the affected design in the worldwide fleet. This proposed AD would affect about 737 airplanes of U.S. registry. The proposed actions would take about 2 work hours per airplane, at an average labor rate of $80 per work hour. Based on these figures, the estimated cost of the proposed AD for U.S. operators is $117,920, or $160 per airplane, per inspection cycle.

Authority for This Rulemaking

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

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

Regulatory Findings

We have determined that this 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):

Boeing: Docket No. FAA–2007–0263; Directorate Identifier 2007–NM–207–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by January 17, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Boeing Model 737–600, –700, –700C, –800, and –900 series airplanes, certificated in any category.

Unsafe Condition

(d) This AD results from reports of in-flight departure and separation of the flight deck windows. We are issuing this AD to detect and correct cracking in the vinyl interlayer or damage to the structural inner glass panes of the flight deck No. 2, No. 4, and No. 5 windows, which could result in loss of a window and rapid loss of cabin pressure. Loss of cabin pressure could cause crew communication difficulties or crew incapacitation.

Compliance

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

Repetitive Inspections and Replacement

(f) At the applicable times specified in Tables 1, 2, and 3 of paragraph 1.E. of Boeing Alert Service Bulletin 737–56A1022, dated July 18, 2007, except as provided by paragraph (g) of this AD: Do the internal and external detailed inspections for any cracking of or damage to the left side and right side flight deck No. 2, No. 4, and No. 5 windows, as applicable, and do the applicable corrective actions before further flight, by accomplishing all of the applicable actions specified in the Accomplishment Instructions of Boeing Alert Service Bulletin 737–56A1022, dated July 18, 2007. Repeat

the inspections thereafter at the applicable interval specified in paragraph 1.E. of Boeing Alert Service Bulletin 737–56A1022, dated July 18, 2007.

Exception to Compliance Times

(g) Where Tables 1, 2, and 3 of paragraph 1.E. of Boeing Alert Service Bulletin 737–56A1022, dated July 18, 2007, specify counting the compliance time from ''* * * the date on this service bulletin,'' this AD requires counting the compliance time from the effective date of this AD.

Alternative Methods of Compliance (AMOCs)

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

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

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD, if it is approved by an Authorized Representative for the Boeing Commercial Airplanes Delegation Option Authorization Organization who has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(4) Installation of metallic window blanks at cockpit eyebrow windows No. 4 and No. 5 in accordance with Supplemental Type Certificate ST01630SE is approved as a means of compliance with the initial and repetitive inspections for the flight deck No. 4 and No. 5 windows required by paragraph (f) of this AD. All other applicable actions required by paragraph (f) of this AD must be fully complied with.

Issued in Renton, Washington, on November 7, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–23335 Filed 11–30–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–0264; Directorate Identifier 2007–NM–212–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 707 Airplanes and Model 720 and 720B Series Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all Boeing Model 707 airplanes and Model 720 and 720B series airplanes. This proposed AD would require repetitive inspections for any cracking of or damage to the left side and right side flight deck No. 2, No. 4, and No. 5 windows, as necessary, and corrective actions if necessary. This proposed AD results from reports of in-flight departure and separation of the flight deck windows. We are proposing this AD to detect and correct cracking in the vinyl interlayer or damage to the structural inner glass panes of the flight deck No. 2, No. 4, and No. 5 windows, which could result in loss of a window and rapid loss of cabin pressure. Loss of cabin pressure could cause crew communication difficulties or crew incapacitation.

DATES: We must receive comments on this proposed AD by January 17, 2008.

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 Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207.

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: Berhane Alazar, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6577; fax (425) 917–6590.

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–2007–0264; Directorate Identifier 2007–NM–212–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

We have received one report of in-flight departure of the flight deck No. 3 window, on a Boeing Model 747 series airplane, which resulted in rapid loss of cabin pressure and an emergency landing. That airplane had accumulated 36,131 total flight hours and 5,607 total flight cycles. We have also received two reports of in-flight separation of the left side flight deck No. 5 window, on two Boeing Model 737 series airplanes. One of the Model 737 series airplanes experienced cabin pressure loss at 12,500 feet due to separation of the forward, aft, and upper edges of the left side flight deck No. 5 window. That airplane had accumulated 25,673 total flight hours and 15,669 total flight cycles. The other Model 737 series airplane experienced a pressure leak at 29,000 feet due to partial separation of the upper aft corner of the left side flight

deck No. 5 window. That airplane had accumulated 28,139 total flight hours and 16,566 total flight cycles. Vinyl interlayer cracking of the flight deck No. 2, No. 4, and No. 5 windows could decrease the load carrying capability of the affected windows during cabin pressurization if the structural glass pane of the window becomes broken. Vinyl interlayer cracking could also decrease the bird impact resistance capability of the flight deck No. 2 and No. 4 windows. Cracking in the vinyl interlayer or damage to the structural inner glass panes of the flight deck No. 2, No. 4, and No. 5 windows, if not corrected, could result in loss of a window and rapid loss of cabin pressure. Loss of cabin pressure could cause crew communication difficulties or crew incapacitation.

The window construction and operating environment on the Model 737 airplanes and Model 747 airplanes are similar to those on the affected Boeing Model 707 airplanes and Model 720 and 720B series airplanes. Therefore, all of these models are also subject to the same unsafe condition.

Other Related Rulemaking

On July 18, 2007, we issued AD 2007–15–10, amendment 39–15139 (72 FR 41438, July 30, 2007), to address the unsafe condition on all Model 747 airplanes. A correction was issued on September 10, 2007 (72 FR 53923, September 21, 2007), to fix a typographical error in AD 2007–15–10. That AD requires an inspection of the No. 2 and No. 3 windows on the left and right sides of the airplane to determine their part numbers, and related investigative and corrective actions if necessary. On October 5, 2007, we issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an airworthiness directive (AD) that would apply to all Boeing Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. That NPRM was published in the **Federal Register** on October 17, 2007 (72 FR 58766). That NPRM proposed to require repetitive inspections for any cracking of or damage to the left side and right side flight deck No. 2, No. 4, and No. 5 windows and corrective actions if necessary.

Relevant Service Information

We have reviewed Boeing 707 Alert Service Bulletin A3526, dated June 4, 2007. The service bulletin describes procedures for doing repetitive internal and external detailed inspections for any cracking of or damage to the left side and right side flight deck No. 2, No. 4, and No. 5 windows, as applicable, that exceeds the limits given in the Accomplishment Instructions of the service bulletin. The service bulletin specifies an initial compliance time ranging between 6 months and 24 months, depending on the window location and number of window flight hours. If a replacement window is not new or has an unknown number of flight hours, the service bulletin specifies accomplishing the initial inspections before installation. If a replacement window is new or has zero flight hours, the service bulletin specifies accomplishing the initial inspections at the following times: (1) 7,500 window flight hours or 36 months, whichever occurs first, for flight deck No. 2 windows, and (2) 6,000 window flight hours or 24 months, whichever occurs first, for flight deck No. 4 and No. 5 windows. The service bulletin also specifies a repetitive interval of (1) 7,500 window flight hours or 36 months, whichever occurs first, for flight deck No. 2 windows, and (2) 6,000 window flight hours or 24 months, whichever occurs first, for flight deck No. 4 and No. 5 windows.

The service bulletin also describes procedures for accomplishing corrective actions if necessary. The corrective actions include replacing any cracked or damaged window with a new or serviceable window. The service bulletin specifies accomplishing the corrective actions before further flight.

Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other airplanes of this same type design. For this reason, we are proposing this AD, which would require accomplishing the actions specified in the service information described previously.

Costs of Compliance

There are about 238 airplanes of the affected design in the worldwide fleet. This proposed AD would affect about 83 airplanes of U.S. registry. The proposed actions would take about 2 work hours per airplane, at an average labor rate of $80 per work hour. Based on these figures, the estimated cost of the proposed AD for U.S. operators is $13,280, or $160 per airplane, per inspection cycle.

Authority for This Rulemaking

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

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

Regulatory Findings

We have determined that this 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):

Boeing: Docket No. FAA–2007–0264; Directorate Identifier 2007–NM–212–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by January 17, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Boeing Model 707–100 long body, –200, –100B long body, and –100B short body series airplanes; Model 707–300, –300B, –300C, and –400 series airplanes; and Model 720 and 720B series airplanes, certificated in any category.

Unsafe Condition

(d) This AD results from reports of in-flight departure and separation of the flight deck windows. We are issuing this AD to detect and correct cracking in the vinyl interlayer or damage to the structural inner glass panes of the flight deck No. 2, No. 4, and No. 5 windows, which could result in loss of a window and rapid loss of cabin pressure. Loss of cabin pressure could cause crew communication difficulties or crew incapacitation.

Compliance

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

Repetitive Inspections and Replacement

(f) At the applicable times specified in Tables 1, 2, and 3 of paragraph 1.E. of Boeing 707 Alert Service Bulletin A3526, dated June 4, 2007, except as provided by paragraph (g) of this AD: Do the internal and external detailed inspections for any cracking of or damage to the left side and right side flight deck No. 2, No. 4, and No. 5 windows, as applicable, and do the applicable corrective actions before further flight, by accomplishing all of the applicable actions specified in the Accomplishment Instructions of Boeing 707 Alert Service Bulletin A3526, dated June 4, 2007. Repeat the inspections thereafter at the applicable interval specified in paragraph 1.E. of Boeing 707 Alert Service Bulletin A3526, dated June 4, 2007.

Exception to Compliance Times

(g) Where Tables 1, 2, and 3 of paragraph 1.E. of Boeing 707 Alert Service Bulletin A3526, dated June 4, 2007, specify counting the compliance time from ''* * * the date on this service bulletin,'' this AD requires counting the compliance time from the effective date of this AD.

Alternative Methods of Compliance (AMOCs)

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

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

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD, if it is approved by an Authorized Representative for the Boeing Commercial Airplanes Delegation Option Authorization Organization who has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

Issued in Renton, Washington, on November 7, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–23337 Filed 11–30–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–0266; Directorate Identifier 2007–NM–170–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A330 Series Airplanes and Model A340–200 and –300 Series Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Airbus Model A330 series airplanes and Model A340–200 and –300 series airplanes. This proposed AD would require revising the airplane flight manual (AFM) to prohibit the flightcrew from performing CAT 2 and CAT 3 automatic landings and roll-outs at certain airports. This AD also provides an optional terminating action for the AFM revision. This proposed AD results from data showing that the magnetic variation table installed in certain Honeywell and Northrop Grumman air data inertial reference units (ADIRUs) is obsolete at certain airports. We are proposing this AD to prevent the airplane from departing the runway during a CAT 2 or CAT 3 automatic landing or roll-out, due to differences between actual magnetic variation and the values in the ADIRU magnetic variation tables.

DATES: We must receive comments on this proposed AD by January 2, 2008.

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 Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France.

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: Tim Backman, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2797; 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–2007–0266; Directorate Identifier 2007–NM–170–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 European Aviation Safety Agency (EASA), which is the technical agent for the Member States of the European Union, notified us that an unsafe condition may exist on certain Airbus Model A330 series airplanes and Model A340–200 and –300 series airplanes equipped with certain Honeywell or Northrop Grumman air data inertial reference units (ADIRUs). The EASA advises that the magnetic variation table installed in certain Honeywell and Northrop Grumman ADIRUs is obsolete at certain airports. Studies have shown that, for a given airport, a difference greater than 3 degrees between the real magnetic variation and the variation in the ADIRU could result in misinformation to the flightcrew during the phases of CAT 2 or CAT 3 automatic landing or roll-out. This condition, if not corrected, could result in the airplane departing the runway during a CAT 2 or CAT 3 automatic landing or roll-out.

Relevant Service Information

Airbus has issued the following temporary revisions (TRs) to the A330 Airplane Flight Manual (AFM): TR 2.05.00/67, Issue 2, dated September 19, 2007; and TR 2.05.00/68, dated March 31, 2006. Airbus has also issued the following TRs to the A340 AFM: TR 2.05.00/87, Issue 2, dated September 19, 2007; and TR 2.05.00/88, dated March 31, 2006. The TRs provide operational limitations that prohibit the flightcrew from performing CAT 2 and CAT 3 automatic landings and roll-outs at airports where the difference between the real magnetic deviation and the deviation in the ADIRU is greater than 3 degrees. The TRs also list the affected airports and date by which automatic landings and roll-outs are prohibited.

We have reviewed the service bulletins listed in the ''Optional Terminating Action'' table, which describe procedures for replacing certain ADIRUs with new, improved ADIRUs. Accomplishing the actions specified in the applicable service bulletin would end the need for the AFM revision.

OPTIONAL TERMINATING ACTION

Model—	Airbus service bulletin—
A330–200 and A330–300 series airplanes equipped with certain Northrop Grumman ADIRUs.	A330–34–3132, dated December 16, 2003; or Revision 01, dated August 18, 2004. A330–34–3159, dated February 10, 2005.
A330–200 and A330–300 series airplanes equipped with certain Honeywell ADIRUs.	A330–34–3104, dated July 17, 2003. A330–34–3165, dated June 28, 2006.
A340–200 and A340–300 series airplanes equipped with certain Northrop Grumman ADIRUs.	A340–34–4141, dated December 16, 2003; or Revision 01, dated August 18, 2004. A340–34–4163, dated February 10, 2005.
A340–200 and A340–300 series airplanes equipped with certain Honeywell ADIRUs.	A340–34–4114, dated July 17, 2003. A340–34–4166, dated June 28, 2006.

Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition. The EASA mandated the service information and issued airworthiness directive 2006–0232, dated August 7, 2006, to ensure the continued airworthiness of these airplanes in the European Union.

FAA's Determination and Requirements of the Proposed AD

These airplane models are manufactured in France and are 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. As described in FAA Order 8100.14A, ''Interim Procedures for Working with the European Community on Airworthiness Certification and Continued Airworthiness,'' dated August 12, 2005, the EASA has kept the FAA informed of the situation described above. We have examined the EASA's findings, evaluated all pertinent information, and determined that we need to issue an AD for airplanes of this type design that are certificated for operation in the United States.

Therefore, we are proposing this AD, which would require revising the AFM to prohibit the flightcrew from performing CAT 2 and CAT 3 automatic landings and roll-outs at certain airports. This proposed AD also provides an optional terminating action for the AFM revision.

Costs of Compliance

This proposed AD would affect about 40 airplanes of U.S. registry. The proposed actions would take about 1 work hour per airplane, at an average labor rate of $80 per work hour. Based on these figures, the estimated cost of the proposed AD for U.S. operators is $3,200, or $80 per airplane.

Authority for This Rulemaking

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

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

Regulatory Findings

We have determined that this 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):

Airbus: Docket No. FAA–2007–0266; Directorate Identifier 2007–NM–170–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by January 2, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Airbus Model A330–200, A330–300, A340–200, and A340–300 series airplanes, certificated in any category; equipped with the air data inertial reference units (ADIRUs) identified in paragraphs (c)(1) and (c)(2) of this AD.

(1) Honeywell ADIRUs having part numbers (P/Ns) HG2030AC0X (where X is any number between 0 and 9 inclusive) and P/Ns HG2030ADYY (where YY is any number between 00 and 10 inclusive).

(2) Northrop Grumman (formerly Litton) ADIRUs having P/Ns 465020–030303ZZ (where ZZ is any number between 00 and 12 inclusive).

Unsafe Condition

(d) This AD results from data showing that the magnetic variation table installed in certain Honeywell and Northrop Grumman ADIRUs is obsolete at certain airports. We are issuing this AD to prevent the airplane from departing the runway during a CAT 2 or CAT 3 automatic landing or roll-out, due to differences between actual magnetic variation and the values in the ADIRU magnetic variation tables.

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.

Temporary Revision (TR) References

(f) The term ''Temporary Revision,'' as used in this AD, means the following TRs, as applicable:

(1) For Model A330–200 and A330–300 series airplanes equipped with any Honeywell ADIRU identified in paragraph (c)(1) of this AD: Airbus TR 2.05.00/67, Issue 2, dated September 19, 2007, to the Airbus A330 Airplane Flight Manual (AFM);

(2) For Model A330–200 and A330–300 series airplanes equipped with any Northrop Grumman ADIRU identified in paragraph (c)(2) of this AD: Airbus TR 2.05.00/68, dated March 31, 2006, to the Airbus A330 AFM;

(3) For Model A340–200 and A340–300 series airplanes equipped with any Honeywell ADIRU identified in paragraph (c)(1) of this AD: Airbus TR 2.05.00/87, Issue 2, dated September 19, 2007, to the Airbus A340 AFM;

(4) For Model A340–200 and A340–300 series airplanes equipped with any Northrop Grumman ADIRU identified in paragraph (c)(2) of this AD: Airbus TR 2.05.00/88, dated March 31, 2006, to the Airbus A340 AFM.

Airplane Flight Manual (AFM) Revision

(g) Within 14 days after the effective date of this AD, revise the Limitations Section of the Airbus A330 or A340 AFM, as applicable, to prohibit the flightcrew from performing CAT 2 and CAT 3 automatic landings and roll-outs at certain airports by incorporating the applicable Temporary Revision into the AFM. Operate the airplane according to the limitations in the applicable TR.

(h) When the information in the applicable TR has been incorporated into the general revisions of the Airbus A330 or A340 AFM, as applicable, the general revisions may be inserted into the AFM, and the TR may be removed from the AFM.

Optional Terminating Action

(i) Replacing the ADIRUs with new, improved ADIRUs as specified in paragraph (i)(1), (i)(2), (i)(3), or (i)(4) of this AD terminates the AFM revision required by paragraph (g) of this AD.

(1) For Model A330–200 and A330–300 series airplanes equipped with any Honeywell ADIRU identified in paragraph (c)(1) of this AD, doing the replacement in accordance with the Accomplishment Instructions of Airbus Service Bulletin A330–34–3165, dated June 28, 2006; or Airbus Service Bulletin A330–34–3104, dated July 17, 2003.

(2) For Model A330–200 and A330–300 series airplanes equipped with any Northrop Grumman ADIRU identified in paragraph (c)(2) of this AD, doing the replacement in accordance with the Accomplishment Instructions of Airbus Service Bulletin A330–34–3132, dated December 16, 2003, or Revision 01, dated August 18, 2004; or Airbus Service Bulletin A330–34–3159, dated February 10, 2005.

(3) For Model A340–200 and A340–300 series airplanes equipped with any Honeywell ADIRU identified in paragraph (c)(1) of this AD, doing the replacement in accordance with the Accomplishment Instructions of Airbus Service Bulletin A340–34–4166, dated June 28, 2006; or Airbus Service Bulletin A340–34–4114, dated July 17, 2003.

(4) For Model A340–200 and A340–300 series airplanes equipped with any Northrop Grumman ADIRU identified in paragraph (c)(2) of this AD, doing the replacement in accordance with the Accomplishment Instructions of Airbus Service Bulletin A340–34–4141, dated December 16, 2003, or Revision 01, dated August 18, 2004; or Airbus Service Bulletin A340–34–4163, dated February 10, 2005.

Alternative Methods of Compliance (AMOCs)

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

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

Related Information

(k) European Aviation Safety Agency airworthiness directive 2006–0232, dated August 7, 2006, also addresses the subject of this AD.

Issued in Renton, Washington, on November 23, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–23338 Filed 11–30–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–0262; Directorate Identifier 2007–NM–247–AD]

RIN 2120–AA64

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

> Bombardier Aerospace has completed a system safety review of the CL–600–2B19 aircraft fuel system * * *.
>
> The assessment showed that sealant has not been applied to bolts on the collector fuel tanks or the transfer ejector fuel pumps. Lack of sealant on the above-noted locations, if not corrected, could result in arcing and potential ignition source inside the fuel tank during lightning strikes and consequent fuel tank explosion. * * *

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 January 2, 2008.

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

SUPPLEMENTARY INFORMATION:

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–2007–0262; Directorate Identifier 2007–NM–247–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

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2007–17, dated September 4, 2007 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> Bombardier Aerospace has completed a system safety review of the CL–600–2B19 aircraft fuel system against new fuel tank safety standards, introduced in Chapter 525 of the Airworthiness Manual through Notice of Proposed Amendment (NPA) 2002–043. The identified non-compliances were assessed using Transport Canada Policy Letter No. 525–001 to determine if mandatory corrective action is required.
>
> The assessment showed that sealant has not been applied to bolts on the collector fuel tanks or the transfer ejector fuel pumps. Lack of sealant on the above-noted locations, if not corrected, could result in arcing and potential ignition source inside the fuel tank during lightning strikes and consequent fuel tank explosion. To correct the unsafe condition, this directive mandates the application of sealant to the bolts that attach various fittings on the collector fuel tanks, [an inspection for a fillet seal and if necessary application of fillet seal] to the edges of the transfer ejector pumps and [an inspection for sealant and if necessary application of sealant] to the bolts that attach the transfer ejector pump to the transfer ejector pump casing.

You may obtain further information by examining the MCAI in the AD docket.

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'' (66 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)) holders to substantiate that their fuel tank systems can prevent ignition sources in the fuel tanks. This requirement applies to type design 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 a 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.

Relevant Service Information

Bombardier has issued Service Bulletins 601R–28–051 and 601R–28–060, both Revision A, both dated March 30, 2005. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of 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 626 products of U.S. registry. We also estimate that it would take about 31 work-hours per product to comply with the basic requirements of this proposed AD. Required parts would cost a negligible amount 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. 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 $1,552,480, or $2,480 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:

Bombardier, INC. (Formerly Canadair): Docket No. FAA–2007–0262; Directorate Identifier 2007-NM–247-AD.

Comments Due Date

(a) We must receive comments by January 2, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes, serial numbers 7003 through 7067 and 7069 through 7924; certificated in any category.

Subject

(d) Air Transport Association (ATA) of America Code 28: Fuel.

Reason

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

Bombardier Aerospace has completed a system safety review of the CL–600–2B19 aircraft fuel system against new fuel tank safety standards, introduced in Chapter 525 of the Airworthiness Manual through Notice of Proposed Amendment (NPA) 2002–043. The identified non-compliances were assessed using Transport Canada Policy Letter No. 525–001 to determine if mandatory corrective action is required.

The assessment showed that sealant has not been applied to bolts on the collector fuel tanks or the transfer ejector fuel pumps. Lack of sealant on the above-noted locations, if not corrected, could result in arcing and potential ignition source inside the fuel tank during lightning strikes and consequent fuel tank explosion. To correct the unsafe condition, this directive mandates the application of sealant to the bolts that attach various fittings on the collector fuel tanks, [an inspection for a fillet seal and if necessary application of fillet seal] to the edges of the transfer ejector pumps and [an inspection for sealant and if necessary application of sealant] to the bolts that attach the transfer ejector pump to the transfer ejector pump casing.

Actions and Compliance

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

(1) Within 5,000 flight hours after the effective date of this AD: For airplanes with serial numbers 7003 through 7067 and 7069 through 7797, apply sealant to bolts on the collector fuel tanks according to the Accomplishment Instructions of Bombardier Service Bulletin 601R–28–051, Revision A, dated March 30, 2005.

(2) Within 5,000 flight hours after the effective date of this AD: For airplanes with serial numbers 7003 through 7067 and 7069 through 7924, do a general visual inspection of the left and right transfer ejector pumps for the presence of a fillet seal on the edge of the pumps and sealant on the bolts, according to the Accomplishment Instructions of Bombardier Service Bulletin 601R–28–060, Revision A, dated March 30, 2005.

(3) If during the inspection required by paragraph (f)(2) of this AD any fillet seal is found missing from the edge of the transfer ejector pump or sealant is found missing from any of the bolts, prior to further flight,

apply fillet seal and sealant as applicable to the affected areas according to the Accomplishment Instructions of Bombardier Service Bulletin 601R–28–060, Revision A, dated March 30, 2005.

(4) Application of sealant prior to the effective date of this AD according to Bombardier Service bulletin 601R–28–051, dated May 12, 2003, satisfies the requirements of paragraph (f)(1) of this AD.

(5) Inspection and application of sealant and fillet seal prior to the effective date of this AD according to Bombardier Service Bulletin 601R–28–060, dated January 28, 2004, satisfy the corresponding requirements of paragraphs (f)(2) and (f)(3) of this AD.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) Alternative Methods of Compliance (AMOCs): The Manager, New York Aircraft Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Rocco Viselli, Aerospace Engineer, Airframe and Propulsion Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7331; fax (516) 794–5531. 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 Canadian Airworthiness Directive CF–2007–17, dated September 4, 2007, and Bombardier Service Bulletins 601R–28–051 and 601R–28–060, both Revision A, both dated March 30, 2005, for related information.

Issued in Renton, Washington, on November 23, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–23339 Filed 11–30–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–0265; Directorate Identifier 2007–NM–213–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 727 Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all Boeing Model 727 airplanes. This proposed AD would require repetitive inspections for any cracking of or damage to the left side and right side flight deck No. 2, No. 4, and No. 5 windows, as necessary, and corrective actions if necessary. This proposed AD results from reports of in-flight departure and separation of the flight deck windows. We are proposing this AD to detect and correct cracking in the vinyl interlayer or damage to the structural inner glass panes of the flight deck No. 2, No. 4, and No. 5 windows, which could result in loss of a window and rapid loss of cabin pressure. Loss of cabin pressure could cause crew communication difficulties or crew incapacitation.

DATES: We must receive comments on this proposed AD by January 17, 2008.

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 Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207.

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: Berhane Alazar, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6577; fax (425) 917–6590.

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–2007–0265; Directorate Identifier 2007–NM–213–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

We have received one report of in-flight departure of the flight deck No. 3 window, on a Boeing Model 747 series airplane, which resulted in rapid loss of cabin pressure and an emergency landing. That airplane had accumulated 36,131 total flight hours and 5,607 total flight cycles. We have also received two reports of in-flight separation of the left side flight deck No. 5 window, on two Boeing Model 737 series airplanes. One of the Model 737 series airplanes experienced cabin pressure loss at 12,500 feet due to separation of the forward, aft, and upper edges of the left side flight deck No. 5 window. That airplane had accumulated 25,673 total flight hours and 15,669 total flight cycles. The other Model 737 series airplane experienced a pressure leak at 29,000 feet due to partial separation of the upper aft corner of the left side flight deck No. 5 window. That airplane had

accumulated 28,139 total flight hours and 16,566 total flight cycles. Vinyl interlayer cracking of the flight deck No. 2, No. 4, and No. 5 windows could decrease the load carrying capability of the affected windows during cabin pressurization if the structural glass pane of the window becomes broken. Vinyl interlayer cracking could also decrease the bird impact resistance capability of the flight deck No. 2 and No. 4 windows. Cracking in the vinyl interlayer or damage to the structural inner glass panes of the flight deck No. 2, No. 4, and No. 5 windows, if not corrected, could result in loss of a window and rapid loss of cabin pressure. Loss of cabin pressure could cause crew communication difficulties or crew incapacitation.

The window construction and operating environment on the Model 737 airplanes and Model 747 airplanes are similar to those on the affected Boeing Model 727 airplanes. Therefore, all of these models are also subject to the same unsafe condition.

Other Related Rulemaking

On July 18, 2007, we issued AD 2007–15–10, amendment 39–15139 (72 FR 41438, July 30, 2007), to address the unsafe condition on all Model 747 airplanes. A correction was issued on September 10, 2007 (72 FR 53923, September 21, 2007), to fix a typographical error in AD 2007–15–10. That AD requires an inspection of the No. 2 and No. 3 windows on the left and right sides of the airplane to determine their part numbers, and related investigative and corrective actions if necessary. On October 5, 2007, we issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an airworthiness directive (AD) that would apply to all Boeing Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. That NPRM was published in the **Federal Register** on October 17, 2007 (72 FR 58766). That NPRM proposed to require repetitive inspections for any cracking of or damage to the left side and right side flight deck No. 2, No. 4, and No. 5 windows and corrective actions if necessary.

Relevant Service Information

We have reviewed Boeing Alert Service Bulletin 727–56A0019, dated June 6, 2007. The service bulletin describes procedures for doing repetitive internal and external detailed inspections for any cracking of or damage to the left side and right side flight deck No. 2, No. 4, and No. 5 windows, as applicable, that exceeds the limits given in the Accomplishment Instructions of the service bulletin. The service bulletin specifies an initial compliance time ranging between 6 months and 24 months, depending on the window location and number of window flight hours. If a replacement window is not new or has an unknown number of flight hours, the service bulletin specifies accomplishing the initial inspections before installation. If a replacement window is new or has zero flight hours, the service bulletin specifies accomplishing the initial inspections at the following times: (1) 7,500 window flight hours or 36 months, whichever occurs first, for flight deck No. 2 windows, and (2) 6,000 window flight hours or 24 months, whichever occurs first, for flight deck No. 4 and No. 5 windows. The service bulletin also specifies a repetitive interval of (1) 7,500 window flight hours or 36 months, whichever occurs first, for flight deck No. 2 windows, and (2) 6,000 window flight hours or 24 months, whichever occurs first, for flight deck No. 4 and No. 5 windows.

The service bulletin also describes procedures for accomplishing corrective actions if necessary. The corrective actions include replacing any cracked or damaged window with a new or serviceable window. The service bulletin specifies accomplishing the corrective actions before further flight.

Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other airplanes of this same type design. For this reason, we are proposing this AD, which would require accomplishing the actions specified in the service information described previously.

Costs of Compliance

There are about 790 airplanes of the affected design in the worldwide fleet. This proposed AD would affect about 431 airplanes of U.S. registry. The proposed actions would take about 2 work hours per airplane, at an average labor rate of $80 per work hour. Based on these figures, the estimated cost of the proposed AD for U.S. operators is $68,960, or $160 per airplane, per inspection cycle.

Authority for This Rulemaking

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

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

Regulatory Findings

We have determined that this 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):

Boeing: Docket No. FAA–2007–0265; Directorate Identifier 2007–NM–213–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by January 17, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Boeing Model 727, 727C, 727–100, 727–100C, 727–200, and 727–200F series airplanes, certificated in any category.

Unsafe Condition

(d) This AD results from reports of in-flight departure and separation of the flight deck windows. We are issuing this AD to detect and correct cracking in the vinyl interlayer or damage to the structural inner glass panes of the flight deck No. 2, No. 4, and No. 5 windows, which could result in loss of a window and rapid loss of cabin pressure. Loss of cabin pressure could cause crew communication difficulties or crew incapacitation.

Compliance

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

Repetitive Inspections and Replacement

(f) At the applicable times specified in Tables 1, 2, and 3 of paragraph 1.E. of Boeing Alert Service Bulletin 727–56A0019, dated June 6, 2007, except as provided by paragraph (g) of this AD: Do the internal and external detailed inspections for any cracking of or damage to the left side and right side flight deck No. 2, No. 4, and No. 5 windows, as applicable, and do the applicable corrective actions before further flight, by accomplishing all of the applicable actions specified in the Accomplishment Instructions of Boeing Alert Service Bulletin 727–56A0019, dated June 6, 2007. Repeat the inspections thereafter at the applicable interval specified in paragraph 1.E. of Boeing Alert Service Bulletin 727–56A0019, dated June 6, 2007.

Exception to Compliance Times

(g) Where Tables 1, 2, and 3 of paragraph 1.E. of Boeing Alert Service Bulletin 727–56A0019, dated June 6, 2007, specify counting the compliance time from " * * * the date on this service bulletin," this AD requires counting the compliance time from the effective date of this AD.

Alternative Methods of Compliance (AMOCs)

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

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

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD, if it is approved by an Authorized Representative for the Boeing Commercial Airplanes Delegation Option Authorization Organization who has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(4) Installation of metallic window blanks at cockpit eyebrow windows No. 4 and No. 5 in accordance with Supplemental Type Certificate ST01704SE is approved as an alternative means of compliance with the initial and repetitive inspections for the flight deck No. 4 and No. 5 windows required by paragraph (f) of this AD. All other applicable actions required by paragraph (f) of this AD must be fully complied with.

Issued in Renton, Washington, on November 7, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–23342 Filed 11–30–07; 8:45 am]

BILLING CODE 4910–13–P

DELAWARE RIVER BASIN COMMISSION

18 CFR Part 410

Proposed Rulemaking To Implement a Flexible Flow Management Program for the New York City Delaware Basin Reservoirs

AGENCY: Delaware River Basin Commission.

ACTION: Notice of public hearing and informational meetings.

SUMMARY: The Delaware River Basin Commission (''Commission'' or ''DRBC'') will hold a public hearing to receive comments on proposed amendments to its Water Code and Comprehensive Plan to implement a Flexible Flow Management Program (''FFMP'') for the New York City Delaware River Basin reservoirs. The proposed amendments are consistent with provisions of an agreement dated September 26, 2007 among the parties to the 1954 Supreme Court decree in *New Jersey* v. *New York*—the states of Delaware, New Jersey, and New York, the Commonwealth of Pennsylvania and the City of New York—that provide a comprehensive framework for addressing multiple flow management objectives, including water supply, drought mitigation, flood mitigation, protection of the tailwaters fishery, a diverse array of habitat needs in the main stem Delaware River, the Delaware Estuary and Delaware Bay, recreational uses and salinity repulsion.

DATES: The public hearing will take place on Wednesday, January 16, 2008, from 3 p.m. to 5:30 p.m. and from 7 p.m. to 10 p.m. or until all those who wish to testify have had an opportunity to do so. Persons wishing to testify are asked to register in advance with the Commission Secretary at (609) 883–9500 ext. 224. Written comments will be accepted through the close of business on Friday, January 18, 2008. All testimony and written comments submitted to the Commission during its previous hearings or comment period on the FFMP, including comments on the form of the FFMP that was published on the Commission's Web site in February 2007, will be included in the administrative record for this action and need not be re-submitted. Four informational meetings on the proposed amendments will be held. The first two meetings will take place on Tuesday, December 18, 2007 from 3 p.m. to 5 p.m. and from 6:30 p.m. to 9:30 p.m. The second two meetings will take place on Tuesday, January 8, 2008 from 3 p.m. to 5 p.m. and from 6:30 p.m. to 9:30 p.m. Each meeting will consist of an informational presentation followed by questions and answers.

ADDRESSES: The January 16, 2008 public hearing will take place at the West Trenton Volunteer Fire Company, 40 West Upper Ferry Road, West Trenton, NJ. The December 18, 2007 informational meetings will take place at the Best Western Inn at Hunt's Landing, 120 Routes 6 and 209, Matamoras, PA. The January 8, 2008 informational meetings will take place at the offices of Wolf, Block, Schorr and Solis-Cohen LLP, 1650 Arch Street, 26th Floor, Philadelphia, PA. Directions to the hearing and meeting locations are available via links on the DRBC Web site. Written comments may be submitted by e-mail to *paula.schmitt@drbc.state.nj.us;* by U.S. Mail to Commission Secretary, DRBC, P.O. Box 7360, West Trenton, NJ 08628–0360; or by fax to 609–883–9522. In all cases, the commenter's name, affiliation, and address should be provided in the comment document, and ''FFMP'' should appear in the subject line.

FOR FURTHER INFORMATION CONTACT: For further information about the rulemaking process, please contact Pamela M. Bush, Commission Secretary

and Assistant General Counsel, DRBC, at 609–883–9500 ext. 203.

SUPPLEMENTARY INFORMATION:

Background. The Delaware River Basin Commission (''Commission'' or ''DRBC'') was created by the Delaware River Basin Compact (''Compact''), a statute concurrently enacted in 1961 by the United States and the four basin states—Delaware, New Jersey, New York, and Pennsylvania. The Compact empowers the Commission, among other things, ''to allocate the waters of the basin to and among the states signatory to th[e] compact and to and among their respective political subdivisions, and to impose conditions, obligations and release requirements related thereto.'' This authority is subject, however, to the significant limitation that the Commission may not ''impair, diminish or otherwise adversely affect the diversions, compensating releases, rights, conditions, obligations and provisions for the administration thereof'' established by the Supreme Court decree in *New Jersey* v. *New York*, 347 U.S. 995 (1954), without the unanimous consent of the decree parties. Compact, § 3.3. The Commission and the decree parties are the same with two exceptions. Although the U.S. Government is a member of the Commission, it is not a party to the 1954 decree; and although the City of New York is a decree party, it is not a member of the Commission. The Compact provides for the City of New York (''City'') to serve as an advisor to the State of New York in Commission matters.

The 1954 Supreme Court decree gave the City the right to divert up to 800 million gallons per day (m.g.d.) of water from its three Delaware Basin reservoirs—Cannonsville, Pepacton and Neversink—subject to the condition that it release water from its reservoirs in quantities designed to maintain a minimum basic rate of flow at Montague, New Jersey of 1,750 cubic feet per second (c.f.s.), a condition known as ''the Montague flow objective''. The decree further required the City to release annually an excess quantity (''the excess release quantity'' or ''ERQ'') of up to 70 billion gallons (b.g.) during the seasonal period June 15–March 15. The amount of the ERQ is determined each year based on the City's estimate of the amount by which its available water from all sources will exceed its estimated consumption for that year. (The ERQ is calculated as the lesser of 70 b.g. or 83 percent of the amount by which the City's continuous safe yield during the year from all its sources obtainable without pumping exceeds its estimated consumption.) The decree gave New Jersey the right to divert up to 100 m.g.d. from the basin without compensating releases. It assigned to the U.S. Geological Survey the role of supervising the diversions and releases established by the court, in the person of a Delaware River Master.

Since the Commission's creation, the agency has provided a forum for the decree parties and commissioners to adapt reservoir operations to hydrologic conditions and flow needs not contemplated by the decree. Almost simultaneously with the Commission's creation, a new drought of record from 1961 to 1967 gave rise to conditions in which the diversions and flow objectives established by the decree could not be sustained. To apportion limited water supplies in an equitable fashion, avert severe shortages, and avoid the need to negotiate future reductions during a severe drought, the parties eventually responded by entering into the Good Faith Agreement of 1983. ''Good Faith'', a term used to refer collectively to the 1983 agreement and the DRBC instruments adopted to implement it, among other things established a schedule of graduated reductions in diversions and flow objectives to conserve water when storage in the City's three Delaware Basin reservoirs declines below specified thresholds; it also established a flow objective of 3,000 c.f.s. at Trenton, subject to stepped reductions during periods of drought, to prevent chloride concentrations from rising in the vicinity of key water supply intakes in the Delaware Estuary; and it provided for supplemental releases by New York City and from other Delaware Basin reservoirs during drought emergency operations to augment river flows at Montague and Trenton in order to repel salt, a concept known as the ''salt front vernier.''

DRBC with the unanimous consent of the decree parties adopted the Good Faith recommendations for modified diversions and flow targets during drought through Resolutions Nos. 83–13, 84–7 and 88–22 in 1983, 1984 and 1988, respectively, and subsequently incorporated these resolutions into the Commission's Water Code. DRBC established the conservation releases contained in the Good Faith agreement when it approved Docket D–77–20 CP (Revised) with the unanimous consent of the decree parties in November of 1983. From time to time thereafter, in revisions 2 through 9 of Docket D–77–20 CP, the Commission with the unanimous consent of the decree parties approved temporary revisions to the reservoir releases program for purposes that included, among others, fisheries protection and spill mitigation. Some of these docket revisions also modified on a temporary basis reservoir operating conditions that had been placed in the Water Code. The latest of the operating conditions established by revisions 2 through 9 of Docket D–77–20 CP expired on September 30, 2007.

On September 26, 2007, the decree parties reached unanimous agreement on a Flexible Flow Management Program (FFMP) that would provide a framework for managing diversions and releases from New York City's Delaware Basin reservoirs for multiple objectives, including water supply, drought mitigation, flood mitigation, protection of the tailwaters fishery, a diverse array of habitat needs in the main stem, estuary and bay, recreation and salinity repulsion. On the same day, the Commission unanimously approved Resolution No. 2007–14, authorizing the Commission's executive director to publish proposed regulations for implementing the FFMP, and to conduct notice and comment rulemaking, including public hearings, on such proposed regulations. Today's notice is issued in accordance with that authorization.

Water Code Sections to be Amended. The proposed rulemaking would place reservoir operating rules consistent with the decree parties' September 26, 2007 agreement into a revised Section 2.5.3 of the Water Code newly titled, ''Flexible Flow Management Program''. Water Code sections 2.5.4 (concerning drought emergency actions by the Commission in accordance with Section 3.3 of the Compact), 2.5.5 (providing for coordinated operation of lower basin and hydroelectric reservoirs during a basinwide drought), and 2.5.6 (relating to coordinated operation of upper and lower basin reservoirs during a lower basin drought) are proposed to be amended for consistency with the new Section 2.5.3. The proposed amendments to Sections 2.5.3 through 2.5.6 collectively would comprise the ''FFMP.''

Term of Amendments. The amendments constituting the FFMP are proposed to expire on May 31, 2011, unless the decree parties' agreement of September 26, 2007 is extended prior to that date. Absent further revisions adopted by the DRBC with the unanimous approval of the decree parties, upon expiration of the amendments comprising the FFMP, the New York City Delaware Basin reservoirs will be operated in accordance with the pre-FFMP Water Code and Docket D–77–20 CP (Revised).

Effect of Proposed Amendments. The proposed amendments would substitute a fixed volume of releases called the ''Interim Excess Release Quantity'' for the ERQ calculated annually in accordance with a formula established by the decree. They would modify the schematic rule curves diagram that defines basinwide normal, drought watch, drought warning and drought emergency operating conditions by updating labeling of the diagram, adding a discharge mitigation trigger curve, and adding labels for storage levels L1 through L5. The amendments also would increase New Jersey's allowable diversion during drought warning and drought emergency operations by 15 m.g.d. and 20 m.g.d., respectively, above the levels established by the Good Faith agreement; eliminate the link established by the Good Faith agreement between the Montague flow objective and the location of the salt front during basinwide drought emergency operations (''the Montague vernier''); and establish the rate of releases to be made from each of the City's Delaware Basin reservoirs for habitat protection and discharge mitigation, based upon combined reservoir storage levels and individual reservoir storage levels.

Key aspects of each of these proposed amendments are set forth below:

• An Interim Excess Release Quantity (''IERQ'') in the fixed amount of 15,468 c.f.s.-days for non-leap years and 17,125 c.f.s.-days for leap years is proposed to replace the ERQ calculated annually in accordance with the decree. The IERQ is proposed to be released from the City's Delaware Basin reservoirs during basinwide normal operations in order to: (1) Increase the Montague flow objective from 1,750 c.f.s. to 1,850 c.f.s. during the period from June 15 through September 15; and (2) maintain the Trenton flow objective of 3,000 c.f.s for the period from June 15 through March 15. All or a portion of the available IERQ also is proposed to be subject at any time to placement in an ''IERQ Extraordinary Needs Bank'' to support research, aquatic life, or other activities approved by the DRBC with the unanimous agreement of the decree parties.

• Labels for the rule curves diagram that establishes basinwide operating conditions in accordance with combined storage in the City's three Delaware Basin reservoirs are proposed to be updated to reflect normal, drought watch, drought warning, and drought emergency conditions. Although the term ''drought watch'' has been used consistently since April 28, 1999 in accordance with a definition established by Docket D–77–20 CP (Revision 4), this term has not previously appeared in the Water Code. The label ''drought emergency'' is proposed to replace the more ambiguous ''drought''. No change is proposed to the placement of the three curves established by Docket D–77–20 CP (Revision 4). A fourth curve is proposed to be added, however, to indicate the combined storage level at which L1 discharge mitigation releases are triggered. The rule curves with updated labeling are depicted in Figure 1 of proposed Section 2.5.3 F., Drought Management, of the proposed amendments. Figure 1 is linked to the schedule of diversions and flow objectives set forth in proposed Table 1 of the same section and to provisions set forth in the text of that section. Figure 1 is proposed to be further amended by the addition of labels L1 through L5 for the five storage zones delineated by the curves. The storage zones correspond to minimum releases from each of the City's Delaware Basin reservoirs for purposes of habitat protection and discharge mitigation in accordance with Tables 3A through 3D of proposed Section 2.5.3 G., the Tailwaters Habitat Protection and Discharge Mitigation Program (''THP–DMP'').

• New Jersey's allowable diversion is proposed to be increased from 70 m.g.d. to 85 m.g.d. during drought warning operations and from 65 m.g.d. to 85 m.g.d. during drought emergency operations. The lower diversions during drought warning and drought emergency operations have not been changed since they were established by Good Faith. These amendments are proposed to be included in Table 1 of proposed Section 2.5.3 F., Drought Management.

• The Montague flow objective is proposed to be ''detached'' from the 7-day average location of the 250 mg/L chloride concentration (the ''salt front'') in the Delaware Estuary during basinwide drought emergency operations. Current Water Code provisions that link the Trenton flow objective to the salt front location will remain in place. The Montague and Trenton flow objectives are set forth in Tables 1 and 2 of proposed Section 2.5.3 F. Rules establishing the Trenton flow objective for lower basin drought operating conditions are set forth in Section 2.5.6.

• A Tailwaters Habitat Protection and Discharge Mitigation Program (THP–DMP) is proposed, consisting of conservation releases to help maintain minimum flows and adequate temperatures in the tailwaters below the City's Delaware Basin reservoirs to protect the cold water fishery, and discharge mitigation releases designed to help mitigate the effects of flooding immediately below the three reservoirs. Releases are defined for each of the reservoirs individually, based upon total combined storage in accordance with the four rule curves contained in Figure 1 in proposed Section 2.5.3 F.

The proposed amendments would largely eliminate the use of storage ''banks'' for purposes of habitat protection. Such banks were central to the program established by Docket D–77–20 CP. Instead, conservation releases would be based on reservoir storage levels, resulting in larger releases when reservoir storage is high and smaller releases when storage is at or below normal. Conservation release rates for each storage zone are set forth in new Tables 3A thru 3D of Section 2.5.3 G.

Discharge mitigation releases from the City's Delaware Basin reservoirs are proposed to be triggered when total combined storage in the reservoirs is in the uppermost storage zone (L1) of the rule curves diagram (Figure 1). When this condition applies, the individual reservoir storage zones (L1–a, L1–b, and L–1c) defined by Figure 2 in proposed Section 2.5.3 G. are proposed to be used in conjunction with Tables 3A through 3D to establish the applicable release rates. The schedule of releases (either 3A, 3B, 3C or 3D) to be used during a given year depends upon the quantity (not to exceed 35 m.g.d.) that the City makes available for the program from its allowable daily diversion in accordance with proposed Sub-section 2.5.3 G.2. Discharge mitigation releases are limited by potential downstream flood stages in accordance with conditions set forth in proposed Table 4 in Sub-section 2.5.3 G.4.

Temporary Suspension or Modification of FFMP in Case of Emergency. The proposed amendments provide at Section 2.5.3 H. a procedure for temporary suspension or modification of provisions of the FFMP if the executive director after consultation with the decree parties and with their unanimous consent finds that customary notice and comment rulemaking by the Commission is impracticable and contrary to the public interest. In that event, the proposed amendments provide for the executive director to issue an emergency order, which must be ratified, rejected or modified at the next meeting of the Commission, subject to the unanimous approval of the decree parties. Public notice of such action in advance of the public meeting is required. In the event that a suspension or modification of rules by emergency order were proposed to remain in effect on more than a temporary basis, ratification by the

Commission would be temporary, pending completion of notice and comment rulemaking.

Previous Federal Register Notices. Previous notices on the proposed FFMP appeared in the **Federal Register** on February 12, 2007 (72 FR 6509) and August 28, 2007 (72 FR 49268). In response to the February and August notices (and similar notices published in the state registers), the Commission received written and oral comments from more than 100 agencies, organizations, elected officials and private citizens. The decree parties in revising their agreement considered the broad range of public comments the Commission received. The Commission will consider these comments along with any and all additional comments received during the rulemaking process.

Related Documents. All resolutions and dockets relating to operation of the New York City Delaware Basin reservoirs are available on the Commission's Web site at *www.drbc.net* or upon request from the Delaware River Basin Commission, P.O. Box 7360, West Trenton, NJ 08628–0360. The DRBC Web site includes a link to the site of the U.S. Geological Survey, Office of the Delaware River Master, *http://water.usgs.gov/orh/nrwww/odrm/*, which includes the decree parties' September 26, 2007 agreement.

Text of the Proposed Amendments. The text of the proposed Water Code amendments will be published on the DRBC Web site, *www.drbc.net,* on or before December 3, 2007.

Dated: November 27, 2007.

Pamela M. Bush,

Commission Secretary.

[FR Doc. E7–23383 Filed 11–30–07; 8:45 am]

BILLING CODE 6360–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–151884–03]

RIN 1545–BD81

Update and Revision of Sections 1.381(c)(4)–1 and 1.381(c)(5)–1; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to notice of proposed rulemaking.

SUMMARY: This document contains corrections to a notice of proposed rulemaking (REG–151884–03) that was published in the **Federal Register** on Friday, November 16, 2007, (72 FR 64545) providing guidance under sections 381(c)(4) and (c)(5) of the Internal Revenue Code relating to the accounting method or combination of methods, including the inventory method, to use after certain corporate reorganizations and tax-free liquidations.

These proposed regulations clarify and simplify the existing regulations under sections 381(c)(4) and (c)(5). The regulations affect corporations that acquire the assets of other corporations in transactions described in section 381(a).

FOR FURTHER INFORMATION CONTACT: Cheryl Oseekey at (202) 622–4970 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The correction notice that is the subject of this document is under sections 381 and 446 of the Internal Revenue Code.

Need for Correction

As published, the notice of proposed rulemaking (REG–151884–03) contains errors that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of proposed rulemaking (REG–151884–03), which was the subject of FR Doc. E7–22411, is corrected as follows:

§ 1.381(c)(5)–1 [Corrected]

1. On page 64553, column 3, § 1.381(c)(5)–1(a)(2)(i), lines three through thirteen, the language ''section 381(a) applies, if the acquiring corporation operates the trades or businesses of the parties to the section 381(a) transaction as separate and distinct trades or businesses after the date of the distribution or transfer, then the acquiring corporation generally must use the same accounting method(s) for inventory used by the distributor or transferor corporation(s) on the date of the section 381(a) transaction (carryover'' is corrected to read ''section 381(a) applies, if an acquiring corporation operates the trades or businesses of the parties to the section 381(a) transaction as separate and distinct trades or businesses after the date of distribution or transfer, then the acquiring corporation generally must use the same accounting method(s) for inventory used by the distributor or transferor corporation(s) on the date of distribution or transfer for the acquired trade or business (carryover''.

2. On page 64556, column 1, § 1.381(c)(5)–1(c)(2), *Example 4.*(ii), fourteenth line from the top of the column, the language ''method on a cut-off basis as provided in'' is corrected to read ''method on a cut-off basis and will take into account the change in the inventory amount resulting from the valuing of the inventory at cost as required under section 472(d) as provided in''.

3. On page 64557, column 2, § 1.381(c)(5)–1(e)(6)(ii)(B), fourteenth line of the paragraph, the language ''having been acquired at average unit'' is corrected to read ''having been acquired at their average unit''.

Cynthia Grigsby,

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

[FR Doc. E7–23277 Filed 11–30–07; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2007–1000; FRL–8500–7]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Amendments to the Control of Volatile Organic Compound Emissions From Portable Fuel Containers

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Maryland. This SIP revision pertains to the control of emissions of volatile organic compounds from portable fuel containers. This action is being taken under the Clean Air Act (CAA).

DATES: Written comments must be received on or before January 2, 2008.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2007–1000 by one of the following methods:

A. *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

B. *E-mail: fernandez.cristina@epa.gov.*

C. *Mail:* EPA–R03–OAR–2007–1000, Cristina Fernandez, Acting Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R03–OAR–2007–1000. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., 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 in *http://www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at Maryland Department of the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland 21230.

FOR FURTHER INFORMATION CONTACT: Gobeail McKinley, (215) 814–2033, or by e-mail at *mckinley.gobeail@epa.gov*.

SUPPLEMENTARY INFORMATION: On June 18, 2007, the Maryland Department of Environment (MDE) submitted a revision to its State implementation Plan (SIP). The SIP revision (#07–12) consists of amendments to the control of volatile organic compound (VOC) emissions from portable fuel containers (COMAR 26.11.13.07).

I. Background

A portable fuel container is defined as a container or vessel with a nominal capacity of 10 gallons or less intended for reuse, that is designed or used primarily for receiving, transporting, storing, and dispensing fuel. Portable fuel containers are used to refuel a wide range of small off-road equipment and engines. Refueling these pieces of equipment may result in VOC emissions from gasoline spillage from either improper handling or overfilling of the receiving tank. VOC emissions also result from poor transportation, poor storage procedures, and permeation of vapors through the portable fuel container itself. Portable fuel containers incorrectly sealed will emit evaporative emissions. This amounts to a significant amount of VOC emissions per day in Maryland.

In 2001, Maryland adopted the portable fuel container regulation based on the 2001 Ozone Transport Commission (OTC) Model Rule that was based on the California Air Resources Board (CARB) rule. The OTC Portable Fuel Container Model Rule required that spill-proof containers be made available for sale within the state meet certain performance standards that reduce VOC emissions. The standards, which are based upon a similar regulation by CARB, require that nearly all portable fuel containers or spouts or both portable fuel containers and spouts manufactured, sold or made available for use after January 1, 2003 be spill-proof, have an automatic shut-off feature to prevent overfilling, an automatic closing feature so that the container will be sealed when not in use, and meet certain permeation standards. On June 29, 2004, EPA published in the **Federal Register** (69 CFR 38848), its approval of a revision to the Maryland SIP revision that added regulation .07 under COMAR 26.11.13 to establish VOC emission standards for portable fuel containers.

II. Summary of SIP Revision

Maryland's amendments to the portable fuel containers rule incorporate the changes to the 2007 OTC Model Rule for portable fuel containers that was based on the changes adopted by CARB in July 2006. The amendments address the fact that the original rule did not apply to kerosene containers which were offered for sale in place of compliant portable fuel containers. Other amended incorporations include: Modifying the existing spout regulations in order to improve spillage control; elimination of the fuel flow rate and fill level performance standards; elimination of the automatic shutoff performance standard; new containers must be certified for use and sale by the manufacturer through CARB; and, new portable fuel container testing procedures to streamline testing. The amendments, which include a one-year sell-through period, apply to any person who sells, supplies, advertises or offers for sale, or manufactures for sale portable fuel containers and/or spouts. Owners of portable fuel containers and/or spouts purchased prior to the July 1, 2007 implementation date are not required to purchase or replace the containers and/or spouts with newer compliant fuel containers. There are no manufacturers of portable fuel containers in Maryland.

III. Proposed Action

Maryland has adopted the amended version of the 2006 OTC Model Rule to assure that the regulation achieves the estimated emissions reductions. EPA is proposing to approve the Maryland SIP revision for the control of VOC emissions from portable fuel containers (COMAR 26.11.13.07) submitted on June 18, 2007. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

IV. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)). This action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601

et seq.). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This proposed rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely proposes to approve a state rule implementing a Federal requirement, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it approves a state rule implementing a Federal standard.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order.

This proposed rule to approve Maryland's amendments to the portable fuel containers rule (COMAR 26.11.13.07) does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: November 20, 2007.

Donald S. Welsh,

Regional Administrator, Region III.

[FR Doc. E7–23384 Filed 11–30–07; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 07–4505; MB Docket No. 07–107; RM–11330]

Radio Broadcasting Services; Bokchito and Clayton, OK

AGENCY: Federal Communications Commission.

ACTION: Proposed rule, dismissal.

SUMMARY: This document dismisses a petition for rule making filed by Charles Crawford (''Petitioner''), proposing to allot Channel 241A at Bokchito, Oklahoma and to substitute Channel 263A for vacant Channel 241A at Clayton, Oklahoma, pursuant to Petitioner's request for withdrawal. The document therefore terminates the proceeding.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Rolanda F. Smith, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MB Docket No. 07–107, adopted October 31, 2007, and released November 2, 2007. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW., Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractors, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–378–3160 or *http://www.BCPIWEB.com*.

This document is not subject to the Congressional Review Act. (The Commission, is, therefore, not required to submit a copy of this Report and Order to Government Accountability Office, pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A) because the proposed rule is dismissed.)

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. E7–23256 Filed 11–30–07; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register
Vol. 72, No. 231
Monday, December 3, 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

Animal and Plant Health Inspection Service

[Docket No. APHIS–2007–0135]

Citrus Greening and Asian Citrus Psyllid; Availability of a Finding of No Significant Impact

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability.

SUMMARY: We are advising the public that we have prepared a finding of no significant impact relative to a new Federal order that restricts the interstate movement of regulated articles from areas quarantined for citrus greening disease and the Asian citrus psyllid. The finding of no significant impact is based on an environmental assessment that we prepared to document our review and analysis of the potential environmental impacts associated with the implementation of the new Federal order. In a notice published in the **Federal Register** on November 2, 2007, we made the environmental assessment available to the public for review and comment, but noted that we may have to begin an expanded citrus greening regulatory program in Florida immediately and issue a finding of no significant impact for the environmental assessment before the comment period on the environmental assessment concludes.

DATES: The finding of no significant impact was signed on November 2, 2007.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen R. Poe, Senior Operations Officer, Emergency and Domestic Programs, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737–1236; (301) 734–8899.

SUPPLEMENTARY INFORMATION:

Background

Citrus greening, also known as huanglongbing, is considered to be one of the most serious citrus diseases in the world. Citrus greening is a bacterial disease that attacks the vascular system of plants. The bacteria are phloem-limited and cause yellow shoots, blotchy mottling and chlorosis, reduced foliage, and tip dieback of citrus plants. It greatly reduces production, destroys the economic value of the fruit, and can kill trees. Once infected, there is no cure for a tree with citrus greening disease. In areas of the world where citrus greening is endemic, citrus trees decline and die within a few years and may never produce usable fruit. Citrus greening is widespread in Asia, Africa, and the Saudi Arabian Peninsula. It has been reported in Sao Paulo, Brazil. It was first detected in the United States in Miami-Dade County, Florida, in 2005, and now has been confirmed in 28 counties in Florida.

On November 2, 2007, we published a notice [1] in the **Federal Register** (72 FR 62204–62205, Docket No. APHIS–2007–0135) in which we advised the public that an environmental assessment had been prepared by the Animal and Plant Health Inspection Service (APHIS) relative to a new Federal order that restricts the interstate movement of regulated articles from areas quarantined for citrus greening disease and the Asian citrus psyllid. The environmental assessment documents our review and analysis of the potential environmental impacts associated with the implementation of the new Federal order. We made the environmental assessment available to the public for review and solicited comments for 30 days ending on December 3, 2007.

In our November 2, 2007, notice, we informed the public that due to the serious and destructive nature of citrus greening disease, we had found it necessary to expand the number of counties in Florida from which the movement of plants that are hosts of citrus greening is present in order to prevent the further spread and infestation of the disease and to expand the areas quarantined due to the presence of Asian citrus psyllid so that host plants can be treated and inspected before being moved interstate.

That notice also stated that, because citrus greening is a highly injurious citrus disease and the Asian citrus psyllid is harmful both as the insect vector of the disease and as a significant citrus pest in its own right, we had determined that it may be necessary to immediately address both the disease and the associated insect pest. This, we explained, would be accomplished by restricting the movement of hosts of citrus greening from areas where the disease is present, and by regulating and treating plants that are hosts of the psyllid from those areas where the insect is present and may be spread through the movement of infested nursery stock.

Based on those considerations, we advised the public that APHIS may have to begin the expanded citrus greening regulatory program in Florida immediately and issue a finding of no significant impact for the environmental assessment before the comment period on the environmental assessment concluded. We stated that if that were to occur, we would still evaluate and respond to all the comments we received on the environmental assessment after the comment period has ended.

On November 2, 2007, APHIS issued the new Federal order quarantining 28 Florida counties for citrus greening and quarantining 32 Texas counties and the entirety of the States of Florida and Hawaii, the commonwealth of Puerto Rico, and the territory of Guam for Asian citrus psyllid. The Federal order restricts the movement of all live host plants and host plant parts from areas quarantined for citrus greening and requires Asian citrus psyllid host material to be inspected, treated, and the accompanied by a limited permit in order to be moved from a quarantined area. Because we have found it necessary to begin the expanded citrus greening regulatory program in Florida immediately, we have likewise found it necessary to issue a finding of no significant impact for the environmental assessment before the comment period on the environmental assessment has concluded.

The finding of no significant impact may be viewed, along with the environmental assessment on which it is based, on the Regulations.gov Web

[1] You may view the environmental assessment and submit comments on that document by going to *http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS–2007–0135.*

site [2] or in our reading room.[3] You may request paper copies of the environmental assessment and finding of no significant impact by calling or writing to the person listed under **FOR FURTHER INFORMATION CONTACT.** Please refer to the title of the environmental assessment when requesting copies.

The environmental assessment and finding of no significant impact have been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Done in Washington, DC, this 27th day of November 2007.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E7–23369 Filed 11–30–07; 8:45 am]

BILLING CODE 3410–34–P

[2] See footnote 1.

[3] 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.

DEPARTMENT OF AGRICULTURE

Forest Service

List of Newspapers To Be Used by the Alaska Region for Publication of Legal Notices of Decisions Subject to Administrative Appeal Under 36 CFR Part 217

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: This notice lists the newspapers that Forests and the Regional Office of the Alaska Region will use to publish legal notice of all decisions subject to appeal under 36 CFR part 217. The intended effect of this action is to inform interested members of the public which newspapers will be used to publish legal notice of decisions subject to appeal under 36 CFR part 217, thereby allowing them to receive constructive notice of a decision, to provide clear evidence of timely notice, and to achieve consistency in administering the appeals process.

DATES: Publication of legal notices in the listed newspapers begins on December 1, 2008. This list of newspapers will remain in effect until it is superceded by a new list, published in the **Federal Register.**

ADDRESSES: Robin Dale, Alaska Region Group Leader for Appeals, Litigation and FOIA; Forest Service, Alaska Region; P.O. Box 21628; Juneau, Alaska 99802–1628.

FOR FURTHER INFORMATION CONTACT: Robin Dale, Alaska Region Group Leader for Appeals, Litigation and FOIA; (907) 586–9344.

SUPPLEMENTARY INFORMATION: This notice provides the list of newspapers that Responsible Officials in the Alaska Region will use to give notice of decisions subject to appeal under 36 CFR part 217. The timeframe for appeal under 36 CFR part 217 shall be based on the date of publication of the legal notice of the decision in the newspaper of record identified in this notice.

The newspapers to be used for giving notice of Forest Service decisions in the Alaska Region are as follows:

Alaska Regional Office

Decisions of the Alaska Regional Forester: Juneau Empire, published daily except Saturday and official holidays in Juneau, Alaska; and the Anchorage Daily News, published daily in Anchorage, Alaska.

Chugach National Forest

Decisions of the Forest Supervisor: Anchorage Daily News, published daily in Anchorage, Alaska.

Tongass National Forest

Decisions of the Forest Supervisor: Ketchikan Daily News, published daily except Sundays and official holidays in Ketchikan, Alaska.

Supplemental notices may be published in any newspaper, but the timeframes for filing appeals will be calculated based upon the date that notices are published in the newspapers of record listed in this notice.

Dated: November 21, 2007.

Paul K. Brewster,

Acting Regional Forester.

[FR Doc. 07–5895 Filed 11–30–07; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Medicine Bow-Routt National Forests and Thunder Basin National Grassland; Wyoming; Inyan Kara Analysis Area Vegetation Management Phase II

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Forest Service is analyzing the management of rangeland vegetation resources, which includes livestock grazing, on the National Forest System (NFS) lands within the Thunder Basin National Grasslands. NFS lands that comprise the Inyan Kara Analysis Area Vegetation Management Phase II will be assessed to determine how existing resource conditions compare to the desired conditions outlined in the Thunder Basin National Grassland Land and Resource Management Plan (LRMP). A management strategy will be developed in order to maintain or improve rangeland and vegetation conditions toward LRMP desired conditions.

DATES: Comments concerning the scope of the analysis must be received by the 30th day after the publication in the **Federal Register**. The draft environmental impact statement (EIS) is expected February 11, 2008 and the final environmental impact statement is expected May 12, 2008.

ADDRESSES: Send written comments to Marilee Houtler, NEPA Coordinator, Douglas Ranger District, 2250 East Richards Street, Douglas, Wyoming 82633 or e-mail to *comments-rocky-mountain-medicine-bow-routt-douglass-thunder-basin@fs.fed.us* All comments, including names and addresses when provided, are placed in the record and are available for public inspection. The public may inspect comments received at Douglas Ranger District, 2250 E. Richards, Douglas, WY 82633. Visitors are encouraged to call ahead to (307) 358–4690 to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Ernie Gipson, Rangeland Management Specialist or Misty Hays, Deputy District Ranger, Douglas Ranger District, 2250 E. Richards Street, Douglas, WY 82633 (307) 358–4690. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Vegetation resources on approximately 135,405 acres of NFS lands, lying within the Thunder Bassin National Grassland boundaries and within portions of Weston and Niobrara Counties, Wyoming (Townships 41–48 North, Ranges 62–68 West), are being analyzed to determine if and how existing conditions differ from desired conditions outlined in the 2001 LRMP.

Vegetation in the Analysis Area is characteristic of shortgrass prairie, mixed grass prairie and lesser amounts of Ponderosa Pine/Juniper habitats. Johnson and Larson (1999) describe the majority of the Analysis Area as a Big Sagebrush-Wheatgrass Plains Major Vegetation Type, dominated by fairly dense dwarf shrubs, of which most are Wyoming big sagebrush. The midgrass prairie component of the Analysis Area as described by Barker and Whitman (1998) consists of a plant association dominated by needleandthread grass, western wheatgrass and blue grama. A large portion of the Inyan Kara Analysis Area evolved under a history of homesteading in the early twentieth century, but a prolonged drought period combined with the economic depression of the late 1920's and early 1930's caused many of these homesteads to fail. Starting in 1935, land was purchased through the Northeastern Wyoming Land Utilization Project initiated by the Agricultural Adjustment Administration, and continued with the Bankhead Jones Farm Tenant Act of 1937, which was designed to develop a program of land conservation. Administration of these lands was turned over to the Soil Conservation Service the following year, and transferred to the United States Forest Service in 1954.

Today the Thunder Basin National Grassland supports and provides a variety of multiple resource uses and values. Livestock ranching operations in the area depend on National Grassland acreage to create logical and efficient management units. Cattle, sheep, and horses, in accordance with 10-year term and/or annual temporary livestock grazing permits, are currently authorized to graze the allotments within the Analysis Area. In order to determine how existing resource conditions compare to desired conditions, date collection was conducted from 2005 to 2007. During this period, moderate drought conditions impacted plant vigor, canopy and litter cover in some parts of the Analysis Area. Data analysis indicates that seral stage and structural objectives are currently generally meeting vegetation health desired conditions in most portions of the Analysis Area. Other areas of concern based on data analysis include enhancing vegetation conditions in riparian areas and decreasing the frequency and density of non-native invasive species within the analysis area.

Purpose and Need for Action

Need: To continue to authorize livestock grazing and associated vegetation management actions with appropriate identified management options within the Inyan Kara Analysis Area, and to do so in a manner that will resolve any disparities between existing and desired conditions in a suitable timeframe.

Purpose: To implement vegetation management objectives in the Thunder Basin National Grassland Land and Resource Management Plan with goals of increasing native forb and perennial grass diversity, improving riparian area conditions, improving or maintaining vegetation health, and slowing or decreasing the frequency and density of non-native invasive species. This analysis will serve as a guide for implementation of LRMP vegetation management objectives aimed at improving or maintaining vegetation and riparian area conditions, providing desired mixes of seral and structural stages of vegetation, as well as establishing appropriate monitoring techniques that will measure the effectiveness of management activities.

Proposed Action

The Forest Service proposes the following actions to meet the purpose and need described above:

—Manage vegetation through an adaptive management process, which includes authorizing livestock grazing on allotments within the Inyan Kara Analysis Area of the Thunder Basin National Grasslands, that will meet or move toward desired resource conditions.

—Define an allotment specific starting point in which management is believed to be capable of meeting or moving toward desired conditions in a timely manner.

—Monitor to evaluate both implementation and effectiveness of management actions.

In all cases, management will use vegetation management tools that will meet LRMP Objectives, Standards and Guidelines, and maintain or move existing resource conditions toward Geographic Area desired conditions. If monitoring indicates that practices are being properly implemented and that resource trends are moving toward meeting desired conditions in a timely manner, management may continue. If monitoring indicates that there is a need to modify management practices, adaptive options as analyzed in the EIS will be selected and implemented.

Possible Alternatives

(1). No action

(2). Continue current management.

Responsible Official

Robert M. Sprentall, District Ranger, Douglas Ranger District, 2250 East Richards Street, Douglas, Wyoming 82633, is the official responsible for making the decision on this action. He will document his decision and rationale in a Record of Decision.

Nature of Decision To Be Made

The Responsible Official will consider the results of the analysis and its findings and then document the final decision in a Record of Decision (ROD). The decision will determine whether or not to authorize livestock grazing on all, part, or none of the allotments within the Inyan Kara Analysis Area, and if so, what adaptive management design criteria, adaptive options, and monitoring will be implemented so as to meet or move toward the desired conditions in the defined timeframe.

Scoping Process

Concurrent with this NOI, letters requesting comments will be sent to interested parties. Anyone who provides comments to the DEIS or expresses interest during the comment period will have eligibility.

Preliminary Issues

The Forest Service has identified the following preliminary issues: (1) Current impacts to riparian resources from moderate drought, and livestock and wildlife grazing/browsing; (2) Potential impacts to livestock grazing permits on National Grasslands; (3) Current impacts to soil resources from livestock and wildlife grazing/browsing and drought.

Comment Requested

This notice of intent initiates the scoping process which guides the development of the EIS.

Early Notice of Importance of Public Participation in Subsequent Environmental Review: A draft EIS will be prepared for comment. The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

The Forest Service believes 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 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, Chapter 20, Section 21).

Dated: November 20, 2007.

Misty A. Hays,

Deputy District Ranger.

[FR Doc. 07–5894 Filed 11–30–07; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Black Hills National Forest Advisory Board Public Meeting Dates Announced

AGENCY: Forest Service, USDA.

ACTION: Notice of meetings.

SUMMARY: The Black Hills National Forest Advisory Board (NFAB) has announced its meeting dates for 2008. These meetings are open to the public, and public comment is accepted at any time in writing and at the pleasure of the Board chair at each meeting for verbal comments. Persons wishing to speak may be given three minutes to address the Board.

Meeting dates are the third Wednesday of each month unless otherwise indicated:

January 3.
February 20.
March 19.
April 16.
May 21.
June 18.
July (No Meeting).
August 20 (Summer Field Trip—TBA).
September 17.
October 15.
November 19.
December (No Meeting).
January 6, 2009 (Tentative).

ADDRESSES: Meetings will begin at 1 p.m. and end no later than 5 p.m. at the Forest Service Center, 8221 S. Highway 16, Rapid City, SD 57702.

Agendas: The Board will consider a variety of issues related to national forest management. Agendas will be announced in advance in the news media but principally concern implementing phase two of the forest land and resource management plan. The Board will consider such topics as integrated vegetation management (wild and prescribed fire, fuels reduction, controlling insect epidemics, invasive species), travel management (off highway vehicles, the new OHV rule, and related topics), and forest fragmentation, among others.

FOR FURTHER INFORMATION CONTACT: Frank Carroll, Committee Management Officer, Black Hills National Forest, 25041 North Highway 16, Custer, SD 57730, (605) 673–9200.

Dated: December 1, 2007.

Craig Bobzien,

Forest Supervisor.

[FR Doc. 07–5896 Filed 11–30–07; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Opportunity To Comment on the Applicants for the North Central Texas Region, and the South Central California Region

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.

ACTION: Notice and request for comments.

SUMMARY: GIPSA requests comments on the applicants for designation to provide official services in north central Texas, and the applicant for south central California. Enid Grain Inspection Company, Inc. (Enid) and Plainview Grain Inspection and Weighing Service, Inc. (Plainview) applied for counties in Texas, and California Agri Inspection Company, Ltd. (California Agri) applied for counties in California that were open for designation.

DATES: Comments must be postmarked or electronically dated on or before January 2, 2008.

ADDRESSES: We invite you to submit comments on these applicants. You may submit comments by any of the following methods:

- *Hand Delivery or Courier:* Deliver to Karen Guagliardo, Review Branch Chief, Compliance Division, GIPSA, USDA, Room 1647–S, 1400 Independence Avenue, SW., Washington, DC 20250.
- *Fax:* Send by facsimile transmission to (202) 690–2755, Attention: Karen Guagliardo.
- *E-mail:* Send via electronic mail to *Karen.W.Guagliardo@usda.gov.*
- *Mail:* Send hardcopy to Karen Guagliardo, Review Branch Chief, Compliance Division, GIPSA, USDA, STOP 3604, 1400 Independence Avenue, SW., Washington, DC 20250–3604.
- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments and reading any comments posted online.

Read Applications and Comments: All applications and comments will be available for public inspection at the office above during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Karen Guagliardo at 202–720–7312, e-mail *Karen.W.Guagliardo@usda.gov.*

SUPPLEMENTARY INFORMATION: This Action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

Amarillo Grain Exchange, Inc., currently designated October 1, 2007 through September 30, 2010, asked GIPSA to remove the north central Texas region from its assigned geographical area. The north central Texas region is comprised of the following nineteen counties: Archer, Baylor, Callahan, Clay, Cottle, Fisher, Foard, Hardeman, Haskell, Jones, King, Knox, Nolan, Shackelford, Stonewall, Taylor, Throckmorton, Wichita, and Wilbarger.

In the September 4, 2007, **Federal Register** (72 FR 50654), GIPSA asked persons interested in providing official services in the north central Texas

region to submit an application for designation. GIPSA also asked persons interested in providing official services for the area currently designated to Farwell Commodity and Grain Services, Inc. (Farwell Southwest) to submit an application for designation.

There were two applicants for the north central Texas area: Plainview and Enid; both currently designated official agencies. Plainview applied for part of the area open for designation: Cottle, Hardeman, King, Knox, Baylor, Archer, Stonewall, Haskell, Throckmorton, Fisher, Jones, Shackelford, Nolan, Taylor, Foard, and Callahan counties in Texas. Enid applied for part of the area open for designation: Clay, Wichita, and Wilbarger counties in Texas.

California Agri, a currently designated official agency, applied for designation in specific counties currently designated to Farwell Southwest. California Agri provides service in these California counties through an agreement with Farwell Southwest: Merced, Madera, Fresno, Kings, Tulare, Inyo, San Luis Obispo, Kern, Orange, Los Angeles, Ventura, Santa Barbara, and San Bernardino. Farwell Southwest applied for the remaining counties that are currently part of their designated area. GIPSA is not soliciting comments on the quality of service provided by Farwell Southwest through this notice as such comments were already requested through a previous notice published in the **Federal Register** on September 4, 2007 (72 FR 50654).

GIPSA is publishing this notice to provide interested persons the opportunity to present comments concerning the applicants. Commenters are encouraged to submit reasons and pertinent data for support or objection to the designation of the applicants. All comments must be submitted to the Compliance Division at the above address or at *http://www.regulations.gov.* Comments and other available information will be considered in making a final decision. GIPSA will publish notice of the final decision in the **Federal Register**, and GIPSA will send the applicants written notification of the decision.

Authority: 7 U.S.C. 71–87k.

James E. Link,

Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. E7–23248 Filed 11–30–07; 8:45 am]

BILLING CODE 3410–KD–P

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Opportunity for Designation in Georgia, Cedar Rapids (IA), and Montana Areas, and Request for Comments on the Official Agencies Serving These Areas

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.

ACTION: Notice.

SUMMARY: The designations of the official agencies listed below will end on June 30, 2008. We are asking persons interested in providing official services in the areas served by these agencies to submit an application for designation. We are also asking for comments on the quality of services provided by these currently designated agencies: Georgia Department of Agriculture (Georgia); Mid-Iowa Grain Inspection, Inc. (Mid-Iowa); and Montana Department of Agriculture (Montana).

DATES: Applications and comments must be received on or before January 2, 2009.

ADDRESSES: We invite you to submit applications and comments on this notice. You may submit applications and comments by any of the following methods:

- To apply for designation, go to FGIS online, Web page *https://fgis.gipsa.usda.gov/default_home_FGIS.aspx.* Select *Delegations/Designations and Export Registrations (DDR).* You need e-authentication and a customer number prior to applying.
- *Hand Delivery or Courier:* Deliver to Karen Guagliardo, Review Branch Chief, Compliance Division, GIPSA, USDA, Room 1647–S, 1400 Independence Avenue, SW., Washington, DC 20250.
- *Fax:* Send by facsimile transmission to (202) 690–2755, attention: Karen Guagliardo.
- *E-mail:* Send via electronic mail to *Karen.W.Guagliardo@usda.gov.*
- *Mail:* Send hardcopy to Karen Guagliardo, Review Branch Chief, Compliance Division, GIPSA, USDA, STOP 3604, 1400 Independence Avenue, SW., Washington, DC 20250–3604.
- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments and reading any comments posted online.

Read Applications and Comments: All applications and comments will be available for public inspection at the office above during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Karen Guagliardo at 202–720–7312, e-mail *Karen.W.Guagliardo@usda.gov.*

SUPPLEMENTARY INFORMATION: Section 7(f)(1) of the United States Grain Standards Act, as amended (USGSA or Act), authorizes GIPSA's Administrator to designate a qualified applicant to provide official services in a specified area after determining that the applicant is better able than any other applicant to provide such official services (7 U.S.C. 79(f)(1)).

Section 7(g)(1) of USGSA provides that designations of official agencies will terminate not later than three years and may be renewed according to the criteria and procedures prescribed in Section 7(f) of USGSA.

CURRENT DESIGNATIONS BEING ANNOUNCED FOR RENEWAL

Official agency	Main office	Designation start	Designation end
Georgia	Tifton, GA	07/01/2008	06/30/2011
Mid-Iowa	Cedar Rapids, IA	07/01/2008	03/31/2011
Montana	Helena, MT	07/01/2008	03/31/2011

Georgia

Pursuant to Section 7(f)(2) of the Act, the following geographic area, the entire State of Georgia, except those export port locations within the State which are serviced by GIPSA, is assigned to Georgia.

Mid-Iowa

Pursuant to Section 7(f)(2) of the Act, the following geographic area, in the States of Minnesota, Iowa, and Texas is assigned to Mid-Iowa.

In Minnesota

Wabasha, Olmstead, Winona, Houston, and Fillmore Counties.

In Iowa

Bounded on the North by the northern Winneshiek and Allamakee County lines;

Bounded on the East by the eastern Allamakee County line; the eastern and southern Clayton County lines; the eastern Buchanan County line; the northern and eastern Jones County lines; the eastern Cedar County line south to State Route 130;

Bounded on the South by State Route 130 west to State Route 38; State Route 38 south to Interstate 80; Interstate 80 west to U.S. Route 63; and

Bounded on the West by U.S. Route 63 north to State Route 8; State Route 8 east to State Route 21; State Route 21 north to D38; D38 east to State Route 297; State Route 297 north to V49; V49 north to Bremer County; the southern Bremer County line; the western Fayette and Winneshiek County lines.

In Texas

Bounded on the north by the northern Young, Jack, Montague, Cooke, Grayson, Fannin, Lamar, Red River, Morris, and Marion County line east to the Texas State line;

Bounded on the east by the eastern Texas State line south to the southern Texas State line;

Bounded on the south by the southern Texas State line west to the western Val Verde County line;

Bounded on the west by the western Val Verde, Edwards, Kimble, Mason, San Saba, Mills, Comanche, Eastland, Stephens, and Young County lines north to the northern Young County line.

Mid-Iowa's assigned geographic area does not include the export port locations inside Mid-Iowa's area which are serviced by GIPSA.

Montana

Pursuant to Section 7(f)(2) of the Act, the following geographic area, the entire State of Montana, is assigned to Montana.

Opportunity for Designation

Interested persons, including Georgia, Mid-Iowa, and Montana, may apply for designation to provide official services in the geographic areas specified above under the provisions of Section 7(f) of USGSA (7 U.S.C. 79(f)(2)), and 9 CFR 800.196(d) regulations. Designation in the specified geographic areas is for the period beginning July 1, 2008, and ending June 30, 2011. To apply for designation, contact the Compliance Division at the address listed above for forms and information, or obtain applications at the GIPSA Web site, *http://www.gipsa.usda.gov.*

Request for Comments

We are also publishing this notice to provide interested persons the opportunity to present comments on the quality of services provided by the Georgia, Mid-Iowa, and Montana official agencies. In the designation process, we are particularly interested in receiving comments citing reasons and pertinent data for support or objection to the designation of the applicants. Submit all comments to the Compliance Division at the above address or at *http://www.regulations.gov.*

In determining which applicant will be designated, we will consider applications, comments, and other available information.

Authority: 7 U.S.C. 71–87k.

James E. Link,

Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. E7–23239 Filed 11–30–07; 8:45 am]

BILLING CODE 3410–KD–P

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Designation for the Columbus (OH), Farwell (TX), and Decatur (IN) Areas

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.

ACTION: Notice.

SUMMARY: We are announcing designation of the following organizations to provide official services under the United States Grain Standards Act, as amended (USGSA): Columbus Grain Inspection, Inc. (Columbus); Farwell Grain Inspection, Inc. (Farwell); and Northeast Indiana Grain Inspection, Inc. (Northeast Indiana).

DATES: Effective January 1, 2008.

ADDRESSES: USDA, GIPSA, Karen Guagliardo, Chief, Review Branch, Compliance Division, STOP 3604, Room 1647–S, 1400 Independence Avenue, SW., Washington, DC 20250–3604.

FOR FURTHER INFORMATION CONTACT: Karen Guagliardo at 202–720–7312, e-mail *Karen.W.Guagliardo@usda.gov.*

Read Applications: All applications will be available for public inspection at the office above during regular business hours (7 CFR 1.27(b)).

SUPPLEMENTARY INFORMATION: In the May 31, 2007, **Federal Register** (72 FR 30335), we requested applications for designation to provide official services in the geographic areas assigned to the official agencies named above. Applications were due by July 2, 2007.

Columbus, Farwell, and Northeast Indiana were the sole applicants for designation to provide official services in the entire area currently assigned to them, so GIPSA did not ask for additional comments on them.

We evaluated all available information regarding the designation criteria in Section 7(f)(l) of USGSA (7 U.S.C. 79(f)) and determined that Columbus, Farwell, and Northeast Indiana are able to provide official services in the geographic areas specified in May 31, 2007, **Federal Register**, for which they applied. These designation actions to provide official services are effective January 1, 2008, and terminate December 31, 2010, for Columbus, Farwell, and Northeast Indiana. Interested persons may obtain official services by calling the telephone numbers listed below.

Official Agency	Headquarters location and telephone	Designation start-end
Columbus	Circleville, OH—740–474–3519	1/01/2008–12/31/2010
	Additional Location: Bucyrus, OH	
Farwell	Farwell, TX—806–481–9052	1/01/2008–12/31/2010
Northeast Indiana	Decatur, IN—337–948–0230	1/01/2008–12/31/2010

Section 7(f)(1) of the USGSA, authorizes GIPSA's Administrator to designate a qualified applicant to provide official services in a specified area after determining that the applicant is better able than any other applicant to provide such official services (7 U.S.C. 79(f)(1)).

Section 7(g)(1) of USGSA provides that designations of official agencies will terminate not later than three years and may be renewed according to the criteria and procedures prescribed in Section 7(f) of USGSA.

Authority: 7 U.S.C. 71–87k.

James E. Link,

Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. E7–23243 Filed 11–30–07; 8:45 am]

BILLING CODE 3410–KD–P

DEPARTMENT OF COMMERCE

Census Bureau

Proposed Information Collection; Comment Request; Shipper's Export Declaration (SED)/Automated Export System (AES) Program

AGENCY: U.S. Census Bureau, 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 February 1, 2008.

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 Dale C. Kelly, Chief, Regulations, Outreach and Education Branch, U.S. Census Bureau, 4600 Silver Hill Road, Room 6K125, Washington, DC 20233–6700, (301) 763–6937, by fax (301) 763–6638 (or via the Internet at *dale.c.kelly@census.gov*).

SUPPLEMENTARY INFORMATION:

I. Abstract

The Shipper's Export Declaration (SED), Commerce Form 7525–V, and the electronic equivalent, the Automated Export System (AES), are instruments used for collecting export trade information. The data collected from these sources are compiled by the U.S. Census Bureau and functions as the basis for the official U.S. export trade statistics. These statistics are used to determine the balance of international trade, and are also designated for use as a principal economic indicator. Title 13, United States Code (U.S.C.), Chapter 9, Section 301 authorizes the Census Bureau to collect, compile and publish export trade data. Title 15, Code of Federal Regulations, part 30, contains the regulatory provisions for preparing and filing the SED or the AES record. These data are used in the development of U.S. Government policies that affect the economy. These data also enable U.S. businesses to develop practical export marketing strategies as well as provide a means for the assessment of the impact of exports on the domestic economy. The data collected from the SED and the AES record are also used for export control purposes under Title 50, U.S.C., Export Administration Act, to detect and prevent the export of certain items by unauthorized parties or to unauthorized destinations or end users.

On November 29, 1999, the President signed into law the Consolidated Appropriations Act of 1999, which authorized the Secretary of Commerce to require mandatory electronic filing of items on the Commerce Control List (CCL) and the U.S. Munitions List (USML). The requirement to implement this process went into effect October 18, 2003. On July 29, 2003, the President signed Executive Order 13312, which executed prohibitions to Public Law 108–19, the Clean Diamond Trade Act thereby authorizing the mandatory electronic filing of rough diamonds. Implementation for this process went into effect October 20, 2003. On September 30, 2002, the President signed into law the Foreign Relations Authorization Act, Public Law 107–228. This law authorizes the Secretary of Commerce, with the concurrence of the Secretary of State and the Secretary of Homeland Security, to publish regulations in the **Federal Register** detailing that upon the effective date of these regulations, all persons who are required to file export information under Title 13, U.S.C., Chapter 9, file such information through the AES and there will no longer be provisions made for manual filing thereafter. On October 22, 2003, the Census Bureau published a Notice of Proposed Rulemaking in the **Federal Register** (68 FR 60301) announcing the Census Bureau's intent to propose the rule mandating electronic filing through the AES of all information on export shipments that require the filing of a SED and allowed the public to comment on this subject. Once concurrence is received from all parties involved, the Census Bureau intends to publish a Final Rulemaking, which will implement the provisions of Public Law 107–228 requiring the mandatory electronic filing of export information via the AES.

II. Method of Collection

A paper SED or electronic AES record is required, with certain exceptions, for all export shipments valued more than $2,500 from the United States, including Foreign Trade Zones located therein, Puerto Rico, and the U.S. Virgin Islands to foreign countries; for exports between the United States and Puerto Rico; and for exports to the U.S. Virgin Islands from the United States or Puerto Rico. The AES record information is also required for the export of rough diamonds and all exports requiring a license from the Bureau of Industry and Security, a license or license exception from the Department of State, or other government agency, regardless of value, unless exempted from the requirement for filing AES information by the licensing government agency. The SED/AES program is unique among Census Bureau statistical collections since it is not sent to respondents to solicit responses, as is the case with surveys. Filing export information via the SED or AES is a mandatory process under Title 13, Chapter 9, U.S.C. The Census Bureau has seen a progressive growth in the number of electronic filers, with a comparable decrease in the number of the paper SED filers. For example, the requirements to file export information through the AES for all USML and CCL shipments has resulted in the elimination of more than 536,000 paper SEDs annually. Exporters can access the AES via the Census Bureau's free Internet-based system, AES*Direct*, or they can integrate the AES into their company's computer network and file directly with the U.S. Customs and Border Protection (CBP). Exporters may also download the SED, Commerce Form 7525–V, from the Internet and print it on the required ''buff'' colored paper.

For exports to Canada, a Memorandum of Understanding (MOU) signed by the CBP, Canada Border Services Agency, and statistical agencies in the United States and Canada enables the United States to substitute Canadian import statistics for U.S. export statistics. Similarly, in accordance with the MOU, Canada substitutes U.S. import statistics for Canadian exports to the United States. This exchange of data eliminates the requirement for U.S. exporters to file any information with the U.S. Government for exports of nonlicensed shipments to Canada, thus resulting in the elimination of over ten million paper SEDs annually. Export shipments to Canada that require a

license must be filed through the AES. Also, export shipments from the United States through Canada destined to a country other than Canada require a SED or AES record.

U.S. principal parties in interest (USPPI) or authorized agents file individual paper SEDs with exporting carriers at the time export shipments leave the United States. For the AES, USPPIs or authorized agents file export data electronically with the Census Bureau or the CBP. Carriers submit paper SED documents to CBP officials when the carrier departs from the United States and the CBP then transmits the export information to the Census Bureau for statistical processing.

The AES enables the government to significantly improve the quality, timeliness, and coverage of export statistics. Since July 1995, the Census Bureau and the CBP have utilized the AES to improve the reporting of export trade information, customer service, compliance with and enforcement of export laws, and provide paperless reports of export information. The AES also enables the U.S. Government to increase its ability to prevent the export of certain items by unauthorized parties to unauthorized destinations and end users through electronic filing.

III. Data

OMB Control Number: 0607–0152.

Form Number: 7525–V, Automated Export System (AES) submissions.

Type of Review: Regular submission.

Affected Public: Exporters, Forwarding agents, Export Carriers.

Estimated Number of Respondents: 239,094.

Estimated Time per Response: 11 minutes for 7525–V; and 3 minutes for AES submission.

Estimated Total Annual Burden Hours: 817,941 (SEDs, 72,280) (AES, 745,661).

Estimated Total Annual Cost: $14,592,067.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13 United States Code, Chapter 9; Public Law 107–228 Foreign Relations Authorization Act.

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: November 27, 2007.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E7–23311 Filed 11–30–07; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Census Bureau

Proposed Information Collection; Comment Request; Current Population Survey (CPS) Migration Supplement

AGENCY: U.S. Census Bureau, 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 February 1, 2008.

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 Dennis E. Clark, U.S. Census Bureau, 7H0003J, Washington, DC 20233–8400 at (301) 763–5488 (or via the Internet at *Dennis.E.Clark@census.gov*).

SUPPLEMENTARY INFORMATION:

I. Abstract

The U.S. Census Bureau plans to request clearance for the collection of data concerning the Migration Supplement to be conducted in conjunction with the August 2008 CPS. The Census Bureau and the Bureau of Labor Statistics sponsor the basic questions on citizenship and year came to live in the United States, which have been collected on the CPS Basic questionnaire since 1994. The proposed supplemental survey provides information on contemporary migration patterns, such as multiple years of entry, time outside the United States, and emigration, as well as on naturalization and monetary remittances. This survey will be the only source of nationally representative data on multiple years of entry to and emigration from the United States, the demographic characteristics of those migrants and emigrants, and on international remittances. This supplement is a reinstatement with change of the Immigration and Emigration Supplement of 1991.

Collecting these data will assist the U.S. Census Bureau, other government agencies, and other researchers to improve the quality of international migration estimates and to determine changes in migration patterns that are related to the nation's population composition. Additionally, the information from this survey will be used to produce estimates of all components of net international migration, including emigration, a component for which no direct data currently exist. The survey can also be used to estimate naturalization rates and rates of monetary remittances. When combined with CPS-collected characteristics, such as citizenship, place of birth, parental nativity, income, and household relationships, the data can provide information on the social and economic adaptation of and the potential needs of the foreign-born population over time in the United States. Thus, this survey can be used to provide timely information on migration and migrants to policymakers.

II. Method of Collection

The migration information will be collected by both personal visit and telephone interviews in conjunction with the regular August 2008 CPS interviewing. All interviews are conducted using computer-assisted interviewing.

III. Data

OMB Control Number: 0607–0710.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Individuals or households.

Estimated Number of Respondents: 135,000.

Estimated Time per Response: 1 minute.

Estimated Total Annual Burden Hours: 2,250.

Estimated Total Annual Cost: There is no cost to the respondents other than their time.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13, U.S.C., Section 182, and Title 29, U.S.C., Sections 1–9.

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: November 27, 2007.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E7–23312 Filed 11–30–07; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

FOR FURTHER INFORMATION CONTACT: Sheila E. Forbes, Office of AD/CVD Operations, Customs Unit, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 482–4697.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended, may request, in accordance with section 351.213 (2004) of the Department of Commerce (the Department) Regulations, that the Department conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

Opportunity to Request a Review: Not later than the last day of December 2007,[1] interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in December for the following periods:

	Period
Antidumping Duty Proceedings	
Argentina: Honey, A–357–812	12/1/06–11/30/07
Brazil:	
Certain Carbon Steel Butt-Weld Pipe Fittings, A–351–602	12/1/06–11/30/07
Silicomanganese, A–351–824	12/1/06–11/30/07
Chile: Certain Preserved Mushrooms, A–337–804	12/1/06–11/30/07
India:	
Carbazole Violet Pigment 23, A–533–838	12/1/06–11/30/07
Certain Hot-Rolled Carbon Steel Flat Products, A–533–820	12/1/06–11/30/07
Stainless Steel Wire Rod, A–533–808	12/1/06–11/30/07
Indonesia: Certain Hot-Rolled Carbon Steel Flat Products, A–560–812	12/1/06–11/30/07
Japan:	
High and Ultra-High Voltage Ceramic Station Post Insulators, A–588–862	12/1/06–11/30/07
Polychloroprene Rubber, A–588–046	12/1/06–11/30/07
P.C. Steel Wire Strand, A–588–068	12/1/06–11/30/07
Superalloy Degassed Chromium, A–588–866	12/1/06–11/30/07
Welded Large Diameter Line Pipe, A–588–857	12/1/06–11/30/07
Republic of Korea: Welded ASTM A–312 Stainless Steel Pipe, A–580–810	12/1/06–11/30/07
Taiwan:	
Carbon Steel Butt-Weld Pipe Fittings, A–583–605	12/1/06–11/30/07
Porcelain-on-Steel Cooking Ware, A–583–508	12/1/06–11/30/07
Welded ASTM A–312 Stainless Steel Pipe, A–583–815	12/1/06–11/30/07
The People's Republic of China:	
Carbazole Violet Pigment 23, A–570–892	12/1/06–11/30/07
Cased Pencils, A–570–827	12/1/06–11/30/07
Hand Trucks and Parts Thereof, A–570–891	12/1/06–11/30/07
Honey, A–570–863	12/1/06–11/30/07
Malleable Cast Iron Pipe Fittings, A–570–881	12/1/06–11/30/07
Porcelain-on-Steel Cooking Ware, A–570–506	12/1/06–11/30/07
Silicomanganese, A–570–828	12/1/06–11/30/07
Countervailing Duty Proceedings	
Argentina: Honey, C–357–813	1/1/07–12/31/07
India:	
Carbazole Violet Pigment 23, C–533–839	1/1/06–12/31/06

[1] Or the next business day, if the deadline falls on a weekend, federal holiday or any other day when the Department is closed.

	Period
Certain Hot-Rolled Carbon Steel Flat Products, C–533–821	1/1/07–12/31/07
Indonesia: Certain Hot-Rolled Carbon Steel Flat Products, C–560–813	1/1/07–12/31/07
South Africa: Certain Hot-Rolled Carbon Steel Flat Products, C–791–810	1/1/06–12/31/06
Thailand: Certain Hot-Rolled Cabon Steel Flat Products, C–549–818	1/1/06–12/31/06
Suspension Agreements	
Mexico: Fresh Tomatoes, A–201–820	12/1/06–11/30/07

In accordance with section 351.213(b) of the regulations, an interested party as defined by section 771(9) of the Act may request in writing that the Secretary conduct an administrative review. For both antidumping and countervailing duty reviews, the interested party must specify the individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order or suspension agreement for which it is requesting a review, and the requesting party must state why it desires the Secretary to review those particular producers or exporters.[2] If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which were produced in more than one country of origin and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Please note that, for any party the Department was unable to locate in prior segments, the Department will not accept a request for an administrative review of that party absent new information as to the party's location. Moreover, if the interested party who files a request for review is unable to locate the producer or exporter for which it requested the review, the interested party must provide an explanation of the attempts it made to locate the producer or exporter at the same time it files its request for review, in order for the Secretary to determine if the interested party's attempts were reasonable, pursuant to 19 CFR 351.303(f)(3)(ii).

As explained in *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003), the Department has clarified its practice with respect to the collection of final antidumping duties on imports of merchandise where intermediate firms are involved. The public should be aware of this clarification in determining whether to request an administrative review of merchandise subject to antidumping findings and orders. See also the Import Administration Web site at *http://ia.ita.doc.gov*.

Six copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room 1870, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC 20230. The Department also asks parties to serve a copy of their requests to the Office of Antidumping/Countervailing Duty Operations, Attention: Sheila Forbes, in room 3065 of the main Commerce Building. Further, in accordance with section 351.303(f)(l)(i) of the regulations, a copy of each request must be served on every party on the Department's service list.

The Department will publish in the **Federal Register** a notice of ''Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation'' for requests received by the last day of December 2007. If the Department does not receive, by the last day of December 2007, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, the Department will instruct the U.S. Customs and Border Protection to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute but is published as a service to the international trading community.

Dated: November 27, 2007.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E7–23392 Filed 11–30–07; 8:45 am]

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[2] If the review request involves a non-market economy and the parties subject to the review request do not qualify for separate rates, all other exporters of subject merchandise from the non-market economy country who do not have a separate rate will be covered by the review as part of the single entity of which the named firms are a part.

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Five-Year (''Sunset'') Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: In accordance with section 751(c) of the Tariff Act of 1930, as amended (''the Act''), the Department of Commerce (''the Department'') is automatically initiating a five-year review (''Sunset Review'') of the antidumping duty orders listed below. The International Trade Commission (''the Commission'') is publishing concurrently with this notice its notice of *Institution of Five-Year Review* which covers the same orders.

DATES: *Effective Date:* December 3, 2007.

FOR FURTHER INFORMATION CONTACT: The Department official identified in the *Initiation of Review(s)* section below at AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th & Constitution Ave., NW., Washington, DC 20230. For information from the Commission contact Mary Messer, Office of Investigations, U.S. International Trade Commission at (202) 205–3193.

SUPPLEMENTARY INFORMATION:

Background

The Department's procedures for the conduct of Sunset Reviews are set forth in its *Procedures for Conducting Five-Year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders,* 63 FR 13516 (March 20, 1998) and 70 FR 62061 (October 28, 2005). Guidance on methodological or analytical issues relevant to the Department's conduct of Sunset Reviews is set forth in the Department's

Policy Bulletin 98.3—*Policies Regarding the Conduct of Five-Year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin,* 63 FR 18871 (April 16, 1998).

Initiation of Reviews

In accordance with 19 CFR 351.218(c), we are initiating the Sunset Review of the following antidumping duty orders:

DOC Case No.	ITC Case No.	Country	Product	Department contact
A–570–873	731–TA–986	PRC	Ferrovanadium	Juanita Chen (202) 482–1904.
A–791–815	731–TA–987	South Africa	Ferrovanadium	Juanita Chen (202) 482–1904.

Filing Information

As a courtesy, we are making information related to Sunset proceedings, including copies of the pertinent statute and Department's regulations, the Department's schedule for Sunset Reviews, a listing of past revocations and continuations, and current service lists, available to the public on the Department's sunset Internet Web site at the following address: *http://ia.ita.doc.gov/sunset/.* All submissions in these Sunset Reviews must be filed in accordance with the Department's regulations regarding format, translation, service, and certification of documents. These rules can be found at 19 CFR 351.303.

Pursuant to 19 CFR 351.103(c), the Department will maintain and make available a service list for these proceedings. To facilitate the timely preparation of the service list(s), it is requested that those seeking recognition as interested parties to a proceeding contact the Department in writing within 10 days of the publication of the Notice of Initiation.

Because deadlines in Sunset Reviews can be very short, we urge interested parties to apply for access to proprietary information under administrative protective order (''APO'') immediately following publication in the **Federal Register** of the notice of initiation of the sunset review. The Department's regulations on submission of proprietary information and eligibility to receive access to business proprietary information under APO can be found at 19 CFR 351.304–306.

Information Required From Interested Parties

Domestic interested parties (defined in section 771(9)(C), (D), (E), (F), and (G) of the Act and 19 CFR 351.102(b)) wishing to participate in these Sunset Reviews must respond not later than 15 days after the date of publication in the **Federal Register** of this notice of initiation by filing a notice of intent to participate. The required contents of the notice of intent to participate are set forth at 19 CFR 351.218(d)(1)(ii). In accordance with the Department's regulations, if we do not receive a notice of intent to participate from at least one domestic interested party by the 15-day deadline, the Department will automatically revoke the orders without further review. *See* 19 CFR 351.218(d)(1)(iii).

For sunset reviews of countervailing duty orders, parties wishing the Department to consider arguments that countervailable subsidy programs have been terminated must include with their substantive responses information and documentation addressing whether the changes to the program were (1) limited to an individual firm or firms and (2) effected by an official act of the government. Further, a party claiming program termination is expected to document that there are no residual benefits under the program and that substitute programs have not been introduced. *Cf.* 19 CFR 351.526(b) and (d). If a party maintains that any of the subsidies countervailed by the Department were not conferred pursuant to a subsidy program, that party should nevertheless address the applicability of the factors set forth in 19 CFR 351.526(b) and (d). Similarly, parties wishing the Department to consider whether a company's change in ownership has extinguished the benefit from prior non-recurring, allocable, subsidies must include with their substantive responses information and documentation supporting their claim that all or almost all of the company's shares or assets were sold in an arm's length transaction, at a price representing fair market value, as described in the *Notice of Final Modification of Agency Practice Under Section 123 of the Uruguay Round Agreements Act,* 68 FR 37125 (June 23, 2003) (''*Modification Notice*''). *See Modification Notice* for a discussion of the types of information and documentation the Department requires.

If we receive an order-specific notice of intent to participate from a domestic interested party, the Department's regulations provide that *all parties* wishing to participate in the Sunset Review must file complete substantive responses not later than 30 days after the date of publication in the **Federal Register** of this notice of initiation. The required contents of a substantive response, on an order-specific basis, are set forth at 19 CFR 351.218(d)(3). Note that certain information requirements differ for respondent and domestic parties. Also, note that the Department's information requirements are distinct from the Commission's information requirements. Please consult the Department's regulations for information regarding the Department's conduct of Sunset Reviews.[1] Please consult the Department's regulations at 19 CFR part 351 for definitions of terms and for other general information concerning antidumping and countervailing duty proceedings at the Department.

This notice of initiation is being published in accordance with section 751(c) of the Act and 19 CFR 351.218(c).

Dated: November 14, 2007.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E7–23393 Filed 11–30–07; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Advance Notification of Sunset Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Upcoming Sunset Reviews.

Background

Every five years, pursuant to section 751(c) of the Tariff Act of 1930, as

[1] In comments made on the interim final sunset regulations, a number of parties stated that the proposed five-day period for rebuttals to substantive responses to a notice of initiation was insufficient. This requirement was retained in the final sunset regulations at 19 CFR 351.218(d)(4). As provided in 19 CFR 351.302(b), however, the Department will consider individual requests for extension of that five-day deadline based upon a showing of good cause.

amended, the Department of Commerce (''the Department'') and the International Trade Commission automatically initiate and conduct a review to determine whether revocation of a countervailing or antidumping duty order or termination of an investigation suspended under section 704 or 734 would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy (as the case may be) and of material injury.

FOR FURTHER INFORMATION CONTACT: Brandon Farlander, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce. 14th Street & Constitution Ave., NW., Washington, DC 20230; telephone (202) 482–0182.

Upcoming Sunset Reviews for January 2008

There are no Sunset Reviews scheduled for initiation in January 2008.

For information on the Department's procedures for the conduct of sunset reviews, *See* 19 CFR 351.218. This notice is not required by statute but is published as a service to the international trading community. Guidance on methodological or analytical issues relevant to the Department's conduct of Sunset Reviews is set forth in the Department's Policy Bulletin 98.3, ''Policies Regarding the Conduct of Five-Year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders;'' Policy Bulletin, 63 FR 18871 (April 16, 1998) (''Sunset Policy Bulletin''). The Notice of Initiation of Five-Year (''Sunset'') Reviews provides further information regarding what is required of all parties to participate in Sunset Reviews.

Dated: November 14, 2007.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E7–23394 Filed 11–30–07; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–804]

Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from Japan: Amended Final Results of Antidumping Duty Administrative Review Pursuant to Final Court Decision

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The United States Court of International Trade (CIT) sustained the remand determination of the Department of Commerce (the Department) in the administrative reviews of the antidumping duty orders on antifriction bearings (other than tapered roller bearings) and parts thereof from Japan covering the period May 1, 1999, through April 30, 2000, for ball bearings and the period May 1, 1999, through December 31, 1999, for cylindrical roller bearings and spherical plain bearings. Although certain aspects of the Department's final results were appealed to the United States Court of Appeals for the Federal Circuit (CAFC), the remand results were not among them. On October 29, 2007, the Supreme Court denied a petition for certiorari in this case. As there is now a final court decision in this case, we are amending the final results of the review in this matter. We will instruct U.S. Customs and Border Protection (CBP) to liquidate entries subject to these amended final results.

EFFECTIVE DATE: December 3, 2007.

FOR FURTHER INFORMATION CONTACT: Thomas Schauer or Richard Rimlinger, AD/CVD Operations, Office 5, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–0410 and (202) 482–4477, respectively.

SUPPLEMENTAL INFORMATION:

Background

On July 12, 2001, the Department published the final results of administrative reviews of the antidumping duty orders on antifriction bearings (other than tapered roller bearings) and parts thereof from Japan for the period of review from May 1, 1999, through April 30, 2000, for ball bearings and the period May 1, 1999, through December 31, 1999, for cylindrical roller bearings and spherical plain bearings. See *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Sweden, and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews and Revocation of Orders in Part*, 66 FR 36551 (July 12, 2001) (*AFBs 11*). NTN Corporation, NTN–BCA Corporation, NTN Bower Corporation, NTN Driveshaft Inc., American NTN Bearing Manufacturing Corp., and NTN Bearing Corporation of America (hereafter ''NTN'') filed a lawsuit challenging the final results.[1] On August 10, 2004, the CIT remanded *AFBs 11* to the Department to explain why it did not exclude NTN's sales of CT scan bearings from its calculation of NTN's margin and assessment rate with respect to ball bearings and parts thereof from Japan. See *SNR Roulements v. United States*, 341 F. Supp. 2d 1334 (CIT 2004). In accordance with the CIT's remand order in SNR Roulements v. United States, 341 F. Supp. 2d 1334, the Department filed its remand results on October 29, 2004. In those remand results, the Department excluded NTN's sales of CT scan bearings from its calculation of NTN's margin and assessment rate with regard to ball bearings and parts thereof from Japan.

On January 27, 2005, the CIT sustained the Department's final results of remand redetermination in their entirety. See *SNR Roulements v. United States*, Consol. Ct. No. 01–00686, Slip Op. 05–12 (CIT January 27, 2005). Subsequently, the CAFC affirmed all of the Department's determinations raised on appeal. See *SNR Roulements v. United States*, 05–1297, 05–1323, 2006 U.S. App. LEXIS 31200 (CAFC December 8, 2006). The CAFC also denied a petition for rehearing of this case. See *SNR Roulements v. United States*, 05–1297, 05–1323, 2007 U.S. App. LEXIS 4456 (CAFC February 6, 2007). On April 27, 2007, Koyo and NTN submitted an application to the Chief Justice of the United States Supreme Court for an extension of time to file a petition for a writ of certiorari. The Chief Justice granted the extension to file until June 6, 2007. NTN and Koyo filed their petition for a writ of certiorari on June 6, 2007. The Supreme Court denied the same on October 29, 2007. Therefore, there is now a final and conclusive court decision.

Amendment to Final Results

We are now amending the final results of this review of the antidumping duty order on ball bearings and parts thereof from Japan. The changes to our calculations with respect to NTN resulted in a change in the weighted–average margin for ball bearings from 9.16 percent to 8.98 percent for the period of review. There are no changes in the margins for cylindrical roller bearings and spherical plain bearings as a result of the litigation. The Department will instruct CBP to liquidate entries of the ball bearings, cylindrical roller bearings, and

[1] SNR Roulements, INA-Schaeffler KG, INA USA Corporation, Koyo Seiko Co., Ltd. and Koyo Corporation of U.S.A. (collectively ''Koyo''), NSK Corporation, NSK Bearings Europe, Ltd., and NSK Ltd. were also parties to the litigation but our margin calculations for these companies were not affected by the litigation. Therefore, there are no amended final results of reviews to publish.

spherical plain bearings from Japan during the review period at the assessment rates the Department calculated for the final results of reviews as amended. We intend to issue the assessment instructions to CBP 15 days after the date of publication of these amended final results of review.

We are issuing and publishing these amended final results of review in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act of 1930, as amended.

Dated: November 27, 2007.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E7–23402 Filed 11–30–07; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–917]

Laminated Woven Sacks From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination; Preliminary Affirmative Determination of Critical Circumstances, In Part; and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) preliminarily determines that countervailable subsidies are being provided to producers and exporters of laminated woven sacks (LWS) from the People's Republic of China (PRC). For information on the estimated subsidy rates, see the ''Suspension of Liquidation'' section of this notice. The Department further determines preliminarily that critical circumstances exist, in part, with respect to imports of the subject merchandise. This notice also serves to align the final countervailing duty determination in this investigation with the final determination in the companion antidumping duty investigation of LWS from the PRC.

DATES: *Effective Date:* December 3, 2007.

FOR FURTHER INFORMATION CONTACT: Mark Hoadley, Toni Page or Jun Jack Zhao, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; *telephone:* (202) 482–3148, (202) 482–1398 and (202) 482–1396, respectively.

SUPPLEMENTARY INFORMATION:

Case History

The following events have occurred since the publication of the Department's notice of initiation in the **Federal Register**. *See Laminated Woven Sacks from the People's Republic of China: Initiation of Countervailing Duty Investigation,* 72 FR 40839 (July 25, 2007) (*Initiation Notice*).

On July 31, 2007, the Department selected, as mandatory respondents, the four largest Chinese producers/exporters of LWS that could reasonably be examined, Han Shing Chemical Co., Ltd. (Han Shing Chemical), Ningbo Yong Feng Packaging Co., Ltd. (Ningbo), Shangdong Qilu Plastic Fabric Group, Ltd. (Qilu), and Shangdong Shouguang Jianyuan Chun Co., Ltd. (SSJ). *See* Memorandum to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, ''Respondent Selection'' (July 31, 2007). This memorandum is on file in the Department's Central Records Unit in Room B–099 of the main Department building (CRU).[1] On August 3, 2007, we issued the countervailing duty (CVD) questionnaire to the Government of the People's Republic of China (GOC), requesting the GOC forward the company sections of the questionnaire to the mandatory respondent companies.

On August 14, 2007, the International Trade Commission (ITC) issued its affirmative preliminary determination that there is a reasonable indication that an industry in the United States is materially injured by reason of allegedly subsidized imports of LWS from China. *See Laminated Woven Sacks from China,* Investigation Nos. 701–TA–450 and 731–TA–1122 (Preliminary), 72 FR 46246 (August 17, 2007).

On September 10, 2007, we published a postponement of the preliminary determination of this investigation until November 26, 2007. *See Laminated Woven Sacks from the People's Republic of China: Postponement of Preliminary Determination in the Countervailing Duty Investigation,* 72 FR 51641 (September 10, 2007). We received responses from the GOC on September 24, 2007, and SSJ and its affiliate Shandong Longxing Plastic Products Company Ltd. (SLP) on October 1, 2007. Han Shing Chemical, Ningbo, and Qilu did not submit responses to the Department's August 3, 2007 CVD questionnaire. However, the GOC provided a certification from Han Shing Bulk Bag Co. Ltd. (Han Shing Bag) stating that neither Han Shing Bag nor any company with which it is cross-owned, as defined in 19 CFR 351.525(6)(vi), produced or exported LWS to the United States during the period of investigation. In addition, the certification stated that Han Shing Bag was not ''cross-owned'' or ''affiliated'' with Han Shing Chemical.

On September 10, 2007, Zibo Aifudi Plastic Packaging Company Limited (Aifudi) submitted a voluntary response to the Department, pursuant to section 782(a) of the Tariff Act of 1930, as amended (the Act). On October 24, 2007, the Department selected Aifudi as a voluntary respondent for the investigation pursuant to 19 CFR 351.204(d)(2). *See* Memorandum to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, ''Voluntary Respondent Selection'' (October 24, 2007). This memorandum is on file in the Department's CRU.

On October 2, 2007, October 10, 2007, and November 5, 2007, the Laminated Woven Sacks Committee and its individual members, Bancroft Bag, Inc., Coating Excellence International, LLC, Hood Packaging Corporation, Mid-America Packaging, LLC, and Polytex Fibers Corporation (collectively, the petitioners), submitted comments regarding these questionnaire responses. We issued supplemental questionnaires to SSJ, Aifudi, and to the GOC on October 23, 2007. We received responses to these supplemental questionnaires from all parties on October 26, 2007 and November 5, 2007.

On October 17, 2007, the petitioners submitted new subsidy allegations regarding twelve programs. On November 2, 2007, the Department determined to investigate all of these newly alleged subsidy programs pursuant to section 775 of the Act. *See* Memorandum to Barbara E. Tillman, Office Director, ''New Subsidy Allegation'' (November 2, 2007). Questions regarding these newly alleged subsidies were sent to the GOC and the respondent companies on November 2, 2007. The GOC submitted comments responding to the Department's initiation of new subsidy allegations on November 5, 2007. The GOC, SSJ, and

[1] At the time of respondent selection, the Department had public information indicating that Han Shing Chemical's internet address was the same as that of a Han Shing Co. and a Han Shing Bulk Bag Co., Ltd. Moreover, the Department also had public information indicating that Han Shing Chemical's street address was similar to that of Han Shing Co. and Han Shing Bulk Bag Co., Ltd. *See* attachment 2 of our Respondent Selection Memo. Thus, in our questionnaire to the GOC, we instructed the GOC to forward the questionnaire to certain producers/exporters, including ''Han Shing Chemical, Ltd., aka Han Shing Bulk Bag Co., Ltd. and Han Shing Co.''

Aifudi submitted responses to the new subsidy allegations questionnaires on November 19, 2007. The Department does not have enough time to review and analyze these recently filed facts and arguments regarding the newly alleged subsidy allegations for purposes of this preliminary determination. We will therefore analyze the responses to these allegations and address all of the parties' arguments fully in a post-preliminary analysis memorandum.

On November 5, 2007, the petitioners alleged that critical circumstances exist with respect to imports of LWS from the PRC. *See* section 703(e)(1) of the Act and 19 CFR 351.206(c)(2)(i). The Department issued questionnaires to all of the respondent companies regarding the critical circumstances allegation on November 9, 2007. Responses to these questionnaires were received from Han Shing Chemical on November 13, 2007 and from SSJ and Qilu on November 19, 2007. Commercial Packaging submitted comments regarding critical circumstances on November 20, 2007. We address the allegation of critical circumstances in the ''Critical Circumstances'' section of this notice.

On November 13, 2007, the petitioners submitted pre-preliminary comments on the preliminary determination. On November 19, 2007, the GOC submitted comments in response to the petitioners' pre-preliminary comments.

On November 20, 2007, the petitioners requested that the final determination of this countervailing duty investigation be aligned with the final determination in the companion antidumping duty investigation in accordance with section 705(a)(1) of the Act. We address this request below.

Scope of the Investigation

The merchandise covered by this investigation is laminated woven sacks. Laminated woven sacks are bags or sacks consisting of one or more plies of fabric consisting of woven polypropylene strip and/or woven polyethylene strip; with or without an extrusion coating of polypropylene and/or polyethylene on one or both sides of the fabric; laminated by any method either to an exterior ply of plastic film such as biaxially-oriented polypropylene (''BOPP'') or to an exterior ply of paper that is suitable for high quality print graphics;[2] printed with three colors or more in register; with or without lining; whether or not closed on one end; whether or not in roll form; with or without handles; with or without special closing features; not exceeding one kilogram in weight. Laminated woven bags are typically used for retail packaging of consumer goods such as pet foods and bird seed.

Effective July 1, 2007, laminated woven sacks are classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 6305.33.0050 and 6305.33.0080. Laminated woven sacks were previously classifiable under HTSUS subheading 6305.33.0020. If entered with plastic coating on both sides of the fabric consisting of woven polyethylene strip and/or woven polypropylene strip, laminated woven sacks may be classifiable under HTSUS subheadings 3923.21.0080, 3923.21.0095, and 3923.29.0000. If entered not closed on one end or in roll form, laminated woven sacks may be classifiable under HTSUS subheading 5903.90.2500 and 3921.19.0000. Although HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Scope Comments

In accordance with the preamble to the Department's regulations, in our *Initiation Notice* we set aside a period of time for parties to raise issues regarding product coverage, and encouraged all parties to submit comments within 20 calendar days of publication of the *Initiation Notice. See Antidumping Duties; Countervailing Duties,* 62 FR 27296, 27323 (May 19, 1997) (*Preamble*) and *Initiation Notice,* 72 FR at 40839. The petitioners submitted scope comments on August 7, 2007 on the record of both this proceeding and on the record of the companion antidumping duty investigation. The scope of the products covered by both investigations is identical. The Department will address the issues raised by the petitioners with regard to both investigations in the preliminary determination of the companion antidumping duty investigation.

Use of Facts Otherwise Available

Sections 776(a)(1) and (2) of the Act provide that the Department shall apply ''facts otherwise available'' if 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 Act requires the Department to use the information if it can do so without undue difficulties.

Use of Adverse Inferences

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 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

[2] ''Paper suitable for high quality print graphics,'' as used herein, means paper having an ISO brightness of 82 or higher and a Sheffield Smoothness of 250 or less. Coated free sheet is an example of a paper suitable for high quality print graphics.

Cong., 2d Session (1994) at 870. The Department considers information to be corroborated if it 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.

In deciding which facts to use as adverse facts available, 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 adverse facts available, 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 2.

The Department's practice when selecting an adverse rate from among the possible sources of information is to ensure that the rate 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 experience, selecting the highest prior rate ''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).

Policy Loans to LWS Producers From Government-Owned Banks

We preliminarily determine that the application of facts available is warranted with respect to policy loans to LWS producers from government-owned banks.[3] We have identified certain instances in the GOC's responses in which the GOC has failed to provide information requested by the Department. For example, in our August 3, 2007 questionnaire and October 23, 2007 supplemental questionnaire, we asked the GOC to provide the government's five-year plans for the textile industry. The GOC did not submit the requested five-year plans for the textile industry in its October 26, 2007 questionnaire response. Instead, the GOC stated that LWS is not part of the textile industry but is part of the plastics industry. In its November 5, 2007 submission, the GOC again did not submit the requested five-year plans for the textile industry and stated that since ''LWS is not part of the textile industry, the five-year plans for the textile industry can have no relevance to this investigation.'' The failure to provide this information within the established deadlines has impeded our investigation. Since the GOC has withheld the information requested by the Department and the failure to provide this information within the established deadlines has impeded our investigation, we preliminarily find that the application of facts otherwise available is warranted under sections 776(a)(1)(A), (B), and (C) of the Act.

The GOC did not provide information that the Department requested in two separate questionnaires. Therefore, we preliminarily determine that the GOC has failed to act to the best of its ability with regard to this matter. As such, we are using an adverse inference in applying facts otherwise available pursuant to section 776(b) of the Act. As an adverse inference, to address these omissions, we have preliminarily determined that the LWS industry is part of the textile industry for policy planning purposes and that the five-year plans for textiles direct preferential lending initiatives to the textiles industry. *See* Government Policy Lending program under the ''Programs Preliminarily Determined to be Countervailable'' section of this notice. The finding that certain five-year plans direct preferential loans to targeted industries is consistent with previous findings in other cases. *See, e.g.*, the discussion of policy loans, the 10th Five Year Plan for the Paper Making Industry and the Integration Plan as discussed in *Coated Free Sheet Paper from the People's Republic of China: Final Affirmative Countervailing Duty Determination,* 72 FR 60645 (October 25, 2007) and accompanying *Issues and Decision Memorandum* at 9 (*Final CFS Paper from the PRC*).

Finally, as an adverse inference with respect to policy lending, we are preliminarily determining that certain loans reported by LWS producers were received pursuant to the GOC's textile industry policy. *See* Government Policy Lending program under the ''Programs Preliminarily Determined to be Countervailable'' section of this notice for further discussion.

Ningbo and Qilu

We preliminarily determine that the application of facts available is warranted with respect to Ningbo and Qilu. We find that neither company provided information we requested that is necessary to determine a countervailing duty rate for this preliminary determination. Specifically, Ningbo and Qilu did not respond to the Department's questionnaires.[4] Since Ningbo and Qilu have failed to provide information requested by the Department and the failure to provide this information within the established deadlines has impeded our investigation, we find that the application of facts otherwise available is warranted under sections 776(a)(1)(A), (B), and (C) of the Act. Thus, in reaching our preliminary determination, pursuant to section 776(a)(2)(A), (B), and (C) of the Act, we have based Ningbo's and Qilu's countervailing duty rates on facts otherwise available.

We note that, in its initial questionnaire response, the GOC claimed that, to the best of its knowledge, none of the respondent companies,[5] including Ningbo and Qilu, used or received benefits from the programs under investigation. The GOC provided no documentary information on the record with regard to this statement.[6] Thus, on October 23, 2007,

[3] In the initiation checklist and the *Initiation Notice,* we referred to this program as ''Policy Loans to LWS Producers from Government-Owned Banks.''

[4] Qilu did provide its monthly shipment data on November 19, 2007, to the Department's critical circumstance questionnaire. It did not provide any responses on the record, however, to all other requests for information. Therefore, pursuant to section 782(e) of the Act, we have determined that this shipment data can be used without undue difficulty and otherwise meets the remaining criteria of that provision with regard to solely our critical circumstance analysis.

[5] At the time of its September 24, 2007 questionnaire response, no mandatory respondent had submitted a questionnaire response. Aifudi submitted its voluntary questionnaire response on September 10, 2007. Aifudi was selected as a voluntary respondent on October 24, 2007.

[6] The GOC did provide information supporting some of its claims that a few of the alleged programs

Continued

we sent supplemental questionnaires to Qilu and Ningbo explaining the possibility that the Department may use adverse facts available if the GOC's claims of non-use were determined to be insufficient.[7] At the same time, we issued a supplemental questionnaire to the GOC stating that it needed to make more definite statements regarding non-use (instead of stating to the ''best of our knowledge'') and that it needed to contact local authorities when necessary in determining whether programs had been used. The GOC responded on November 5, 2007, stating that ''{t}he PRC has searched the relevant government records, including where applicable the records of the county offices of the State Tax Administration in each of the localities in which the respondents, including {SLP and Aifudi}, are located, and has found no record of any benefits to any of those companies other than those reported in the PRC's response to the initial questionnaire, and that {SLP} received tax credits during the POI from the 'Two Free Three Half' program.'' For other programs, the GOC referred us to the responses of respondent enterprises. Ningbo and Qilu did not respond to our October 23, 2007 questionnaires.

We have determined that, for this preliminary determination, the GOC's statements regarding the possible non-use of these programs by the respondent companies, including Ningbo and Qilu, are not sufficient for the Department to determine that these companies did not receive countervailable subsidies, absent information provided by the respondents themselves. As discussed below, in the ''Programs Preliminarily Determined to be Countervailable'' section, SSJ/SLP and Aifudi/Golden Moon, the only two companies that submitted responses to the Department, have reported that they each received possible benefits from certain programs under investigation, partially contradicting the statements of the GOC. For example, the GOC apparently did not discover during its search of local records that SLP had received VAT benefits in 2005. Moreover, it appears the GOC did not attempt such searches for possible benefits under programs it considers non-existent; thus respondents received several loans from government-owned banks, but these were not identified in the GOC response, for example. The GOC also did not indicate whether it had performed searches for benefits received by possibly cross-owned affiliates of the respondents (other than SLP), and did not provide support for its statements regarding the eligibility of companies for benefits (*e.g.,* no documentation demonstrating that Qilu and Ningbo were not SOEs, or that Qilu was not a foreign invested enterprise (FIE)). Thus, not only are the GOC's assertions unsupported by substantive evidence on the record, but there is affirmative evidence with respect to SSJ/SLP's and Aifudi/Golden Moon's responses that the GOC's claims of non-use are incorrect as a matter of fact. Accordingly, for this preliminary determination, we have determined that the GOC's statements regarding the non-use of programs by the selected respondents, including Ningbo and Qilu, are unreliable and are contradicted by other facts on the record.

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 Ningbo and Qilu did not respond to our requests for information. Thus, Ningbo and Qilu failed to cooperate by not acting to the best of their abilities, and our preliminary determination for these companies is based on the application of adverse facts available.

Because Ningbo and Qilu failed to act to the best of their abilities, for each program examined, we made the adverse inference that Ningbo and Qilu benefitted from the program unless the record evidence made it clear that the companies could not have received benefits from the program because, for example, we have preliminarily found the program to be not countervailable. *See, e.g., Certain Cold-Rolled Carbon Steel Flat Products From Korea: Final Affirmative CVD Determination,* 67 FR 62102 (October 3, 2002) and accompanying *Issues and Decision Memorandum* at 3. As such, we have not used adverse inferences with respect to the ''Provision of Electricity for Less than Adequate Remuneration'' program and the ''Exemption from Payment of Staff and Worker Benefit Taxes for Export-Oriented Enterprises'' program. To calculate the program rates, we have generally relied upon the highest program rate calculated for any responding company in this investigation as adverse facts available. *See 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 3.

Thus, for the three value added tax (VAT) programs,[8] and the Provision of Land for Less than Adequate Remuneration, we are using SSJ's rate for Provision of Land for Less than Adequate Remuneration. For the loan program,[9] we are using SSJ's rate for Government Policy Loans. For the nine income tax programs,[10] we have applied an adverse inference that Ningbo and Qilu paid no income tax during the period of investigation (POI) (*i.e.,* calendar year 2006). The standard income tax rate for corporations in the PRC is 30 percent, plus a 3 percent provincial income tax rate. Therefore, the highest possible benefit for the income tax rate programs is 33 percent. We are applying the 33 percent adverse facts available rate on a combined basis (*i.e.,* the nine listed programs combined provided a 33 percent benefit). *See Circular Welded Carbon Quality Steel Pipe from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination; Preliminary Affirmative Determination of Critical Circumstances; and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination,* 72 FR 63875, 63879 (November 13, 2007) (*CWP from the PRC*).

We are unable to utilize company-specific rates from this proceeding for the grant programs since the

did not exist or had been terminated (in some cases, after the POI). It did not support its non-use claims, however.

[7] In our October 23, 2007 questionnaires to Ningbo and Qilu, we stated the following: ''While the Department received some information from the GOC regarding possible non-use of these programs by your company, this information may not be sufficient for the Department to determine that your company did not receive countervailable subsidies. If the Department finds the information provided by the GOC to be insufficient for such a determination, we may use the facts otherwise available on the administrative record in determining a countervailing duty rate to apply to exports from your company to the United States, in accordance with section 776(a)(2) of the Act. Moreover, in applying facts otherwise available, the Department may use an inference adverse to the interests of your company if we determine your company has failed to cooperate by not complying with the Department's requests for information, in accordance with section 776(b) of the Act.''

[8] VAT Rebate for FIE Purchases of Domestically Produced Equipment, VAT and Tariff Exemptions for FIEs Using Imported Technology and Equipment in Encouraged Industries, and VAT and Tariff Exemptions on Imported Equipment (Domestic Enterprises).

[9] Policy Loans to LWS Producers from Government-Owned Banks.

[10] Preferential Tax Policies for Enterprises with Foreign Investment (Two Free, Three Half Program), Preferential Tax Policies for Export-Oriented FIEs, Corporate Income Tax Refund Program for Reinvestment of FIE Profits in Export-Oriented Enterprises, Tax Benefits for FIEs in Encouraged Industries that Purchase Domestic Origin Machinery, Tax Program for FIEs Recognized as High or New Technology Enterprises, Preferential Tax Policies for Research and Development, Tax Subsidies to FIEs in Specially Designated Geographic Areas, Preferential Tax Policies for Township Enterprises by FIEs and Local Income Tax Exemption and Reduction Programs for ''Productive'' FIEs.

participating mandatory respondent did not receive any countervailable subsidies from these programs. Therefore, for the seven grant programs,[11] we are applying the highest subsidy rate for any program otherwise listed, which in this instance is SSJ's Provision of Land for Less than Adequate Remuneration rate of 2.17 percent. *See* Memorandum to the File, titled ''Selection of the Adverse Facts Available Rate for Ningbo, Qilu, and Han Shing Chemical, Ltd. (*i.e.,* Hanshing Bulk Bag Co., Ltd. and Hanshing Co.)'' (November 26, 2007) for further discussion of the Department's calculated adverse facts available rates for the preliminary determination on file in the Department's CRU.

With regard to the requirements of section 776(c) of the Act, the calculated subsidy rates we are using as adverse facts available are not considered secondary information as they are based on information obtained in the course of this investigation. *See* section 776(c) of the Act; *see, also,* the SAA at 870. Accordingly, no corroborative excercise is necessary for purposes of the application of adverse facts available to Ningbo and Qilu. Further, Ningbo did not respond to the Department's critical circumstances questionnaire. Accordingly, we are applying adverse facts available with regard to Ningbo for critical circumstances purposes as well. *See* the ''Critical Circumstances'' section below for more detail.

Han Shing Chemical

We preliminarily determine that the application of facts available is also warranted with respect to Han Shing Chemical. We find that Han Shing Chemical withheld information we requested that is necessary to determine a countervailing duty rate for this preliminary determination. Specifically, Han Shing Chemical did not respond to the Department's questionnaires.[12] Since Han Shing Chemical withheld information requested by the Department and since the failure to provide this information within the established deadlines has impeded our investigation, we find that the application of facts otherwise available is warranted under sections 776(a)(1)(A), (B), and (C) of the Act. Thus, in reaching our preliminary determination, pursuant to section 776(a)(2)(A), (B), and (C) of the Act, we have based Han Shing Chemical's countervailing duty rates on facts otherwise available.

As noted above, Han Shing Bag provided a certification stating that neither it nor any company with which it is cross-owned or affiliated, as defined by 19 CFR 351.525(b)(6)(vi), produced LWS or exported LWS to the United States during the POI. In addition, Han Shing Bag stated that it is not associated with Han Shing Chemical. *See* certification attached to the GOC's September 24, 2007 questionnaire response. In our October 23, 2007 supplemental questionnaire to the GOC, we asked the GOC to confirm the accuracy of Han Shing Bag's statement that it does not produce or export LWS to the United States and its statement that it was not affiliated with Han Shing Chemical. In its November 5, 2007 response, the GOC stated that Han Shing Bag had confirmed that it does not produce or export LWS and that it was not affiliated with Han Shing Chemical. However, evidence filed on the record by the petitioners on November 13, 2007, demonstrates that Han Shing Bag is cross-owned by Han Shing Chemical. *See* Exhibit 1 of the petitioners' November 13, 2007 submission. Moreover, information on the record indicates that Han Shing Chemical exported LWS to the United States during the POI. Based on this information, we determine that Han Shing Chemical and Han Shing Bag are cross-owned as defined by 19 CFR 351.525(b)(6)(vi) and that Han Shing Chemical/Han Shing Bag exported LWS to the United States during the POI. Some of the details of this evidence are business proprietary. As such, those details are discussed in a separate memorandum to Barbara E. Tillman, Director, Office 6 from Toni Page, Analyst, Regarding Shangdong Shouguang Jianyuan Chun Company Limited, Han Shing Chemical Limited, and Zibo Aifudi Plastic Packaging Company Limited: Cross-Ownership (*Cross-Ownership Memo*).

We preliminarily find the information contained in the petitioners' November 13, 2007 submission to be reliable. This information, which was placed on the record 13 days prior to the issuance of this preliminary determination, directly contradicts Han Shing Bag's certification provided in the GOC's September 24, 2007 questionnaire response. While the Department preliminarily determines that there is cross-ownership between Han Shing Chemical and Han Shing Bag, the Department will consider further arguments with regard to this information from all interested parties for the purposes of the final determination.

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 Han Shing Chemical/Han Shing Bag did not respond to our requests for information. Thus, Han Shing Chemical/Han Shing Bag failed to cooperate by not acting to the best of its ability. We are calculating Han Shing Chemical/Han Shing Bag's rate by applying the same adverse facts available methodology as for Ningbo and Qilu. *See Ningbo and Qilu* section above; *see, also,* Memorandum to the File, titled ''Selection of the Adverse Facts Available Rate for Ningbo, Qilu, and Han Shing Chemical, Ltd. (*i.e.,* Hanshing Bulk Bag Co., Ltd. and Hanshing Co.)'' (November 26, 2007) for further discussion of the Department's calculated adverse facts available rates for the preliminary determination on file in the Department's CRU.

Critical Circumstances

On November 5, 2007, the petitioners requested that the Department make a finding that critical circumstances exist with respect to imports of LWS from the PRC. Section 703(e)(1) of the Act states that if the petitioner alleges critical circumstances, the Department will determine, on the basis of information available to it at the time, if there is a reason to believe or suspect the alleged countervailable subsidies are inconsistent with the WTO Agreement on Subsidies and Countervailing Measures (the SCM Agreement) and whether there have been massive imports of the subject merchandise over a relatively short period.

In accordance with 19 CFR 351.206(c)(2)(i), because the petitioners submitted a critical circumstances allegation more than 20 days before the scheduled date of the preliminary determination, the Department must issue a preliminary critical circumstances determination not later than the date of the preliminary determination. *See, e.g., Policy Bulletin 98/4 Regarding Timing of Issuance of Critical Circumstances Determinations,* 63 FR 55364 (October 15, 1998). As

[11] The State Key Technologies Renovation Project Refund, Grants and Other Funding for High Technology Equipment for the Textile Industry, Grants to Loss-Making State-Owned Enterprises, Export Interest Subsidy Funds for Enterprises Located in Zhejiang and Gaungdong Provinces, Technology Innovation Funds Provided by Zhejiang Province, Programs to Rebate Antidumping Legal Fees, and Loan Forgiveness for LWS Producers by the GOC.

[12] Han Shing Chemical did provide its monthly shipment data on November 19, 2007, in response to the Department's critical circumstances questionnaire. It did not provide any responses on the record, however, to all other requests for information. Therefore, pursuant to section 782(e) of the Act, we have determined that this information can be used without undue difficulty and otherwise meets the remaining criteria of that provision solely with regard to our critical circumstance analysis.

discussed in the ''Analysis of Programs'' section below, the Department has preliminarily determined that SSJ has received a countervailable import substitution subsidy.[13] This import substitution subsidy is inconsistent with the SCM Agreement. Although the countervailable subsidy rate for this import substitution subsidy is *de minimis*, use of an import substitution subsidy program is sufficient to make an affirmative preliminary determination of critical circumstances under section 703(e)(1)(A) of the Act. *See Notice of Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination, and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination: Certain Softwood Lumber Products From Canada,* 66 FR 43186, 43189–90 (August 17, 2001); and *Notice of Amended Final Affirmative Countervailing Duty Determination and Notice of Countervailing Duty Order: Certain Softwood Lumber Products From Canada,* 67 FR 36070 (May 22, 2002) (the unchanged final determination).

Regarding Qilu, Ningbo, and Han Shing Chemical, we have made an adverse inference that these companies benefitted from countervailable export and import substitution subsidies pursuant to our determination to apply facts available to these companies. For all other exporters, we are basing our finding on the experience of SSJ, and, therefore, find that all others have benefitted from countervailable import substitution subsidies.

In determining whether there are ''massive imports'' over a ''relatively short period,'' pursuant to section 703(e)(1)(B) of the Act, the Department normally compares the import volume of the subject merchandise for three months immediately preceding the filing of the petition (*i.e.*, the base period) with the three months following the filing of the petition (*i.e.*, the comparison period). Section 351.206(h)(1) of our regulations provides that, in determining whether imports of the subject merchandise have been ''massive,'' the Department normally will examine: (i) The volume and value of the imports; (ii) seasonal trends; and (iii) the share of domestic consumption accounted for by the imports. In addition, 19 CFR 351.206(h)(2) provides that an increase in imports of 15 percent during the ''relatively short period'' of time may be considered ''massive.'' Finally, 19 CFR 351.206(i) defines ''relatively short period'' as normally being the period beginning on the date the proceeding begins (*i.e.*, the date the petition is filed) and ending at least three months later. For our analyses, we are using a three-month base and comparison period.

In response to the Department's critical circumstances questionnaire, Han Shing Chemical, Qilu [14] and SSJ filed their monthly shipment data for subject merchandise exported to the United States for calendar years 2005 and 2006, and for January through September 2007. Based upon our analysis of these data, we preliminarily find that SSJ's and Qilu's shipments did not increase by more than 15 percent during the ''relatively short period'' (*i.e.*, between April through June 2007 and July through September 2007). *See* Memorandum to the File ''Critical Circumstances Analysis for Han Shing Chemical's and SSJ's Import Shipments and All-Others'' (November 26, 2007) (*Import Analysis Memorandum*) on file in the Department's CRU. Therefore, we preliminarily determine that the requirements of section 703(e)(1)(B) of the Act have not been satisfied, and that critical circumstances do not exist for SSJ and Qilu.

Based upon our analysis of Han Shing Chemical's data, however, we preliminarily find that Han Shing Chemical's shipments did increase by more than 15 percent during the ''relatively short period'' (*i.e.*, between April through June 2007 and July through September 2007). *See* the *Import Analysis Memorandum* on file in the Department's CRU. Therefore, we preliminarily determine that the requirements of section 703(e)(1)(B) of the Act have been satisfied, and that critical circumstances exist for Han Shing Chemical.

Regarding Ningbo, as part of our adverse facts available determination we have made an adverse inference that there were massive imports from these companies over a relatively short period.[15] *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value and Affirmative Preliminary Determination of Critical Circumstances: Wax and Wax/Resin Thermal Transfer Ribbons from Japan,* 68 FR 71072, 71076–77 (December 22, 2003) (unchanged in the final determination). Therefore, we preliminarily determine that the requirements of section 703(e)(1)(B) of the Act have been satisfied, and that critical circumstances exist for Ningbo.

For all-others, we preliminarily determine that there were not massive imports over a relatively short period based on Han Shing Chemical's, Qilu's, and SSJ's shipment data. *See Import Analysis Memorandum.* Therefore, we preliminarily determine that the requirements of section 703(e)(1)(B) of the Act have not been satisfied, and that critical circumstances do not exist for ''all-others.''

Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination

On July 18, 2007, the Department initiated the countervailing duty and antidumping duty investigations on LWS from the PRC. *See Initiation Notice* and *Laminated Woven Sacks from the People's Republic of China: Initiation of Antidumping Duty Investigation,* 72 FR 40833 (July 25, 2007). The countervailing duty investigation and the antidumping duty investigation scope use identical language with regard to the merchandise covered.

On November 20, 2007, the petitioners submitted a letter, in accordance with section 705(a)(1) of the Act, requesting alignment of the final countervailing duty determination with the final determination in the companion antidumping duty investigation of LWS from the PRC. Therefore, in accordance with section 705(a)(1) of the Act, and 19 CFR 351.210(b)(4), we are aligning the final countervailing duty determination with the final determination in the companion antidumping duty investigation of LWS from the PRC. The final countervailing duty determination will be issued on the same date as the final antidumping duty determination, which is currently scheduled to be issued on or about April 8, 2008.

Application of the Countervailing Duty Law to Imports From the PRC

On October 25, 2007, the Department published the final determination of *CFS Paper from the PRC.* In that determination, the Department found, ''given the substantial differences between the Soviet-style economies and the PRC's economy in recent years, the Department's previous decision not to apply the CVD law to these Soviet-style

[13] *See* ''Value Added Tax (VAT) Rebate for FIE Purchases of Domestically Produced Equipment'' section below. We also note that, on November 2, 2007, the Department determined to investigate twelve newly alleged subsidy programs which include export subsidies. Since the responses for the Department's questionnaires on these programs were not received until November 16, 2007, there was not sufficient time before the statutory due date of this preliminary determination to address these programs.

[14] We have used Han Shing Chemical's and Qilu's shipment data solely for our critical circumstances analysis, pursuant to section 782(e) as noted above.

[15] Ningbo declined to answer our request for monthly shipment data. *See* the Memorandum to the file from Thomas Gilgunn, Program Manager, (November 21, 2007) at attachment 2.

economies does not act as a bar to proceeding with a CVD investigation involving products from China.'' *See Final CFS Paper from the PRC,* 72 FR 60645 at Comment 6; *see, also,* the November 26, 2007 Memorandum from Toni Page, Analyst, to the File ''Placing the *Georgetown Steel Memorandum* on the File of the Countervailing Duty Investigation of Laminated Woven Sacks from the People's Republic of China (*Georgetown Steel Memorandum*) attachment 1 at 2 on file in the Department's CRU. This decision was also affirmed in the preliminary determination of *CWP from the PRC. See CWP from the PRC,* 72 FR 63875 at 63880.

Based on the preliminary determination in *CWP from the PRC,* we are using the date of December 11, 2001, the date on which the PRC became a member of the WTO, as the date from which the Department will identify and measure subsidies in the PRC for purposes of this preliminary determination. *Id.* Prior to this date, there were many changes in the PRC's economy. Many of the obligations undertaken by the PRC pursuant to its accession to the WTO were in line with the PRC's objective of economic reform. *See* Report of the Working Party on the Accession of China, WT/ACC/CHN/49 (October 1, 2001), for example, at paragraph 4 (found at *www.wto.org*). Taken together, these changes permit the Department to determine whether the GOC has bestowed a countervailable subsidy on Chinese producers. *See* attachment 1 of the *Georgetown Steel Memo* at 7 and *Final CFS Paper from the PRC,* 72 FR 60645 at Comments 1 and 6. Finally, the GOC acknowledged the changing nature of its economy in so far as its Accession Protocol contemplates the application of the CVD law to the PRC, even while it remains a non-market economy (NME). *See* an excerpt from the Protocol of Accession of the People's Republic of China, WT/L/432 (November 23, 2001) at section 15(b), from the June 28, 2007 Petition at Exhibit 83; *see, also, Final CFS Paper from the PRC,* 72 FR 60645 at Comment 1. Therefore, for this preliminary determination, we have selected the date of December 11, 2001, as the date from which we will measure countervailable subsidies in the PRC.

Period of Investigation

The period for which we are measuring subsidies, or the POI, is calendar year 2006.

Subsidies Valuation Information

Allocation Period

The average useful life (AUL) period in this proceeding as described in 19 CFR 351.524(d)(2) is 10 years according to the U.S. Internal Revenue Service's 1977 Class Life Asset Depreciation Range System for assets used to manufacture LWS. No party in this proceeding has disputed this allocation period.

For subsidies provided under the granting of land-use rights, described below, the land transactions for each of the respondents specify the period of time for which the land-use rights have been granted. Therefore, in order to calculate the benefit for the ''Provision of Land for Less than Adequate Remuneration'' program, the Department is allocating the benefit for this program over the terms of the lease for each transaction.

Denominator and Attribution of Subsidies

When selecting an appropriate denominator for use in calculating the *ad valorem* countervailable subsidy rate, the Department considered the basis for SSJ's and Aifudi's approval of benefits under each program at issue. The bases for SSJ's and Aifudi's approval for benefits for the programs found countervailable was not tied to export performance or to the production of a particular product. As such, we are using total sales of all products of SSJ or Aifudi as the denominator in our calculations. *See* 19 CFR 351.525(a)(3). As discussed below, both SSJ and Aifudi have cross-owned suppliers that received benefits that were not tied to export performance or to the production of a particular product. For these programs, we are using total sales of all products of SSJ or Aifudi and their respective cross-owned suppliers (less any internal sales between these companies and their cross-owned suppliers) as the denominator in our calculations.[16] The cross-ownership of the respondent companies is further discussed in the *Cross-Ownership Memo.*

The Department's regulations at section 351.525(b)(6)(vi) state that cross-ownership exists between companies if one company can use or direct the company's assets in essentially the same way it uses its own. This section of the Department's regulations states that this standard will normally be met where there is a majority voting interest between two corporations or through common ownership of two (or more) corporations. In addition, 19 CFR 351.525(b)(iv) states that ''if there is cross-ownership between an input supplier and a downstream producer, and production of the input product is primarily dedicated to production of the downstream product, the Secretary will attribute subsidies received by the input producer to the combined sales of the input and downstream products produced by both corporations (excluding the sales between the two corporations).'' The Court of International Trade (CIT) has upheld the Department's authority to attribute subsidies based on whether a company could use or direct the subsidy benefits of another company in essentially the same way it could use its own subsidy benefits. *See Fabrique de Fer de Charleroi* v. *United States,* 166 F. Supp. 2d. 593, 604 (CIT 2001). According to 19 CFR 351.525(b)(6)(vi), cross-ownership exists between two or more corporations where one corporation can use or direct the individual assets of the other corporation(s) in essentially the same ways it can use its own assets.

Aifudi: Aifudi reported that it is an FIE owned by a U.S. company named FDD Associates Inc. and a private Chinese company named Zibo Golden Moon Plastic Packaging Co., Ltd. (Golden Moon). Golden Moon owns a significant portion of Aifudi and owns the land Aifudi uses. Also, Aifudi owns the buildings Golden Moon uses. In its November 6, 2007 supplemental questionnaire response, Golden Moon stated that it contributed start-up capital to Aifudi and that it owns a significant portion of Aifudi. Therefore, pursuant to 19 CFR 351.525(b)(6)(vi), we preliminarily determine that Aifudi and Golden Moon are cross-owned and, pursuant to 19 CFR 351.525(b)(6)(iv), we are attributing the subsidies received by Golden Moon to the combined sales of Aifudi and Golden Moon.

Han Shing Chemical: As noted above, Han Shing Bag provided a certificate stating that neither it nor any company with which it is cross-owned, as defined by 19 CFR 351.525(6)(vi), produced LWS nor exported LWS to the United States during the period of investigation. In addition, Han Shing Bag stated that it is not associated with Han Shing Chemical. *See* the certification attached to the GOC's September 24, 2007 questionnaire response. Moreover, Han Shing Bag confirmed, through the GOC, that it does not produce or export LWS and that it was not affiliated with Han Shing Chemical. However, information on the record filed by the petitioners on

[16] We will ask both SSJ and Aifudi for additional information regarding their respective internal sales.

November 13, 2007, demonstrates that Han Shing Bag is cross-owned with Han Shing Chemical. Moreover, information on the record also indicates that Han Shing Chemical exported LWS to the United States during the POI. Based on this information, we determine that Han Shing Chemical and Han Shing Bag are cross-owned as defined by 19 CFR 351.525(6)(vi). The details of this evidence are business proprietary; as such, it is discussed in the *Cross-Ownership Memo.*

SSJ: SSJ reported that it is affiliated with two companies, SLP, an FIE, and Shandong Xinglong Plastic Product Company Limited (Xinglong). SSJ owns a majority of Xinglong. Xinglong does not produce or export LWS nor does it supply inputs to SSJ used in the production of subject merchandise. SSJ and SLP responded to the Department's original and supplemental questionnaires. SLP is co-owned by Han Shing Chemical and SSJ. SLP produces inputs primarily dedicated to the production of subject merchandise and sells it to SSJ. SLP also appears to produce subject merchandise and sells it to external customers. SSJ also owns part of SLP and both companies share board members as well as management. Although there is limited information on the record regarding Han Shing Chemical Ltd., and its relationship with SLP and SSJ, for the purposes of this preliminary determination, we find that SSJ controls the operations of its supplier SLP. As such, pursuant to 19 CFR 351.525(b)(6)(vi), we preliminarily determine that SSJ and SLP are cross-owned and, pursuant to 19 CFR 351.525(b)(6)(iv), we are attributing the subsidies received by SLP to the combined sales of SLP and SSJ. The details of this evidence are business proprietary; as such, it is discussed in the *Cross-Ownership Memo.*

We have asked SSJ and SLP to fully explain their relationship with SLP's other co-owner, Han Shing Chemical Ltd. In particular, we have asked SSJ and SLP to fully explain how Han Shing Chemical Ltd. is involved in the production and/or sales of LWS as well as to provide copies of Han Shing Chemical Ltd.'s financial statements and the names of its affiliates. *See* the Department's October 23, 2007 questionnaire. In their responses, SSJ and SLP stated that Han Shing Chemical Ltd. is a trading company based in Hong Kong and it refused to provide any information concerning its ownership and other affiliates, its financial statements, or the scope of its involvement in the LWS business upon request by SLP. *See* SSJ's November 5, 2005 supplemental questionnaire response. If Han Shing Chemical Ltd. is the same company which the Department selected as a mandatory respondent in this case, and to which we have applied adverse facts available, this information would be relevant to our determination. In any case, the Department needs more information regarding this co-owner of SLP. As such, the Department intends, following this preliminary determination, to issue another questionnaire to provide SSJ and SLP an additional opportunity to provide that information.

Loan Benchmarks

Summary: The Department is investigating loans received by respondents from Chinese banks, including state-owned commercial banks (SOCBs), which are alleged to have been granted on a preferential, non-commercial basis. Section 771(5)(E)(ii) of the Act explains that the benefit for loans is the ''difference between the amount the recipient of the loan pays on the loan and the amount the recipient would pay on a comparable commercial loan that the recipient could actually obtain on the market.'' Normally, the Department uses comparable commercial loans reported by the company for benchmarking purposes. *See* 19 CFR 351.505(a)(2)(i). However, the Department does not treat loans from government banks as commercial if they were provided pursuant to a government program. *See* 19 CFR 351.505(a)(2)(ii). Because the loans provided to the respondents by SOCBs were made under the ''Government Policy Lending Program,'' as explained below, these loans are the very loans for which we require a suitable benchmark. Additionally, if respondents received any loans from foreign banks, these would be unsuitable for use as benchmarks because, as explained in detail in the final determination of *CFS Paper from the PRC,* the GOC's intervention in the banking sector creates significant distortions, restricting and influencing even foreign banks within the PRC. *See Final CFS Paper from the PRC,* 72 FR 60645 and accompanying Issues and Decision Memorandum at Comments 8 and 10.

If the firm did not have any comparable commercial loans during the period, the Department's regulations provide that we ''may use a national interest rate for comparable commercial loans.'' *See* 19 CFR 351.505(a)(3)(ii). However, the Chinese national interest rates are not reliable as benchmarks for these loans because of the pervasiveness of the GOC's intervention in the banking sector. Loans provided by Chinese banks reflect significant government intervention and do not reflect the rates that would be found in a functioning market. *See Final CFS Paper from the PRC,* 72 FR 60645 and accompanying Issues and Decision Memorandum at Comment 10.

The statute directs that the benefit is normally measured by comparison to a ''loan that the recipient could actually obtain on the market.'' *See* section 771(5)(E)(ii) of the Act. Thus, the benchmark should be a market-based benchmark, yet, there is not a functioning market for loans within the PRC. Therefore, because of the special difficulties inherent in using a Chinese benchmark for loans, the Department is selecting a market-based benchmark interest rate based on the inflation-adjusted interest rates of countries with similar per capita gross income (GNI) to the PRC, using the same regression-based methodology that we employed in *CFS Paper from the PRC. See Final CFS Paper from the PRC,* 72 FR 60645 and accompanying Issues and Decision Memorandum at Comment 10.

The use of an external benchmark is consistent with the Department's practice. For example, in *Softwood Lumber,* the Department used U.S. timber prices to measure the benefit for government provided timber in Canada. *See Final Results of the Countervailing Duty Investigation of Certain Softwood Lumber Products from Canada,* 67 FR 15545 (April 2, 2002), and accompanying *Issues and Decision Memorandum,* at 34 (*Softwood Lumber*). In the current proceeding, the Department preliminarily finds that the GOC's predominant role in the banking sector results in significant distortions that render the lending rates in the PRC unsuitable as market benchmarks. Therefore, as in *Softwood Lumber,* where domestic prices are not reliable, we have resorted to prices (*i.e.*, benchmarks) outside the PRC.

Discussion: In our analysis of the PRC as a non-market economy in the antidumping duty investigation of *Certain Lined Paper Products from the PRC,* the Department found that the PRC's banking sector does not operate on a commercial basis and is subject to significant distortions, primarily arising out of the continued dominant role of the government in the sector. *See* ''the People's Republic of China (PRC) Status as a Non-Market Economy,'' May 15, 2006 (May 15 Memorandum); and ''China's Status as a Non-Market Economy,'' August 30, 2006 (August 30 Memorandum), both of which are referenced in *the Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical*

Circumstances, In Part: Certain Lined Paper Products From the People's Republic of China, 71 FR 53079 (September 8, 2006), and as placed on the file of this investigation in a memorandum from Toni Page to the File titled ''Loan Benchmark Information'' (November 26, 2007) (*Loan Benchmark Memo*) on file in the Department's CRU. This finding was further elaborated in *CFS Paper from the PRC. See Final CFS Paper from the PRC,* 72 FR 60645 and accompanying Issues and Decision Memorandum at Comment 10. In that case, the Department found that the GOC still dominates the domestic Chinese banking sector and prevents banks from operating on a fully commercial basis. We continue to find that these distortions are present in the PRC banking sector and, therefore, preliminarily determine that the interest rates of the domestic Chinese banking sector do not provide a suitable basis for benchmarking the loans provided to respondents in this proceeding.

Moreover, while foreign-owned banks do operate in the PRC, they are subject to the same restrictions as the SOCBs. Further, their share of assets and lending is negligible compared with the SOCBs. Therefore, as discussed in greater detail in *Final CFS Paper from the PRC,* because of the market-distorting effects of the GOC in the PRC banking sector, foreign bank lending does not provide a suitable benchmark. *See Final CFS Paper from the PRC,* 72 FR 60645 and accompanying Issues and Decision Memorandum at Comment 10.

We now turn to the issue of choosing an external benchmark. Selecting an appropriate external interest rate benchmark is particularly important in this case because, unlike prices for certain commodities and traded goods, lending rates vary significantly across the world. Nevertheless, as discussed in *Final CFS Paper from the PRC,* there is a broad inverse relationship between income levels and lending rates. In other words, countries with lower per capita gross national income (GNI) tend to have higher interest rates than countries with higher per capita GNI, a fact demonstrated by the lending rates across countries reported in *International Financial Statistics* (IFS). *See http://www.imfstatistics.org,* at attachment 3 of the *Loan Benchmark Memo.* The Department has therefore preliminarily determined that it is appropriate to compute a benchmark interest rate based on the inflation-adjusted interest rates of countries with similar per capita GNIs to the PRC, using the same regression-based methodology that we employed in *Final CFS Paper from the PRC.* As explained in *Final CFS Paper from the PRC,* 72 FR 60645 and accompanying Issues and Decision Memorandum at Comment 10, this pool of countries captures the broad inverse relationship between income and interest rates. We determined which countries are similar to the PRC in terms of GNI, based on the World Bank's classification of countries as: low income; lower-middle income; upper-middle income; and high income. The PRC falls in the lower-middle income category, a group that includes 55 countries as of July 2007. *See* <*web.worldbank.org*>, search engine term: ''lower middle income'', at attachment 4 of the *Loan Benchmark Memo.*

Many of these countries reported short-term lending and inflation rates to IFS. With the exceptions noted below, we used this data set to develop a inflation-adjusted market benchmark lending rate for short-term RMB loans. *See* attachment 3 of the *Loan Benchmark Memo.* We did not include those economies that the Department considered to be non-market economies for AD purposes for any part of 2006: the PRC, Armenia, Azerbaijan, Belarus, Georgia, Moldova, Turkmenistan, and Ukraine. The benchmark necessarily also excludes any economy that did not report lending and inflation rates to IFS for 2005 or 2006. Finally, the Department also excluded three aberrational countries, Angola, with a inflation-adjusted 2005 rate of 44.718, Sri Lanka, with an inflation-adjusted negative 2005 rate of negative 3.6, and Dominican Republic, with an inflation-adjusted 2004 interest rate of negative 18.866. As also discussed in *Final CFS Paper from the PRC,* this regression provides the most suitable market-based benchmark to measure the benefit from the Government Policy Lending Program, because it takes into account a key factor involved in interest rate formation, that of the quality of a country's institutions, that is not directly tied to state-imposed distortions in the banking sector discussed above. Consistent with the regression model employed in *Final CFS Paper from the PRC,* the Department calculated an inflation-adjusted 2006 benchmark lending rate of 7.66 percent and 8.78 percent for 2005. Because these are inflation-adjusted benchmarks, it is also necessary to adjust the interest paid by respondents on its RMB loans for inflation. This was done using the PRC inflation figure as reported to IFS. *See* attachment 3 of the *Loan Benchmark Memo.* The Department then compared its benchmarks with respondents' inflation-adjusted interest rated to determine whether a benefit existed for the loans received by SSJ and Aifudi' s affiliate Golden Moon on which principal was outstanding or interest was paid during the POI.

Discount Rate for Allocation

The Department requires a long term interest rate to use as a discount rate for purposes of allocating benefits received from the less than adequate remuneration of the provision of land-use rights over the relevant length of each land-use right in question. However, as discussed above, because of the market-distorting effect of the GOC in the PRC banking sector, there are no market-based interest rates, including long-term interest rates, in China. In *Final CFS Paper from the PRC,* the Department developed a ratio of short-term and long-term lending to identify and measure benefit from any long-term loans. *See Final CFS Paper from the PRC,* 72 FR 60645 and accompanying Issues and Decision Memorandum at Comment 10. The Department then applied this ratio to the benchmark short-term lending figure (discussed in the section on the lending benchmark) to compute a long-term lending rate. Specifically, the Department computed a ratio of the average one-year and five-year interest rates on interest rate swaps reported by the Federal Reserve for 2005. *See* attachment 3 of the *Loan Benchmark Memo.* That is, if the long-term swap rate were 25 percent higher than the short-term swap rate, the Department would inflate the average short-term lending rate by 25 percent to arrive at along-term interest rate benchmark. This methodology is appropriate because the ratio between short-term and long-term interest rate swap rates offers an estimate of the market consensus premium that borrowers would pay on a long-term loan over a short-term loan. In the present investigation, the Department relied on the same methodology to develop long-term interest rates for 2005 for purposes of allocating benefits to the POI.

Creditworthiness

As mentioned under the ''Case History'' section of this notice, the Department determined to investigate twelve newly alleged subsidy programs on November 2, 2007. One of the new allegations raised by the petitioners concerns the creditworthiness of SSJ. Given that the questionnaire responses were received on November 16, 2007 (extended in response to the GOC's comments), the Department does not have enough time to review and analyze these recently-filed facts and arguments

on the record with regard to the newly alleged subsidy allegations for purposes of this preliminary determination. We will therefore analyze the responses to these allegations and address all arguments fully in a post-preliminary analysis memorandum.

Analysis of Programs

Based upon our analysis of the petition and the responses to our questionnaires, we determine the following:

I. Programs Preliminarily Determined To Be Countervailable

A. Government Policy Lending

The petitioners allege that the GOC has targeted the textile industry for policy loans and that LWS is part of the textile industry.[17] Thus, according to the petitioners, policy loans targeted towards the textile industry would be available to LWS producers. The petitioners argue that the GOC's five-year plans for the textile industry (including general goals at the national level and more specific targets at the provincial level) could not be accomplished without discounted loans from government-owned banks, such as policy banks and SOCBs. For example, the petitioners provided excerpts from the textile five-year plan of Shandong Province, which is home to two of the mandatory respondents and the voluntary respondent,[18] which calls for a 10 percent increase in sales revenue and exports for textiles. In addition to the Shandong textile five-year plan, the petitioners cite to other documents and proclamations of the GOC, such as the ''National Key Technology Renovation Project: Major Content,'' which refers to high-end textile fabrics. *See* Exhibit 80 of the Petition. The document states ''our country will become more competitive in the international market and we will reach the goal of replacing imported products with homemade products and expanding our exports.'' *Id.* at 3. According to the petitioners, these documents demonstrate that the GOC will accomplish its textile industry goals by directing its policy banks and SOCBs to provide low-cost policy loans.

Pursuant to our initiation of an investigation of this program, we sent questions to the GOC regarding possible policy loans to the textile industry, and regarding some general aspects of economic policy, such as questions about relevant five-year plans and the meaning of industry and company designations. *See* the August 3, 2007 questionnaire to the GOC, section A, pages 2–2 through 2–4. These questions were similar to questions the Department asked in the investigations of CFS, regarding policy loans to the forestry and paper industry, and of CWP, regarding policy loans to the steel industry. *See CWP from the PRC,* 72 FR at 63883. We asked that the GOC provide the five-year plans for the textile industry. We also asked the GOC to complete our standard ''Appendix 1,'' an appendix the Department attaches to all initial CVD questionnaires, which requests basic information regarding programs under investigation such as the names of government agencies involved, the date the program began, a description of the application process and eligibility requirements. As noted above in the ''Use of Facts Otherwise Available'' section, the GOC responded with a two-part reply: (1) LWS producers are not part of the textile industry and (2) all questions regarding a possible program of policy loans targeted to the textile industry are therefore irrelevant. In support of its contention that LWS producers are not part of the textile industry, the GOC provided a statement from the China National Textile and Apparel Council (CNTAC), dated after the POI, stating that LWS producers were not part of the textile industry. *See* September 24, 2007 GOC questionnaire response at Exhibit A–4.

We then issued a supplemental questionnaire to the GOC, asking, *inter alia,* for additional information regarding the CNTAC statement, and repeated our requests for basic information about policy loans to the textile industry. In particular, we asked how CNTAC and the GOC had made their determination regarding industry classification, and we repeated our request made in the initial questionnaire for five-year plans for the textile industry covering the AUL of this investigation (the Department was under the impression this would likely include only three textile-specific five-year plans). *See* the October 23, 2007 supplemental questionnaire to the GOC, question 8 under ''Programs'' (request for five-year plans for the textile industry). We also repeated our request that the GOC complete the standard ''Appendix 1,'' and asked additional questions regarding policy loans (for example, we asked for a list of five-year plans maintained by the provinces relevant to this investigation). *Id.* at question 11 (request that ''Appendix 1'' be completed) and question 10 (request for a list of five-year plans issued by Shandong and Ningbo).

In response to this supplemental questionnaire, the GOC stated the following basis for its conclusion that LWS producers are not part of the textile industry: ''The PRC considers a company to be a member of a particular industry when that company is a member of the association covering that industry.'' *See* October 26, 2007 GOC questionnaire response. In this regard, the GOC noted that one of the four mandatory respondents was part of the plastic packaging manufacturers' association, and that none of the four was part of CNTAC. It also noted that CNTAC was sometimes consulted during the economic planning process, and it provided a second statement from CNTAC claiming that LWS was not part of the textile industry during the POI.[19] *See* November 5, 2007 GOC supplemental questionnaire response, questions 1 and 2. In response to the Department's questions concerning policy lending to the textile industry, the GOC responded that these questions were irrelevant. Thus, for a second time, the GOC did not provide the requested five-year plans and did not answer our standard questions. *Id.* at questions 8 and 11. It also did not answer new questions, such as our request for a list of provincial five-year plans.

On November 8, 2007, the petitioners put further evidence on the record which supports this conclusion: (1) Evidence indicating the Zhejiang Province textiles association has mentioned LWS as a textile (one of the non-responding respondents is in Zhejiang Province); (2) an article from the China Economic Times mentioning the European Union's antidumping investigation of LWS in the context of a discussion of threats to the PRC textile industry; (3) an excerpt from a textiles report from a PRC statistics bureau, which includes LWS data; and, (4) an excerpt from a textiles report from the Web site 'China Textile News,' which also includes LWS data. In addition, the petitioners placed information on the record that indicates that China has negotiated tariff quota agreements for textiles, which included HTS number 6305.33.0020 (the HTS classification of

[17] Although the petitioners had also argued that LWS could be classified as part of the plastics industry and/or the packaging industry, pursuant to requests for additional information and clarification from the Department, the ultimate policy loan allegation in the Petition specified the textile industry, and the Department initiated on policy loans to the textile industry.

[18] Qilu, SSJ, and Aifudi.

[19] As noted, the CNTAC statement was dated after the POI. In our supplemental, we had asked for a statement or other evidence dated before the end of the POI (*i.e.*, before the investigation had started). The GOC responded to this question by providing a second statement addressing the status of LWS producers before the end of the POI, but the statement is still dated after the POI.

LWS prior to July 1, 2007), until January 1, 2002, when such products were integrated into the GATT. The specific tariff sub-heading was part of Category 669–P (manmade fiber woven bags). Specific limits on 669-imports from China date back to 1985.[20]

As discussed above in the Use of Adverse inferences section, we have preliminarily concluded that LWS producers are considered part of the textile industry for policy planning purposes. Although the GOC stated in its supplemental response that CNTAC is consulted during the course of economic planning, given the lack of information provided by the GOC regarding economic planning,[21] policy loans, and the textile industry, we are unable to draw any meaningful conclusions about the significance of CNTAC in this process, or the involvement of other central agencies or organizations, local agencies or organizations, such as the Zhejiang textile association mentioned above, or the banks themselves.[22]

In addition to concluding that LWS is part of textiles policy planning purposes, the Department also preliminarily concludes that there is a program of policy lending to the textile industry. As noted above, the GOC did not provide requested information concerning this alleged program. It did not provide essential information, such as five-year plans for the textile industry, which were requested twice, or offer to provide this information at a later date. Rather, the GOC simply stated its belief, repeatedly, that this information was irrelevant. *See* the discussion on application of facts available, above. Because the GOC withheld this information and failed to act to the best of its ability in responding to the above questions, we are unable to analyze how the GOC intended to achieve its goals for the textile industry during the POI, or the extent to which policy loans might have been involved. Thus, we have preliminarily determined as adverse facts available, pursuant to sections 776(a) and (b) of the Act, this loan program is specific in law because the GOC has a policy in place to encourage and support the growth and development of the textile industry and the LWS producers within it. *See* section 771(5A)(D)(i) of the Act (with regards to the requirements for specificity). We have also determined, as adverse facts available, that the program provides direct financial contributions by the GOC (*i.e.*, government policy banks and SOCBs) pursuant to section 771(5)(D)(i) the Act, and a benefit to recipients, pursuant to section 771(5)(E)(ii). This program provides a benefit to the recipients equal to the difference between what the recipients paid on loans from government-owned banks and the amount they would have paid on comparable commercial loans. *See* section 771(5)(E)(ii) of the Act (with regards to the benefit from loans). See the ''Use of Adverse Inferences'' section above for more details on loans.

SSJ and its cross-owned supplier, SLP, and Golden Moon (cross-owned with Aifudi) had outstanding loans under this program during the POI. To calculate the benefit, we used the interest rates described in the ''Benchmark'' section above and the methodology described in 19 CFR 351.505(c)(1) and (2). We divided the benefit by each company's total sales to calculate a subsidy of 0.27 percent *ad valorem* for SSJ and 0.07 percent *ad valorem* for Aifudi for this program.

B. Preferential Tax Policies for Enterprises With Foreign Investment (Two Free, Three Half Program)

The petitioners allege that, according to Article 8 of the Foreign Invested Enterprise (*i.e.*, a foreign joint venture) (FIE) Tax Law, an FIE that is ''productive'' and is scheduled to operate for not less than ten years may be exempted from income tax in the first two years of profitability and pay income taxes at half the standard rate for the next three years. This is known as the ''Two Free, Three Half'' program. FIEs are ''productive'' if they meet the conditions set forth in Article 72 of the Detailed Implementation Rules of the Income Tax Law of the People's Republic of China of Foreign Investment Enterprises. This provision lists industries connected to manufacturing, which the petitioners state include plastic packaging and textiles industries. The GOC, in its response, has stated that the Foreign Invested Enterprise and Foreign Enterprise Income Tax Law provides a tax exemption to qualified FIEs for the first two years in which they make a profit and a fifty percent reduction from the statutory tax rates from year three to five.

SSJ's cross-owned supplier, SLP, is an FIE and claimed benefits under the Two Free, Three Half program. Aifudi stated that it is an FIE, but that its cross-owned parent, Golden Moon, is not an FIE. Aifudi stated that because it only began operations in late 2006 it did not file a tax return during the POI and thus did not benefit from this program. In addition, it had an operating loss during the POI. We preliminarily determine that the exemption or reduction in the income tax paid by ''productive'' FIEs under this program confers a countervailable subsidy. The exemption/reduction is a financial contribution in the form of revenue forgone by the GOC and it provides a benefit to the recipients in the amount of the tax savings. *See* section 771(5)(D)(ii) of the Act and 19 CFR 351.509(a)(1).

We also preliminarily determine that the exemption/reduction afforded by this program is limited as a matter of law to certain enterprises, ''productive'' FIEs, and, hence, is specific under section 771(5A)(D)(i) of the Act. The GOC states that FIEs are a separate type of business organization under Chinese law, subject to different establishment laws, corporate governance structure, capital investment, accounting systems, and profit sharing systems, as distinguished from standard corporations, partnerships, or sole partnerships. The GOC further states that it adopted tax standards applicable to FIEs to reflect the different type of business organization. The GOC argues that the difference in tax status is no different than the distinction in the United States tax law between corporations and partnerships. However, we have preliminarily determined that limiting a program to ''productive'' FIEs is a sufficient basis to find specificity and, having found specificity as a matter of law, it is not necessary to reach the issue of whether the subsidy is specific in fact. *See* Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. No. 103–316, at 930 (1994) (SAA). The Department has also found this program to be countervailable in the CFS investigation. *See CFS Amended Preliminary,* 72 FR at 17494 (and

[20] In response to our question about the inclusion of LWS within its tariff schedule, the GOC responded that its tariff schedule follows the harmonized tariff schedule, and that therefore its inclusion of LWS within the textile chapter is, essentially, a matter of global conventions, not its own. However, as just noted, the GOC also considered LWS to be part of textiles over the long course of *bilateral* quota agreements.

[21] Regarding the opinion of CNTAC itself, the petitioners provided a CNTAC-issued list of ''primary professional machinery,'' which includes an entry for ''polyolefin woven sacks & bags loom.'' The list appears to be an inventory of its members' equipment, and stands in contradiction to CNTAC's statement regarding its own classification of LWS producers as outside textiles.

[22] We note here the importance of the petitioners' claim that the specific details of the goals and the implementation of central five-year plans are often found in provincial plans. We also note the GOC's unwillingness to help us determine what five-year plans of the relevant provinces involve the textile industry.

confirmed in the *Final CFS Paper from the PRC,* 72 FR 60645).

To calculate the benefit from this program to SSJ, we treated the income tax exemption claimed by SSJ's cross-owned input supplier, SLP, as a recurring benefit, consistent with 19 CFR 351.524(c)(1). To compute the amount of tax savings, we compared the tax rate paid to the rate that would have been paid by SLP otherwise (as discussed below, SLP's tax rate was reduced during the POI from the standard central government rate of 30 percent to 24 percent, pursuant to another FIE income tax program) and multiplied the difference by SLP's taxable income. In accordance with 19 CFR 351.525(b)(6)(ii), we attributed the benefit received to the combined sales of SSJ and SLP. Additional information on this calculation is provided in the Calculation Analysis memorandum for SSJ. *See* ''Preliminary Results Calculation Memorandum for Shangdong Shouguang Jianyuan Chun Co., Ltd. (SSJ),'' November 26, 2007 (*SSJ Calculation Memo*). On this basis, we preliminarily determine that a CVD subsidy of 0.10 percent *ad valorem* exists for SSJ.

C. Tax Subsidies to FIEs in Specially Designated Geographic Areas

The petitioners allege that tax benefits are available to FIEs located in areas designated by the GOC as ''free trade zones,'' ''high-technology zones,'' or other such zones. Under this program, such zones have reduced income tax rates for FIEs (*e.g.*, from 30 to 24 percent) pursuant to Article 7 of the FIE Tax Law. According to the GOC, for FIEs established in a coastal economic development zone, special economic zone, or economic technology development zone, or other zones designated by law or implementing regulations, regardless of the industry or enterprise, the applicable corporate income tax rate is fifteen percent or twenty-four percent, depending on the zone.

SLP reported that because it is located in Chenming Industrial Zone its central government income tax rate is reduced from 30 percent to 24 percent. While SSJ is also located in the Chenming park, it is not a FIE and thus apparently is not entitled to this benefit. Aifudi and Golden Moon reported no benefits under this program. The income tax returns submitted by SSJ, Aifudi, and Golden Moon confirm that these companies did not benefit from this program.

We preliminarily determine that the exemption or reduction in the income tax paid by ''productive'' FIEs under this program confers a countervailable subsidy. The exemption/reduction is a financial contribution in the form of revenue forgone by the GOC and it provides a benefit to the recipients in the amount of the tax savings. *See* section 771(5)(D)(ii) of the Act and 19 CFR 351.509(a)(1). We also preliminarily determine that the exemption/reduction afforded by this program is limited as a matter of law to certain enterprises, ''productive'' FIEs, and, hence, is specific under section 771(5A)(D)(i) of the Act, and that the exemption/reduction is limited to enterprises located in designated geographical regions and, hence, is also specific under section 771(5A)(D)(iv) of the Act. The Department has also found this program to be countervailable in the CFS investigation. *See CFS Amended Preliminary,* 72 FR at 17494 (and confirmed in the *Final CFS Paper from the PRC,* 72 FR 60645).

To calculate the benefit from this program to SSJ, we treated the income tax exemption claimed by SLP as a recurring benefit, consistent with 19 CFR 351.524(c)(1). To compute the amount of tax savings, we compared the tax rate paid to the rate that would have been paid by SLP otherwise (24 versus 30 percent) and multiplied the difference by SLP's taxable income. In accordance with 19 CFR 351.525(b)(6)(ii), we attributed the benefit received to the combined sales of SSJ and SLP. Additional information on this calculation is provided in the Calculation Analysis memorandum for SSJ. *See SSJ Calculation Memo.* On this basis, we preliminarily determine that a CVD subsidy of 0.02 percent *ad valorem* exists for SSJ.

D. Local Income Tax Exemption and Reduction Programs for ''Productive'' FIEs

The petitioners allege that the governments of China's provinces, autonomous regions, and certain municipalities have been delegated the authority to provide exemptions and reductions of local income taxes for ''productive'' FIEs. According to the GOC, Article 9 of the FIE Tax Law authorizes provincial governments to grant FIEs exemptions or reductions on income taxes that otherwise would be owed to those provincial governments. In particular, in Shandong Province, any ''productive FIEs established outside the coastal economic open area approved by the state, or any program invested in energy sources, transportation, or port construction with a total investment of more than US$30 million, could be exempted from local income tax.''

In its initial questionnaire response, SLP submitted the tax return it filed in 2007, instead of the return filed in the POI, as requested. It also stated it did not benefit from this program. However, in its supplemental questionnaire response, it submitted the proper tax return (filed in 2006), which clearly indicates it benefitted from this program. In addition, the GOC reports on page 37 of its November 5 supplemental questionnaire response that SLP benefitted under this program during the POI. SSJ itself, along with Aifudi and Golden Moon, reported no benefits under this program. As discussed above, the income tax status and returns of these three companies during the POI confirms they did not benefit from this program during the POI.

We preliminarily determine that the exemption or reduction in the income tax paid by ''productive'' FIEs under this program confers a countervailable subsidy. The exemption/reduction is a financial contribution in the form of revenue forgone by the GOC and it provides a benefit to the recipients in the amount of the tax savings. *See* section 771(5)(D)(ii) of the Act and 19 CFR 351.509(a)(1). We also preliminarily determine that the exemption/reduction afforded by this program is limited as a matter of law to certain enterprises, ''productive'' FIEs, and, hence, is specific under section 771(5A)(D)(i) of the Act. The Department has also found this program to be countervailable in the CFS investigation. *See CFS Amended Preliminary,* 72 FR at 17494 (and confirmed in the *Final CFS Paper from the PRC,* 72 FR 60645).

To calculate the benefit from this program to SSJ, we treated the income tax exemption claimed by SLP as a recurring benefit, consistent with 19 CFR 351.524(c)(1). To compute the amount of tax savings, we compared the tax rate paid to the rate that would have been paid by SLP otherwise (the standard local rate is 3 percent) and multiplied the difference by SLP's taxable income. In accordance with 19 CFR 351.525(b)(6)(ii), we attributed the benefit received to the combined sales of SSJ and SLP. Additional information on this calculation is provided in the Calculation Analysis memorandum for SSJ. *See SSJ Calculation Memo.* On this basis, we preliminarily determine that a CVD subsidy of 0.01 percent *ad valorem* exists for SSJ.

E. Value Added Tax (VAT) Rebate for FIE Purchases of Domestically Produced Equipment

The petitioners allege that the *Circular of the State Administration of Taxation Concerning Transmitting the Interim Measure for the Administration of Tax Refund to Enterprises with Foreign Investment for the Domestic Equipment Purchases* provides that the GOC will refund the VAT paid by FIEs on purchases of certain domestically produced equipment. *See* Guoshifa (1999) No. 171, at Art. 4 (September 20, 1999) from Volume III of the June 28, 2007 Petition at Exhibit 77. VAT refunds are available for equipment falling into either the 'encouraged' or 'restricted' categories for FIEs, or for projects listed in the *Catalogue of Key Industries, Products, and Technologies Encouraged for Development by the State.*

SSJ's cross-owned company SLP reported in its October 1, 2007 questionnaire response that it applied for, and the GOC refunded, the VAT paid by the company for purchases of domestically produced equipment in 2005, before the POI. SLP further reported that it was entitled to this VAT refund because of its status as an FIE.

We preliminarily determine that the rebate of the VAT paid on purchases of domestically produced equipment by FIEs confers a countervailable subsidy. We preliminarily determine that the rebates are a financial contribution in the form of revenue forgone by the GOC. We further preliminarily determine that since FIEs pay less VAT than they would in the absence of the program, it provides a benefit in the amount of the refund. *See* section 771(5)(D)(ii) of the Act and 19 CFR 351.510(a)(1). We further preliminarily determine that the VAT rebates are contingent upon the use of domestic over imported goods and, hence, specific under section 771(5A)(C) of the Act.

Since these VAT exemptions were for the purchase of capital equipment, we are treating these exemptions as non-recurring benefits in accordance with 19 CFR 351.524(c)(2)(iii). To measure the benefit allocable to the POI, we first conducted the ''0.5 percent test'' for 2005, the year that SLP received the rebate payments. *See* 19 CFR 351.524(b)(2). We summed the value of SLP's VAT exemptions and divided that sum by SLP's and SSJ's total 2005 sales in accordance with the attribution rules described in 19 CFR 351.525(b)(6). As a result, we found that the benefits were less than 0.5 percent of relevant sales during that year. Thus, SLP's VAT exemptions should be expensed in the year of receipt. On this basis, we preliminarily determine that a countervailable subsidy rate of 0.00 percent *ad valorem* exists for SSJ.

F. Provision of Land for Less Than Adequate Remuneration

Both SSJ and Aifudi are located in industrial parks within Shandong Province. SSJ is located in Chenming Industrial Zone (also know as Chenming Industrial Park or Garden) in the Shouguang municipal division of the city of Weifang. Aifudi is located in Huantai New Century Industry Park in the neighboring city of Zibo. According to SSJ's supplemental response, only projects that exceed a certain amount of investment level are allowed to locate in the park. Moreover, payment for its use of land within the park is waived as long as it meets certain additional investment and fixed assets density (*i.e.*, RMB per Mu) requirements. If it fails to meet its obligations, it must pay for its land-use rights. In such case, it would pay a predetermined fee stipulated in its contract. The exact figure is business proprietary. According to an excerpt from Weifang's Web site provided by the petitioners, preference may be given to potential residents with ''new productive projects'' that ''focus on paper making, textile,'' and several other types of products. *See* the petitioners' November 13, 2007 pre-preliminary comments at Exhibit 28. Other information submitted by the petitioners also indicates that preference is given to ''three low, three high'' projects (low energy consumption, low pollution, low land usage, high profit, high technology, and high value-added) and that Chenming Industrial Park included 77 enterprises in 2007. *Id.* at Exhibit 31.

According to Aifudi's supplemental response, it also must exceed an investment level threshold in order to locate in the park.[23] Unlike SSJ, however, Aifudi does not receive a complete waiver of land-use fees after locating in the park. Instead, according to Aifudi, it received a price designed by the local and county governments ''to attract business and tax revenue to an undesirable location.'' *See* Aifudi's November 6, 2007 supplemental response at 13. Aifudi claims that this price applied to all sales of land in the park and that any business willing to invest in land in the industrial park at that time received the same price. *Id.* at 12. According to an article provided by the petitioners titled ''Preferential Policies of Huantai Industrial Park,'' Aifudi's park offers three rates for land-use rights depending on investment level. *See* the petitioners' November 13, 2007 pre-preliminary comments at Exhibit 29. Aifudi's reported rate is the lowest of the three. The petitioners' information indicates Aifudi's park had 20 residents at the end of 2002 and was mainly focused ''on machinery, electronic, chemical, medical and new material industries.'' *Id.* at Exhibit 32.

In their November 13, 2007 comments, the petitioners argue that SSJ's and Aifudi's land-use transactions are regionally specific and company-specific. The petitioners argue that regional specificity exists both as a matter of law and fact in this case. They argue that because companies in industrial parks receive benefits not generally available to all individual companies the Department should find regional specificity. They argue that the assignment of land-use rights was at the discretion of the government authority and therefore that there is also grounds to find company-specific specificity in this case.

For the reasons described below, the Department preliminarily determines that the provision of land-use rights to both SSJ and Aifudi constitutes a countervailable subsidy in the form of land-use rights provided for less than adequate remuneration. Both respondents obtained their land-use rights from government authorities within China-SSJ from Shouguang municipal authorities and Aifudi from Huantai County (a division of the city of Zibo) authorities. According to SSJ, the Shouguang Municipal State Land and Resources Administration Bureau set the price and issued the certification of land-use rights. According to Aifudi, after negotiations with the local town of Guoli, its application for land-use rights was first approved by the Huantai County Land Resource Bureau, which issued a temporary land-use certificate, and then approved at a higher level by the provincial authority, which issued a permanent certificate. Thus the sale of these land-use rights constitutes a financial contribution from a government authority in the form of providing goods or services pursuant to section 771(5)(D)(iii) of the Act. In addition, the Department preliminarily determines that the sale of these land-use rights was specific, because it is limited to an enterprise or industry located within a designated geographical region pursuant to section 771(5A)(D)(iv) of the Act. As discussed in detail above, both respondents are situated in industrial parks that are

[23] More precisely, Golden Moon obtained the land-use rights and shares its land with Aifudi. However, because we have determined these two companies to be cross-owned, we refer to Aifudi as the buyer.

within the jurisdiction of the authorities that provided their land-use rights and set the terms of those rights; *i.e.*, SSJ's park is within the authority of Shouguang municipality and Aifudi's park is within the authority of Huantai County.[24] By SSJ's own admission, its land-use fees were waived because it is located in Chenming Industrial Park. By Aifudi's own admission, Huantai County provided preferential land-use rates to companies located within Huantai New Century Industry Park. Thus, both respondents received land on preferential terms as a result of locating in their respective industrial parks.

With regard to the petitioners' arguments that these transactions are also company-specific, we do not believe there is currently enough information on the record to substantiate such a finding. In *Circular Welded Carbon Quality Steel Pipe from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination; Preliminary Affirmative Determination of Critical Circumstances; and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination,* 72 FR 63875, 63885 (November 13, 2007), we stated our intention to seek further information regarding the possible company-specific nature of land-use transactions in China. Likewise, in the preliminary determination of the rectangular pipe investigation, issued concurrently with this notice, the Department stated that we intend to seek further information on these questions and to issue an interim analysis describing our preliminary findings with respect to this program. *See Light-walled Rectangular Pipe and Tube from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination.* Accordingly, the Department will consider further the facts and arguments on this issue for purposes of the final determination. As such, we invite parties to submit information and argument on the basis for making a specificity determination with respect to the provision of land and how adequate remuneration should be determined. These submissions should be made no later than December 21, 2007.

We further determine that the GOC's provision of land rights is a financial contribution within the meaning of section 771(5)(D)(iii). Finally, the Department has determined that the sale of these rights provided a benefit pursuant to 19 CFR 351.511(a). Pursuant to section 771(5)(E)(iv) of the Act, a benefit is conferred when the government provides a good or service for less than adequate remuneration. Section 771(5)(E) of the Act further states that ''the adequacy of remuneration shall be determined in relation to prevailing market conditions for the good or service being provided * * * in the country which is subject to the investigation or review. Prevailing market conditions include price, quality, availability, marketability, transportation, and other conditions of * * * sale.''

Section 351.511(a)(2) of the Department's regulations sets forth the basis for identifying comparative benchmarks for determining whether a government good or service is provided for less than adequate remuneration. These potential benchmarks are listed in hierarchical order by preference: (1) Market prices from actual transactions within the country under investigation; (2) world market prices that would be available to purchasers in the country under investigation; or (3) an assessment of whether the government price is consistent with market principles. This hierarchy reflects a logical preference for achieving the objectives of the statute.

(1) The Department Cannot Apply a First Tier Benchmark

As a general matter, the most direct means of determining whether a government obtained adequate remuneration is normally through a comparison with private transactions for a comparable good or service, in this case, the sale of land-use rights, in the country. Thus, the preferred benchmark in the hierarchy is an observed market price for the good, in the country under investigation, from a private supplier (or, in some cases, from a competitive government auction) located either within the country, or outside the country (the latter transaction would be in the form of an import, and therefore not applicable to provision of land-use rights). This is because such prices generally would be expected to reflect most closely the commercial environment of the purchaser under investigation. However, a particular problem can arise in applying this standard when the government is the sole supplier of the good or service in the country or within the area where the respondent is located. In these situations, there may be no alternative market prices available in the country (*e.g.*, private prices, competitively-bid prices, import prices, or other types of market reference prices). Moreover, a first tier benchmark is not appropriate where the government accounts for a significant or overwhelming portion of the sales of the good in question or where the government's presence in the market is likely to have produced significant distortions in the price formation of the good. *See Countervailing Duties, Final Rule, Preamble*, 63 FR 65347, 65378 (November 25, 1998) (''Where it is reasonable to conclude that actual transaction prices are significantly distorted as a result of the government's involvement in the market, we will resort to the next alternative in the hierarchy''). In such cases, the ''commercial environment of the purchaser'' is distorted by the overwhelming presence of the government and cannot give rise to a price that is sufficiently free from the effects of government actions. The use of such an internal benchmark would be akin to comparing the benchmark to itself, *i.e.*, such a benchmark would reflect the distortions of the government presence. *See Softwood Lumber*, 67 FR 15545 and accompanying Issues and Decision Memorandum, at 34.

As a general matter, in our analysis of the PRC as a non-market economy in the recent investigation of *Certain Lined Paper Products from the PRC*, we found that real property rights in China remain poorly defined and weakly enforced, with a great divergence between *de jure* reforms and *de facto* implementation of these reforms. *See* attachment 2 of the *Loan Benchmark Memo* at 46. In arriving at this conclusion, the Department also discussed the extent of government involvement in the PRC land market, as discussed below. Given these distinguishing characteristics of the land market in China, we preliminarily determine that we cannot rely on prices, private or otherwise, from this market for purposes of a first tier benchmark in this case.

As an initial matter, we note that private land ownership is prohibited in China. *See* attachment 2 of the *Loan Benchmark Memo* at 41, citing Article 9 of the PRC Constitution. All land is owned by some level of government, the distinction being between land owned by the local government or ''collective'' at the township or village level and land owned by the national government (also

[24] As noted, Aifudi reports that Huantai County's approval had to be cleared at the provincial level. Since both Aifudi and SSJ are within Shandong Province, presumably SSJ's land-use rights also required provincial-level approval. Moreover, land in municipal districts is ultimately owned by the central government. *See, e.g.*, September 24, 2007 questionnaire response of the GOC at Exhibit S–1 (''Implementation Regulations of the Law on Administration of Land, State Council Order No. 256'').

referred to as state-owned or ''owned by the whole people''). At the same time, however, the government permits individuals and firms to hold, own and transfer land-use rights for long-term non-agricultural use, *e.g.*, industrial production land-use rights for up to 50 years. *See* attachment 2 of the *Loan Benchmark Memo* at 41–42, citing *The Land Administration Law of the People's Republic of China* (as amended August 29, 1998) and the *Interim Regulations of the People's Republic of China Concerning the Assignment and Transfer of the Right to the Use of the State-owned Land in Urban Areas* (1990). These (non-agricultural) land-use rights are transferred through government-to-enterprise (primary market) as well as through enterprise-to-enterprise (secondary market) transactions. *See* attachment 2 of the *Loan Benchmark Memo* at 43, citing Ho, Samuel P.S., and Lin, George C.S., *Emerging Land Markets in Rural and Urban China: Policies and Practices* (The China Quarterly, 2003), p. 688. The question therefore arises whether prices in the secondary market can be used for purposes of a first tier benchmark.

Noting that the government, either at the national or local level, is the ultimate owner of all land in China, we examined whether the PRC government exercises control over the supply side of the land market in China as a whole so as to distort prices in the primary and secondary markets.

We first examined the supply of agricultural land available for non-agricultural use. Despite the *de jure* reforms that the PRC government has implemented in recent years, agricultural land-use rights remain limited in scope, and are poorly defined and weakly enforced. *See* attachment 2 of the *Loan Benchmark Memo* at 44. As a result, farmers in China do not have secure land-use rights and have severe restrictions on the right to alienate their land. Further, land expropriation is a source of major tensions and protests throughout China. Villages and other local governments have often exercised broad, unrestricted powers to expropriate land from farmers and sell the land-use rights to firms or land developers, often with little or no compensation to the farmer. Farmers may receive only a fraction of the economic value of their land when it is expropriated. *See* attachment 2 of the *Loan Benchmark Memo* at 44, citing *The Economist Intelligence Unit, ViewsWire, China Politics: Beware of Protests Foreigners*, October 25, 2005. Moreover, the legal status of agricultural land as ''collectively owned'' must first be changed to ''state-owned'' before the land can be sold for non-agricultural use. The power to effect that conversion rests solely with local governments. *See* attachment 2 of the *Loan Benchmark Memo* at 42, citing *The Law of the People's Republic of China on Management of Urban Real Estate* (January 1, 1995).

The supply of land for non-agricultural use in the primary and secondary markets also depends, in part, on land previously allocated to state-owned enterprises (''SOEs'') on a purely administrative basis. In the past, the government allocated land-use rights to SOEs for a nominal one-time charge and annual fee. These ''allocated'' land-use rights do not expire, may not be leased or mortgaged, and can be transferred (or shared for commercial purposes) only if they are first converted to ''granted'' land-use rights, *i.e.*, those rights transferred to private entities as described below. Again, the power to effect this conversion rests solely with the government. *See* attachment 2 of the *Loan Benchmark Memo* at 43, citing *The Economist Intelligence Unit, Country Commerce: China*, 2006, at 37, and Ho, Samuel P.S., and Lin, George C.S., *Emerging Land Markets in Rural and Urban China: Policies and Practices* (The China Quarterly, 2003) at 687. SOEs have illegally used allocated land-use rights, without first converting them to ''granted'' land-use rights in order to attract foreign investment. *See* attachment 2 of the *Loan Benchmark Memo* at 45, citing *The Economist Intelligence Unit, Country Commerce: China*, 2006, at 38. This suggests that the conversion of allocated land-use rights to granted land-use rights is not a *pro forma* process.

An enterprise can also purchase ''granted'' land-use rights directly from the government. Granted land-use rights require a large up-front fee but carry no annual fees aside from taxes. See attachment 2 of the *Loan Benchmark Memo* at 43–44, citing Ho, Samuel P.S., and Lin, George C.S., *Emerging Land Markets in Rural and Urban China: Policies and Practices* (The China Quarterly, 2003) at 688, the *Interim Regulations of the People's Republic of China Concerning the Assignment and Transfer of the Right to the Use of the State-owned Land in Urban Areas*, (May 24, 1990), and the *Law of the People's Republic of China on Management of Urban Real Estate*, (January 1, 1995).

Thus, Chinese government authorities control, albeit on a de-centralized basis, the supply and allocation of land that can be used by non-state-owned enterprises for non-agricultural purposes. Moreover, due to the nature of the restrictions, the government controls extend not only to the primary market, but to the secondary market as well. This control significantly distorts the price paid for the granted land-use rights in both the primary and secondary markets. For example, if farmers had land-use rights that were well-defined and effectively enforced, there might be less land available for non-agricultural use and higher prices for granted land-use rights. The price of granted land-use rights is further distorted by the fact that the vast majority of such rights are still not transferred via public auctions, tenders or listings, as required by law, but via ''closed-door'' negotiations. Despite *de jure* reforms to increase transparency and competitive market conditions, one report notes that:

> One of the main problems that emerged with the system for granting land-use rights was that the vast majority of land grants were conducted by agreement rather than by auction or a tendering process. According to unofficial statistics, as of June 2002, approximately 95% of all land-use rights had been granted via private, bilateral agreements between local land bureaus and grantees. The problem is that when the agreement method is used, there is generally little or no competitive pricing or transparency. It is believed that the state has lost billions of dollars in state revenue through the granting of land-use rights at prices below market value.
>
> On July 1, 2002, regulations came into effect that prohibit grants by agreement for land to be used for commercial purposes. The purpose of the regulations is to promote transparency and ensure that market prices are maintained. The land-use rights for commercial land must be granted by means of auction, a tendering process or a new kind of ''listing'' process. When land-use rights are granted by means of the ''listing'' process, the land is listed at a land exchange center and interested parties are given a certain period of time within which to submit bids.

See China's Land Law: An overview, as placed on the file of this investigation in a memorandum from Toni Page, Analyst, to the File titled ''Land Benchmark Information'' (November 26, 2007) at attachment 1 on file in the Department's CRU (*Land Benchmark Memo*).

Contemporaneous with the regulations discussed above, local governments introduced measures to make the process of acquiring and developing land more transparent. Auction regulations were introduced in Shenzen, Guangzhou, Beijing, Shanghai and Guangxi. *See The Economist Intelligence Unit, Viewswire, China Regulations: Local Governments Simplify Land-Use Rule*, August 2, 2002, at attachment 2 of the *Land Benchmark Memo*. Further research indicates,

however, that despite efforts on the part of the central and local governments, auctions, tenders and listings did not become the standard means for transferring land-use rights at that time. For example, the central government issued new regulations in 2006, with the introduction of minimum land prices and the reiteration of the requirement for open market mechanisms for primary sales of industrial land. *See Asian Industrial Property Market Flash*, CB Richard Ellis, CBRE Research, Q1 2007. *See* attachment 3 of the *Land Benchmark Memo* at 2. *See, also, id* at 5, stating that ''(t)he transfer of industrial land via the public bidding, listing and auction method began in Shanghai in the first quarter of 2007 following the new regulations issued by the Central Government in 2006.''

One news article commenting on the 2006 regulations noted that, with respect to land:

> Market-based practices in China are still in the embryonic stage. In most regions, the government has transferred land through negotiation with investors, which led to rampant corruption. The ministry's statistics indicated that the government transferred 163,000 hectares of land nationwide last year, but only 35 percent of it was dealt through the bidding and auction. The ministry considered this an achievement, representing an increase from 14.5 percent in 2002.

See Law to Expose Illegal Land Deal, China Daily, August 1, 2006, attachment 4 of the *Land Benchmark Memo*.

Even with the greater use of auctions, tenders and listing, the process behind such transfer mechanisms must be examined carefully to ensure that, for example, there is sufficient competition in the bidding process. For example, one market report describes the ''land use right transfer announcements'' of 120 industrial land plots posted in 2007, noting that:

> In addition to specifications such as plot size and plot ratio, the announcements included requirements concerning investment amount and potential bidders' industries. For example, the announcement for Site No. 200701001 in Jinshan District specified that bids be from plastic board/pipe or other material manufacturing companies and required a total investment of between RMB 150–175 million. Although the inclusion of bidder related requirements reduced competition, large swathes of industrial land have now been transferred through public bidding, listing, and auction.

See Asian Industrial Property Market Flash, CBRE, Q2 2007, attachment 5 of the *Land Benchmark Memo* at 5.

On the basis of the evidence on the record, we preliminarily determine that there are no usable first tier in-country benchmarks to measure the benefit from the transfer of land-use rights during the POI. Our preliminary determination with respect to internal prices for industrial land-use rights necessarily reflects the evidence on the record at this time. We will carefully review and consider all additional information submitted on the record during the course of this proceeding regarding the primary and secondary markets, including auctions, tenders and listings, as well as agricultural land conversions and other land assessment, pricing and transfer procedures.

(2) The Department Cannot Apply a Second Tier Benchmark

The second tier benchmark, according to the regulations, relies on world market prices that would be available to the purchasers in the country in question, though not necessarily reflecting prices of actual transactions involving that particular producer. *See* 19 CFR 351(a)(2)(iii). In selecting a world market price under this second approach, the Department will examine the facts on the record regarding the nature and scope of the market for that good to determine if that market price would be available to an in-country purchaser. As discussed in the *Preamble*, the Department will consider whether the market conditions in the country are such that it is reasonable to conclude that a purchaser in the country could obtain the good or service on the world market. *See Preamble*, 63 FR at 65378. As with the use of import prices discussed above under the first tier benchmark analysis, we preliminarily conclude that land, an *in situ* property, does not lend itself to be considered under this tier. Land is generally not simultaneously ''available to an in-country purchaser'' while located and sold out-of-country on the world market.

(3) The Department Will Use a Benchmark from Outside China

Since we are not able to conduct our analysis under the second tier of the regulations, consistent with the hierarchy, we next consider whether the government pricing of land-use rights is consistent with market principles. This approach is also set forth in section 351.511(a)(2)(iii) of the Department's regulations and is explained further in the *Preamble:*

> (W)here the government is the sole provider of a good or service, and there are no world market prices available or accessible to the purchaser, we will assess whether the government price was set in accordance with market principles through an analysis of such factors as the government's price-setting philosophy, costs (including rates of return sufficient to ensure future operations), or possible price discrimination. In our experience, these types of analysis may be necessary for such goods or services as electricity, land leases or water, and the circumstances of each may vary widely.

See Preamble, 63 FR at 65378.

The regulations do not specify how the Department is to conduct such a market principle analysis. By its very nature, this analysis depends upon available information concerning the market sector at issue and, therefore, must be developed on a case-by-case basis. In the instant case, we preliminarily determine that due to the weak definitions and protection of property rights, the overwhelming presence of government involvement in the land-use rights market, as well as the documented deviation from the authorized methods of pricing and allocating land, the purchase of land-use rights in China is not conducted in accordance with market principles. Specifically, we have found that there is a wide divergence between the *de jure* reforms of the market for land-use rights and the *de facto* implementation of such reforms. *See* attachment 2 of the *Loan Benchmark Memo* at page 46, (stating that, China's land laws, regulations, and statements, although often vague and contradictory, *seem to* support the provision of secure land-use rights to farmers and an open, transparent system for transferring commercial land-use rights. In practice, however, laws and regulations are regularly violated by individuals and local governments. While the private market for land-use rights has grown, SOEs own a significant amount of land-use rights that they received free of charge. Also, commercial land sales are often conducted illegally. In short, property rights remain poorly defined and weakly enforced (emphasis added).

Further, as cited above, ''(t)he problem is that when the agreement method is used (as opposed to the auction method), there is generally little or no competitive pricing or transparency. It is believed that the state has lost billions of dollars in state revenue through the granting of land-use rights at prices below market value.'' *See* attachment 1 of the *Land Benchmark Memo*. In light of all the evidence on the record, and given the Department's understanding that auctions have yet to become a widely adopted means of selling land-use rights, we have reason to preliminarily determine that land-use rights in China are not priced in accordance with market principles.

Given this finding, we looked for an appropriate basis to determine the extent to which land-use rights are provided for less than adequate remuneration. We have preliminarily determined that this analysis is best achieved by comparing the prices for land-use rights in China with comparable market-based prices for land purchases in a country at a comparable level of economic development that is in a reasonably proximate region outside of China. Specifically, we have determined that the most appropriate benchmark analysis in this case would be to compare respondents' land use rights to the sales of certain industrial land in industrial estates, parks and zones in Thailand. For this, we are relying on prices from a real estate market report on Asian industrial property that was prepared outside the context of this proceeding by an independent and internationally recognized real estate agency with a long-established presence in Asia. *See* attachment 5 of the *Land Benchmark Memo* at 3, and attachment 3 of the *Land Benchmark Memo*, at 3 (collectively, the *Asian Industrial Property Reports*). The Thai government has established three industrial promotion zones in Thailand, with varying degrees of incentives offered in each zone. *See* attachment 5 of the *Land Benchmark Memo* at 11. The industrial land prices that form the basis of our preliminary benchmark are in Zone 1, which is comprised of greater Bangkok and adjacent provinces. The *Asian Industrial Property Reports* do not include indicative land values for Zones 2 and 3.

As a general matter, we note that China and Thailand have similar levels of per capita GNI, namely, $2010 and $2990, respectively. *See* attachment 6 of the *Land Benchmark Memo*. Further, recognizing that it may be appropriate to focus on the regional characteristics relevant to the land under investigation, we note that both respondents are located in Shandong province. Shandong province has a higher per-capita GNI of approximately $2900 (2006), even more closely on par with Thailand. *See Market Profiles on Chinese Cities and Provinces*, attachment 7 of the *Land Benchmark Memo*. With respect to other factors that may speak to regional comparability, population density in China and Thailand are roughly comparable, with 141 persons per square kilometer (k^2) in China and 127/k^2 in Thailand. *See* attachment 6 of the *Land Benchmark Memo*. Population density is higher than national averages in both Shandong and Zone 1 in Thailand, at 562/k^2 and 908/k^2, respectively. *See IIASA Data—Population Growth* (2004 data) and *List of Provinces of Thailand by Population Density* (2000) data, attachments 8 and 9, respectively, of the *Land Benchmark Memo*.

Additionally, we note that producers consider a number of markets, including Thailand, as an option for diversifying production bases in Asia beyond China. Therefore, the same producers may compare prices across borders when deciding what land to buy. For example, the *Asian Industrial Property Reports* compare real estate prices in China with other prices in Asia, including Thailand. *See Asian Industrial Property Reports,* both at 3. With respect to Thailand, we note that studies by the Japan External Trade Organization (JETRO), which compared Asian alternative investment destinations to China, stated that ''Thailand got the highest score as the best location for establishing a production base over the next five to 10 years.'' *See Japan firms rate Vietnam best alternative to China,* Nikkei Weekly, April 10, 2006 at attachment 10 of the *Land Benchmark Memo.* Further, JETRO finds that Thailand ranks as the second-best choice after China as a location for expanding both high and mid to low-end production. *See FY2005 Survey of Japanese Firms' International Operations,* Japan External Trade Organization, March 2006 at 13 and *JETRO Releases its Latest Survey of Japanese Manufacturers in ASEAN and India* at attachments 11 and 12, respectively, of the *Land Benchmark Memo.* Finally, a report by a private company notes that, ''(m)any foreign companies believe that Thailand is still a strategic choice for a Southeast Asian production base.'' *See Industrial Property Guide, Thailand* at attachment 13 of the *Land Benchmark Memo.*

Therefore, we preliminarily determine that the ''indicative land values'' for land in Thai industrial zones, estate and parks outlined in the *Asian Industrial Property Reports* present a reasonable and comparable benchmark to the land-use rights in Shandong industrial zones at issue in this investigation. As discussed above, we have considered certain economic and demographic factors in arriving at this conclusion. However, we also note that other factors may inform this decision, including the availability of data on prices, investment flows, availability of land, and industry density in a certain region. We intend to continue to explore this issue and invite comments from the parties.

In order to calculate the benefit, we first multiplied the benchmark land rate (deflated from 2007 to the year the transactions were approved by the state authority) by the total area of SSJ's and Aifudi's tracts. We then subtracted the price actually paid for these tracts by the two respondents to derive the total unallocated benefit. We next conducted the ''0.5 percent test'' (19 CFR 351.524(b)(2)) for the years in which the transactions were approved by dividing the total unallocated benefit for each respondent by the appropriate sales denominator. As a result, we found that the benefits were greater than 0.5 percent of relevant sales and that allocation was appropriate. We allocated the total unallocated benefit amount across the term of the land agreements using the standard allocation formula in 19 CFR 351.524(d) and determined the amount attributable to 2006. For SSJ, we divided the 2006 benefit by SSJ's total sales to calculate a subsidy of 2.17 percent *ad valorem.* For Aifudi, we divided the 2006 benefit by Aifudi and Golden Moon's total sales to calculate a subsidy of 11.51 percent *ad valorem.*

II. Programs Preliminarily Determined To Be Not Countervailable

A. Provision of Electricity for Less Than Adequate Remuneration

According to the GOC, electricity in the PRC is produced by numerous power plants and it is transmitted for local distribution by two state-owned transmission companies, State Grid and China South Power Grid. Generally, prices for uploading electricity to the grid and transmitting it are regulated by the GOC, as are the final sales prices. *See, e.g., Circular on Implementation Measures Regarding Reform of Electricity Prices*, (*FAGAIJIAGE* (2005) No. 514, National Development and Reform Commission) at Appendix 3 of the *Provisional Measures on Prices for Sales of Electricity* at Article 29 (''Government departments in charge of pricing at various levels shall be responsible for the administration and supervision of electricity sales prices.''), provided within the GOC response at Exhibit R–1 (September 24, 2007).

Electricity consumers are divided into broad categories such as residential, commercial, large-scale industry, and agriculture. The rates charged vary across customer categories and within customer categories based on the amount of electricity consumed. Moreover, among industrial users, certain industries are specifically broken out and these industries receive special, discounted rates. Based on our

review of the rate schedules submitted for Shandong province and Zibo city, where respondents SSJ and Aifudi, respectively, are located, discounted rates are established for small and medium-sized chemical fertilizer producers. Thus, there is not a discounted rate for LWS producers. We tied the rates reported by respondents to these schedules. We asked the GOC to provide the number of electricity users in each customer-pricing category; however, the GOC replied that the number of users in each category is huge and that there are no compiled statistics on the number of customers per category.

Based on the record evidence, we preliminarily determine that the provision of electricity to LWS producers in the PRC is neither *de jure* nor *de facto* specific. Although producers in a few particular industries are eligible for discounts under the law, all other industrial users within a locality pay the same rate for their electricity. Moreover, the absence of price discrimination among most users also supports a preliminary finding that electricity is not being provided to LWS producers for less than adequate remuneration. *See Countervailing Duties; Final Rule,* 63 FR 65348, 65378 (November 25, 1998) (stating that, where the government is the sole provider of a good or service, especially in the case of electricity, land or water, the Department may assess whether the government price was set in accordance with market principles, which may include an analysis of whether there is price discrimination among the users of the good or service that is provided and that ''(w)e would only rely on a price discrimination analysis if the government good or service is provided to more than a specific enterprise or industry, or group thereof).'' On this basis, we preliminarily determine that the GOC's provision of electricity does not confer a countervailable subsidy. *See CWP from the PRC,* 72 FR at 63883.

III. Programs Preliminarily Determined To Be Not Used by SSJ and Aifudi

We preliminarily determine that SSJ and Aifudi did not apply for or receive benefits during the POI under the programs listed below.

A. Loan Forgiveness for LWS Producers by the GOC.

B. The State Key Technologies Renovation Project Fund.

C. Grants and Other Funding for High Technology Equipment for the Textile Industry.

D. Grants to Loss-Making State-Owned Enterprises.

E. Preferential Tax Policies for Export-Oriented FIEs.

F. Corporate Income Tax Refund Program for Reinvestment of FIE Profits in Export-Oriented Enterprises.

G. Tax Benefits for FIEs in Encouraged Industries that Purchase Domestic Origin Machinery.

H. Tax Program for FIEs Recognized as High or New Technology Enterprises.

I. Preferential Tax Policies for Research and Development.

J. Preferential Tax Policies for Township Enterprises by FIEs.

K. VAT and Tariff Exemptions for FIEs Using Imported Technology and Equipment in Encouraged Industries.

L. VAT and Tariff Exemptions on Imported Equipment (Domestic Enterprises).

M. Export Interest Subsidy Funds for Enterprises Located in Zhejiang and Guangdong Provinces.

N. Technological Innovation Funds Provided by Zhejiang Province.

O. Programs to Rebate Antidumping Legal Fees.

For purposes of this preliminary determination, we have relied on SSJ's and Aifudi's responses to preliminarily determine non-use of the programs listed above by SSJ and Aifudi. During the course of verification, the Department will examine whether these programs were used by SSJ and Aifudi during the POI.

V. Programs Preliminarily Determined To Be Terminated

A. Exemption From Payment of Staff and Worker Benefits for Export Oriented Industries

The Department determined that this program was terminated on January 1, 2002, with no residual benefits. *See Final CFS Paper from the PRC,* 72 FR 60645 at 16.

Verification

In accordance with section 782(i)(1) of the Act, we intend to verify the information submitted by the respondents prior to making our final determination.

Suspension of Liquidation

In accordance with section 703(d)(1)(A)(i) of the Act, we calculated an individual rate for each producer/exporter of the subject merchandise. We preliminarily determine the total estimated net countervailable subsidy rates to be:

Exporter/Manufacturer	Net subsidy rate (%)
Shandong Shouguang Jianyuanchun Company Limited (SSJ)	2.57
Zibo Aifudi Plastic Packaging Co. Ltd. (Aifudi)	11.59
Han Shing Chemical Co. Ltd. and/or Han Shing Bulk Bag Co., Ltd. and/or Han Shing Co.	57.14
Ningbo Yong Feng Packaging Co., Ltd. (Ningbo)	57.14
Shangdong Qilu Plastic Fabric Group, Ltd. (Qilu)	57.14
All-Others	2.57

Sections 703(d) and 705(c)(5)(A) of the Act state that for companies not investigated, we will determine an all-others rate by weighting the individual company subsidy rate of each of the companies investigated by each company's exports of the subject merchandise to the United States. However, the all-others rate may not include zero and *de minimis* rates or any rates based solely on the facts available. Furthermore, pursuant to 19 CFR 351.204(d)(3), the Department must exclude the countervailable subsidy rate calculated for a voluntary respondent. Thus, in this investigation, we have only one rate that can be used to calculate the all-others rate, that of SSJ. Therefore, we have assigned SSJ's rate to all-others.

In accordance with sections 703(d)(1)(B) and (2) of the Act, we are directing CBP to suspend liquidation of all entries of LWS from the PRC that are entered, or withdrawn from warehouse, for consumption on or after the date of the publication of this notice in the **Federal Register**, and to require a cash deposit or bond for such entries of merchandise in the amounts indicated above. Moreover, in accordance with section 703(e)(2)(A), for Ningbo and Han Shing Chemical, Ltd. (*i.e.* Han Shing Bulk Bag Co., Ltd. and Han Shing Co.), we are directing CBP to apply the suspension of liquidation to any unliquidated entries entered, or withdrawn from warehouse for consumption, on or after the date 90 days prior to the date of publication of this notice in the **Federal Register**.

ITC Notification

In accordance with section 703(f) 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 relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative

protective order, without the written consent of the Assistant Secretary for Import Administration. In accordance with section 705(b)(2)(B) of the Act, if our final determination is affirmative, the ITC will make its final determination within 45 days after the Department makes its final determination.

Disclosure and Public Comment

In accordance with 19 CFR 351.224(b), we will disclose to the parties the calculations for this preliminary determination within five days of its announcement. Case briefs for this investigation must be submitted no later than one week after the issuance of the last verification report. *See* 19 CFR 351.309(c) (for a further discussion of case briefs). Rebuttal briefs must be filed within five days after the deadline for submission of case briefs, pursuant to 19 CFR 351.309(d)(1). A list of authorities relied upon, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes.

Section 774 of the Act provides that the Department will hold a public hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party. If a request for a hearing is made in this investigation, the hearing will tentatively be held two days after the deadline for submission of the rebuttal briefs, pursuant to 19 CFR 351.310(d), at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice, pursuant to 19 CFR 351.310(c). Requests should contain: (1) The party's name, address, and telephone numbers; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs.

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act and 19 CFR 351.221(b)(4).

Dated: November 26, 2007.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E7–23459 Filed 11–30–07; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–923]

Raw Flexible Magnets from the People's Republic of China: Postponement of Preliminary Determination in the Countervailing Duty Investigation

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: December 3, 2007.

FOR FURTHER INFORMATION CONTACT: Preeti Tolani, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–0395.

SUPPLEMENTARY INFORMATION:

Background

On October 11, 2007, the Department of Commerce (''the Department'') initiated the countervailing duty investigation of raw flexible magnets from the People's Republic of China (PRC). *See Notice of Initiation of Antidumping Duty Investigations: Raw Flexible Magnets from the People's Republic of China and Taiwan*, 72 FR 59076 (October 18, 2007). On November 8, 2007, Magnum Magnetics Corporation, petitioner, requested a 65-day extension of the preliminary determination, pursuant to section 703(c)(1)(A) of the Tariff Act of 1930, as amended, (the Act) and 19 CFR 351.205(e). Currently, the preliminary determination is due no later than December 15, 2007.

Postponement of Due Date for Preliminary Determination

Under section 703(c)(1)(A) of the Act and 19 CFR 351.205(e), the Department may extend the period for reaching a preliminary determination in a countervailing duty investigation until not later than the 130th day after the date on which the administering authority initiates an investigation if the administrating authority receives such a request from petitioner 25 days or more before the scheduled date of the preliminary determination. Petitioner's request for postponement of the preliminary determination was received on November 8, 2007 and, therefore, is timely pursuant to 19 CFR 351.205(e). Accordingly, we are postponing the due date for this preliminary determination by 65 days to no later than Tuesday, February 19, 2008.

This notice is issued and published pursuant to section 703(c)(2) of the Act.

Dated: November 26, 2007.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E7–23391 Filed 11–30–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[Application No. 07–00005]

Export Trade Certificate of Review

ACTION: Notice of application for an Export Trade Certificate of Review from XCC EXPORTZ INC.

SUMMARY: Export Trading Company Affairs (''ETCA''), International Trade Administration, Department of Commerce, has received an application for an Export Trade Certificate of Review (''Certificate''). This notice summarizes the conduct for which certification is sought 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, by telephone at (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 a 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 07–00005.'' A summary of the application follows.

Summary of the Application:

Applicant: XCC EXPORTZ INC. (''XCC''), 8511 Rancho del Oro Pl. NE., Albuquerque, NM 87113.

Contact: Mr. Sergio Barada, President, Telephone: (505) 205–0311.

Application No.: 07–00005.

Date Deemed Submitted: November 19, 2007.

Members (in addition to applicant): None.

XCC seeks a Certificate to cover the following specific Export Trade, Export Markets, and Export Trade Activities and Methods of Operations.

Export Trade

1. *Products*

All Products.

2. *Services*

All Services.

3. *Technology Rights*

Technology rights, including, but not limited to, patents, trademarks, copyrights, and trade secrets, that relate to Products and Services.

4. *Export Trade Facilitation Services (as they relate to the export of Products, Services, and Technology Rights)*

Export Trade Facilitation Services include professional services in the areas of government relations and assistance with state and federal programs; foreign trade and business protocol; consulting; market research and analysis; collection of information on trade opportunities; marketing; negotiations; joint ventures; shipping; export management; export licensing; advertising; documentation and services related to compliance with Customs requirements; insurance and financing; trade show exhibitions; organizational development; management and labor strategies; transfer of technology; transportation; and facilitating the formation of shippers' associations.

Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

Export Trade Activities and Methods of Operation

1. With respect to the sale of Products and Services, licensing of Technology Rights and the provision of Export Trade Facilitation Services, XCC, subject to the terms and conditions listed below, may:

a. Provide and arrange for the provision of Export Trade Facilitation Services;

b. Engage in promotional and marketing activities and collect information on trade opportunities in the Export Markets and distribute such information to clients;

c. Enter into exclusive and/or non-exclusive licensing and/or sales agreements with Suppliers for the export of Products, Services, and/or Technology Rights to Export Markets;

d. Enter into exclusive and/or non-exclusive agreements with distributors and/or sales representatives in Export Markets;

e. Allocate export sales or divide Export Markets among Suppliers for the sale and/or licensing of Products, Services, and/or Technology Rights;

f. Allocate export orders among Suppliers;

g. Establish the price of Products, Services, and/or Technology Rights for sales and/or licensing in Export Markets;

h. Negotiate, enter into, and/or manage licensing agreements for the export of Technology Rights; and

i. Enter into contracts for shipping.

2. XCC and individual Suppliers may regularly exchange information on an individual one-on-one basis regarding that Supplier's inventories and near-term production schedules in order that the availability of Products for export can be determined and effectively coordinated by XCC with its distributors in Export Markets.

Terms and Conditions of Certificate

1. XCC, including its officers, employees or agents, shall not intentionally disclose, directly or indirectly, to any Supplier (including parent companies, subsidiaries, or other entities related to any Supplier) any information about any other Supplier's costs, production, capacity, inventories, domestic prices, domestic sales, terms of domestic marketing or sale, or U.S. business plans, strategies, or methods unless such information is already generally available to the trade or public.

2. XCC will comply with requests made by the Secretary of Commerce on behalf of the Secretary or the Attorney General for information or documents relevant to conduct under the Certificate. The Secretary of Commerce will request such information or documents when either the Attorney General or the Secretary believes that the information or documents are required to determine that the Export Trade, Export Trade Activities and Methods of Operation of a person protected by this Certificate of Review continue to comply with the standards of Section 303(a) of the Act.

Definition

''Supplier'' means a person who produces, provides, or sells Products, Services, and/or Technology Rights.

Dated: November 28, 2007.

Jeffrey Anspacher,

Director, Export Trading Company Affairs.

[FR Doc. E7–23403 Filed 11–30–07; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Fishermen's Contingency Fund

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 February 1, 2008.

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 Charles L. Cooper, (301) 713–2396 or *charles.cooper@noaa.gov*.

SUPPLEMENTARY INFORMATION:

I. Abstract

U.S. commercial fishermen may file claims for compensation for losses of or damage to fishing gear or vessels, plus 50 percent of resulting economic losses, attributable to oil and gas activities on the U.S. outer continental shelf. To obtain compensation, applicants must comply with requirements set forth in 50 CFR part 296. The requirements include a report within 15 days of the date the vessel returns to port after the incident, to gain a presumption of eligible causation and to receive an application form.

II. Method of Collection

Paper forms are used for applications, and 15-day reports are made by telephone.

III. Data

OMB Number: 0648–0082.

Form Number: NOAA Forms 88–164, 88–166.

Type of Review: Regular submission.

Affected Public: Individuals or households; business or other for profit organizations.

Estimated Number of Respondents: 100.

Estimated Time per Response: 10 hours for an application, and 5 minutes for a 15-day report.

Estimated Total Annual Burden Hours: 1,008.

Estimated Total Annual Cost to Public: $500.

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: November 27, 2007.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E7–23309 Filed 11–30–07; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Foreign Fishing Vessel Permit Applications

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 February 1, 2008.

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 Robert Dickinson, (301) 713–2276 or *Bob.Dickinson@noaa.gov*.

SUPPLEMENTARY INFORMATION:

I. Abstract

Section 204 of the Magnuson-Stevens Fishery Conservation and Management Act and regulations at 50 CFR part 600, Subpart F, provide for the issuance of fishing permits to foreign vessels. The information submitted in fishing applications is used to determine whether permits should be issued to authorize directed foreign fishing, participation in joint ventures with U.S. vessels, or transshipments of fish or fish products within U.S. waters.

II. Method of Collection

Paper forms are used.

III. Data

OMB Number: 0648–0089.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 6.

Estimated Time per Response: One and one half hours for an application for a directed fishery; 2 hours for a joint venture application; and 45 minutes for a transshipment permit.

Estimated Total Annual Burden Hours: 7.

Estimated Total Annual Cost to Public: $2,442.

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: November 27, 2007.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E7–23310 Filed 11–30–07; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Pacific Albacore Logbook

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 February 1, 2008.

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 John Childers, (858) 546–7192 or *John.Childers@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The National Oceanic and Atmospheric Administration, Southwest Fisheries Science Center operates a Pacific Albacore Data Collection Program. Fishermen participating in the Pacific albacore tuna fishery are required to complete and submit logbooks documenting their catch and effort on fishing trips. This is a requirement under the Highly Migratory Species Fishery Management Plan and the High-Seas Fisheries Compliance Act permit for logbook submissions. The information obtained is used by the agency to assess the status of albacore stocks and to monitor the fishery. Fishermen are also provided an electronic logbook that they can voluntarily use in place of the hard copy logbook.

II. Method of Collection

A logbook form is used that consists of a front page form that collects vessel characteristics and a log sheet form that collects daily fishing information. An electronic version of the hard copy form is also made available. Use of the electronic form is voluntary.

III. Data

OMB Number: 0648–0223.

Form Number: NOAA Form 88–197.

Type of Review: Regular submission.

Affected Public: Business and other for-profit organizations.

Estimated Number of Respondents: 1,000.

Estimated Time per Response: 1 hour.

Estimated Total Annual Burden Hours: 4,000.

Estimated Total Annual Cost to Public: $2,560.

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: November 27, 2007.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E7–23313 Filed 11–30–07; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE17

Marine Mammals; File No. 10040

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

ACTION: Notice; issuance of permit.

SUMMARY: Notice is hereby given that Gary Matson, Matson's Laboratory, LLC, PO Box 308, 8140 Flagler Road, Milltown, MT 5985, has been issued a scientific research permit to receive, import and export marine mammal specimens for scientific research.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following offices:

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

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

FOR FURTHER INFORMATION CONTACT: Jennifer Skidmore or Amy Sloan, (301)713–2289.

SUPPLEMENTARY INFORMATION: On September 11, 2007, notice was published in the **Federal Register** (72 FR 51803) that a request for a scientific research permit had been submitted by the above-named organization. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226), and the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*).

The permit authorizes the receipt, import and export of teeth and prepared microscope slides obtained from seal and sea lion species, except walrus (Order Pinnipedia). The Matson Laboratory provides age related data to researchers and biologists. Age data are used in population modeling, with age structure an indicator of population condition. Teeth are sent to the laboratory for cementum age analysis. The number of teeth varies depending upon the nature of the project, from a single tooth to several hundred from a legal harvest; no more than 2000 teeth will be analyzed annually. Import and export authority is requested for all locations wherever pinnipeds occur and are the subject of government-authorized research and/or harvest. Principally, these locations are expected to be those within the jurisdiction of the Government of Canada. There will be no incidental takes of non-target species. A permit has been issued for five years.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), a final determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

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

Dated: November 26, 2007.

P. Michael Payne,

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

[FR Doc. E7–23387 Filed 11–30–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE15

Marine Mammals; File No. 10084

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that Sea World, Inc., 7007 Sea World Drive, Orlando, Florida 32821, has applied in due form for a permit to import one beluga whale (*Delphinapterus leucas*) for the purposes of public display.

DATES: Written or telefaxed comments must be received on or before January 2, 2008.

ADDRESSES: The application and related documents are available for review upon written request or by appointment in the following offices:

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

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

Written comments or requests for a public hearing on this application should be mailed to the Chief, Permits, Conservation and Education Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Comments may also be submitted by facsimile at (301)427–2521, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period.

Comments may also be submitted by e-mail. The mailbox address for providing e-mail comments is *NMFS.Pr1Comments@noaa.gov*. Include in the subject line of the e-mail comment the following document identifier: File No. 10084.

FOR FURTHER INFORMATION CONTACT: Jennifer Skidmore or Kate Swails, (301)713–2289.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

The applicant requests authorization to import one female juvenile beluga whale (*Delphinapterus leucas*) from the Marineland of Canada in Ontario, Canada to Sea World of Florida in Orlando, Florida. The applicant requests this import for the purpose of public display. The receiving facility, Sea World of Florida, 7007 Sea World Drive, Orlando, Florida 32821 is: (1) open to the public on regularly scheduled basis with access that is not limited or restricted other than by charging for an admission fee; (2) offers an educational program based on professionally accepted standards of the AZA and the Alliance for Marine Mammal Parks and Aquariums; and (3) holds an Exhibitor's License, number 58–C–0077, issued by the U.S. Department of Agriculture under the Animal Welfare Act (7 U.S.C. 2131 - 59).

In addition to determining whether the applicant meets the three public display criteria, NMFS must determine whether the applicant has demonstrated that the proposed activity is humane and does not represent any unnecessary risks to the health and welfare of marine mammals; that the proposed activity by itself, or in combination with other activities, will not likely have a significant adverse impact on the species or stock; and that the applicant's expertise, facilities and resources are adequate to accomplish successfully the objectives and activities stated in the application.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: November 28, 2007.

P. Michael Payne,

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

[FR Doc. E7–23389 Filed 11–30–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA56

Marine Fisheries Advisory Committee; Public Meetings

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

ACTION: Notice of open public meeting.

SUMMARY: Notice is hereby given of a meeting of the Marine Fisheries Advisory Committee (MAFAC). This will be the second meeting to be held in calendar year 2007 to review and advise NOAA on management policies for living marine resources. Agenda topics are provided under the **SUPPLEMENTARY INFORMATION** section of this notice. All full Committee sessions will be open to the public.

DATES: The meetings will be held December 18, 2007, from 9 a.m. to 5 p.m., December 19, 2007, from 9 a.m. to 5 p.m., and December 20, 2007, from 9 a.m. to 5 p.m.

ADDRESSES: The meetings will be held at the Don CeSar Beach Resort, 3400 Gulf Boulevard, St. Pete Beach, Florida 33706; (866) 728–2206.

FOR FURTHER INFORMATION CONTACT: Mark Holliday, Director, NMFS Office of Policy; telephone: (301) 713–2239 x120.

SUPPLEMENTARY INFORMATION: As required by section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. 2, notice is hereby given of meetings of MAFAC. MAFAC was established by the Secretary of Commerce (Secretary) on February 17, 1971, to advise the Secretary on all living marine resource matters that are the responsibility of the Department of Commerce. This committee advises and reviews the adequacy of living marine resource policies and programs to meet the needs of commercial and recreational fisheries, and environmental, State, consumer, academic, tribal, governmental and other national interests. The complete charter and summaries of former meetings are located online at *www.nmfs.noaa.gov/ocs/mafac/index.htm.*

Matters To Be Considered

December 18, 2007

The meeting will begin with opening remarks and introductions to the full committee from Dr. William T. Hogarth, Assistant Administrator for Fisheries. MAFAC subcommittee chairs will provide an overview of what their respective subcommittees will address during the meeting. A brief review and discussion of administrative items will be conducted. The balance of the day will be dedicated to NMFS briefings on NOAA regional collaboration efforts; marine recreational fisheries improvements; aquaculture; and updates on the implementation of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006.

December 19, 2007

The full Committee will reconvene from 9 a.m. to 5 p.m. to discuss: Public comment responses and recommendations for MAFAC's Vision 2020 project; opportunities for development of a NOAA national ocean policy statement; and issues surrounding a seafood certification standard.

December 20, 2007

The Strategic Planning and Commerce Subcommittees and the Vision 2020 and Recreational Fisheries working groups will meet from 9 a.m. to noon. The full Committee will reconvene from 1 p.m. to 5 p.m. to receive Subcommittee and working group recommendations, discuss, and vote on any proposed actions.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mark Holliday, Director, NMFS Office of Policy; telephone: (301) 713–2239 x120 by 5 p.m., December 11, 2007.

Dated: November 28, 2007.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. E7–23414 Filed 11–30–07; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN: 0648–XE23

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Pacific Fishery Management Council (Council) will hold a Groundfish Stock Assessment Review Workshop, which is open to the public.

DATES: The Groundfish Stock Assessment Review Workshop will be held Wednesday, December 19, 2007, from 8:30 a.m. until business for the day is completed.

ADDRESSES: The Groundfish Stock Assessment Review Workshop will be held at the Sheraton Portland Airport Hotel, Mt. Adams Room, 8235 NE Airport Way, Portland, OR 97220; telephone: (503) 281–2500.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Mr. John DeVore, Groundfish Management Coordinator; telephone: (503) 820–2280.

SUPPLEMENTARY INFORMATION: The purpose of the Groundfish Stock Assessment Review Workshop is for participants in the Council's 2007 stock assessment process to consider the procedures used in 2007 to assess and update groundfish stock abundance and develop recommendations for improving the process for future assessments. No management actions will be decided in this workshop. Any recommendations developed at the workshop will be submitted for consideration by the Council at its March 2008 meeting in Sacramento, CA.

Although non-emergency issues not identified in the workshop agenda may come before the workshop participants for discussion, those issues may not be the subject of formal action during this workshop. Formal action at the workshop will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the workshop participants' intent to take final action to address the emergency.

Special Accommodations

This workshop is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at (503) 820–2280 at least 5 days prior to the workshop date.

Dated: November 28, 2007.

Tracey L. Thompson,

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

[FR Doc. E7–23314 Filed11–30–07; 8:45 am]

BILLING CODE 3510–22–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Request for Public Comment on the Due Diligence Requirement Under the Commercial Availability Procedures of the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR)

November 28, 2007.

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

ACTION: Request for Public Comment on the Due Diligence Requirement Under the CAFTA-DR Commercial Availability Procedures.

SUMMARY: CITA requests public comment on the due diligence requirement under the CAFTA-DR Commercial Availability procedures. Comments should be submitted no later than **January 2, 2008** to the attention of: R. Matthew Priest, Chairman, Committee for the Implementation of Textile Agreements, Room 3001, Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Richard Stetson, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-2582.

SUPPLEMENTARY INFORMATION:

Authority: Authority: Section 203(o)(4) of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (''CAFTA-DR''); CAFTA-DR Commercial Availability Final Procedures (72 FR 13256, published March 21, 2007) (''Final Procedures'').

BACKGROUND:

The CAFTA-DR Commercial Availability provision permits the use of non-originating CAFTA-DR products by implementing procedures that allow products to be placed on or removed from a product list, on a timely basis,

and in a manner that is consistent with normal business practice. The Final Procedures provide that the procedures may be modified to address concerns that may arise as CITA gains experience in implementing them. CITA notes that these are administrative procedures rather than regulations, and can be modified as needed.

A critical component to the efficient functioning of the Commercial Availability process is the requirement that a requester and a potential supplier engage in due diligence efforts, as provided under the Final Procedures, to determine whether a product is available in commercial quantities in a timely manner in the region. The due diligence provisions require communications between the requester and potential suppliers, supported by documentation, to ensure that a proper inquiry into a product's commercial availability has been undertaken prior to the filing of the request.

Based on CITA's experience, there is a concern that, in certain cases, due diligence efforts have fallen short of those expected when the procedures were drafted; that product descriptions may not meet recognized standards; that potential suppliers may not be adequately substantiating their claims that they are to be able to supply requested products; and that CITA is not receiving complete information from interested entities regarding meaningful contact between requesters and potential suppliers necessary for CITA to make informed determinations.

Therefore, CITA requests public comment and proposals on the operation of the due diligence requirement under the CAFTA-DR Commercial Availability procedures, including the following areas of concern:

Communications between Requesters and Potential Suppliers: Past proceedings have exposed issues with regard to the nature of the communications between requesters and potential suppliers. Specifically, CITA notes that there is a lack of substantive dialogue between requesters and potential suppliers. CITA requests public comment as to how such communications should be conducted, in keeping with normal business practice, as well as the role that third party counsels and advisors should play in the communications between requesters and potential suppliers; whether only certain employees of the requester and potential supplier should be deemed as the appropriate contacts for communication regarding potential sales; and whether there should be direct dialogue between those appropriate personnel prior to submission of requests to CITA.

Identification of Potential Suppliers: CITA is concerned that methods being used to identify potential suppliers and the means of contacting requesters and the potential suppliers have not been effective. For example, CITA has received requests that contain a general inquiry sent via email to all manufacturers within the CAFTA-DR region without regard to actual potential for supply. In prior cases, CITA has noted a concern regarding the detailed and confidential information requested of potential suppliers concerning their business plans. CITA seeks public comment regarding what methods of communications should be employed to satisfactorily determine whether there are potential suppliers and the types of information that can be requested of potential suppliers.

Content of Communications between Requesters and Potential Suppliers: In the course of various proceedings, CITA notes that there have been issues regarding the content of communications between requesters and potential suppliers, namely the description of the product, such as production specifications and performance criteria. CITA seeks public comment regarding the requirements for a description of product specifications; whether industry accepted standards, such as ASTM (American Society for Testing and Materials) or AATCC (American Association of Textile Chemists and Colorists), should be referenced; and whether only measurable criteria and performance standards may be referenced in product descriptions. In the course of past proceedings, CITA has also noted a concern regarding potentially unreasonable demands regarding time lines for supplying requested products, and the provision of samples. CITA seeks public comment regarding whether and under what conditions potential requesters and potential suppliers should provide samples to each other; how reasonable time frames should be determined; and whether consideration should be given to time needed to develop a product new to a potential supplier.

Substitutability of Products: In the course of past proceedings, CITA has noted concerns as to whether products similar to the requested product are substitutable. CITA seeks public comment regarding how potential suppliers should identify and describe potentially substitutable products; which specifications and performance criteria a potentially substitutable product would have to be meet; and reasonable justifications for rejecting potentially substitutable products.

Commercial Availability of a Production Input vs. Downstream Product: CITA has found there is concern that a request actually is for a downstream product, but it is a production input whose commercial availability is in question. CITA seeks public comment regarding whether it should reject or deny requests when it becomes clear that a production input is not available in commercial quantities in a timely manner rather than the downstream product.

Potential Suppliers' Responses to Requester's Inquiry: CITA has found that there is concern regarding the information provided by potential suppliers in responses with offers to supply and that potential suppliers are not demonstrating a legitimate intent to do business by providing a clear, detailed response to a request. CITA seeks public comment regarding what information a potential supplier should provide to substantiate an objection to a request and an offer to supply; whether a potential supplier should have produced the requested product within the past 24 months; what information is needed to substantiate that a potential supplier has the ability to supply; whether types of equipment, capacity, and other production information should be business confidential; and what constitutes a timely response to an inquiry and a legitimate interest to do business.

CITA requests public comment on the operation of the due diligence requirement under the CAFTA-DR Commercial Availability procedures and the issues identified above. Comments must be in English, and must be received no later than **January 2, 2008**. Comments must be submitted electronically AND in writing.

(1) An electronic mail (''email'') version of the comments must be either in PDF, Word, or Word-Perfect format, and sent to the following email address: OTEXA CAFTA@ita.doc.gov. Comments must have a bolded heading stating ''Public Version'', and all business confidential information must be deleted and substituted with asterisks. No business confidential information should be submitted in the ''email'' version of the document.

(2) The original signed comments must be mailed to the Chairman, Committee for the Implementation of Textile Agreements, Room H3001A, U.S. Department of Commerce, 14th and Constitution Avenue N.W., Washington, DC 20230. Any business confidential information upon which an interested person wishes to rely must be included

in the original signed comments only. Brackets must be placed around all business confidential information. Comments containing business confidential information must have a bolded heading stating ''Confidential Version.'' Attachments considered business confidential information must have a heading stating ''Business Confidential Information''. The Committee will protect from disclosure any business confidential information that is marked ''business confidential'' to the full extent permitted by law. Except for the inclusion of business confidential information, the two versions of comments should be identical.

(3) All comments submitted via ''email'' will be made available for public inspection at the Office of Textile and Apparel, Room H3001A, the Department of Commerce, 14th and Constitution Avenue N.W., Washington, DC, between the hours of 8:30 a.m. and 5:00 p.m. on business days. In addition, the ''email'' version of the comments will be posted for public review on the Office of Textile and Apparel, CAFTA-DR Free Trade Agreement website http://otexa.ita.doc.gov/tradeagree2007.htm.

R. Matthew Priest,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. E7–23410 Filed 11–30–07; 8:45 am]

BILLING CODE 3510–DS

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Determination under the Textile and Apparel Commercial Availability Provision of the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR Agreement)

November 28, 2007.

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

ACTION: Determination to add a product in unrestricted quantities to Annex 3.25 of the CAFTA-DR Agreement

EFFECTIVE DATE: December 3, 2007.

SUMMARY: The Committee for the Implementation of Textile Agreements (CITA) has determined that certain woven polyester/spandex moleskin fabric, as specified below, are not available in commercial quantities in a timely manner in the CAFTA-DR countries. The product will be added to the list in Annex 3.25 of the CAFTA-DR Agreement in unrestricted quantities.

FOR FURTHER INFORMATION CONTACT: Richard Stetson, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482 2582.

FOR FURTHER INFORMATION ON-LINE: http://web.ita.doc.gov/tacgi/CaftaReqTrack.nsf.Reference number: 37.2007.10.29.Fabric.Alston&Birdfor GlennRiver.

SUPPLEMENTARY INFORMATION:

Authority: Section 203(o)(4) of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (CAFTA-DR Act); the Statement of Administrative Action (SAA), accompanying the CAFTA-DR Act; Presidential Proclamations 7987 (February 28, 2006) and 7996 (March 31, 2006).

BACKGROUND:

The CAFTA-DR Agreement provides a list in Annex 3.25 for fabrics, yarns, and fibers that the Parties to the CAFTA-DR Agreement have determined are not available in commercial quantities in a timely manner in the territory of any Party. The CAFTA-DR Agreement provides that this list may be modified pursuant to Article 3.25(4)-(5), when the President of the United States determines that a fabric, yarn, or fiber is not available in commercial quantities in a timely manner in the territory of any Party. See Annex 3.25, Note; see also section 203(o)(4)(C) of the Act.

The CAFTA-DR Act requires the President to establish procedures governing the submission of a request and providing opportunity for interested entities to submit comments and supporting evidence before a commercial availability determination is made. In Presidential Proclamations 7987 and 7996, the President delegated to CITA the authority under section 203(o)(4) of CAFTA-DR Act for modifying the Annex 3.25 list. On March 21, 2007, CITA published final procedures it would follow in considering requests to modify the Annex 3.25 list (72 FR 13256).

On October 29, 2007, the Chairman of CITA received a commercial availability request from Alston & Bird, LLP, on behalf of Glen River Trading, for certain polyester/spandex woven moleskin fabric of the specifications detailed below. On October 31, 2007, CITA notified interested parties of, and posted on its website, the accepted petition and requested that interested entities provide, by November 13, 2007, a response advising of its objection to the commercial availability request or its ability to supply the subject product. CITA also explained that rebuttals to responses were due to CITA by November 19, 2007.

No interested entity filed a response advising of its objection to the request or its ability to supply the subject product.

In accordance with Section 203(o)(4)(C) of the CAFTA-DR Act, and its procedures, as no interested entity submitted a response objecting to the request or expressing an ability to supply the subject product, CITA has determined to add the specified fabrics to the list in Annex 3.25 of the CAFTA-DR Agreement.

The subject fabrics are added to the list in Annex 3.25 of the CAFTA-DR Agreement in unrestricted quantities. A revised list has been published on-line.

Woven fabric specifications:

HTS Subheading(s):
5407.92.2050
5407.92.2090
5407.93.2050
5407.93.2090
5407.94.2050
5407.94.2090
5512.19.0005
5512.19.0045
5512.19.0090
5515.12.0040
5515.12.0090

Specifications:

Fiber content:	96 to 99 percent polyester with 1 to 4 percent spandex
Yarn:	**Warp:** singles polyester filament of various yarn sizes **Filling:** singles polyester filament of various yarn sizes combined with spandex filament of various deniers
Thread count:	55 to 71 warp ends by 23 to 37 filling picks per centimeter
Weave type:	Various (including satin or twill)
Weight:	210 to 275 grams per square meter
Width:	109 to 152 centimeters
Finish:	Jet dyed or printed

R. Matthew Priest,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. E7–23408 Filed 11–30–07; 8:45 am]

BILLING CODE 3510–DS

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities: Notice of Intent To Renew Collection 3038–0026, Gross Collection of Exchange-Set Margins for Omnibus Accounts

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission (CFTC) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.,* Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on requirements relating to gross collection of Exchange-Set margins for Omnibus Accounts.

DATES: Comments must be submitted on or before February 1, 2008.

ADDRESSES: Comments may be mailed to Barbara S. Gold, Associate Director, Division of Clearing and Intermediary Oversight, U.S. Commodity Futures Trading Commission, 1155 21st Street, NW., Washington, DC 20581.

FOR FURTHER INFORMATION CONTACT: Barbara S. Gold, (202) 418–5430; Fax: (202) 418–5528; e-mail: *bgold@cftc.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the CFTC is publishing notice of the proposed collection of information listed below.

With respect to the following collection of information, the CFTC invites comments on:

- Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;
- The accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Ways to enhance the quality, usefulness, and clarity of the information to be collected; and
- Ways to minimize the burden of collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology; *e.g.,* permitting electronic submission of responses.

Gross Collection of Exchange-Set Margins for Omnibus Accounts, OMB Control Number 3038–0026—Extension

Commission Regulation 1.58 requires that FCMs margin omnibus accounts on a gross, rather than a net, basis. The regulation provides that the carrying FCM need not collect margin for positions traded by a person through an omnibus account in excess of the amount that would be required if the same person, instead of trading through an omnibus account, maintained its own account with the carrying FCM.

The Commission estimates the burden of this collection of information as follows:

ESTIMATED ANNUAL REPORTING BURDEN

17 CFR section	Annual number of respondents	Frequency of response	Total annual responses	Hours per response	Total hours
17 CFR 1.58	150	On occasion	600	.08	48

There are no capital costs or operating and maintenance costs associated with this collection.

This estimate is based on the number of written records maintained in the last three years. Although the burden varies, such records may involve analytical work and analysis, as well as multiple levels of review.

Dated: November 27, 2007.

David A. Stawick,

Secretary of the Commission.

[FR Doc. E7–23279 Filed 11–30–07; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0113]

Federal Acquisition Regulation; Information Collection; Acquisition of Helium

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for comments regarding an extension to an existing OMB clearance (9000–0113).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning acquisition of helium. The clearance currently expires on February 29, 2008.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate

technological collection techniques or other forms of information technology.

DATES: Submit comments on or before February 1, 2008.

ADDRESSES: Submit comments regarding this burden or any other aspect of this collection of information, including suggestions for reducing this burden to the General Services Administration, FAR Secretariat (VIR), 1800 F Street, NW, Room 4035, Washington, DC 20405. Please cite OMB Control No. 9000–0113, Acquisition of Helium, in all correspondence.

FOR FURTHER INFORMATION CONTACT Mr. William Clark, Contract Policy Division, GSA (202) 219–1813.

SUPPLEMENTARY INFORMATION:

A. Purpose

The Helium Act (Pub. L. 86–777) (50 U.S.C. 167, *et seq.*) and the Department of the Interior's regulations (43 CFR part 3195) on purchase of helium are implemented in the FAR at Subpart 8.5.

The FAR requires contractors to purchase major helium requirements from Federal helium suppliers, to the extent that supplies are available. In addition, the Contractor is required to provide the Contracting Officer the following data within 10 days after the Contractor or subcontractor receives a delivery of helium from a Federal helium supplier: (1) The name of the supplier; (2) The amount of helium purchased; (3) The delivery date(s); and (4) The location where the helium was used. The information is used in administration of certain Federal contracts to ensure contractor compliance with contract clauses. The contracting officer must forward the information to the Department of Interior's Bureau of Land Management (BLM) within 45 days of the close of each fiscal quarter. The quarterly reports will help BLM verify refined helium sales made to Federal agencies by Federal helium suppliers. Without the information, the required use of Federal helium suppliers cannot be monitored and enforced effectively.

B. Annual Reporting Burden

Respondents: 26.
Responses Per Respondent: 1.
Total Responses: 26.
Hours Per Response: 1.
Total Burden Hours: 26.
Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, FAR Secretariat (VIR), Room 4035, 1800 F Street, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0113, Acquisition of Helium, in all correspondence.

Dated: November 16, 2007.

Al Matera,

Director, Office of Acquisition Policy.

[FR Doc. 07–5917 Filed 11–30–07; 8:45 am]

BILLING CODE 6820–EP–S

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000-0155]

Information Collection; Prohibition on Acquisition of Products Produced by Forced or Indentured Child Labor

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement regarding prohibition on acquisition of products produced by forced or indentured child labor. The clearance currently expires on January 31, 2008.

DATES: Submit comments on or before: February 1, 2008.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to the Regulatory Secretariat (VIR), General Services Administration, Room 4035, 1800 F Street, NW., Washington, DC 20405. Please cite OMB Control No. 9000–0155, Prohibition on Acquisition of Products Produced by Forced or Indentured Child Labor, in all correspondence.

FOR FURTHER INFORMATION CONTACT Mr. Ernest Woodson, Contract Policy Division, GSA (202) 501–3775.

SUPPLEMENTARY INFORMATION:

A. Purpose

This information collection complies with Executive Order 13126, Prohibition on Acquisition of Products Produced by Forced or Indentured Child Labor, signed by the President on June 12, 1999. Executive Order 13126 requires that this prohibition be enforced within the federal acquisition system by means of: (1) A provision that requires the contractor to certify to the contracting officer that the contractor or, in the case of an incorporated contractor, a responsible official of the contractor has made a good faith effort to determine whether forced or indentured child labor was used to mine, produce, or manufacture any product furnished under the contract and that, on the basis of those efforts, the contractor is unaware of any such use of child labor; and (2) A provision that obligates the contractor to cooperate fully in providing reasonable access to the contractor's records, documents, persons, or premises if reasonably requested by authorized officials of the contracting agency, the Department of the Treasury, or the Department of Justice, for the purpose of determining whether forced or indentured child labor was used to mine, produce, or manufacture any product furnished under the contract.

The information collection requirements of the Executive Order are evidenced via the certification requirements delineated at FAR 22.1505, 52.212–3, 52.222–18, and 52.222–19.

To eliminate some of the administrative burden on offerors who must submit the same information to various contracting offices, the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) decided to amend the Federal Acquisition Regulation (FAR) to require offerors to submit representations and certifications electronically via the Business Partner Network (BPN), unless certain exceptions apply. Online Representations and Certifications Application (ORCA) is the specific application on the BPN to replace the paper based Representations and Certifications (Reps and Certs) process. The change to the FAR is being accomplished by FAR Case 2002—024. The clearance associated with this case referenced this OMB Control No. 9000–0155 and reduced the hours of burden by 35%—attributable to mandated use of ORCA. This reduction is already reflected in the figures below.

B. Annual Reporting Burden

Respondents: 500.
Responses Per Respondent: 1.
Hours Per Response: 0.325.
Total Burden Hours: 162.
OBTAINING COPIES OF PROPOSALS: Requesters may obtain a copy of the information collection

documents from the General Services Administration, Regulatory Secretariat (VIR), 1800 F Street, NW, Room 4035, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0155, Prohibition on Acquisition of Products Produced by Forced or Indentured Child Labor, in all correspondence.

Dated: November 21, 2007.

Al Matera,

Director, Office of Acquisition Policy.

[FR Doc. 07–5918 Filed 11–30–07; 8:45 am]

BILLING CODE 6820–EP–S

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

Missile Defense Advisory Committee

AGENCY: Department of Defense; Missile Defense Agency (MDA).

ACTION: Notice of Closed Meeting.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended) and the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended) and 41 CFR 102–3.150, the Department of Defense announces that the following Federal advisory committee meeting will take place.

Name of Committee: Missile Defense Advisory Committee.

Dates of Meeting: Wednesday, December 19 and Thursday, December 20, 2007.

Time: 8 a.m. to 5 p.m. Security clearance and visit requests are required for access.

Location: 7100 Defense Pentagon, Washington, DC 20301–7100.

Purpose of the Meeting: At this meeting, the Committee will receive classified briefings by Missile Defense Agency senior staff, Program Managers, senior Department of Defense leaders, representatives from industry and the Services on the appropriate role for the Missile Defense Agency in Cruise Missile Defense.

Agenda: Topics tentatively scheduled for discussion include, but are not limited to administrative work; responsibilities for Cruise Missile Defense development; current Missile Defense Agency Cruise Missile Defense capabilities and responsibilities; review of governing directives; and Cruise Missile Defense capabilities development programs for the Services.

Meeting Accessibility: Pursuant to 5 U.S.C. 552b, as amended, and 41 CFR 102–3.155 the Missile Defense Agency has determined that the meeting shall be closed to the public. The Director, Missile Defense Agency, in consultation with the Missile Defense Agency Office of General Counsel, has determined in writing that the public interest requires that all sessions of the committee's meeting will be closed to the public because they will be concerned with classified information and matters covered by section 5 U.S.C. 552b(c)(1).

Committee's Designated Federal Officer: Mr. Al Bready, *mdac@mda.mil,* phone/voice mail 703–695–6438, or mail at 7100 Defense Pentagon, Washington, DC 20301–7100.

SUPPLEMENTARY INFORMATION: Pursuant to 41 CFR 102–3.105(j) and 102–3.140, and section 10(a)(3) of the Federal Advisory Committee Act of 1972, the public or interested organizations may submit written statements to the membership of the Missile Defense Advisory Committee about its mission and functions. Written statements may be submitted at any time or in response to the stated agenda of a planned meeting of the Missile Defense Advisory Committee.

All written statements shall be submitted to the Designated Federal Officer for the Missile Defense Advisory Committee, in the following formats: one hard copy with original signature and one electronic copy via e-mail (*acceptable file formats:* Adobe Acrobat PDF, MS Word or MS PowerPoint), and this individual will ensure that the written statements are provided to the membership for their consideration. Contact information for the Designated Federal Officer is as stated above and can also be obtained from the GSA's Federal Advisory Committee Act Database—*https://www.fido.gov/facadatabase/public.asp.*

Statements being submitted in response to the agenda mentioned in this notice must be received by the Designated Federal Officer at the address listed at least five calendar days prior to the meeting which is the subject of this notice. Written statements received after this date may not be provided to or considered by the Missile Defense Advisory Committee until its next meeting. The Designated Federal Officer will review all timely submissions with the Missile Defense Advisory Committee Chairperson and ensure they are provided to all members of the Missile Defense Advisory Committee before the meeting that is the subject of this notice.

FOR FURTHER INFORMATION CONTACT: Mr. Al Bready, Designated Federal Officer at *mdac@mda.mil*, phone/voice mail 703–695–6438, or mail at 7100 Defense Pentagon, Washington, DC 20301–7100.

Dated: November 27, 2007.

L.M. Bynum,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. E7–23333 Filed 11–30–07; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

Availability of Non-Exclusive, Exclusive License or Partially Exclusive Licensing of U.S. Patent Concerning Polymerization of Aromatic Monomers Using Derivatives of Hematin

AGENCY: Department of the Army, DoD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6, announcement is made of the availability for licensing of U.S. Patent No. U.S. 7,294,686 entitled ''Polymerization of Aromatic Monomers Using Derivatives of Hematin'' issued November 13, 2007. This patent has been assigned to the United States Government as represented by the Secretary of the Army.

FOR FURTHER INFORMATION CONTACT: Mr. Jeffrey DiTullio at U.S. Army Soldier Systems Center, Kansas Street, Natick, MA 01760, Phone; (508) 233–4184 or E-mail: *Jeffrey.Ditullio@natick.army.mil.*

SUPPLEMENTARY INFORMATION: Any licenses granted shall comply with 35 U.S.C. 209 and 37 CFR part 404.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. E7–23368 Filed 11–30–07; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF DEFENSE

Department of the Army

Mandatory Provision of Full Replacement Value Coverage by Department of Defense Personal Property Transportation Service Providers (TSPs)/Contractors

AGENCY: Department of the Army, DOD.

ACTION: Notice.

SUMMARY: This cancels the notice previously published in the **Federal Register** on December 15, 2006 (71 FR 75509). Pursuant to Chapter 157, § 2636a of Title 10 United States Code enacted by Congress on November 26, 2003, as amended by the Department of Defense Authorizations Act for FY 2007, the Military Surface Deployment and Distribution Command (SDDC), as the

Traffic Manager for Department of Defense (DOD) Personal Property Program, is informing the Transportation Service Provider (TSP)/contractor community of the mandatory requirement to provide Full Replacement Value (FRV) coverage to all customers of the DOD Personal Property Program. The cost of FRV shall be included in contracts with movers and FRV shall be made available to Service members and civilian employees.

All shipments that have been picked up or are already in storage prior to the effective dates noted below will not be required to be covered by FRV. This notice updates the implementation timeline for providing FRV for loss/damage protection.

Current Program Implementation: The cost for FRV coverage shall be included in all rates for the International Household Goods (iHHG) program, the Unaccompanied Baggage (UB) program, the Domestic Household Goods (dHHG) program, Intra-Theater Tender (ITT) program, Non-Temporary Storage (NTS) program, and the Direct Procurement Method (DPM) program according to the following schedule:

The international household goods (iHHG) program and unaccompanied baggage (UB), shall have FRV coverage for all shipments picked up on or after October 1, 2007.

For the domestic household goods (dHHG) program, all shipments picked up on or after November 1, 2007, shall have FRV coverage.

For the Intra-Theater Tender (ITT) program all rates effective on or after March 1, 2008 shall include FRV coverage. The current rate cycle will expire February 29, 2008, with the next rate cycle beginning on March 1, 2008 and shall be inclusive of FRV coverage.

For the Non-Temporary Storage (NTS) program, shipments ordered with a date on or after March 1, 2008 shall include FRV coverage. New rates that include the cost of providing FRV must be postmarked between December 16, 2007 and January 15, 2008.

All DPM contracts will be modified to require the provision of FRV by March 1, 2008. (See Traffic Management Advisory released by USTRANSCOM, September 13, 2007).

SUPPLEMENTARY INFORMATION: FRV coverage shall be provided at the following limits: If a claim is filed directly with the TSP/contractor within nine (9) months of delivery, then the TSP's/contractor's maximum liability on each HHG and UB shipment will be the greater of: (1) $5,000 per shipment; or (2) $4 times either the net weight of the HHG or $4 times the gross weight of the UB, in pounds, not to exceed $50,000. Certificate of Cargo Liability Insurance/Certificate of Warehousemen's Liability Insurance must also reflect the new FRV limits. The TSP/contractor must report settled claims information to SDDC within seven calendar days of claims settled.

Implementing guidelines and procedures covering liability for loss/damage along with the claims process can be found on SDDC's Web site: *http://www.sddc.army.mil, Full Replacement Value).*

Background: Chapter 157, Title 10 U.S. Code § 2636a, also known as The Full Replacement Value Act of 2003, was passed on November 26, 2003. This law amended (in part) Chapter 157 of Title 10 by inserting after section 2636 a new section § 2636a entitled, ''Loss or damage to personal property transported at Government expense: Full replacement value; deduction from amounts due TSPs.'' This law allows the Secretary of Defense to include a clause for full replacement value in contracts with TSPs. It also allows a deduction of the FRV from the amount due to a carrier if the carrier fails to settle.

The FRV Act allowed for immediate inclusion of FRV into the Personal Property Program, but SDDC decided to delay FRV to coincide with the roll-out of the reengineered future Personal Property Program known as Families First. Current uncertainty surrounding the actual roll-out date of Families First and the Defense Personal Property System (DPS) has caused Congress and SDDC to decide to implement FRV into the current Personal Property Program.

In June 2006 the Senate Arms Services Committee published the following recommendation:

''Subtitle C—Travel and Transportation Allowances.

''Expansion of payment of replacement value of personal property damaged during transport at Government expense (sec. 631).

''The committee recommends a provision that would amend Section 2636a of Title 10, United States Code, to require the Secretary of Defense, no later than March 1, 2008, to include in contracts for the transportation of baggage and household effects for military members and civilian employees a clause requiring the carrier to pay the full replacement value for loss or damage. The provision would also require certain certifications by the Secretary about, and a review and assessment by the General Accountability Office on December 1, 2006, and June 1, 2007, of the 'Families First' program.

''The committee believes that the time is past due for implementing the contractual authority requested by the Department in 2003 and included in section 634 of the National Defense Authorization Act for Fiscal Year 2004 (Pub. L. 108–136). Military personnel and their families have waited long enough for realization of the Families First promise of full replacement value for household goods lost and damaged by movers in connection with permanent changes of station.

''The committee has concluded that implementation of the full replacement standard for both military members and civilian employees by means of contractual changes with TSPs must precede implementation of the Defense Personal Property System (DPS) under the Families First program.''

Regulation Flexibility Act

This action is not considered rule making 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 record keeping requirements are imposed on contractors, offerors or members of the public.

Daniel J. Bradley,

Lt. Col, USAF, DCS, Passenger and Personal Property.

[FR Doc. E7–23382 Filed 11–30–07; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF ENERGY

Request for Information (DE–PS36–08GO38002) and Notice of Pre-Solicitation Workshop for a Planned Fuel Cell Funding Opportunity Announcement (DE–PS36–08GO98009)

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy (DOE).

ACTION: Notice of Pre-Solicitation Workshop for Financial Assistance Funding Opportunity Announcement (FOA) and Request for Information (RFI).

SUMMARY: In preparation for a planned Funding Opportunity Announcement (FOA), DOE's Office of Hydrogen, Fuel Cells and Infrastructure Technologies (HFCIT) is requesting information regarding potential topic areas for research, development, and demonstration that will improve fuel cell technology. This information is requested through an RFI (DE–PS36–

08GO38002) and can be found at *http://e-center.doe.gov*. Comments in response to the RFI should be e-mailed to *H2fuelcells@go.doe.gov* by no later than 11:59 p.m. EDT on December 21, 2007.

In addition, DOE will lead a Pre-Solicitation Workshop planned for January 23–24, 2008, in Golden, CO. Interested parties are asked to RSVP for the Pre-Solicitation Workshop in Golden, CO, in advance if possible (last minute attendance is still welcome). Please RSVP to *H2fuelcells@go.doe.gov* by December 21, 2007. Information regarding the workshop details and logistics will be updated on the DOE HFCIT Program Web site, *http://www.eere.energy.gov/hydrogenandfuelcells*.

DATES: Written comments are sought through the RFI. These must be submitted via e-mail at the address noted above and must be received no later than 11:59 PM EDT on December 21, 2007. The Pre-Solicitation Workshop is to be held January 23–24, 2008.

ADDRESSES: The Pre-Solicitation Workshop is planned to be held in Building 7 in the Denver West Office Park at 1626 Cole Boulevard, Golden, CO 80401. Check the DOE HFCIT Program Web site noted above for updates.

FOR FURTHER INFORMATION CONTACT: David Peterson, Project Officer, via e-mail at *H2fuelcells@go.doe.gov*. Further information on DOE's HFCIT Program can be found at *http://www1.eere.energy.gov/hydrogenandfuelcells*.

SUPPLEMENTARY INFORMATION: Proceedings from the Pre-Solicitation Workshop will be posted at *http://www1.eere.energy.gov/hydrogenandfuelcells*. DOE intends to release a planned FOA in the future, with awards to be announced in FY2009, subject to Congressional appropriations.

Issued in Golden, CO, on November 20, 2007.

Mary Foreman,

Procurement Director, DOE Golden Field Office.

[FR Doc. E7–23358 Filed 11–30–07; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Senior Executive Service; Performance Review Board

AGENCY: U.S. Department of Energy.

ACTION: SES Performance Review Board Standing Register.

SUMMARY: This notice provides the Performance Review Board Standing Register for the Department of Energy. This listing supersedes all previously published lists of PRB members.

EFFECTIVE DATE: These appointments are effective as of September 30, 2007.

ABBOTT III, WALTER D
ADAMS, VINCENT NMN
ALLEVA, JOHN A
ALLISON, JEFFREY M
ANDERSON, CYNTHIA V
ANDERSON, MARGOT H
ANGULO, VERONICA A
AOKI, STEVEN NMN
ARKIN, RICHARD W
ARMSTRONG, DAVID J
ASCANIO, XAVIER NMN
AVERY, NAPOLEON S
BACA, FRANK A
BACA, MARK C
BAKER, KENNETH E
BARKER JR, WILLIAM L
BASHISTA, JOHN R
BAUER, CARL O
BEAMON, JOSEPH A
BEARD, SUSAN F
BEAUDRY-LOSIQUE, JACQUES A
BEBEN, CAMILLE NMN
BECK, ANDREW C
BELMAR, WARREN NMN
BESERRA, FRANK J
BIENIAWSKI, ANDREW J
BISCONTI, GIULIA R
BLACK, RICHARD L
BLACK, STEVEN K
BLACKWOOD, EDWARD B
BOARDMAN, KAREN L
BONILLA, SARAH J
BORGSTROM, CAROL M
BORGSTROM, HOWARD G
BOSCO, PAUL NMN
BOYD, DAVID O
BOYD, GERALD G
BOYKO, THOMAS R
BRESE, ROBERT F
BROCKMAN, DAVID A
BROMBERG, KENNETH M
BRONSTEIN, ELI B
BROWN III, ROBERT J
BURNS, ALLEN L
BURROWS, CHARLES W
BUTTRESS, LARRY D
CADIEUX, GENA E
CALLAHAN, SAMUEL N
CAMPBELL II, HUGH T
CAMPBELL, DAVID A
CAMPBELL, JAMES THOMAS
CAMPIONE, CHRISTOPHER J
CARABETTA, RALPH A
CARDINALI, HENRY A
CARLSON, JOHN T
CARY, STEVEN V
CAVANAGH, JAMES J
CERVENY, THELMA J
CHACEY, KENNETH A
CHALK, STEVEN G
CHAVEZ-WILCYNSKI, JAN M
CHECK, PETER L
CHUNG, DAE Y
CISNEROS, ADRIENNE L
CLAPPER, DANIEL R
CLARK, DIANA D
CLARK, LARRY W
COHEN, DANIEL NMN
COLLARD, GEORGE W
COLLAZO, YVETTE T
CONTI, JOHN J
COOK, JOHN S
COOKE JR, KEVIN R
COREY, RAY J
COSTLOW, BRIAN D
COURTS, ALAN L
CRAIG JR, JACK R
CRANDALL, DAVID H
CRAWFORD, DAVID W
CRAWFORD, GLEN D
CUEVAS, STEVEN J
CUGINI, ANTHONY V
DAUB, VERNON NMN
DAVIS, KIMBERLY A
DEDIK, PATRICIA NMN
DEENEY, CHRISTOPHER NMN
DEHMER, PATRICIA M
DEHORATIIS JR, GUIDO NMN
DEIHL, MICHAEL A
DELWICHE, GREGORY K
DEMKO, JOSEPH C
DER, VICTOR K
DESMOND, WILLIAM J
DIAMOND, BRUCE M
DICAPUA, MARCO S
DICKERSON, PAUL H
DIFIGLIO, CARMEN NMN
DYER, J RUSSELL
ECKROADE, WILLIAM A
EDGERTON, PATRICK D
EGGER, MARY H
EHLI, CATHY L
EKIMOFF, LANA NMN
ELWOOD, JERRY W
ELY, LOWELL V
ERICKSON, LEIF NMN
EULE, STEPHEN D
FAUL, JERRY W
FERRARO, PATRICK M
FIORE, JAMES J
FISCHETTI, MICHAEL P
FOLEY, KATHLEEN Y
FRANCO JR, JOSE R
FRANKLIN, RITA R
FRANTZ, DAVID G
FREDRIKSEN, KATHARINE A
FREI, MARK W
FRESCO, MARY ANN E
FURRER, ROBIN R
FURSTENAU, RAYMOND V
FYGI, ERIC J
GARCIA, DONALD J
GASPEROW, LESLEY A
GEISER, DAVID W
GELLES, CHRISTINE M
GENDRON, MARK O
GERRARD, JOHN E
GIBSON JR, WILLIAM C
GILBERTSON, MARK A
GIST, WALTER J

GLENN, DANIEL E
GOLAN, PAUL M
GOLDSMITH, ROBERT NMN
GOLUB, SAL JOSEPH
GOODRUM, WILLIAM S
GORDON, THEANNE E
GOTTLIEB, PAUL A
GRAYSON, ANTHONY S
GREENBERG, RAYMOND F
GREENWOOD, JOHNNIE D
GRESHAM, LARRY M
GROSE, AMY E
GRUENSPECHT, HOWARD K
GUEVARA, ARNOLD E
GUEVARA, KAREN C
GUITH, CHRISTOPHER J
HANNIGAN, JAMES J
HARDING, TODD K
HARDWICK JR, RAYMOND J
HARRELL, JEFFREY P
HARRINGTON, PAUL G
HARRIS, ROBERT J
HARTMAN, JOHN R
HARVEY, TOBIN K
HASS, RICKEY R
HAYWARD, MARY ALICE
HEGBURG, ALAN S
HENNEBERGER, KAREN O
HENNEBERGER, MARK W
HENRY, EUGENE A
HERRERA, C ROBERT D
HICKOK, STEVEN G
HODSON, PATRICIA J
HOFFMAN, DENNIS J
HOFFMAN, PATRICIA A
HOLLAND, MICHAEL D
HOLLOWELL, BETTY L N
HOLLRITH, JAMES W
HUDSON, JODY L
HUFFER, WARREN L
HUIZENGA, DAVID G
HUNTEMAN, WILLIAM J
HUTTO III, F CHASE
HYNDMAN, JOHN E
INGOLS, ADAM B
IZELL, KATHY D
JENKINS, ROBERT G
JOHNSON, ROBERT SHANE
JOHNSON, SANDRA L
JOHNSTON, MARC NMN
JONAS, DAVID S
JONES, GREGORY A
JONES, MARCUS E
JORDAN, ROBERT R
JORDAN, ROSALIE M
JUAREZ, LIOVA D
KAEMPF, DOUGLAS E
KANE, MICHAEL C
KAUFFMAN, STORM R
KEARNEY, JAMES H
KENDELL, JAMES M
KESELBURG, JAMES D
KHAN, TARIQ M
KIGHT, GENE H
KILPATRICK, MICHAEL A
KILROY, EDWARD F
KIRKENDALL, NANCY J
KLAUSING, KATHLEEN A
KLING, JON NMN
KNOLL, WILLIAM S
KNOX, ERIC K
KOLB, INGRID A C
KONOPNICKI, THAD T
KOPPLE, SCOTT A
KOURY, JOHN F
KOUTS, CHRISTOPHER A
KOVAR, DENNIS G
KRAHN, STEVEN L
KROL, JOSEPH J
KUNG, HUIJOU HARRIET
KUPFER, JEFFREY F
KUSNEZOV, DIMITRI F
LAGDON JR, RICHARD H
LAMBERT, JAMES B
LANGE, ROBERT G
LANTHRUM, J GARY
LAWRENCE, ANDREW C
LAWRENCE, STEVEN J
LAY, WILLIAM G
LAZOR, JOHN D
LEATHLEY, KIMBERLY A
LEE, STEVEN NMN
LEHMAN, DANIEL R
LEMPKE, MICHAEL K
LERSTEN, CYNTHIA A
LEWIS III, CHARLES B
LEWIS JR, WILLIAM A
LEWIS, ROGER A
LINGAN, ROBERT M
LISOWSKI, PAUL W
LIVENGOOD, JOANNA M
LOWE, OWEN W
LOYD, RICHARD NMN
LUCZAK, JOANN H
LUTHA, RONALD J
LUTZE, NEILE MILLER
MACINTYRE, DOUGLAS M
MAGRUDER, SARAH K
MAHARAY, WILLIAM S
MALE, BARBARA D
MALOSH, GEORGE J
MARCINOWSKI III, FRANK NMN
MARLAY, ROBERT C
MARMOLEJOS, POLI A
MARTINEZ, ELOY DENNIS
MCCLOUD, FLOYD R
MCCONNELL, JAMES J
MCCORMICK, MATTHEW S
MCCRACKEN, STEPHEN H
MCGUIRE, PATRICK W
MCKEE, BARBARA N
MCKENZIE, JOHN M
MCRAE, JAMES BENNETT
MEACHAM, A AVON
MEEKS, TIMOTHY J
MELLINGTON, SUZANNE P
MEYER, CHARLES E
MILLER, CLARENCE L
MILLER, DEBORAH C
MILLER, WENDY L
MILLIKEN, JOANN NMN
MIOTLA, DENNIS M
MIZROCH, JOHN F
MONETTE, DEBORAH D
MONTANO, PEDRO A
MONTOYA, ANTHONY H
MOODY III, DAVID C
MOORE, JOHNNY O
MOORER, RICHARD F
MOREDOCK, J EUN
MORTENSON, VICTOR A
MUELLER, TROY J
MURPHIE, WILLIAM E
NAPLES, ELMER M
NEUHOFF, JON W
NEUMAYR, MARY BRIDGET C
NEWMAN, LARRY NMN
NICOLL, ERIC G
NOLAN, ELIZABETH A
NORMAN, JAY H
NORMAN, PAUL E
O'CONNOR, THOMAS J
OLENCZ, JOSEPH NMN
OLINGER, SHIRLEY J
OLIVER, LAWRENCE R
OLIVER, STEPHEN R
OLSON, DEAN G
OOSTERMAN, CARL H
OSHEIM, ELIZABETH L
OTT, MERRIE CHRISTINE
OVERTON, CHRISTOPHER G
OWEN, MICHAEL W
OWENDOFF, JAMES M
PARKS JR, WILLIAM P
PARNES, SANFORD J
PAVETTO, CARL S
PEASE, HARRISON G
PENRY, JUDITH M
PERRINE, PAMELA J
PETERSON, BRADLEY A
PIEPER, FREDRICK G
PIPER II, LLOYD L
PODONSKY, GLENN S
PON, JEFF T H
POWERS, KENNETH W
PROVENCHER, RICHARD B
PRZYBYLEK, CHARLES S
PURUCKER, ROXANNE E
PYKE JR, THOMAS N
RAMSEY, CLAY HARRISON
RHEAUME, CYNTHIA A
RHODERICK, JAY E
RICHARD, MICHAEL T
RICHARDS, AUNDRA M
RICHARDSON, HERBERT NMN
ROACH, RANDY A
RODGERS, DAVID E
RODGERS, STEPHEN J
ROHLFING, ERIC A
RUSSO, FRANK B
SALM, PHILIP E
SALMON, JEFFREY T
SCHEINMAN, ADAM M
SCHMITZ, THOMAS A
SCHNAPP, ROBERT M
SCHOENBAUER, MARTIN J
SCHWARTZ, DOUGLAS H
SCHWIER, JEAN F
SCOTT, BRUCE B
SCOTT, RANDAL S
SELLERS, ELIZABETH D
SHARPLEY, CHRISTOPHER R
SHEARER, C RUSSELL H
SHEELY, KENNETH B
SHEPPARD, CATHERINE M
SHERRY, THEODORE D
SHOPE, THOMAS D

SILVERSTEIN, BRIAN L
SIMON-GILLO, JEHANNE E
SIMONSON, STEVEN C
SIMPSON, EDWARD R
SINGER, MARVIN I
SITZER, SCOTT B
SKUBEL, STEPHEN C
SLUTZ, JAMES A
SMITH, BARRY ALAN
SMITH, KEVIN W
SMITH, THOMAS Z
SMITH-KEVERN, REBECCA F
SNIDER, LINDA J
SPADER, WILLIAM F
SPAMPINATO, FRANCIS C
SPEARS, TERREL J
STAFFIN, ROBIN NMN
STAKER, THOMAS R
STALLMAN, ROBERT M
STARK, RICHARD M
STARNES, ALBERT J
STATON, CARL P
STONE, BARBARA R
STONE, CHERYL M
STOUT, DANIEL P
STRAYER, MICHAEL R
STREIT, LISA D
SURASH, JOHN E
SWEETNAM, GLEN E
SWIFT III, JOHN E
SWIFT, JUSTIN R
SYKES, MERLE L
TALBOT JR, GERALD L
TAYLOR, STEVE C
TAYLOR, WILLIAM J
THOMPSON, MICHAEL A
THRESS JR, DONALD F
TORKOS, THOMAS M
TRAUTMAN, STEPHEN J
TRIAY, INES R
TUCKER, CRAIG A
TURI, JAMES A
TYNER, TERESA M
UNDERWOOD, WILLIAM R
VAGTS, KENNETH A
VALDEZ, WILLIAM J
VANZANDT, VICKIE A
VIOLA, MICHAEL V
WADDELL, JOSEPH F
WAGNER, M PATRICE
WAISLEY, SANDRA L
WALL, EDWARD JAMES
WALSH, ROBERT J
WARNICK, WALTER L
WEAKLEY, STEPHANIE F
WEEDALL, MICHAEL J
WEIS, MICHAEL J
WELLING, DAVID CRAIG
WELLS, RITA L
WESTON-DAWKES, ANDREW P
WHITAKER JR, MARK B
WHITE, DONALD G
WHITENTON, MARSHALL E
WHITNEY, JAMES M
WIEKER, THOMAS L
WILBANKS, LINDA R
WILBER, DEBORAH A
WILCHER, LARRY D
WILKEN, DANIEL H
WILKES, BRYAN K
WILLIAMS, ALICE C
WILLIAMS, MARK H
WILLIAMS, RHYS M
WILMOT, EDWIN L
WILSON JR, THOMAS NMN
WINCHELL JR, DONALD L
WORTHINGTON, JON C
WORTHINGTON, PATRICIA R
WRIGHT, STEPHEN J
WU, CHUAN-FU NMN
WUNDERLICH, ROBERT C
YUAN-SOO HOO, CAMILLE C
ZAMORSKI, MICHAEL J
ZEH, CHARLES M

Sarah J. Bonilla,

Director, Office of Human Capital Management.

[FR Doc. E7–23354 Filed 11–30–07; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Hydrogen and Fuel Cell Technical Advisory Committee (HTAC)

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: The Hydrogen and Fuel Cell Technical Advisory Committee (HTAC) was established under section 807 of the Energy Policy Act of 2005 (EPACT), Pub. L. No. 109–58; 119 Stat. 849. The Federal Advisory Committee Act, Pub. L. No. 92–463, 86 Stat. 770, requires that agencies publish notice of an advisory committee meeting in the **Federal Register**. To attend the meeting and/or to make oral statements during the public comment period, please e-mail *HTAC@nrel.gov* at least 5 business days before the meeting. Please indicate if you will be attending the meeting both days or a particular day, if you want to make an oral statement, and what organization you represent (if appropriate).

DATES: Tuesday, December 18, 2007, from 1 p.m.–6 p.m. and Wednesday, December 19, 2007, from 9 a.m.–3 p.m.

ADDRESSES: Crystal Gateway Marriott, 1700 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: *HTAC@nrel.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Meeting: To provide advice, information, and recommendations to the Secretary on the program authorized by Title VIII of EPACT.

Tentative Agenda (Subject to change; updates will be posted on *http://hydrogen.energy.gov* and copies of the final agenda will be available the date of the meeting). The following items will be covered on the agenda:

- Discussion of the December 18 Interagency Task Force meeting
- HTAC discussion of future Committee directions and focus areas
- Briefings on status and potential of hydrogen production from nuclear and coal (with carbon sequestration)
- Briefing on EPRI report on ''Electricity Generation Technology Options for a Carbon Constrained World''
- Briefing on liability issues related to hydrogen and fuel cell technologies and options for transitional insurance coverage
- Overview of government-wide research addressing climate change and carbon dioxide emissions
- Next Steps

Public Participation: In keeping with procedures, members of the public are welcome to observe the business of the meeting of HTAC and to make oral statements during the specified period for public comment. The public comment period will take place between 1:30 p.m. and 2:30 p.m. on December 19, 2007. To attend the meeting and/or to make oral statements regarding any of the items on the agenda, e-mail *HTAC@nrel.gov* at least 5 business days before the meeting. Please indicate if you will be attending the meeting on both days or a particular day, if you want to make an oral statement, and what organization you represent (if appropriate). Members of the public will be heard in the order in which they sign up for the Public Comment Period. Oral comments should be limited to two minutes in length. Reasonable provision will be made to include the scheduled oral statements on the agenda. The Chair of the Committee will make every effort to hear the views of all interested parties and to facilitate the orderly conduct of business. If you would like to file a written statement with the Committee, you may do so either by submitting a hard copy at the meeting or by submitting an electronic copy to *HTAC@nrel.gov*.

Minutes: The minutes of the meeting will be available for public review at *http://hydrogen.energy.gov*.

Issued at Washington, DC, on November 27, 2007.

Rachel Samuel,

Deputy Committee Management Officer.

[FR Doc. E7–23359 Filed 11–30–07; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

November 21, 2007.

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC08–14–000.
Applicants: Delta Person Limited Partnership.
Description: Delta Person Limited Partnership submits an application for authorization for disposition of jurisdictional facilities and request for expedited action under EC08–14.
Filed Date: 11/15/2007.
Accession Number: 20071119–0021.
Comment Date: 5 p.m. Eastern Time on Thursday, December 06, 2007.

Docket Numbers: EC08–16–000.
Applicants: Camp Grove Wind Farm LLC; Camp Grove Holding Company LLC; General Electric Capital Corporation; Aircraft Services Corporation.
Description: Application of Camp Grove Wind Farm, LLC *et al.* for authorization for the sale and transfer of certain membership interests in Camp Grove Holding and on 11/19/07, submit an errata to this filing.
Filed Date: 11/16/2007; 11/19/07.
Accession Number: 20071120–0127.
Comment Date: 5 p.m. Eastern Time on Friday, December 07, 2007.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER03–421–014.
Applicants: PPL Wallingford Energy LLC.
Description: Refund Report of PPL Wallingford Energy LLC and PPL EnergyPlus, LLC.
Filed Date: 11/16/2007.
Accession Number: 20071116–5081.
Comment Date: 5 p.m. Eastern Time on Friday, December 07, 2007.

Docket Numbers: ER06–1218–006.
Applicants: PJM Interconnection, LLC.
Description: PJM Interconnection LLC submits revisions to the Amended and Restated Operating Agreement of PJM Interconnection LLC and its OATT to prevent the allocation of transmission rights uplift charges etc.
Filed Date: 11/16/2007.
Accession Number: 20071120–0116.
Comment Date: 5 p.m. Eastern Time on Friday, December 07, 2007.

Docket Numbers: ER07–1289–002.
Applicants: ISO New England Inc.
Description: ISO New England, Inc submits an informational report updating the Commission on changes being made to the Loss Component calculation for the Graham Pnode.
Filed Date: 11/14/2007.
Accession Number: 20071119–0016.
Comment Date: 5 p.m. Eastern Time on Wednesday, December 05, 2007.

Docket Numbers: ER07–1366–001.
Applicants: Central Maine Power Company.
Description: Central Maine Power Company refiles the entire Maine Satellite Agreement, as amended designated as First Revised Rate Schedule FERC 112 in compliance with FERC's order dated 10/18/07.
Filed Date: 11/19/2007.
Accession Number: 20071120–0111.
Comment Date: 5 p.m. Eastern Time on Monday, December 10, 2007.

Docket Numbers: ER08–38–002.
Applicants: Northern Renewable Energy (USA) Ltd.
Description: Northern Renewable Energy (USA) Ltd submits an additional supplement to their 10/10/07 application to provide a description of the relationship of Yuma Power's ultimate individual owners to the energy industry.
Filed Date: 11/16/2007.
Accession Number: 20071120–0105.
Comment Date: 5 p.m. Eastern Time on Friday, November 30, 2007.

Docket Numbers: ER08–74–001.
Applicants: North American Energy Credit and Clearing Corporation.
Description: North American Energy Credit and Clearing Corp submits enclosed for filing one original and six copies of the Filing of Supplemental Information and Substitute Tariff Sheets in the captioned case.
Filed Date: 11/19/2007.
Accession Number: 20071120–0107.
Comment Date: 5 p.m. Eastern Time on Monday, December 10, 2007.

Docket Numbers: ER08–190–001.
Applicants: ISO New England Inc.
Description: ISO New England, Inc submits an Errata to the Informational Filing for Qualification in the Forward Capacity Market filed on 11/6/07.
Filed Date: 11/14/2007.
Accession Number: 20071116–0041.
Comment Date: 5 p.m. Eastern Time on Thursday, November 29, 2007.

Docket Numbers: ER08–197–001.
Applicants: FPL Energy Oliver Wind II, LLC.
Description: FPL Energy Oliver Wind II, LLC submits an amendment to Substitute Original Sheets 1 through 3 to FERC Electric Tariff, Original Volume 1 which was filed on 11/8/07.
Filed Date: 11/16/2007.
Accession Number: 20071120–0112.
Comment Date: 5 p.m. Eastern Time on Friday, December 07, 2007.

Docket Numbers: ER08–198–001.
Applicants: Pacific Gas and Electric Company.
Description: Pacific Gas and Electric Company submits filing and acceptance an annual adjustment to transmission service rate under the Interconnection Agreement between PG&E and Sacramento Municipal Utility District designated as Second Revised PG&E rate etc.
Filed Date: 11/19/2007.
Accession Number: 20071120–0106.
Comment Date: 5 p.m. Eastern Time on Monday, December 10, 2007.

Docket Numbers: ER08–200–001.
Applicants: Waterbury Generation, LLC.
Description: Amendment to Application of Waterbury Generation, LLC for order accepting initial tariff, Waving Regulations, and Granting Blanket Approvals.
Filed Date: 11/19/2007.
Accession Number: 20071120–0108.
Comment Date: 5 p.m. Eastern Time on Monday, December 10, 2007.

Docket Numbers: ER08–225–000.
Applicants: Westar Energy, Inc.
Description: Kansas Gas and Electric Co and Westar Energy, Inc submits a notice of cancellation of an Electric Power Supply Agreement with the City of Blue Mound, Kansas.
Filed Date: 11/16/2007.
Accession Number: 20071119–0012.
Comment Date: 5 p.m. Eastern Time on Friday, December 07, 2007.

Docket Numbers: ER08–226–000.
Applicants: Westar Energy, Inc.
Description: Kansas Gas and Electric Co and Westar Energy, Inc submits a notice of cancellation of an Electric Power Supply Agreement with the City of Bronson, Kansas.
Filed Date: 11/16/2007.
Accession Number: 20071119–0013.
Comment Date: 5 p.m. Eastern Time on Friday, December 07, 2007.

Docket Numbers: ER08–227–000.
Applicants: Westar Energy, Inc.
Description: Kansas Gas and Electric Co and Westar Energy, Inc submits a notice of cancellation of an Electric Power Supply Agreement with the City of Savonburg, Kansas.
Filed Date: 11/16/2007.
Accession Number: 20071119–0014.
Comment Date: 5 p.m. Eastern Time on Friday, December 07, 2007.

Docket Numbers: ER08–228–000.
Applicants: ISO New England Inc.
Description: ISO New England Inc submits a five year budget and accompanying First Revised Sheet 8560 et al. from Section IV.A of the ISO's Transmission, Markets & Service Tariff for the purpose of recovering funding etc.

Filed Date: 11/16/2007.
Accession Number: 20071120–0115.
Comment Date: 5 p.m. Eastern Time on Friday, December 07, 2007.

Docket Numbers: ER08–231–000.
Applicants: Duke Energy Carolinas, LLC.
Description: Duke Energy Carolinas, LLC, submits a revised Network Integration Service Agreement for Network Integration Transmission Service btn Duke & EnergyUnited Electric Membership Corporation.
Filed Date: 11/19/2007.
Accession Number: 20071120–0109.
Comment Date: 5 p.m. Eastern Time on Monday, December 10, 2007.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES08–3–001.
Applicants: Kansas City Power & Light Company.
Description: Supplement to Section H of Section 204 Financing Application Filed by Kansas City Power & Light Company on October 22, 2007.
Filed Date: 11/15/2007.
Accession Number: 20071115–5004.
Comment Date: 5 p.m. Eastern Time on Thursday, November 29, 2007.

Take notice that the Commission received the following public utility holding company filings:

Docket Numbers: PH08–8–000.
Applicants: Vectren Corporation; Vectren Utility Holdings, Inc.
Description: FERC Form 65 B Waiver Notification of Vectren Corporation.
Filed Date: 11/16/2007.
Accession Number: 20071116–5065.
Comment Date: 5 p.m. Eastern Time on Friday, December 07, 2007.

Take notice that the Commission received the following electric reliability filings:

Docket Numbers: RR08–3–000.
Applicants: North American Electric Reliability Corporation.
Description: Request of the North American Electric Reliability Corp. to Amend the NERC Statement of Compliance Registry Criteria.
Filed Date: 11/13/2007.
Accession Number: 20071113–5098.
Comment Date: 5 p.m. Eastern Time on Tuesday, December 4, 2007.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC.

There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

[FR Doc. E7–23327 Filed 11–30–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings # 1

November 23, 2007.

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC08–15–000.
Applicants: Calpine Corporation and Its Public Utili; Harbinger Capital Partners Master Fund I; Harbinger Capital Partners Special Situa; SPO Partners II, L.P.; San Francisco Partners II, L.P.
Description: Calpine Corp and Harbinger Capital Partners Master Fund I, Ltd. et al. submits a joint application for approval of the proposed distribution of common stock of a reorganized Calpine to Acquirors.
Filed Date: 11/16/2007.
Accession Number: 20071120–0121.
Comment Date: 5 p.m. Eastern Time on Friday, December 7, 2007.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER00–3240–010; ER01–1633–007; ER03–1383–010; ER06–1191–002; ER96–780–019.
Applicants: Oleander Power Project, L.P.; Southern Company—Florida LLC; Desoto County Generating Co., LLC; DeSoto County Generating Company, LLC; Southern Company Services, Inc.
Description: Change in Status Filing and Order No. 697 Compliance Filing of Alabama Power Company, et al.
Filed Date: 11/21/2007.
Accession Number: 20071121–5105.
Comment Date: 5 p.m. Eastern Time on Wednesday, December 12, 2007.

Docket Numbers: ER04–268–006; ER06–398–003; ER06–399–003; ER98–4159–009.
Applicants: Duquesne Power, LLC; Duquesne Power, L.P.; Duquesne Keystone, LLC; Duquesne Conemaugh, LLC; Duquesne Power and Light Company.
Description: Notice of Change in Status and Compliance Filings of Duquesne Light Company, Duquesne Power, L.P., Duquesne Keystone LLC, and Duquesne Conemaugh LLC.
Filed Date: 11/21/2007.
Accession Number: 20071121–5131.
Comment Date: 5 p.m. Eastern Time on Wednesday, December 12, 2007.

Docket Numbers: ER05–231–007.
Applicants: PSEG Power Connecticut, LLC.
Description: Compliance filing of Connecticut Department of Public Utility Control et al.
Filed Date: 11/19/2007.
Accession Number: 20071121–0057.
Comment Date: 5 p.m. Eastern Time on Monday, December 10, 2007.

Docket Numbers: ER06–1218–006.
Applicants: PJM Interconnection, LLC.
Description: PJM Interconnection LLC submits revisions to the Amended & Restated Operating Agreement of PJM Interconnection LLC & its OATT to prevent the allocation of transmission rights uplift charges etc.
Filed Date: 11/16/2007.

Accession Number: 20071120–0116.
Comment Date: 5 p.m. Eastern Time on Friday, December 7, 2007.

Docket Numbers: ER07–478–006.
Applicants: Midwest Independent Transmission System Operator, Inc.
Description: Midwest Independent Transmission System Operator, Inc. submits proposed revisions to their Open Access Transmission & Energy Markets Tariff.
Filed Date: 11/19/2007.
Accession Number: 20071121–0044.
Comment Date: 5 p.m. Eastern Time on Monday, December 10, 2007.

Docket Numbers: ER07–1203–002.
Applicants: Duke Energy Carolinas, LLC.
Description: Duke Energy Carolinas LLC submits the corrections to its 11/8/07 supplemental information to Attachment B affect Attachment 3.
Filed Date: 11/21/2007.
Accession Number: 20071123–0013.
Comment Date: 5 p.m. Eastern Time on Thursday, November 29, 2007.

Docket Numbers: ER07–1337–001; ER07–1329–001.
Applicants: New York State Electric & Gas Corp.; New York Independent System Operator, Inc.
Description: New York Independent System Operator, Inc and New York State Electric & Gas Corp submit their joint response together with supporting materials to the deficiency letter issued on 10/18/07.
Filed Date: 11/19/2007.
Accession Number: 20071121–0042.
Comment Date: 5 p.m. Eastern Time on Monday, December 10, 2007.

Docket Numbers: ER08–229–000.
Applicants: PJM Interconnection, L.L.C.
Description: PJM Interconnection LLC submits amendments to Schedule 12–Appendix of the its tariff to include cost responsibility assignments for three baseline upgrades that will operate at or above 500 kV etc.
Filed Date: 11/16/2007.
Accession Number: 20071120–0114.
Comment Date: 5 p.m. Eastern Time on Friday, December 7, 2007.

Docket Numbers: ER08–230–000.
Applicants: New York Independent System Operator, Inc.
Description: New York Independent System Operator Corp et al. submit an executed Engineering, Procurement and Construction Agreement.
Filed Date: 11/16/2007.
Accession Number: 20071120–0113.
Comment Date: 5 p.m. Eastern Time on Friday, December 7, 2007.

Docket Numbers: ER08–232–000.
Applicants: PJM Interconnection, L.L.C.
Description: PJM Interconnection LLC submits revisions to the Reliability Pricing Model.
Filed Date: 11/19/2007.
Accession Number: 20071121–0053.
Comment Date: 5 p.m. Eastern Time on Monday, December 10, 2007.

Docket Numbers: ER08–233–000.
Applicants: CAM Energy Products, LP.
Description: CAM Energy Products, LP submits a Notice of Cancellation of its market-base rate authority.
Filed Date: 11/19/2007.
Accession Number: 20071121–0052.
Comment Date: 5 p.m. Eastern Time on Monday, December 10, 2007.

Docket Numbers: ER08–234–000.
Applicants: EWO Marketing, LP.
Description: EWO Marketing, LP submits three executed Service Agreements providing for cost-based, short-term power sales to Entergy Power, Inc.
Filed Date: 11/19/2007.
Accession Number: 20071121–0054.
Comment Date: 5 p.m. Eastern Time on Monday, December 10, 2007.

Docket Numbers: ER08–248–000.
Applicants: Westar Energy, Inc.
Description: Westar Energy, Inc submits a Notice of Cancellation of an Electric Power Supply Agreement the City of Elsmore, Kansas.
Filed Date: 11/21/2007.
Accession Number: 20071123–0012.
Comment Date: 5 p.m. Eastern Time on Wednesday, December 12, 2007.

Docket Numbers: ER08–249–000.
Applicants: Westar Energy, Inc.
Description: Westar Energy, Inc submits a Notice of Cancellation of an Electric Power Supply Agreement the City of Burlingame, Kansas.
Filed Date: 11/21/2007.
Accession Number: 20071123–0011.
Comment Date: 5 p.m. Eastern Time on Wednesday, December 12, 2007.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES07–58–001.
Applicants: Old Dominion Electric Cooperative, Inc.
Description: Exhibit B to Request for Permission to Issue Securities of Old Dominion Electric Cooperative.
Filed Date: 11/16/2007.
Accession Number: 20071115–5082.
Comment Date: 5 p.m. Eastern Time on Wednesday, November 28, 2007.

Take notice that the Commission received the following open access transmission tariff filings:

Docket Numbers: OA07–47–001.
Applicants: Tampa Electric Company.
Description: Tampa Electric Company submits Substitute Original Sheet 5 et al. to amend its 7/13/07 compliance filing.
Filed Date: 11/19/2007.
Accession Number: 20071121–0043.
Comment Date: 5 p.m. Eastern Time on Monday, December 10, 2007.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

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Nathaniel J. Davis, Sr.,
Deputy Secretary.

[FR Doc. E7–23328 Filed 11–30–07; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

November 27, 2007.

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC08–17–000.
Applicants: Thermo Cogeneration Partnership L.P.
Description: Thermo Cogeneration Partnership, LP et al., submits an application seeking to expedite all necessary authorizations for the indirect disposition of jurisdictional facilities that will result from the sale and transfer of shares, etc.
Filed Date: 11/20/2007.
Accession Number: 20071123–0114.
Comment Date: 5 p.m. Eastern Time on Tuesday, December 11, 2007.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER97–324–010; ER97–3834–016.
Applicants: Detroit Edison Company.
Description: The Detroit Edison Co., et al., submits revisions to its tariff to Removal of Section 9, Reporting Changes in Status, since the change in status reporting requirement has been incorporated into section 35.42, etc.
Filed Date: 11/19/2007.
Accession Number: 20071121–0028.
Comment Date: 5 p.m. Eastern Time on Monday, December 10, 2007.

Docket Numbers: ER07–1232–002.
Applicants: UniSource Energy Development Company.
Description: UniSource Energy Development Company submits Exhibit A Substitute Original Sheet 1 to FERC Gas Tariff, Original Volume 1 and a redlined version of the Revised Sheet, showing the changes made, etc.
Filed Date: 11/26/2007.
Accession Number: 20071127–0037.
Comment Date: 5 p.m. Eastern Time on Monday, December 17, 2007.

Docket Numbers: ER07–1071–001; ER07–1072–001.
Applicants: PJM Interconnection, LLC.
Description: PJM Interconnection LLC and Virginia Electric and Power Co., submits an amendment to its 6/22/07 filing, etc.
Filed Date: 11/19/2007.
Accession Number: 20071121–0055.
Comment Date: 5 p.m. Eastern Time on Monday, December 10, 2007.

Docket Numbers: ER07–1071–002; ER07–1072–002.
Applicants: PJM Interconnection, LLC.
Description: Response of Virginia Electric and Power Company to August 20, 2007 Deficiency Letter.
Filed Date: 11/19/2007.
Accession Number: 20071119–5103.
Comment Date: 5 p.m. Eastern Time on Monday, December 10, 2007.

Docket Numbers: ER08–23–001.
Applicants: Massie Power LLC.
Description: Massie Power LLC submits Substitute Original Sheet 1, et al., to FERC Electric Tariff, Original Volume 1.
Filed Date: 11/21/2007.
Accession Number: 20071123–0010.
Comment Date: 5 p.m. Eastern Time on Wednesday, December 12, 2007.

Docket Numbers: ER08–119–001.
Applicants: Florida Power & Light Company.
Description: Florida Power & Light Co., submits Substitute Original Sheet 6 of Rate Schedule 308 as an errata.
Filed Date: 11/20/2007.
Accession Number: 20071123–0007.
Comment Date: 5 p.m. Eastern Time on Tuesday, December 11, 2007.

Docket Numbers: ER08–193–001.
Applicants: Pacific Gas and Electric Company.
Description: Southern California Edison Company submits a Certificate of Concurrence for Pacific Gas and Electric Company on 11/6/07.
Filed Date: 11/23/2007.
Accession Number: 20071127–0036.
Comment Date: 5 p.m. Eastern Time on Friday, December 14, 2007.

Docket Numbers: ER08–242–000.
Applicants: Southwest Power Pool, Inc.
Description: Southwest Power Pool, Inc., submits revisions to its tariff to modify the Energy Imbalance Service Market.
Filed Date: 11/20/2007.
Accession Number: 20071123–0006.
Comment Date: 5 p.m. Eastern Time on Tuesday, December 11, 2007.

Docket Numbers: ER08–243–000.
Applicants: Southern Power Company.
Description: Southern Power Company requests authorization to make market-based rate wholesale power sales to its affiliate.
Filed Date: 11/20/2007.
Accession Number: 20071123–0015.
Comment Date: 5 p.m. Eastern Time on Tuesday, December 11, 2007.

Docket Numbers: ER08–244–000.
Applicants: PacifiCorp.
Description: PacifiCorp submits a Revised Network Integration Transmission Service Agreement with Bonneville Power Administration, *et al.*
Filed Date: 11/21/2007.
Accession Number: 20071123–0005.
Comment Date: 5 p.m. Eastern Time on Wednesday, December 12, 2007.

Docket Numbers: ER08–245–000.
Applicants: PacifiCorp.
Description: PacifiCorp submits an Network Integration Transmission Service Agreement with Bonneville Power Administration, etc.
Filed Date: 11/21/2007.
Accession Number: 20071123–0004.
Comment Date: 5 p.m. Eastern Time on Wednesday, December 12, 2007.

Docket Numbers: ER08–246–000.
Applicants: E.ON U.S., LLC.
Description: E.ON U.S., LLC et al., submits an unexecuted Network Integration Transmission Service Agreement.
Filed Date: 11/21/2007.
Accession Number: 20071123–0003.
Comment Date: 5 p.m. Eastern Time on Wednesday, December 12, 2007.

Docket Numbers: ER08–247–000.
Applicants: Wisconsin Public Service Corporation.
Description: Wisconsin Public Service Corp., submits the changes in depreciations rates for wholesale production service.
Filed Date: 11/20/2007.
Accession Number: 20071123–0008.
Comment Date: 5 p.m. Eastern Time on Tuesday, December 11, 2007.

Docket Numbers: ER08–250–000.
Applicants: Langdon Wind, LLC.
Description: Request for authorization to sell energy and capacity at market-based rates, and waiver of the 60-day notice requirement for Langdon Wind, LLC.
Filed Date: 11/21/2007.
Accession Number: 20071126–0218.
Comment Date: 5 p.m. Eastern Time on Wednesday, December 12, 2007.

Docket Numbers: ER08–251–000.
Applicants: PJM Interconnection, L.L.C.
Description: PJM Interconnection, LLC submits an executed interconnection service agreement with Industrial Power Generating Co., LLC *et al.*
Filed Date: 11/21/2007.
Accession Number: 20071126–0215.
Comment Date: 5 p.m. Eastern Time on Wednesday, December 12, 2007.

Docket Numbers: ER08–252–000.
Applicants: PJM Interconnection, L.L.C.
Description: PJM Interconnection, LLC submits an executed Wholesale Market Participation Agreement with PPL Shoreham Energy, LLC *et al.*
Filed Date: 11/23/2007.

Accession Number: 20071126–0214.
Comment Date: 5 p.m. Eastern Time on Friday, December 14, 2007.

Docket Numbers: ER08–255–000.
Applicants: Pacific Gas and Electric Company.
Description: Offer of Settlement and Stipulation and Appendices re PacifiCorp, Pacific Gas and Electric Co *et al.* under ER07–882 *et al.*
Filed Date: 11/21/2007.
Accession Number: 20071121–0123.
Comment Date: 5 p.m. Eastern Time on Friday, December 7, 2007.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES07–52–001.
Applicants: Northern Indiana Public Service Company.
Description: Northern Indiana Public Service Company submit a supplement to Exhibit 1 and on 11/27/07 submit an additional supplement.
Filed Date: 11/26/2007; 11/27/2007.
Accession Number: 20071126–5013; 20071127–5011.
Comment Date: 5 p.m. Eastern Time on Thursday, December 6, 2007.

Docket Numbers: ES07–57–001.
Applicants: Northeast Utilities Service Company.
Description: Supplemental Filing of Northeast Utilities Service Company.
Filed Date: 11/21/2007.
Accession Number: 20071121–5146.
Comment Date: 5 p.m. Eastern Time on Thursday, December 6, 2007.

Docket Numbers: ES07–63–001.
Applicants: ITC Midwest LLC.
Description: ITC Midwest LLC Submission of Exhibit B.
Filed Date: 10/04/2007.
Accession Number: 20071004–5037.
Comment Date: 5 p.m. Eastern Time on Thursday, November 29, 2007.

Docket Numbers: ES08–6–000.
Applicants: Southwestern Electric Power Company.
Description: Form 523—Request for Permission to Issue Securities of Southwestern Electric Power Company.
Filed Date: 11/26/2007.
Accession Number: 20071126–5059.
Comment Date: 5 p.m. Eastern Time on Monday, December 17, 2007.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. E7–23329 Filed 11–30–07; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8500–5]

Protection of Stratospheric Ozone: Request for Applications for Essential Use Allowances for 2009 and 2010

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is requesting applications for essential use allowances for calendar years 2009 and 2010. Essential use allowances provide exemptions from the production and import phaseout of ozone-depleting substances (ODSs) and must be authorized by the Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer (the Protocol). The U.S. Government will use the applications received in response to this notice as the basis for its nomination of essential uses at the Twentieth Meeting of the Parties to the Protocol, to be held in 2008.

DATES: Applications for essential use allowances must be submitted to EPA no later than January 2, 2008 in order for the U.S. Government to complete its review and to submit nominations to the United Nations Environment Programme and the Protocol Parties in a timely manner.

ADDRESSES: Send two copies of application materials to: Kirsten Cappel, Stratospheric Protection Division (6205J), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. For applications sent via courier service, use the following direct mailing address: 1310 L Street, NW., Washington, DC, 20005, room 1047C.

Confidentiality: Application materials that are confidential should be submitted under separate cover and be clearly identified as ''trade secret,'' ''proprietary,'' or ''company confidential.'' Information covered by a claim of business confidentiality will be treated in accordance with the procedures for handling information claimed as confidential under 40 CFR part 2, subpart B, and will be disclosed only to the extent and by means of the procedures set forth in that subpart. Please note that data will be presented in aggregate form by the United States as part of the nomination to the Parties. If no claim of confidentiality accompanies the information when it is received by EPA, the information may be made available to the public by EPA without further notice to the company (40 CFR 2.203).

FOR FURTHER INFORMATION CONTACT: Kirsten Cappel at the above address, or by telephone at (202) 343–9556, by fax at (202) 343–2363, or by e-mail at *cappel.kirsten@epa.gov*. General information may be obtained from EPA's stratospheric protection Web site at *http://www.epa.gov/ozone/strathome.html*.

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I. Background on the Essential Use Nomination Process

II. Information Required for Essential Use Applications for Production or Import of Class I Substances in 2009 and 2010

I. Background on the Essential Use Nomination Process

The Parties to the Protocol agreed during the Fourth Meeting in Copenhagen on November 23–25, 1992, that non-Article 5 Parties (developed countries) would phase out the production and consumption of halons by January 1, 1994, and the production and consumption of other class I substances (under 40 CFR part 82, subpart A), except methyl bromide, by January 1, 1996. The Parties also reached decisions and adopted resolutions on a variety of other matters, including the criteria to be used for allowing ''essential use'' exemptions from the phaseout of production and import of controlled substances. Decision IV/25 of the Fourth Meeting of the Parties details the specific criteria and review process for granting essential use exemptions.

Decision IV/25, paragraph 1(a), states that '' * * * a use of a controlled substance should qualify as 'essential' only if: (i) It is necessary for the health, safety or is critical for the functioning of society (encompassing cultural and intellectual aspects); and (ii) there are no available technically and economically feasible alternatives or substitutes that are acceptable from the standpoint of environment and health.'' In addition, the Parties agreed ''that production and consumption, if any, of a controlled substance, for essential uses should be permitted only if: (i) All economically feasible steps have been taken to minimize the essential use and any associated emission of the controlled substance; and (ii) the controlled substance is not available in sufficient quantity and quality from the existing stocks of banked or recycled controlled substances * * *.'' Decision XII/2 of the Twelfth Meeting of the Parties states that any CFC metered dose inhaler (MDI) product approved after December 31, 2000, is nonessential unless the product meets the criteria in Decision IV/25, paragraph 1(a).

The first step in obtaining essential use allowances is for the user to consider whether the use of the controlled substance meets the criteria of Decision IV/25. If the essential use request is for an MDI product, the user should also consider whether the product meets the criteria of Decision XII/2. In doing so, the user should consult recent and ongoing rulemakings by the Food and Drug Administration (FDA) concerning the essential use determination of various moieties for MDIs.

Users should send a completed application to EPA on the candidate use including information for U.S. Government agencies and the Parties to Protocol to evaluate the candidate use according to the criteria in the Decisions noted above.

Upon receipt of the essential use allowance application, EPA reviews the information provided and works with other interested Federal agencies to determine whether the use meets the essential use criteria and warrants being nominated by the United States for an exemption. In the case of multiple exemption requests for a single use, such as for MDIs, EPA aggregates exemption requests received from individual entities into a single U.S. request. An important part of the EPA review of requests for CFCs for MDIs is to determine that the aggregate request for a particular future year adequately reflects the total market need for CFC MDIs and expected availability of CFC substitutes by that point in time. If the sum of individual requests does not account for such factors, the U.S. Government may adjust the aggregate request to better reflect true market needs.

Nominations submitted by the United States and other Parties are forwarded from the United Nations Ozone Secretariat to the Montreal Protocol's Technical and Economic Assessment Panel (TEAP) and its Medical Technical Options Committee (MTOC), which review the submissions and make recommendations to the Parties for essential use exemptions. Those recommendations are then considered by the Parties at their annual meeting for final decision. If the Parties declare a specified use of a controlled substance as essential, and authorize an exemption from the Protocol's production and consumption phaseout, EPA may propose regulatory changes to reflect the decisions by the Parties, but only to the extent such action is consistent with the Clean Air Act. Applicants should be aware that essential use exemptions granted to the United States under the Protocol in recent years have been limited to CFCs for MDIs to treat asthma and chronic obstructive pulmonary disease.

The timing of the process described above is such that in any given year the Parties review nominations for essential use exemptions from the production and consumption phaseout intended for the following year and subsequent years. This means that, if nominated, applications submitted in response to today's notice for an exemption in 2009 and 2010 will be considered by the Parties in 2008 for final action. The quantities of controlled substances that are requested in response to this notice, if approved by the Parties to the Montreal Protocol, will then be allocated as essential use allowances to the specific U.S. companies through notice-and-comment rulemaking, to the extent consistent with the Clean Air Act.

II. Information Required for Essential Use Applications for Production or Import of Class I Substances in 2009 and 2010

Through this action, EPA requests applications for essential use exemptions for all class I substances, except methyl bromide, for calendar years 2009 and 2010. This notice is the last opportunity to submit new or revised applications for 2009. This notice is also the first opportunity to submit requests for 2010. Companies will have an opportunity in 2008 to submit new, supplemental, or amended applications for 2010. All requests for exemptions submitted to EPA must present information as requested in the current version of the TEAP *Handbook on Essential Use Nominations,* which was updated in 2005. The handbook is available electronically on the Web at *http://ozone.unep.org/teap/Reports/TEAP_Reports/EUN-Handbook2005.pdf*.

In brief, the TEAP Handbook states that applicants should present information on:

- Role of use in society;
- Alternatives to use;
- Steps to minimize use;
- Recycling and stockpiling;
- Quantity of controlled substances requested; and
- Approval date and indications (for MDIs).

First, in order to obtain complete information from essential use applicants for CFC MDIs, EPA requires entities that request CFCs for multiple companies to make clear the amount of CFCs requested for each company. Second, all essential use applications for CFCs must provide a breakdown of the quantity of CFCs necessary for each MDI product to be produced. This detailed breakdown will allow EPA and FDA to make informed decisions regarding the amount of CFC to be nominated by the U.S. Government for the years 2009 and 2010. Third, all new drug application (NDA) holders for CFC MDI products produced in the United States must submit a complete application for essential use allowances either on their own or in conjunction with their contract filler. In the case where a contract filler produces a

portion of an NDA holder's CFC MDIs, the contract filler and the NDA holder must determine the total amount of CFCs necessary to produce the NDA holder's entire product line of CFC MDIs. The NDA holder must provide an estimate of how the CFCs would be split between the contract filler and the NDA holder in the allocation year. This estimate will be used only as a basis for determining the nomination amount, and may be adjusted prior to allocation of essential use allowances. Since the U.S. Government does not forward incomplete or inadequate nominations to the Ozone Secretariat, it is important for applicants to provide all information requested in the Handbook, including comprehensive information pertaining to the research and development of alternative CFC MDI products per Decision VIII/10, para. 1 as specified in the Supplement to Nomination Request (pg. 46). In addition, consistent with Decision XIX/13 from the 19th Meeting of the Parties, for each MDI for which an essential use allowance is requested, applications should provide the following information to the U.S. Government: the company's commitment to the reformulation of the concerned products; the timetable in which each reformulation process may be completed; evidence that the company is diligently seeking approval of any CFC-free alternative(s) in its domestic and export markets and transitioning those markets away from its CFC products. Please note that this information will not be forwarded to the Ozone Secretariat.

The accounting framework matrix in the Handbook (Table IV) entitled ''Reporting Accounting Framework for Essential Uses Other Than Laboratory and Analytical Applications'' requests data for the year 2007 on the amount of ODSs exempted for an essential use, the amount acquired by production, the amount acquired by import and the country(s) of manufacture, the amount on hand at the start of the year, the amount available for use in 2007, the amount used for the essential use, the quantity contained in exported products, the amount destroyed, and the amount on hand at the end of 2007. Because all data necessary for applicants to complete Table IV will not be available until after the control period ends on December 31, 2008, companies should not include this chart with their essential use applications in response to this notice. Instead, companies should report their data as required by 40 CFR 82.13(u)(2) in Section 5 of the report entitled ''Essential Use Allowance Holders and Laboratory Supplier Quarterly Report and Essential Use Allowance Holder Annual Report.'' This form may be found on EPA's Web site at *http://www.epa.gov/ozone/record/downloads/EssentialUse_ClassI.doc.* EPA will then compile companies' responses to complete the U.S. Accounting Framework for Essential Uses for submission to the Parties to the Montreal Protocol by the end of January 2008. EPA may also request additional information from companies to support the U.S. nomination using its information gathering authority under Section 114 of the Act.

EPA anticipates that the Parties' review of MDI essential use requests will focus extensively on the United States' progress in phasing out CFC MDIs, including education programs to inform patients and health care providers of the CFC phaseout and the transition to alternatives. Accordingly, applicants are strongly advised to present detailed information on these points, including the scope and cost of such efforts and the medical and patient organizations involved in the work. In addition, EPA expects that Parties will be interested in research and development activities being undertaken by MDI manufacturers to develop and transition to alternative, CFC-free MDI products. To this end, applicants are encouraged to provide detailed information in this regard. Applicants should submit their exemption requests to EPA as noted in the **ADDRESSES** section above.

Dated: November 21, 2007.

Brian J. McLean,

Director, Office of Atmospheric Programs.

[FR Doc. E7–23417 Filed 11–30–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8500–4]

Tentative Approval and Solicitation of Request for a Public Hearing for Public Water System Supervision Program Revision for the State of New York

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Notice is hereby given that the New York State is revising its approved Public Water System Supervision Program. EPA has determined that these revisions are no less stringent than the corresponding Federal regulations. Therefore, EPA intends to approve these program revisions. All interested parties may request a public hearing.

DATES: This determination to approve New York State's primacy program revision application is made pursuant to 40 CFR 142.12(d)(3). It shall become final and effective unless (1) a timely and appropriate request for a public hearing is received or (2) the Regional Administrator elects to hold a public hearing on his own motion. Any interested persons, other than Federal Agencies, may request a public hearing. A request for a public hearing must be submitted to the Regional Administrator at the address shown below by January 2, 2008. If substantial requests for a public hearing are made within the requested thirty day time frame, a public hearing will be held and a notice will be given in the **Federal Register** and a newspaper of general circulation. Frivolous or insubstantial requests for a hearing may be denied by the Regional Administrator. If no timely and appropriate requests for a hearing are received and the Regional Administrator does not elect to hold a hearing on his own motion, this determination shall become final and effective January 2, 2008.

ADDRESSES: Any request for a public hearing shall include the following information: (1) Name, address and telephone number of the individual, organization or other entity requesting a hearing; (2) a brief statement of the requesting person's interest in the Regional Administrator's determination and a brief statement on information that the requesting person intends to submit at such hearing; (3) the signature of the individual making the request or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity. Requests for Public Hearing shall be addressed to: Regional Administrator, U.S. Environmental Protection Agency—Region 2, 290 Broadway, New York, New York 10007–1866.

All documents relating to this determination are available for inspection between the hours of 9 a.m. and 4:30 p.m., Monday through Friday, at the following offices:

New York State Department of Health, Bureau of Public Water Supply Protection, Flanagan Square, 547 River Street, Troy, New York 12180–2216.

U.S. Environmental Protection Agency—Region 2, 24th Floor Drinking Water Section, 290 Broadway, New York, New York 10007–1866.

FOR FURTHER INFORMATION CONTACT: Michael J. Lowy, Drinking Water Section, U.S. Environmental Protection Agency—Region 2, (212) 637–3830.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the United States Environmental Protection Agency (EPA) has determined to approve an application by the New York State Department of Health to revise its Public Water System Supervision Primacy Program to adopt requirements no less stringent than the EPA's National Primary Drinking Water Regulations (NPDWR) for the following: Administrative Penalty Authority; Final Rule; promulgated by EPA April 28, 1998 (63 *FR* 23361), Disinfectants and Disinfection Byproducts; Final Rule; promulgated by EPA December 16, 1998 (63 *FR* 69390), Interim Enhanced Surface Water Treatment; Final Rule; promulgated by EPA December 16, 1998 (63 *FR* 69478), Revision/Technical Correction to the Interim Enhanced Surface Water Treatment Rule (IESWTR) and the Stage 1 Disinfectants and Disinfection Byproducts Rule (Stage 1 DBPR) and Revisions to State Primacy Requirements to Implement SDWA Amendments; promulgated by EPA February 12, 2001 (66 *FR* 9903), Public Notification Rule; Final Rule; promulgated by EPA May 4, 2000 (65 *FR* 25982), Radionuclides; Final Rule; promulgated by EPA December 7, 2000 (65 *FR* 76708), Arsenic and Contaminant Monitoring and New Source Requirements; Final Rule; promulgated by EPA January 22, 2001 (66 *FR* 6976), Filter Backwash Recycling Rule; Final Rule; promulgated by EPA June 8, 2001 (66 *FR* 31086), and the Long Term 1 Enhanced Surface Water Treatment Rule; Final Rule, promulgated by EPA on January 14, 2002 (67 *FR* 1812). The application demonstrates that New York has adopted drinking water requirements which satisfy the NPDWRs for the above. The USEPA has determined that New York's requirements are no less stringent than the corresponding Federal Regulations and that New York continues to meet all requirements for primary enforcement responsibility as specified in 40 CFR 142.10.

Authority: (Section 1413 of the Safe Drinking Water Act, as amended, 40 U.S.C. 300g–2, and 40 CFR 142.10, 142.12(d) and 142.13).

Dated: November 15, 2007.

Alan J. Steinberg,

Regional Administrator, EPA Region 2.

[FR Doc. E7–23415 Filed 11–30–07; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted for Review to the Office of Management and Budget

November 21, 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 January 2, 2008. 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 10–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, you may do so by visiting the OMB ROCIS Web 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: 3060–0800.

Title: FCC Application for Assignment of Authorization or Transfer of Control: WTB and PSHSB.

Form No.: FCC Form 603.

Type of Review: Revision of a currently approved collection.

Respondents: Individuals or households; business or other for-profit, not-for profit institutions, and state, local or tribal government.

Number of Respondents: 32,751 respondents; 32,751 responses.

Estimated Time per Response: .5–1.75 hours (average).

Frequency of Response: On occasion reporting requirement and recordkeeping requirement.

Obligation to Respond: Mandatory.

Total Annual Burden: 36,846 hours.

Total Annual Cost: $3,111,295.

Privacy Act Impact Assessment: Yes.

Nature and Extent of Confidentiality: Respondents may request materials or information to the Commission be withheld from public inspection under 47 CFR 0.459 of the Commission's rules. Information on the FCC Form 603 is maintained in the Commission's system of records, FCC/WTB–1, ''Wireless Services Licensing Records.'' These licensee records are publicly available and routinely used in accordance with subsection b. of the Privacy Act of 1974, 5 U.S.C. 552a(b), as amended.

Needs and Uses: The Commission will submit this information collection to the OMB as a revision during this comment period to obtain the full three-year clearance from them. There is a change in the number of respondents/responses, the burden hours and annual costs. The FCC adopted and released a Second Report and Order, FCC 07–132, WT Docket No. 06–150, which changed Schedule B on the FCC Form 603. The Commission added an additional option for coverage requirements on Schedule B due to upcoming Auction 73 of the 700 MHz band licenses which is scheduled for January 16, 2008. The Commission also increased the number of respondents/responses by 200 and thus the burden hours and annual costs.

OMB Control Number: 3060–1058.

Title: FCC Application or Notification for Spectrum Leasing Arrangement or Private Commons Arrangement: WTB and PSHSB.

Form No.: FCC Form 608.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit, not-for profit institutions, and state, local or tribal government.

Number of Respondents: 1,623 respondents; 1,623 responses.

Estimated Time per Response: 4 hours attorney; 1 hour clerical.

Frequency of Response: On occasion reporting requirement and recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits.

Total Annual Burden: 8,115 hours.

Total Annual Cost: $1,334,106.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: Respondents may request materials or information to the Commission be withheld from public inspection under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The Commission will submit this information collection to the OMB as a revision during this comment period to obtain the full three-year clearance from them. There is a change in the number of respondents/responses, the burden hours and annual costs.

The FCC adopted and released a Second Report and Order, FCC 07–132, WT Docket No. 06–150, which requires additional new respondents to complete the FCC Form 608. The Commission has not changed the FCC Form 608. However, this form is used in the upcoming Auction 73 of the 700 MHz band licenses which is scheduled for January 16, 2008.

OMB Control Number: 3060–1092.

Title: Interim Procedures for Filing Applications Seeking Approval for Designated Entity (DE) Events and Annual Reports.

Form Nos.: FCC Forms 609–T and 611–T.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit, not-for profit institutions, and state, local or tribal government.

Number of Respondents: 1,100 respondents; 2,750 responses.

Estimated Time per Response: 4–7 hours (average).

Frequency of Response: On occasion and annual reporting requirements.

Obligation to Respond: Required to obtain or retain benefits.

Total Annual Burden: 7,288 hours.

Total Annual Cost: $1,494,625.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: Respondents may request materials or information to the Commission be withheld from public inspection under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The Commission will submit this information collection to the OMB as a revision during this comment period to obtain the full three-year clearance from them. There is a change in the number of respondents/responses, the burden hours and annual costs. The FCC adopted and released a Second Report and Order, FCC 07–132, WT Docket No. 06–150, which changed Schedule B on the FCC Form 603. There is a change in the number of respondents/responses, the burden hours and annual costs due to an increase in additional respondents.

The FCC adopted and released a Second Report and Order, FCC 07–132, WT Docket No. 06–150, which requires additional new respondents to complete the FCC Forms 609–T and 611–T. The Commission has not revised these forms. However, this form is used in the upcoming Auction 73 of the 700 MHz band licenses which is scheduled for January 16, 2008.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E7–23259 Filed 11–30–07; 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

November 21, 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 February 1, 2008. 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 ROCIS Web site at: *http://www.reginfo.gov/public/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.: 3060–1061.

Title: Earth Stations on Board Vessels (ESVs).

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 15 respondents; 15 responses.

Estimated Time per Response: 2 hours.

Frequency of Response: On occasion reporting requirement and recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits.

Total Annual Burden: 113 hours.

Annual Cost Burden: $15,000.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: In general, there is no need for confidentiality.

Needs and Uses: This collection will be submitted as an extension (no change in reporting or recordkeeping requirements) after this 60-day comment period to Office of Management and Budget (OMB) in order to obtain the full three-year clearance.

The Federal Communications Commission (FCC) obtained approval from the Office of Management and Budget (OMB) under this OMB Control Number (3060–1061) for the following

purposes: (1) To develop licensing and service rules for Earth Stations on Board Vessels (ESVs) in the Ku-band and C-band; (2) to prevent interference to Fixed Services (FS), Fixed Satellite Service (FSS) and other satellite services; (3) to further the Commission's goals to manage spectrum efficiently; and (4) to advance the provision of broadband telecommunications services that will benefit U.S. citizens on passenger, government (military and civilian), cargo and large recreational vessels. The consequence to the Commission if the collection were not conducted is that there would continue to be regulatory uncertainty with respect to ESVs and other satellite services that operate in the Ku-band and the C-band. Without this information collection, the Commission would not be able to take the necessary measures to prevent harmful interference to satellite services from ESVs. Finally, the Commission would not be able to advance its goals of managing spectrum efficiently and promoting broadband technologies to benefit American consumers throughout the United States and abroad.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E7–23260 Filed 11–30–07; 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

November 21, 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 February 1, 2008. 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: 3060–0667.

Title: Section 76.630, Compatibility with Consumer Electronic Equipment; Section 76.1621, Equipment Compatibility Offer; Section 76.1622, Consumer Education of Equipment Compatibility.

Form Number: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 8,250.

Estimated Hours per Response: 1–3 hours.

Frequency of Response: Recordkeeping requirement; On occasion reporting requirement.

Total Annual Burden: 16,505 hours.

Total Annual Cost: $5,800.

Privacy Impact Assessment: No impact(s).

Nature of Response: Required to obtain or retain benefits.

Confidentiality: No need for confidentiality required.

Needs and Uses: 47 CFR 76.630(a) states a cable system operator shall not scramble or otherwise encrypt signals carried on the basic service tier. Requests for waivers of this prohibition must demonstrate either a substantial problem with theft of basic tier service or a strong need to scramble basic signals for other reasons. As part of this showing, cable operators are required to notify subscribers by mail of waiver requests. The notice to subscribers must be mailed no later than thirty calendar days from the date the request waiver was filed with the Commission, and cable operators must inform the Commission in writing, as soon as possible, of that notification date. The notification to subscribers must state:

On (date of waiver request was filed with the Commission), (cable operator's name) filed with the Federal Communications Commission a request for waiver of the rule prohibiting scrambling of channels on the basic tier of service. 47 CFR 76.630(a). The request for waiver states (a brief summary of the waiver request). A copy of the request for waiver is on file for public inspection at (the address of the cable operator's local place of business).

Individuals who wish to comment on this request for waiver should mail comments to the Federal Communications Commission by no later than 30 days from (the date the notification was mailed to subscribers). Those comments should be addressed to the: Federal Communications Commission, Media Bureau, Washington, DC 20554, and should include the name of the cable operator to whom the comments are applicable. Individuals should also send a copy of their comments to (the cable operator at its local place of business). Cable operators may file comments in reply no later than 7 days from the date subscriber comments must be filed. 47 CFR 76.1621 states a cable system operators that use scrambling, encryption or similar technologies in conjunction with cable system terminal devices, as defined in § 15.3(e) of this chapter, that may affect subscribers' reception of signals shall offer to supply each subscriber with special equipment that will enable the simultaneous reception of multiple signals. The equipment offered shall include a single terminal device with dual descramblers/decoders and/or timers and bypass switches. Other equipment, such as two independent set-top terminal devices may be offered at the same time that the single terminal device with dual tuners/descramblers is offered. For purposes of this rule, two set-top devices linked by a control system that provides functionality equivalent to that of a single device with dual descramblers is considered to be the same as a terminal device with dual descramblers/decoders.

(a) The offer of special equipment shall be made to new subscribers at the time they subscribe and to all subscribers at least once each year.

(b) Such special equipment shall, at a minimum, have the capability:

(1) To allow simultaneous reception of any two scrambled or encrypted

signals and to provide for tuning to alternative channels on a pre-programmed schedule; and

(2) To allow direct reception of all other signals that do not need to be processed through descrambling or decryption circuitry (this capability can generally be provided through a separate by-pass switch or through internal by-pass circuitry in a cable system terminal device).

(c) Cable system operators shall determine the specific equipment needed by individual subscribers on a case-by-case basis, in consultation with the subscriber. Cable system operators are required to make a good faith effort to provide subscribers with the amount and types of special equipment needed to resolve their individual compatibility problems.

(d) Cable operators shall provide such equipment at the request of individual subscribers and may charge for purchase or lease of the equipment and its installation in accordance with the provisions of the rate regulation rules for customer premises equipment used to receive the basic service tier, as set forth in § 76.923. Notwithstanding the required annual offering, cable operators shall respond to subscriber requests for special equipment for reception of multiple signals that are made at any time.

47 CFR 76.1622 states that Cable system operators shall provide a consumer education program on compatibility matters to their subscribers in writing, as follows:

(a) The consumer information program shall be provided to subscribers at the time they first subscribe and at least once a year thereafter. Cable operators may choose the time and means by which they comply with the annual consumer information requirement. This requirement may be satisfied by a once-a-year mailing to all subscribers. The information may be included in one of the cable system's regular subscriber billings.

(b) The consumer information program shall include the following information:

(1) Cable system operators shall inform their subscribers that some models of TV receivers and videocassette recorders may not be able to receive all of the channels offered by the cable system when connected directly to the cable system. In conjunction with this information, cable system operators shall briefly explain, the types of channel compatibility problems that could occur if subscribers connected their equipment directly to the cable system and offer suggestions for resolving those problems. Such suggestions could include, for example, the use of a cable system terminal device such as a set-top channel converter. Cable system operators shall also indicate that channel compatibility problems associated with reception of programming that is not scrambled or encrypted programming could be resolved through use of simple converter devices without descrambling or decryption capabilities that can be obtained from either the cable system or a third party retail vendor.

(2) In cases where service is received through a cable system terminal device, cable system operators shall indicate that subscribers may not be able to use special features and functions of their TV receivers and videocassette recorders, including features that allow the subscriber to: View a program on one channel while simultaneously recording a program on another channel; record two or more consecutive programs that appear on different channels; and, use advanced picture generation and display features such as ''Picture-in-Picture,'' channel review and other functions that necessitate channel selection by the consumer device.

(3) In cases where cable system operators offer remote control capability with cable system terminal devices and other customer premises equipment that is provided to subscribers, they shall advise their subscribers that remote control units that are compatible with that equipment may be obtained from other sources, such as retail outlets. Cable system operators shall also provide a representative list of the models of remote control units currently available from retailers that are compatible with the customer premises equipment they employ. Cable system operators are required to make a good faith effort in compiling this list and will not be liable for inadvertent omissions. This list shall be current as of no more than six months before the date the consumer education program is distributed to subscribers. Cable operators are also required to encourage subscribers to contact the cable operator to inquire about whether a particular remote control unit the subscriber might be considering for purchase would be compatible with the subscriber's customer premises equipment.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E7–23262 Filed 11–30–07; 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

November 21, 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 February 1, 2008. 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: 3060–0248.

Title: Section 74.751, Modification of Transmission Systems.

Form Number: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; Not-for-profit institutions; State, Local or Tribal Government.

Number of Respondents: 400.

Estimated Time per Response: 0.50 hours.

Frequency of Response: On occasion reporting requirement; Recordkeeping requirement.

Total Annual Burden: 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(s).

Needs and Uses: 47 CFR 74.751(c) requires licensees of low power TV or TV translator stations to send written notification to the FCC of equipment changes which may be made at licensee's discretion without the use of a formal application. Section 74.751(d) requires that licensees of low power TV or TV translator stations place in the station records a certification that the installation of new or replacement transmitting equipment complies in all respects with the technical requirements of this section and the station authorization. The notifications and certifications of equipment changes are used by FCC staff to ensure that the equipment changes made are in full compliance with the technical requirements of this section and the station authorizations and will not cause interference to other authorized stations.

OMB Control Number: 3060–0841.

Title: Public Notice—Additional Processing Guidelines for DTV (Nonchecklist Applications).

Form Number: Not applicable.

Type of Review: Extension of a currently approved collection

Respondents: Business or other for-profit entities; Not-for-profit institutions.

Number of Respondents: 50.

Estimated Time per Response: 3 hours.

Frequency of Response: On occasion reporting requirement; Third party disclosure requirement.

Total Annual Burden: 150 hours.

Total Annual Cost: $180,000.

Nature of Response: Required to obtain or retain benefits.

Confidentiality: No need for confidentiality required.

Privacy Impact Assessment: No impact(s).

Needs and Uses: On August 10, 1998, the Commission released a public notice that explained how ''nonchecklist'' applications (*i.e.*, applications that do not conform to certain criteria to enable fast-track processing) will be processed for Digital TV (DTV) station construction permits. This public notice explained in detail what should be included in engineering showings and other types of application exhibits and cover letters (including *de minimis* interference showings).

This collection includes the following:

(a) Technical or interference studies should identify the facilities on which the computer analyses were done (computer and software used) and whether sufficient comparisons have been made to confirm that these facilities produce the same results as the Commission's implementation of the Commission technical methodology, as explained in Office of Engineering Technology (OET) Bulletin No. 69 and as set forth in the Commission's digital television proceeding. The technical exhibit should indicate which DTV or National Television System Committee (NTSC) stations are affected by interference from the proposed DTV facility and the changes in the population they serve. Applications containing a finer resolution study than that described in OET Bulletin No. 69 must clearly identify that fact and should request Commission review on that basis.

If the study is not based on FCC-matched computer analysis, the technical exhibit should include a description of the methods and models employed, how it differs from FCC analysis, which DTV and NTSC stations are considered and are affected, and the magnitude of the change in the population they are predicted to service. Alternatively, a non-conforming application may include a demonstration that its service area is not extended beyond the area it was assigned in the Order and that there are no adjacent-channel or ''taboo''-channel related DTV or NTSC stations that would be predicted to receive interference from the facilities requested in the application.

(b) *De minimis* calculations—The *de minimis* calculations are complex, with many decisions on assumptions or procedures that can alter the accuracy of the determination and the difficulty of performing it. The public notice explains how *de minimis* calculations are to be prepared and what information must be included in any engineering showings.

(c) Antenna beam tilting—The Memorandum Opinion and Order allowed Ultra High Frequency (UHF) applicants to increase their power within their existing DTV service areas using antenna beam-tilting. Applicants using antenna beam tilting must include a complete description of the proposed antenna system, including a determination of the depression angle to the radio horizon and the antenna gain and resulting ERP at that depression angle. An additional showing is required if an adjacent-channel DTV or NTSC station is close enough that unacceptable interference may be caused. Stations that are to be considered are those within the outer distances of the minimum separation requirements for new DTV allotments. If there are any stations or DTV allotments within these distances, the application must include a technical showing that interference does not exceed the *de minimis* standard.

(d) DTV allotment exchanges—Through the application process, broadcasters are permitted to negotiate exchanges of DTV allotments in the same community, same TV market or in adjacent markets, thereby affording them increased flexibility to operate facilities best meeting their needs and without subjecting them to time consuming allocation rule making proceedings. Applications to implement DTV allotment exchanges should be submitted as a package and should include the following attachments: (1) A cover letter noting the allotment exchanges and the parties involved, (2) the exchange agreement signed by all parties to the agreement, (3) required interference studies or agreements with all other affected parties and (4) a showing as to why a grant of the exchange would serve the public interest.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E7–23265 Filed 11–30–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Notices

DATE AND TIME: Thursday, December 6, 2007, a closed meeting will be held at the conclusion of the open meeting.

PLACE: 999 E Street, NW., Washington, DC. This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. 437g.

Audits conducted pursuant to 2 U.S.C. 437g, § 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

DATE AND TIME: Thursday, December 6, 2007, at 10 a.m.

PLACE: 999 E Street, NW., Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.
FEC Service Awards.
Draft Advisory Opinion 2007–23: Independence Party of New York, by A. Joshua Ehrlich, Esq.
Draft Advisory Opinion 2007–24: Jim Burkee/Jeff Walz.
Draft Advisory Opinion 2007–25: Holland & Knight, LLP, by Christopher DeLacy, Esq.
Draft Advisory Opinion 2007–26: State Representative Aaron Schock and Citizens for Schock, by Donald F. McGahn, II, Esq.
Draft Advisory Opinion 2007–27: ActBlue by Jonathan Zucker, Esq.
Management and Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Robert Biersack, Press Officer, *Telephone:* (202) 694–1220.

Mary W. Dove,

Secretary of the Commission.

[FR Doc. 07–5931 Filed 11–29–07; 2:43 pm]

BILLING CODE 6715–01–M

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System

SUMMARY: Background. Notice is hereby given of the final approval of proposed information collection by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.16 (OMB Regulations on Controlling Paperwork Burdens on the Public). Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the Paperwork Reduction Act Submission, supporting statements and approved collection of information instrument(s) are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Michelle Shore—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202–452–3829).

OMB Desk Officer—Alexander T. Hunt—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

Final approval under OMB delegated authority of the extension for three years, without revision, of the following report:

Report title: Compensation and Salary Surveys

Agency form number: FR 29a,b

OMB Control number: 7100–0290

Frequency: FR 29a, annually; FR 29b, on occasion

Reporters: Employers considered competitors for Federal Reserve employees

Annual reporting hours: FR 29a, 210 hours; FR 29b, 50 hours

Estimated average hours per response: FR 29a, 6 hours; FR 29b, 1 hour

Number of respondents: 45

General description of report: This information collection is voluntary (sections 10(4) and 11(1) of the Federal Reserve Act (12 U.S.C. 244 and 248(1)) and is given confidential treatment (5 U.S.C 552 (b)(4) and (b)(6)).

Abstract: These surveys collect information on salaries, employee compensation policies, and other employee programs from employers that are considered competitors for Federal Reserve Board employees. The data from the surveys primarily are used to determine the appropriate salary structure and salary adjustments for Federal Reserve Board employees.

Current Actions: On September 21, 2007, the Federal Reserve published a notice in the Federal Register (72 FR 54041) requesting public comment for sixty days on the extension, without revision, of the Compensation and Salary Surveys; the comment period expired on November 20, 2007. The Federal Reserve did not receive any comments.

Board of Governors of the Federal Reserve System, November 27, 2007.

Jennifer J. Johnson

Secretary of the Board.

[FR Doc. E7–23307 Filed 11–30–07; 8:45 am]

BILLING CODE 6210–01–S

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 December 17, 2007.

A. Federal Reserve Bank of New York (Anne MacEwen, Bank Applications Officer) 33 Liberty Street, New York, New York 10045–0001:

1. Lawrence B. Seidman, Seidman and Associates, LLC, Seidman Investment Partnership, LP, Seidman Investment Partnership II, LP, Parsippany, New Jersey; Broad Park Investors, LLC, Chewy Gooey Cookies, both of West Orange, New Jersey, LP, Berggruen Holdings North America Ltd., New York, New York; Dennis Pollack, Woodcliff Lake, New Jersey; Harold Schechter; Raymond Vanaria, both of Wayne, New Jersey, and LSBK 06–08, LLC, Watchung, New Jersey; to acquire voting shares of Center Bancorp, Inc., Union, New Jersey, and thereby acquire voting shares of Center National Bank, Union, New Jersey.

Board of Governors of the Federal Reserve System, November 28, 2007.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E7–23340 Filed 11–20–07; 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 December 27, 2007.

A. Federal Reserve Bank of St. Louis (Glenda Wilson, Community Affairs Officer) 411 Locust Street, St. Louis, Missouri 63166–2034:

1. Farmers & Merchants Bankshares, Inc., Stuttgart, Arkansas; to acquire 100 percent of the voting shares of Perry County Bancshares, Inc., and thereby indirectly acquire voting shares of Chart Bank, both of Perryville, Arkansas.

Board of Governors of the Federal Reserve System, November 27, 2007.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. E7–23273 Filed 11–30–07; 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 December 28, 2007.

A. Federal Reserve Bank of Atlanta (David Tatum, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309:

1. Satilla Bankcorp, Inc., to become a bank holding company by acquiring 100 percent of the voting shares of Satilla Community Bank, both of St. Marys, Georgia.

B. Federal Reserve Bank of Minneapolis (Jacqueline G. King, Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. Highland Bancshares, Saint Michael, Minnesota; to acquire 100 percent of the voting shares of Ridgedale State Bank, Minnetonka, Minnesota.

Board of Governors of the Federal Reserve System, November 28, 2007.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E7–23341 Filed 11–30–07; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 17, 2007.

A. Federal Reserve Bank of Chicago (Burl Thornton, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. Bridgeview Bancorp, Inc., Bridgeview, Illinois; to engage *de novo* in extending credit and servicing loans, pursuant to section 225.28(b)(1) of Regulation Y.

B. Federal Reserve Bank of San Francisco (Tracy Basinger, Director, Regional and Community Bank Group) 101 Market Street, San Francisco, California 94105–1579:

1. NHB Holdings, Inc., and Proficio Mortgage Ventures, LLC, both of Jacksonville, Florida; to engage *de novo* through a joint venture with NRI Mortgage Solutions, Buffalo Grove, Illinois, in conducting mortgage banking activities, pursuant to section 225.28(b)(1) of Regulation Y.

2. Mitsubishi UFJ Financial Group, Inc., Tokyo, Japan; to indirectly acquire up to 100 percent of Diamond Lease (U.S.A.), Inc., New York, New York, and thereby engage in the leasing of personal or real property, pursuant to section 225.28(b)(3) of Regulation Y.

Board of Governors of the Federal Reserve System, November 27, 2007.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. E7–23274 Filed 11–30–07; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier: OS–0990–New]

Agency Information Collection Request. 60-Day Public Comment Request

AGENCY: Office of the Secretary.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed information collection request for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden. To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, e-mail your request, including your address, phone number, OMB number, and OS document identifier, to *Sherette.funncoleman@hhs.gov*, or call the Reports Clearance Office on (202) 690–6162. Written comments and recommendations for the proposed information collections must be directed to the OS Paperwork Clearance Officer at the above email address within 60 days.

Proposed Project: Evaluation of the Marriage and Family Strengthening Grants for Incarcerated and Reentering Fathers and their Partners—OMB No. 0990–NEW–Assistant Secretary for Planning and Evaluation (ASPE).

Abstract: The Office of Family Assistance within the Administration for Children and Families (ACF) is conducting a demonstration program called Marriage and Family Strengthening Grants for Incarcerated and Re-entering Fathers and their Partners (MFS–IP). These demonstration programs are funded to support activities in the areas of marriage strengthening and responsible fatherhood among incarcerated and recently released fathers, their partners, and children. The Office of the Assistant Secretary for Planning and Evaluation (ASPE) is conducting an evaluation of these demonstration projects. The objective of the evaluation is to help to determine what types of marriage and family strengthening programs work best, what does not work, and what effects these programs may have on fostering healthy marriages, families and children for those involved in the criminal justice system. Information from the evaluation will assist federal, state, and community policymakers and patrons in deciding whether to replicate or redesign identified marriage and family strengthening program models.

The MFS–IP evaluation will assess the effects of marriage and family strengthening activities with incarcerated populations by comparing relationship quality and stability, positive family interactions, family financial well-being, recidivism, and community connectedness between intervention and control groups. Primary data for the evaluation will come from three waves of in-person data collection, including a baseline survey and follow-up surveys at approximately 6 and 12 months post-baseline. Data collection is expected to last 4 years, from the time the first participant is enrolled until the last 12-month follow-up survey is administered.

ESTIMATED ANNUALIZED BURDEN TABLE

Instruments	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
MFS–IP Baseline Survey—Fathers	500	1	1.5	750
MFS–IP Baseline Survey—Partners	500	1	1.5	750
MFS–IP Follow-up Survey—Fathers	500	2	1.5	1,500
MFS–IP Follow-up Survey—Partners	500	2	1.5	1,500
Total				4,500

Alice Bettencourt,

Office of the Secretary, Paperwork Reduction Act Reports Clearance Officer.

[FR Doc. E7–23322 Filed 11–30–07; 8:45 am]

BILLING CODE 4150–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–08–06BD]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–5960 or send an e-mail to *omb@cdc.gov.* Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC or by fax to (202) 395–6974. Written comments should be received within 30 days of this notice.

Proposed Project

Economic Analysis of the National Breast and Cervical Cancer Early Detection Program (NBCCEDP)—New—National Center for Chronic Disease Prevention and Health Promotion (NCDDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The CDC-funded National Breast and Cervical Cancer Early Detection Program (NBCCEDP) is the largest organized cancer screening program in the United States. The NBCCEDP provides critical breast and cervical cancer screening services to underserved women through grants to 50 states, the District of Columbia, 4 U.S. territories, and 13 American Indian/Alaska Native organizations. In the past decade, the NBCCEDP has provided over 7.2 million breast and cervical cancer screening and diagnostic exams to over 3 million low-income women. Women diagnosed with cancer through the program are eligible for Medicaid coverage through the Breast and Cervical Cancer Prevention

and Treatment Act passed by Congress in 2000.

CDC proposes to collect one year of cost data from all 68 NBCCEDP grantees in order to conduct the first systematic, activity-based analysis of the costs and cost-effectiveness of the NBCCEDP. The information required to perform an activity-based cost analysis includes: Staff and consultant salaries, screening costs, contracts and material costs, provider payments, in-kind contributions, administrative costs, allocation of funds, and staff time devoted to specific program activities. Data will be collected electronically via a Web-based Cost Assessment Tool (CAT).

CDC will use information collected through the CAT to assess the costs of various program components, identify factors that impact average cost, perform cost-effectiveness analysis, and to develop a resource allocation tool for ensuring the most appropriate use of limited program resources.

NBCCEDP grantees currently report information on screening and diagnosis volumes (the effectiveness measures for the program) as part of the Minimum Data Elements (MDE)/System for Technical Assistance Reporting (STAR) (OMB 0920–0571, exp. 1/31/2010). Information to be collected through the CAT will complement information currently collected through the MDE/STAR.

There are no costs to respondents other than their time. The total estimated annualized burden hours are 1,496.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
NBCCEDP Grantees	68	1	22

Dated: November 26, 2007.

Maryam I. Daneshvar,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E7–23336 Filed 11–30–07; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2007N–0306]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Current Good Manufacturing Practice Regulations for Type A Medicated Articles

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by January 2, 2008.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–6974, or e-mailed to *baguilar@omb.eop.gov*. All comments should be identified with the OMB control number 0910–0154. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Denver Presley Jr., Office of the Chief Information Officer (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1472.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Current Good Manufacturing Practice Regulations for Type A Medicated Articles—21 CFR Part 226 (OMB Control Number 0910–0154)–Extension

Under section 501 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 351), FDA has the statutory authority to issue current good manufacturing practice (cGMP) regulations for drugs, including Type A medicated articles. A Type A medicated article is a feed product containing a concentrated drug diluted with a feed carrier substance. A Type A medicated article is intended solely for use in the manufacture of another Type A medicated article or a Type B or Type C medicated feed. Medicated feeds are administered to animals for the prevention, cure, mitigation, or treatment of disease or for growth promotion and feed efficiency.

Statutory requirements for cGMPs for Type A medicated articles have been codified under part 226 (21 CFR part 226). Type A medicated articles which are not manufactured in accordance with these regulations are considered adulterated under section 501(a)(2)(B) of the act. Under part 226, a manufacturer is required to establish, maintain, and retain records for Type A medicated articles, including records to document procedures required under the manufacturing process to assure that proper quality control is maintained. Such records would, for example, contain information concerning receipt and inventory of drug components, batch production, laboratory assay results (i.e., batch and stability testing) and product distribution.

This information is needed so that FDA can monitor drug usage and possible misformulation of Type A medicated articles. The information could also prove useful to FDA in investigating product defects when a drug is recalled. In addition, FDA will use the cGMP criteria under part 226 to determine whether or not the systems used by manufacturers of Type A medicated articles are adequate to assure that their medicated articles meet the requirements of the act as to safety and also meet the article's claimed identity, strength, quality, and purity, as required by section 501(a)(2)(B) of the act.

In the **Federal Register** of August 16, 2007 (72 FR 46087), FDA published a 60-day notice soliciting public comment on the proposed collection of information provisions. In response to that notice, no comments were received.

The respondents for Type A medicated articles are pharmaceutical firms that manufacture both human and veterinary drugs, those firms that produce only veterinary drugs, and commercial feed mills.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

21 CFR Section	No. of Recordkeepers	Annual Frequency of Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total
226.42	115	260	29,000	0.75	22,425
226.58	115	260	29,000	1.75	52,325
226.80	115	260	29,000	0.75	22,425
226.102	115	260	24,000	1.75	52,325
226.110	115	260	29,000	0.25	7,475
226.115	115	10	1,150	0.5	575
Total					157,550

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

The estimate of the time required for record preparation and maintenance is based on agency communications with industry. Other information needed to calculate the total burden hours (i.e., manufacturing sites, number of Type A medicated articles being manufactured, etc.) are derived from agency records and experience.

Dated: November 27, 2007.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E7–23351 Filed 11–30–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2007N–0279]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Color Additive Certification Requests and Recordkeeping

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by January 2, 2008.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–6974, or e-mailed to *baguilar@omb.eop.gov*. All comments should be identified with the OMB control number 0910–0216. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Jonna Capezzuto, Office of the Chief Information Officer (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Color Additive Certification Requests and Recordkeeping—OMB Control Number 0910–0216)—Extension

FDA has regulatory oversight for color additives used in foods, drugs, cosmetics, and medical devices. Section 721(a) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 379e(a)) provides that a color additive shall be deemed to be unsafe unless it meets the requirements of a listing regulation, including any requirement for batch certification, and is used in accordance with the regulation. FDA lists color additives that have been shown to be safe for their intended uses in title 21 of the Code of Federal Regulations (CFR). FDA requires batch certification for all color additives listed in 21 CFR part 74 and for all color additives provisionally listed in 21 CFR part 82. Color additives listed in 21 CFR part 73 are exempted from certification.

The requirements for color additive certification are described in part 80 (21 CFR part 80). In the certification procedure, a representative sample of a new batch of color additive, accompanied by a ''request for certification'' that provides information about the batch, must be submitted to FDA's Office of Cosmetics and Colors. FDA personnel perform chemical and other analyses of the representative sample and, providing the sample satisfies all certification requirements, issue a certification lot number for the batch. FDA charges a fee for certification based on the batch weight and requires manufacturers to keep records of the batch pending and after certification.

Under § 80.21, a request for certification must include: Name of color additive, manufacturer's batch number and weight in pounds, name and address of manufacturer, storage conditions, statement of use(s), certification fee, and signature of person requesting certification. Under § 80.22, a request for certification must include a sample of the batch of color additive that is the subject of the request. The sample must be labeled to show: Name of color additive, manufacturer's batch number and quantity, and name and address of person requesting certification. Under § 80.39, the person to whom a certificate is issued must keep complete records showing the disposal of all the color additive covered by the certificate. Such records are to be made available upon request to any accredited representative of FDA until at least 2 years after disposal of all of the color additive.

The purpose for collecting this information is to help FDA assure that only safe color additives will be used in foods, drugs, cosmetics, and medical devices sold in the United States. The required information is unique to the batch of color additive that is the subject of a request for certification. The manufacturer's batch number is used for temporarily identifying a batch of color additive until FDA issues a certification lot number and for identifying a certified batch during inspections. The manufacturer's batch number also aids

in tracing the disposal of a certified batch or a batch that has been refused certification for noncompliance with the color additive regulations. The manufacturer's batch weight is used for assessing the certification fee. The batch weight also is used to account for the disposal of a batch of certified or certification-rejected color additive. The batch weight can be used in a recall to determine whether all unused color additive in the batch has been recalled. The manufacturer's name and address and the name and address of the person requesting certification are used to contact the person responsible should a question arise concerning compliance with the color additive regulations. Information on storage conditions pending certification is used to evaluate whether a batch of certified color additive is inadvertently or intentionally altered in a manner that would make the sample submitted for certification analysis unrepresentative of the batch. FDA checks storage information during inspections. Information on intended uses for a batch of color additive is used to assure that a batch of certified color additive will be used in accordance with the requirements of its listing regulation. The statement of the fee on a certification request is used for accounting purposes so that a person requesting certification can be notified promptly of any discrepancies.

In the **Federal Register** of July 24, 2007 (72 FR 40310), FDA published a 60-day notice requesting public comment on the information collection provisions. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
80.21	32	174	5,568	0.20	1,114
80.22	32	174	5,568	0.05	278
Total				0.25	1,392

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

21 CFR Section	No. of Recordkeepers	Annual Frequency of Recordkeeping	Total Annual Records	Hours per Record	Total Hours
80.39	32	174	5,568	0.25	1,392
TOTAL					1,392

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

FDA bases its estimate on its review of the certification requests received over the past 3 fiscal years (FY). The annual burden estimate for this information collection is 2,784 hours. The estimated reporting burden for this information collection is 1,392 hours and the estimated recordkeeping burden for this information collection is 1,392 hours. From FY 2004 to FY 2006, FDA processed an average of 5,568 responses (requests for certification of batches of color additives) per year. There were 32 different respondents, corresponding to an average of approximately 174 responses from each respondent per year. Using information from industry personnel, FDA estimates that an average of 0.25 hour per response is required for reporting (preparing certification requests and accompanying sample labels) and an average of 0.25 hour per response is required for recordkeeping.

On February 13, 2006, FDA introduced a Web-based Color Certification information system. The system was fully operational for FY 2007. This system allows certifiers to request color certification on-line, follow their submissions through the process, and obtain information on account status. The system sends back the certification results electronically, allowing certifiers to sell their certified color before receiving hard copy certificates. Any delays in the system result only from shipment of color additive samples to FDA's Office of Cosmetics and Colors for analysis. FDA expects future reductions in the hour burdens for reporting and recordkeeping from use of the Web-based system.

Dated: November 27, 2007.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E7–23352 Filed 11–30–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2007F–0454]

General Mills, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that General Mills, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of ultraviolet radiation for the reduction of pathogens and other microorganisms in aqueous sugar solutions and potable water intended for use in food production.

FOR FURTHER INFORMATION CONTACT: Laura A. Dye, Center for Food Safety and Applied Nutrition (HFS–265), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740–3835, 301–436–1275.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (section 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 7M4770) has been filed by General Mills, Inc., One General Mills Blvd., Minneapolis, MN 55426. The petition proposes to amend the food additive regulations in § 179.39 *Ultraviolet radiation for the processing and treatment of food* (21 CFR 170.39) to provide for the safe use of ultraviolet radiation for the reduction of pathogens

and other microorganisms in aqueous sugar solutions and potable water intended for use in food production.

The agency has determined under 21 CFR 25.32(j) 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.

Dated: November 27, 2007.

Laura M. Tarantino,

Director, Office of Food Additive Safety, Center for Food Safety and Applied Nutrition.

[FR Doc. E7–23400 Filed 11–30–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Committee on Heritable Disorders and Genetic Diseases in Newborns and Children; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of the following meeting:

Name: Advisory Committee on Heritable Disorders and Genetic Diseases in Newborns and Children (ACHDGDNC).

Dates and Times: Jan. 14, 2008, 9 a.m. to 5 p.m. Jan. 15, 2008, 8:30 a.m. to 3:00 p.m.

Place: Bethesda North Marriott Hotel and Conference Center, 5701 Marinelli Road, Bethesda, MD 20852.

Status: The meeting will be open to the public with attendance limited to space availability.

Purpose: The ACHDGDNC was established to advise and guide the Secretary regarding the most appropriate application of universal newborn screening tests, technologies, policies, guidelines and programs for effectively reducing morbidity and mortality in newborns and children having or at risk for heritable disorders. The ACHDGDNC also provides advice and recommendations concerning the grants and projects authorized under the Heritable Disorders Program.

Agenda: The meeting will include a presentation and continued discussions on the nomination/evaluation process for newborn screening candidate conditions. There will be presentations on utilizing partnerships for follow-up in newborn screening systems, a presentation from the Secretary's Advisory Committee on Genetics, Health and Society on an assessment of the impact of patients on access to tests in both clinical practice and public health settings, as well as presentations on the continued work and reports of the ACHDGDNC's subcommittees on laboratory standards and procedures, follow-up and treatment, and education and training, and the workgroup on research. Proposed agenda items are subject to change.

Time will be provided for public comment. Individuals who wish to provide public comment or who plan to attend the meeting and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the ACHDGDNC Staff, Jill F. Shuger, M.S. (contact information provided below).

Contact Person: Anyone interested in obtaining a roster of members or other relevant information should write or contact Jill F. Shuger, M.S., Maternal and Child Health Bureau, Health Resources and Services Administration, Room 18A–19, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–1080, jshuger@hrsa.gov. Information on the Advisory Committee is available at *http://mchb.hrsa.gov/programs/genetics/committee.*

Dated: November 27, 2007.

Alexandra Huttinger,

Acting Director, Division of Policy Review and Coordination.

[FR Doc. E7–23334 Filed 11–30–07; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

New Agency Information Collection Activity Under OMB Review: Pipeline Security Awareness (CD–1) Effectiveness Assessment

AGENCY: Transportation Security Administration, DHS.

ACTION: Notice.

SUMMARY: This notice announces that the Transportation Security Administration (TSA) has forwarded the new Information Collection Request (ICR) abstracted below to the Office of Management and Budget (OMB) for review and approval under the Paperwork Reduction Act. The ICR describes the nature of the information collection and its expected burden. TSA published a **Federal Register** notice, with a 60-day comment period soliciting comments, of the following collection of information on January 31, 2007, 72 FR 4526.

DATES: Send your comments by January 2, 2008. A comment to OMB is most effective if OMB receives it within 30 days of publication.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to Nathan Lesser, Desk Officer, Department of Homeland Security/TSA, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: Joanna Johnson, Communications Branch, Business Management Office, Operational Process and Technology, TSA–11, Transportation Security Administration, 601 South 12th Street, Arlington, VA 22202–4220; telephone (571) 227–3651; facsimile (571) 227–3885.

SUPPLEMENTARY INFORMATION:

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement 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;

(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 using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Information Collection Requirement

Title: Pipeline Security Awareness (CD–1) Effectiveness Assessment.

Type of Request: New collection.

OMB Control Number: Not yet assigned.

Form(s): NA.

Affected Public: Pipeline companies.

Abstract: As prescribed by the President in Homeland Security Presidential Directive 7 (HSPD–7), the Department of Homeland Security (DHS) was tasked to protect our nation's critical infrastructure and key resources (CI/KR). Through the National Infrastructure Protection Plan (NIPP), DHS gives guidance and direction as to how the Nation will secure its infrastructure. Furthermore, HSPD–7 and the NIPP assigned the responsibility for infrastructure security in the transportation sector to TSA. To this effect, the NIPP further tasks each sector to build security partnerships, set security goals and to measure their

effectiveness. To increase the security awareness levels across the pipeline industry, TSA plans to develop and distribute a Security Awareness Training compact disk (CD–1) to interested pipeline companies. In order to measure the effectiveness of CD–1 on raising pipeline company employee security awareness levels, TSA will solicit voluntary feedback from pipeline companies seeking to utilize the CD–1. TSA will use this information to: (1) Assess the effect of the CD–1 project on raising the baseline level of security awareness within the pipeline industry, and (2) obtain, based on individual company input, an indication of CD–1 user participation and employee participation levels throughout the pipeline industry.

Number of Respondents: 300.

Estimated Annual Burden Hours: An estimated 200 hours annually.

Issued in Arlington, Virginia, on November 27, 2007.

Fran Lozito,

Director, Business Management Office, Operational Process and Technology.

[FR Doc. E7–23365 Filed 11–30–07; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

[Docket No. TSA–2006–24191]

Intent to Request Renewal From OMB of One Current Public Collection of Information: Transportation Worker Identification Credential Program

AGENCY: Transportation Security Administration, DHS.

ACTION: Notice.

SUMMARY: The Transportation Security Administration (TSA) invites public comment on one currently approved information collection requirement abstracted below that we will submit to the Office of Management and Budget (OMB) for renewal in compliance with the Paperwork Reduction Act. OMB approved the collection of information for six months and TSA now seeks the maximum three-year approval. The collection involves the submission of identifying and other information by individuals applying for a TWIC and a customer satisfaction survey.

DATES: Send your comments by February 1, 2008.

ADDRESSES: Comments may be mailed or delivered to Joanna Johnson, Communications Branch, Business Management Office, Operational Process and Technology, TSA–32, Transportation Security Administration, 601 South 12th Street, Arlington, VA 22202–4220.

FOR FURTHER INFORMATION CONTACT: Joanna Johnson at the above address, or by telephone (571) 227–3651 or facsimile (571) 227–3588.

SUPPLEMENTARY INFORMATION:

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The ICR documentation is available at *http://www.reginfo.gov.* Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement 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;

(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 using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Information Collection Requirement

1652–0046; Transportation Worker Identification Credential (TWIC) Program. TSA developed the Transportation Worker Identification Credential (TWIC) program to mitigate threats and vulnerabilities in the national transportation system. The TWIC is a biometric credential that can be used as an identification tool for workers in various segments of the national transportation system. Before issuing an individual a credential, TSA performs a security threat assessment, which requires it to collect certain personal information such as name, address, etc.

The program implements authorities set forth in the Aviation and Transportation Security Act (ATSA) (Pub. L. 107–71; Nov. 19, 2002; sec. 106), the Maritime Transportation Security Act of 2002 (MTSA) (Pub. L. 107–295; Nov. 25, 2002; sec. 102), and the Safe, Accountable, Flexible, Efficient Transportation Equity Act—A Legacy for Users (SAFETEA–LU) (Pub. L. 109–59; Aug. 10, 2005; sec. 7105), codified at 49 U.S.C. 5103a(g). TSA and the U.S. Coast Guard (Coast Guard) issued a joint Notice of Proposed Rulemaking (NPRM) on May 22, 2006. 71 FR 29396. After consideration of public comment on the NPRM, TSA issued a joint Final Rule (FR) with the Coast Guard on January 25, 2007 applicable to the maritime transportation sector that would require this information collection. 72 FR 3492.

Data is collected during an optional pre-enrollment step or during the enrollment session at an enrollment center. Among the records checks required by MTSA are: (1) A criminal history records check; (2) a check of intelligence databases; and (3) an alien status check. TSA also intends to conduct a survey to capture worker overall satisfaction with the enrollment process. The current estimated annualized reporting burden is 1,289,816 hours and the estimated annualized cost burden is $47,971,669.

Issued in Arlington, Virginia, on November 27, 2007.

Fran Lozito,

Director, Business Management Office, Operational Process and Technology.

[FR Doc. E7–23388 Filed 11–30–07; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

[Docket Nos. TSA–2006–24191; Coast Guard–2006–24196]

Transportation Worker Identification Credential (TWIC); Enrollment Dates for the Ports of Long Beach, CA and Indiana Harbor, IN

AGENCY: Transportation Security Administration; United States Coast Guard; DHS.

ACTION: Notice.

SUMMARY: The Department of Homeland Security (DHS) through the Transportation Security Administration (TSA) issues this notice of the dates for the beginning of the initial enrollment for the Transportation Worker Identification Credential (TWIC) for the Ports of Long Beach, CA and Indiana Harbor, IN.

DATES: TWIC enrollment in Indiana Harbor, IN will begin on December 7, 2007; and Long Beach, CA, December 12, 2007.

ADDRESSES: You may view published documents and comments concerning the TWIC Final Rule, identified by the

docket numbers of this notice, using any one of the following methods.

(1) Searching the Federal Docket Management System (FDMS) Web page at *http://www.regulations.gov;*

(2) Accessing the Government Printing Office's Web page at *http://www.gpoaccess.gov/fr/index.html;* or

(3) Visiting TSA's Security Regulations Web page at *http://www.tsa.gov* and accessing the link for ''Research Center'' at the top of the page.

FOR FURTHER INFORMATION CONTACT: James Orgill, TSA–19, Transportation Security Administration, 601 South 12th Street, Arlington, VA 22202–4220. Transportation Threat Assessment and Credentialing (TTAC), TWIC Program, (571) 227–4545; e-mail: *credentialing@dhs.gov.*

Background

The Department of Homeland Security (DHS), through the United States Coast Guard and the Transportation Security Administration (TSA), issued a joint final rule (72 FR 3492; January 25, 2007) pursuant to the Maritime Transportation Security Act (MTSA), Public Law 107–295, 116 Stat. 2064 (November 25, 2002), and the Security and Accountability for Every Port Act of 2006 (SAFE Port Act), Public Law 109–347 (October 13, 2006). This rule requires all credentialed merchant mariners and individuals with unescorted access to secure areas of a regulated facility or vessel to obtain a TWIC. In this final rule, on page 3510, TSA and Coast Guard stated that a phased enrollment approach based upon risk assessment and cost/benefit would be used to implement the program nationwide, and that TSA would publish a notice in the **Federal Register** indicating when enrollment at a specific location will begin and when it is expected to terminate.

This notice provides the start date for TWIC initial enrollment at the Ports of Long Beach, CA and Indiana Harbor, IN. Enrollment in Indiana Harbor, IN will begin on December 7, 2007, and Long Beach, CA on December 12, 2007. The Coast Guard will publish a separate notice in the **Federal Register** indicating when facilities within the Captain of the Port Zone Lake Michigan, including those in the Port of Indiana Harbor, and Captain of the Port Zone Los Angeles-Long Beach, including those in the Port of Long Beach, must comply with the portions of the final rule requiring TWIC to be used as an access control measure. That notice will be published at least 90 days before compliance is required.

To obtain information on the pre-enrollment and enrollment process, and enrollment locations, visit TSA's TWIC Web site at *http://www.tsa.gov/twic.*

Issued in Arlington, Virginia, on November 28, 2007.

Stephen Sadler,

Director, Maritime and Surface Credentialing, Office of Transportation Threat Assessment and Credentialing, Transportation Security Administration.

[FR Doc. E7–23407 Filed 11–30–07; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5161–N–02]

Credit Watch Termination Initiative

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: This notice advises of the cause and effect of termination of Origination Approval Agreements taken by HUD's Federal Housing Administration (FHA) against HUD-approved mortgagees through the FHA Credit Watch Termination Initiative. This notice includes a list of mortgagees which have had their Origination Approval Agreements terminated.

FOR FURTHER INFORMATION CONTACT: The Quality Assurance Division, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room B133–P3214, Washington, DC 20410–8000; telephone (202) 708–2830 (this is not a toll free number). Persons with hearing or speech impairments may access that number through TTY by calling the Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: HUD has the authority to address deficiencies in the performance of lenders' loans as provided in HUD's mortgagee approval regulations at 24 CFR 202.3. On May 17, 1999 (64 FR 26769), HUD published a notice on its procedures for terminating Origination Approval Agreements with FHA lenders and placement of FHA lenders on Credit Watch status (an evaluation period). In the May 17, 1999 notice, HUD advised that it would publish in the **Federal Register** a list of mortgagees, which have had their Origination Approval Agreements terminated.

Termination of Origination Approval Agreement: Approval of a mortgagee by HUD/FHA to participate in FHA mortgage insurance programs includes an Origination Approval Agreement (Agreement) between HUD and the mortgagee. Under the Agreement, the mortgagee is authorized to originate single-family mortgage loans and submit them to FHA for insurance endorsement. The Agreement may be terminated on the basis of poor performance of FHA-insured mortgage loans originated by the mortgagee. The termination of a mortgagee's Agreement is separate and apart from any action taken by HUD's Mortgagee Review Board under HUD's regulations at 24 CFR part 25.

Cause: HUD's regulations permit HUD to terminate the Agreement with any mortgagee having a default and claim rate for loans endorsed within the preceding 24 months that exceeds 200 percent of the default and claim rate within the geographic area served by a HUD field office, and also exceeds the national default and claim rate. For the 32nd review period, HUD is terminating the Agreement of mortgagees whose default and claim rate exceeds both the national rate and 200 percent of the field office rate.

Effect: Termination of the Agreement precludes that branch(s) of the mortgagee from originating FHA-insured single-family mortgages within the area of the HUD field office(s) listed in this notice. Mortgagees authorized to purchase, hold, or service FHA-insured mortgages may continue to do so.

Loans that closed or were approved before the termination became effective may be submitted for insurance endorsement. Approved loans are (1) those already underwritten and approved by a Direct Endorsement (DE) underwriter employed by an unconditionally approved DE lender and (2) cases covered by a firm commitment issued by HUD. Cases at earlier stages of processing cannot be submitted for insurance by the terminated branch; however, they may be transferred for completion of processing and underwriting to another mortgagee or branch authorized to originate FHA insured mortgages in that area. Mortgagees are obligated to continue to pay existing insurance premiums and meet all other obligations associated with insured mortgages.

A terminated mortgagee may apply for a new Origination Approval Agreement if the mortgagee continues to be an approved mortgagee meeting the requirements of 24 CFR 202.5, 202.6, 202.7, 202.8 or 202.10 and 202.12, if there has been no Origination Approval Agreement for at least six months, and if the Secretary determines that the underlying causes for termination have been remedied. To enable the Secretary to ascertain whether the underlying causes for termination have been

remedied, a mortgagee applying for a new Origination Approval Agreement must obtain an independent review of the terminated office's operations as well as its mortgage production, specifically including the FHA-insured mortgages cited in its termination notice. This independent analysis shall identify the underlying cause for the mortgagee's high default and claim rate. The review must be conducted and issued by an independent Certified Public Accountant (CPA) qualified to perform audits under Government Auditing Standards as provided by the Government Accountability Office. The mortgagee must also submit a written corrective action plan to address each of the issues identified in the CPA's report, along with evidence that the plan has been implemented. The application for a new Agreement should be in the form of a letter, accompanied by the CPA's report and corrective action plan. The request should be sent to the Director, Office of Lender Activities and Program Compliance, 451 Seventh Street, SW., Room B133–P3214, Washington, DC 20410–8000 or by courier to 490 L'Enfant Plaza, East, SW., Suite 3214, Washington, DC 20024–8000.

Action: The following mortgagees have had their Agreements terminated by HUD:

Mortgagee name	Mortgagee branch address	HUD office jurisdictions	Termination effective date	Homeownership centers
Alethes LLC	8601 RR 2222 BLDG 1, AUSTIN, TX 78730	Ft Worth		Denver.
Rocky Mountain	7075 S. ALTON WAY, CENTENNIAL, CO 80112	Denver		Denver.

Dated: November 20, 2007.

Brian D. Montgomery,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. E7–23321 Filed 11–30–07; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Central Utah Project Completion Act

AGENCY: Office of the Assistant Secretary—Water and Science, Department of the Interior.

ACTION: Notice of Intent to Prepare an Environmental Assessment (EA) and Public Scoping Meeting on the Hobble Creek Habitat Restoration, Utah County, Utah, as part of the June Sucker Recovery Implementation Program.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969 (NEPA), as amended, the Council on Environmental Quality Regulations at 40 CFR 1501.7, and authorities under the Endangered Species Act (15 U.S.C. 1536, *et seq.*), the Department is initiating an environmental impact analysis, with public involvement, for the Hobble Creek Habitat Restoration Project. The plan would relocate a portion of Hobble Creek onto state-owned land, restore more natural stream sinuosity, and improve instream habitat conditions to benefit the June sucker (*Chasmistes liorus*), an endangered fish.

The June sucker exists naturally only in Utah Lake and spawns only in the Provo River, a Utah Lake tributary. Hobble Creek, also a tributary to Utah Lake, is believed to be an historic spawning stream for the June sucker that has been dredged, straightened and otherwise degraded in a manner that renders it no longer suitable for June sucker spawning. Restoration of at least one additional Utah Lake tributary as spawning habitat for the June sucker is a recovery action in the approved Recovery Plan for the species. The Department is acting as Lead Agency for NEPA compliance in its capacity as a participating partner in the June Sucker Recovery Implementation Program.

DATES: A public scoping meeting is scheduled in the local geographic area of the project to receive input from affected parties and the general public regarding anticipated environmental issues associated with the project. The scoping meeting will be held Wednesday, December 5, 2007, from 5 p.m. to 7 p.m. at: Springville Junior High School, School Cafeteria, 165 South 700 East, Springville, Utah 84663.

Public notice of this meeting will also be announced in local media. The details for submitting scoping comments will also be announced.

FOR FURTHER INFOMRATION: Additional information on matters related to this notice can be obtained by contacting Mr. Ralph G. Swanson, 302 East 1860 South Provo, Utah 84606–6154, telephone (801) 379–1254, or by e-mail at *rswanson@uc.usbr.gov.*

Dated: November 27, 2007.

Reed R. Murray,

Program Director, Central Utah Project Completion Act Office, Upper Colorado Region.

[FR Doc. E7–23398 Filed 11–30–07; 8:45 am]

BILLING CODE 4310–RK–P

DEPARTMENT OF THE INTERIOR

Geological Survey

Climate Change Science Program; Meeting

AGENCY: U.S. Geological Survey.

Committee Name: USGS–CCSP Committee for Synthesis and Assessment Product 3.4: Abrupt Climate Change.

ACTION: Notice of Meeting by Teleconference.

SUMMARY: The USGS–CCSP Committee for Synthesis and Assessment Product (SAP) 3.4: Abrupt Climate Change will hold a teleconference on December 21, 2007 from 12 p.m.–4 p.m. Eastern Standard Time.

Agenda: The purpose of the teleconference is to discuss the results of the peer review process for SAP 3.4. The first draft of the SAP was peer reviewed by 24 scientists with expertise tied to the subject matter of the report. Comments from the peer reviewers were collated and distributed to the chapter lead authors of the report. The chapter authors have prepared proposed responses to the peer review comments and distributed them to the full Committee for deliberation at the December 21 teleconference. The teleconference is open to the public. Pre-registration is required to attend. Contact the Designated Federal Officer (DFO) at the address below by December 17 to pre-register and to receive a copy of the peer review comments and proposed responses. The teleconference will take place in a conference room at the USGS in Reston, VA (full address below). In order to participate in the teleconference, members of the public will need to attend in person at the USGS in Reston, VA. Prepared statements may be presented orally to the Committee during the teleconference between 12 p.m. and 12:30 p.m. Public statements will be limited to 3 minutes per person. For scheduling reasons, intent to make a public statement must be established at the time of pre-registration. A written copy of the oral statement must be left with the Committee's DFO as a matter of public record. Additional short

public comments/questions during the teleconference will be allowed only if time permits. Special instructions pertaining to security at USGS and directions to the conference room will be provided to those who pre-register. Please check the Synthesis and Assessment Product 3.4 Web page (*http://www.usgs.gov/global_change/sap_3.4/default.asp)* for any last minute changes to the teleconference date, location or agenda. The teleconference may close early if all business is completed.

FOR FURTHER INFORMATION AND TO PRE-REGISTER CONTACT: John McGeehin (DFO), U.S. Geological Survey, 12201 Sunrise Valley Drive, M.S. 926A, Reston, VA 20192, (703) 648–5349, *mcgeehin@usgs.gov.*

Dr. William Werkheiser,

Acting Associate Director for Geology, U.S. Geological Survey.

[FR Doc. 07–5897 Filed 11–30–07; 8:45 am]

BILLING CODE 4311–AM–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Proposed Finding Against Acknowledgment of the Juaneño Band of Mission Indians, Acjachemen (Petitioner #84A)

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Proposed Finding.

SUMMARY: Pursuant to 25 CFR 83.10(h), the Department of the Interior (Department) gives notice that the Assistant Secretary—Indian Affairs (AS–IA) proposes to determine that the Juaneño Band of Mission Indians, Acjachemen Nation (JBA, Petitioner #84A), c/o Anthony Rivera, Jr., 31411–A La Matanza Street, San Juan Capistrano, California 92675, is not an Indian tribe within the meaning of Federal law.

This notice is based on a determination that the petitioner does not satisfy all seven of the criteria set forth in Part 83 of Title 25 of the Code of Federal Regulations (25 CFR part 83), specifically criteria 83.7(a), 83.7(b), 83.7(c), and 83.7(e), and therefore, does not meet the requirements for a government-to-government relationship with the United States.

DATES: Comments on this proposed finding (PF) are due on or before June 2, 2008. Publication of this notice of the PF in the **Federal Register** initiates a 180-day comment period during which the petitioner and interested and informed parties may submit arguments and evidence to support or rebut the evidence relied upon in the PF. Interested or informed parties must provide a copy of their comments to the petitioner. The regulations, 25 CFR 83.10(k), provide petitioners a minimum of 60 days to respond to any submissions on the PFs received from interested and informed parties during the comment period.

ADDRESSES: Comments and requests for a copy of the summary evaluation of the evidence should be addressed to the Office of the Assistant Secretary—Indian Affairs, Attention: Office of Federal Acknowledgment, 1951 Constitution Avenue, NW., Mail Stop 34B–SIB, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: R. Lee Fleming, Director, Office of Federal Acknowledgment, (202) 513–7650.

SUPPLEMENTARY INFORMATION: The Department publishes this notice in the exercise of authority that the Secretary of the Interior delegated to the AS–IA by 209 DM 8. The JBA petitioner is located in the town of San Juan Capistrano, Orange County, California, approximately 40 miles south of Los Angeles and 20 miles south of the town of Santa Ana.

A group known as the Juaneño Band of Mission Indians (JBM) submitted a letter of intent to petition for Federal Acknowledgment as an Indian tribe to the AS–IA. The Department received the letter of intent on August 17, 1982. The Department designated the JBM as Petitioner #84. The JBM submitted its first documentation that included a narrative entitled ''Petition for Federal Recognition of the Juaneño Band of Mission Indians in Compliance with CFR Part 83,'' as well as photocopies of documents discussed in the JBM petitioner's narrative. The Department received this material on February 2, 1988. The group claimed to descend from the historical Indian tribe of San Juan Capistrano (SJC) Mission, formed from residents of a pre-contact network of politically autonomous villages prior to Spanish colonization who spoke a Uto-Aztecan language.

The Department conducted an initial technical assistance (TA) review of the petition and sent an obvious deficiency (OD) letter dated January 25, 1990, to the JBM. The JBM responded to the first OD letter on September 24, 1993, when it submitted additional materials and requested to be placed on the ''Ready, Waiting for Active Consideration'' (''Ready'') list. The Department placed JBM on the ''Ready'' list on September 24, 1993.

An election in 1993 resulted in a dispute within the JBM. A group of members led by Sonia Johnston challenged the results of the election and the leadership of the chairman David Belardes. On December 17, 1994, the Johnston-led group held an election and elected Sonia Johnston chairperson. Belardes and Johnston simultaneously claimed to be the chairperson of the JBM. The Department removed the JBM from the ''Ready'' list on May 19, 1995, pending revision of the JBM membership list, because of the petitioner's stated intent to substantially revise its membership roll, making it not ready for evaluation. Following the submission of the revised membership list, the JBM, in a letter signed by Davis Belardes, requested the Department to place it on the ''Ready for Active Consideration'' list, and the Department determined that the Belardes-led group was ready for evaluation on February 12, 1996.

On February 17, 1996, another group submitted a letter of intent to petition, signed by Sonia Johnston. Both groups claimed to be the legitimate successor of the JBM, both claimed the JBM petition narrative and research materials, and both used similar names (the Johnston-led group used the name ''The Juaneño Band of Mission Indians,'' while the Belardes-led group used ''The Juaneño Band of Mission Indians, Acjachemen Nation''). The Department designated the Belardes-led group Petitioner #84A (JBA), and the Johnston-led group Petitioner #84B (JBB). The Department placed the JBB petitioner on the ''Ready'' list on May 23, 1996.

Another election within the JBA on April 19, 1997, resulted in the election of Jean Frietze as chairperson. David Belardes, however, disputed the election results. Both Jean Frietze and David Belardes claimed to be the legitimate leader of the JBA. On September 22, 1997, David Belardes requested ''interested party'' status if Jean Frietze were to form a ''new'' group. At the same time, he requested ''interested party'' status to the JBB petitioner. Neither the Belardes-led group nor the Frietz-led group submitted a separate letter of intent to petition. The Department determined that the disagreement over leadership was an internal issue. The Department takes no part in the internal disputes of petitioning groups.

In 1998, 1999, and 2000, the JBA submitted additional documents including ones related to the disputed April 19, 1997, election and subsequent formation of a separate Belardes-led group. The JBA petitioner under the new leadership of Anthony Rivera, Jr.,

submitted new materials to OFA in April 2005, including a summary of documents the petitioner claimed supported its petition, as well as a new membership roll. In a letter dated July 19, 2005, the JBB requested that the AS–IA waive the regulations so that the JBA and the JBB could be considered simultaneously. On August 5, 2005, the Department responded that it would consider this request. OFA also conducted an informal TA meeting with JBA on August 29, 2005, in Washington, DC, and requested additional documentation.

The Department waived the priority provisions of the regulations at 25 CFR 83.10(d) in order to consider the petition of JBA at the same time as the petition of JBB. Both petitioners went on ''Active Consideration'' on September 30, 2005. However, David Belardes still claimed to be the leader of Petitioner #84A. The Department assigned the Belardes-led group (JBMI–IP) ''interested party'' status when the JBA and JBB went on ''Active Consideration'' status on September 30, 2005. This action was consistent with Belardes' previous request for interested party status for both the JBA and the JBB.

The Department received comments from other parties after the submission deadline. Consistent with the **Federal Register** notice of March 31, 2005 (70 FR 16513), the Department will consider these comments for the final determination (FD).

The acknowledgment process is based on the regulations at 25 CFR part 83. Under these regulations, the petitioner has the burden to present evidence that it meets the seven mandatory criteria in section 83.7. The JBA petitioner did not satisfy criteria 83.7(a), 83.7(b), 83.7(c), and 83.7(e). The JBA petitioner satisfied criteria 83.7(d), 83.7(f), and 83.7(g).

Criterion 83.7(a) requires that the petitioner be identified as an American Indian entity on a substantially continuous basis since 1900. The evidence does not demonstrate that external observers identified the petitioning group or a group antecedent to the JBA petitioner as an Indian entity on a substantially continuous basis from 1900 to 1997. An identification of a group in the 1930's and identifications at least from 1959 to 1965 of groups Clarence Lobo headed have not been demonstrated to be identifications of the same entity as the JBA petitioner and do not constitute substantially continuous identification of an Indian entity. There were identifications of the similarly named JBM organization between 1979 and 1994. However, the JBA petitioner has a membership substantially different from JBM and one that has been much larger than JBM. Because the JBA petitioner is nearly contemporaneous with the JBM, has a substantially different membership, and other evidence does not show continuity in community or political influence between the JBM and the JBA petitioner, the identifications of the JBM between 1979 and 1994 cannot be considered identifications of the JBA petitioner. For the period since 1997, external observers have identified the JBA petitioner as an Indian entity. Therefore, the JBA meets the requirements of criterion 83.7(a) only from 1997 to the present.

Criterion 83.7(b) requires that a predominant portion of the petitioning group comprises a distinct community and has existed as a community from historical times until the present. The available evidence does not demonstrate that the petitioner evolved from the historical SJC Indian tribe that lived at SJC Mission between 1776 and 1834. The petitioner's ancestors derive from the general population of residents of the town of SJC in the mid-19th century, which included non-Indians, individual SJC Indians, and non-SJC Indians. While some members of the current JBA petitioner do have SJC Indian ancestry, there is no evidence that the SJC Indian ancestors were part of an Indian entity that evolved from the SJC Indian tribe in 1834; rather, they appear to be Indian individuals who became part of the general, ethnically-mixed population. Some of the JBA petitioner's non-Indian and non-SJC Indian ancestors moved to the town of SJC during the mission period (1776–1834), arrived there soon after the 1834 secularization of the mission, or migrated to California around the time of the 1849 Gold Rush. Some of these ancestors established social relationships with SJC Indian descendants, including serving as godparents and confirmation sponsors. Some of these ancestors later married or entered into relationships with descendants of SJC Indians and established kin ties.

The current composition of the JBA petitioner mirrors the composition of the mid-19th century general population of the town and differs from the JBB petitioner. The JBA group includes more of the lifelong residents of SJC town who claim descent from the historical SJC Indian tribe. The JBA group also includes more claimed SJC Indian descendants who maintained contact with people in the town even after they moved away. In contrast, the JBB group includes primarily members who claim descent from the historical SJC Indian tribe, but whose ancestors left the town decades ago and do not appear to have maintained contact with those who remained in the town, outside of a few close family members.

There is insufficient evidence in the record to establish that a predominant portion of the ancestors of the petitioning group comprised a continuous community distinct from the other residents of SJC prior to 1920 and the establishment of the Mission Indian Federation (MIF). From 1920 to 1964, some of the petitioner's ancestors (and some living members) took part in a variety of activities related to the settlement of the 1928 Claims Act, particularly those organized by non-Indian Marcos H. Forster and SJC Indian descendant Clarence Lobo, but the evidence indicates that most of this interaction was limited to the claims activities. There is no evidence in the record of any organization of members between the 1964 settlement of the claims issue and the 1975 establishment of the Capistrano Indian Council (CIC), and little evidence that JBA members residing outside of SJC participated in the CIC organization or associated with any town residents other than close relatives. There is some evidence of social interaction and communication among some JBM members, especially those involved in archaeological site monitoring, between 1978 and 1995. This evidence occurred predominantly within the realm of the JBM organization and does not demonstrate the widespread significant interactions required to demonstrate the existence of a community under 83.7(b). The JBA petitioner has not explained the inclusion in the membership of many new people and families with no former connection to the JBM after the separation of the JBB and the formation of the JBA, or explained the absence of many of the former JBM members who are no longer present on the JBA group's membership lists (and who do not appear as members of the JBB or JBMI–IP). The JBA experienced another substantial change in membership when the JBMI–IP formed a group in 1997. The fluctuations in membership also demonstrate that the JBA is not the JBM under a different name, as the membership of the JBA has changed dramatically, and no other evidence demonstrates that a cohesive continuing social community remained in place throughout these membership fluctuations. From 1995 to the present, there is insufficient evidence that the petitioner's members comprise a distinct community. The historical SJC Indian tribe would meet this criterion until 1834, but the JBA petitioning

group has not demonstrated that it meets the requirements of the criterion since 1834. Therefore, the JBA does not meet the requirements of criterion 83.7(b) at any time from 1834 to the present.

Criterion 83.7(c) requires that the petitioner maintain political influence or authority over its members as an autonomous entity from historical times until the present. The evidence in the record demonstrates that the JBA petitioner is not a continuation of the historical SJC Indian tribe present at the SJC Mission until 1834. Only a portion of the petitioner's members have demonstrated descent from Indians of the historical SJC Indian tribe, and these individuals appear to have left the historical SJC Indian tribe as individuals, often before 1834. There is also no available evidence from the early statehood period which demonstrates by a reasonable likelihood that representatives of a political entity of descendants from the historical SJC Indian tribe signed any of the 1852 unratified treaties. The petitioner did not present sufficient evidence of formal or informal leadership within an Indian group of which its ancestors were part during the late 19th century or early 20th century. The formation of the umbrella organization of the MIF in 1920 appears to have served as a catalyst for the organization of the local SJC MIF chapter. However, the information provided about the SJC MIF chapter indicates that it functioned predominantly as a claims organization, and does not indicate that the claims were of importance to the petitioner's ancestors prior to the founding of the MIF. There is no evidence in the petition to indicate that the leadership of the SJC chapter of the MIF addressed diverse issues of immediate importance to its membership.

Evidence in the record related to claimed SJC leader Clarence Lobo's activities in the late 1940's through the mid-1960's provides little evidence of a bilateral political relationship between Lobo and the undefined group of people claiming to be SJC Indian descendants. His activities also appear to focus almost exclusively on claims activities, and in this regard, his advocacy on behalf of pan-Indian organizations and a discrete group of Indian descendants in the town of SJC is sometimes uncertain. The record included no evidence of Clarence Lobo's leadership outside of his involvement with a number of pan-Indian organizations and the California claims issues. Lobo himself complained that few SJC claimants joined him in his political activities, although some claimants provided limited financial support for his claims work. There is little evidence that SJC Indian claimants influenced or informed Lobo's actions.

The record presents no evidence of any formal political activity between the settlement of the California Claims in 1964 and the establishment of the CIC. There is also no indication of any informal leadership during this time. After the 1975 establishment of the CIC, an organization which included non-Indians and non-SJC Indians, some information showed limited political organization among some of the SJC residents claiming to be SJC Indian descendants. However, the evidence indicated very little participation in the organization of people who lived outside the town, and there is no indication that the people outside of SJC formed any parallel organizations of their own. From 1975 until 1978, the CIC appears to have politically influenced some of the residents of the town of SJC. The JBM, which first organized in 1978 as a part of the CIC, quickly became a separate organization. From 1978 until approximately 1989, the JBM and CIC provided some leadership. These organizations appear to have represented two populations (with little crossover): The JBM was composed predominantly of those who lived outside the town of SJC, while the CIC was composed of those who lived inside the town of SJC. The 1989 change in leadership (from Raymond Belardes to his cousin, SJC town resident David Belardes) and the JBM involvement in the Floyd Nieblas dispute with the administration of the Catholic Church located at the historical SJC Mission in 1990 does appear to have opened a door of membership to local CIC members not previously identified as members of the JBM organization. From approximately 1990 to 1996, the JBM demonstrated some influence over its members, both inside and outside of the town of SJC, but rates of participation in its activities and decision-making were exceedingly low. This influence continued until a group of members under the leadership of Sonia Johnston separated in 1996. Both groups claimed to be JBM, and the Department designated the group under David Belardes as ''JBA'' and the Johnston-led group as ''JBB.'' In 1997, the JBMI–IP then separated from the JBA. From 1996 until the present, the JBA petitioner has not demonstrated political influence over its members that satisfies the requirements of the regulations. The historical SJC Indian tribe would meet this criterion until 1834, but the JBA petitioner has not demonstrated that it meets the requirements of the criterion since 1834. Further, it has not demonstrated political authority within such a continuously existing entity at any time since 1834. Therefore, the JBA does not meet the requirements of criterion 83.7(c) at any time from 1834 to the present.

Criterion 83.7(d) requires that the petitioner provide a copy of the group's present governing document including its membership criteria. The JBA petitioner submitted a copy of its governing document which includes its membership criteria. Therefore, the JBA petitioner meets the requirements of criterion 83.7(d).

Criterion 83.7(e) requires that the petitioner's membership consists of individuals who descend from a historical Indian tribe or from historical Indian tribes which combined and functioned as a single autonomous political entity. The November 28, 2005, JBA membership list included 1,640 living, adult members. The list did not include minors under age 18. The evidence in the record demonstrates that most of the the JBA petitioner's members claim descent only from individuals who were not part of the historical Indian tribe at Mission SJC as it existed between 1776 and 1834. This PF finds that only 2 percent (37 of 1,640) of JBA members have actually demonstrated descent from one of the Indians of the historical SJC Indian tribe. Therefore, because the JBA petitioner's membership does not consist of individuals who descend from the historical SJC Indian tribe in 1834 (98 percent have not demonstrated descent), JBA does not meet the requirements of criterion 83.7(e).

Criterion 83.7(f) requires that the membership of the petitioning group be composed principally of persons who are not members of any acknowledged North American Indian tribe. A review of the membership rolls of those mission Indian tribes in California that would most likely include the JBA petitioner's members revealed that the JBA membership is composed principally of persons who are not members of any acknowledged North American Indian tribe. Therefore, the JBA meets the requirements of criterion 83.7(f).

Criterion 83.7(g) requires that neither the petitioner nor its members be the subject of congressional legislation that has expressly terminated or forbidden the Federal relationship. No evidence has been found to indicate that the JBA petitioner was the subject of congressional legislation to terminate or prohibit a Federal relationship as an Indian tribe. The JBA petitioner meets the requirements of criterion 83.7(g).

Based on this preliminary factual determination, the Department proposes not to extend Federal Acknowledgment as an Indian tribe under 25 CFR part 83 to the JBA petitioner known as the Juaneño Band of Mission Indians, Acjachemen Nation.

As provided by 25 CFR 83.1(h), a report summarizing the evidence, reasoning, and analyses that are the basis for the PF will be provided to the petitioner and interested parties, and is available to other parties upon written request.

Comments on the PF and/or requests for a copy of the summary evaluation of the evidence should be addressed to the Office of the Assistant Secretary—Indian Affairs, Attention: Office of Federal Acknowledgment, 1951 Constitution Avenue, NW., Mail Stop 34B–SIB, Washington, DC 20240.

Comments on the PF should be submitted within 180 calendar days from the date of publication of this notice. Comments by interested and informed parties must be provided to the petitioner as well as to the Federal Government (83.10(h)). After the close of the 180-day comment period, the petitioner has 60 calendar days to respond to third-party comments (83.10(k)).

After the expiration of the comment and response periods described above, the Department will consult with the petitioner concerning establishment of a schedule for preparation of the FD. The AS–IA will publish the FD of the petitioner's status in the **Federal Register** as provided in 25 CFR 83.10(1), at a time that is consistent with that schedule.

On November 23, 2007, the AS–IA Carl J. Artman, approved the Proposed Finding Against Acknowledgment of the Juaneño Band of Mission Indians, Acjachemen Nation (Petitioner #84A). On November 26, 2007, he authorized his acting AS–IA to approve this **Federal Register** notice.

Dated: November 26, 2007.

Debbie Clark,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. E7–23360 Filed 11–30–07; 8:45 am]

BILLING CODE 4310–G1–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Proposed Finding Against Acknowledgment of the Juaneño Band of Mission Indians (Petitioner #84B)

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Proposed Finding.

SUMMARY: Pursuant to 25 CFR 83.10(h), the Department of the Interior (Department) notice is hereby given that the Assistant Secretary, Indian Affairs (AS–IA) proposes to determine that the Juaneño Band of Mission Indians (Petitioner #84B, JBB), c/o Joe Ocampo, 1108 East Fourth Street, Santa Ana, California 92701, and c/o Bud Sepulveda, P.O. Box 25628, Santa Ana, California 92799, is not an Indian tribe within the meaning of Federal law. Due to the group's recent internal leadership conflict, this notice is addressed to both individuals who claim to be its leader. The Department has not addressed this dispute in this proposed finding (PF). These individuals hopefully will resolve this conflict by the time of the final determination (FD).

This notice is based on a determination that the petitioner does not satisfy all seven of the criteria set forth in Part 83 of Title 25 of the Code of Federal Regulations (25 CFR part 83), specifically criteria 83.7(a), 83.7(b), 83.7(c), and 83.7(e), and therefore, does not meet the requirements for a government-to-government relationship with the United States.

DATES: Comments on this PF are due on or before June 2, 2008. Publication of this notice of the PF in the **Federal Register** initiates a 180-day comment period during which the petitioner and interested and informed parties may submit arguments and evidence to support or rebut the evidence relied upon in the PF. Interested or informed parties must provide a copy of their comments to the petitioner. The regulations, 25 CFR 83.10(k), provide petitioners a minimum of 60 days to respond to any submissions on the PFs received from interested and informed parties during the comment period.

ADDRESSES: Comments and requests for a copy of the summary evaluation of the evidence should be addressed to the Office of the Assistant Secretary—Indian Affairs, *Attention:* Office of Federal Acknowledgment, 1951 Constitution Avenue, NW., Mail Stop 34B–SIB, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: R. Lee Fleming, Director, Office of Federal Acknowledgment, (202) 513–7650.

SUPPLEMENTARY INFORMATION: The Department publishes this notice in the exercise of authority that the Secretary of the Interior delegated to the AS–IA by 209 DM 8. The JBB petitioner is located in the town of Santa Ana, Orange County, California, approximately 25 miles south of Los Angeles and 20 miles north of the town of San Juan Capistrano.

A group known as the Juaneño Band of Mission Indians (JBM) submitted a letter of intent to petition for Federal acknowledgment as an Indian tribe to the AS–IA. The Department received the letter of intent on August 17, 1982. The Department designated the JBM as Petitioner #84. The JBM submitted its first documentation that included a narrative entitled ''Petition for Federal Recognition of the Juaneño Band of Mission Indians in Compliance with CFR Part 83,'' as well as photocopies of documents discussed in the JBM petitioner's narrative.

The Department received this material on February 2, 1988. The group claimed to descend from the historical Indian tribe of San Juan Capistrano (SJC) Mission, consisting of residents of a pre-contact network of politically autonomous villages prior to Spanish colonization who spoke a Uto-Aztecan language.

The Department conducted an initial technical assistance (TA) review of the petition, and sent an obvious deficiency (OD) letter dated January 25, 1990, to the JBM. The JBM responded to the first OD letter on September 24, 1993, when it submitted additional materials, and requested to be placed on the ''Ready, Waiting for Active Consideration'' (''Ready'') list. The Department placed JBM on the ''Ready'' list on September 24, 1993.

An election in 1993 resulted in a dispute within the JBM. A group of members led by Sonia Johnston challenged the results of the election and the leadership of the chairman David Belardes. On December 17, 1994, the Johnston-led group held an election and elected Sonia Johnston chairperson. Belardes and Johnston simultaneously claimed to be the chairperson of the JBM. The Department removed the JBM (Petitioner #84) from the ''Ready'' list on May 19, 1995, pending revision of the JBM's membership list, because of the petitioner's stated intent to revise substantially its membership roll, making it not ready for evaluation. Following the submission of the revised membership list, the JBM, in a letter signed by David Belardes, requested the Department to place it on the ''Ready'' list, and the Department determined that the Belardes-led group was ready for evaluation on February 12, 1996.

On February 17, 1996, another group submitted a letter of intent to petition, signed by Sonia Johnston. Both groups claimed to be the legitimate successor of the JBM, both claimed the JBM petition narrative and research materials, and both used similar names (the Johnston-

led group used the name ''The Juaneño Band of Mission Indians,'' while the Belardes-led group used ''The Juaneño Band of Mission Indians, Acjachemen Nation''). The Department designated the Johnston-led group Petitioner #84B (JBB) and the Belardes-led group Petitioner #84A (JBA). The Department placed the JBB petitioner on the ''Ready'' list on May 26, 1996.

On April 19, 1997, the JBA experienced a contested election, resulting in the formation of two groups, one led by David Belardes and the other by Jean Frietze, both of whom claimed to be the legitimate leader of Petitioner #84A (JBA). On September 22, 1997, David Belardes requested ''interested party'' status if Jean Frietze were to form a ''new'' group, and also requested ''interested party'' status to the JBB petitioner. Neither the Belardes-led group nor the Frietze-led group submitted a separate letter of intent to petition. The Department determined that the disagreement over leadership was an internal issue. The Department takes no part in the internal disputes of petitioning groups.

The JBB submitted material in March 1996, and OFA conducted a technical assistance (TA) review of these documents. OFA sent a TA review letter to JBB on May 15, 1996. This letter identified obvious deficiencies in the JBB's submitted materials. In 2004, the JBB submitted additional materials in response to the 1996 TA review letter. OFA considered the petitioner ready for evaluation and placed it on the ''Ready'' list effective May 23, 1996, following the petitioner's written request of May 31, 1996. In a letter dated July 19, 2005, the JBB requested that the AS–IA waive the regulations so that the JBB and JBA could be considered simultaneously. On August 5, 2005, the Department responded that it would consider this request. OFA also conducted informal TA with the JBB on September 6, 2005, by telephone.

The Department waived the priority provisions of the regulations at 25 CFR 83.10(d) in order to consider the petition of Petitioner #84B (JBB) at the same time as the petition of Petitioner #84A (JBA). Both petitioners went on ''Active Consideration'' on September 30, 2005. However, David Belardes still claimed to be the leader of Petitioner #84A. The Department assigned the Belardes-led group (JBMI–IP) ''interested party'' status when the JBB and JBA went on ''Active Consideration'' status on September 30, 2005. This action was consistent with David Belardes' previous request for ''interested party'' status for both the JBB and the JBA.

On November 21, 2005, JBB submitted a letter requesting a temporary suspension of consideration of its petition in order to secure additional documentation. This suspension was not granted.

On November 27, 2005, JBB timely submitted new materials to its petition. The Department received comments from other parties after the submission deadline. Consistent with the **Federal Register** notice of March 31, 2005 (70 FR 16513), the Department will consider these comments for the FD.

The acknowledgment process is based on the regulations at 25 CFR part 83. Under these regulations, the petitioner has the burden to present evidence that it meets the seven mandatory criteria in section 83.7. The JBB petitioner did not satisfy criteria 83.7(a), 83.7(b), 83.7(c), and 83.7(e). The JBB petitioner satisfied criteria 83.7(d), 83.7(f), and 83.7(g).

Criterion 83.7(a) requires that the petitioner be identified as an American Indian entity on a substantially continuous basis since 1900. The available evidence does not demonstrate that external observers identified the petitioning group or a group antecedent to the JBB petitioner as an Indian entity on a substantially continuous basis from 1900 to 1997. An identification of a group in the 1930's and identifications at least from 1959 to 1965 of groups Clarence Lobo headed have not been demonstrated to be identifications of the same entity as the JBB petitioner and do not constitute substantially continuous identification of an Indian entity. There were identifications of the similarly named JBM organization between 1979 and 1994. However, the JBB petitioner has a membership substantially different from JBM and one that has been much larger than JBM. Because the JBB petitioner is nearly contemporaneous with the JBM, has a substantially different membership, and other evidence does not show continuity in community or political influence between the JBM and the JBB petitioner, the identifications of the JBM between 1979 and 1994 cannot be considered identifications of the JBB petitioner. For the period since 1997, external observers have identified the JBB petitioner as an Indian entity. Therefore, the JBB petitioner meets the requirements of criterion 83.7(a) only from 1997 to the present.

Criterion 83.7(b) requires that a predominant portion of the petitioning group comprises a distinct community and has existed as a community from historical times until the present. The available evidence does not demonstrate that the petitioner evolved from the historical SJC Indian tribe that lived at SJC Mission between 1776 and 1834. The petitioner's ancestors derive from the general population of the residents of the town of SJC in the mid-19th century, which included non-Indians, individual SJC Indians, and non-SJC Indians. While some members of the current JBB petitioner do have SJC Indian ancestry, there is no evidence that the SJC Indian ancestors were part of an Indian entity that evolved from the SJC Indian tribe in 1834; rather, they appear to be Indian individuals who became part of the general, ethnically-mixed population. Some of the JBB petitioner's non-Indian and non-SJC Indian ancestors moved to the town of SJC during the mission period (1776–1834), arrived there soon after the 1834 secularization of the mission, or migrated to California around the time of the 1849 Gold Rush. Some of these ancestors established social relationships with SJC Indian descendants, including serving as godparents and confirmation sponsors. Some of these ancestors later married or entered into relationships with descendants of SJC Indians and established kin ties.

The current composition of the JBB petitioner mirrors the composition of the mid-19th century general population of the town and differs from the JBA petitioner. The JBB group includes primarily members who claim descent from the historical SJC Indian tribe, but whose ancestors left the town many years ago and do not appear to have maintained contact with those who remained in the town, outside of close family members. In contrast, the JBA group includes more of the lifelong residents of SJC town. These residents claim to be descendants of the historical SJC Indian tribe. The JBA group also includes more claimed SJC Indian descendants who maintained contact with people in the town even after they moved away.

There is insufficient evidence in the record to establish that a predominant portion of the ancestors of the petitioning group comprised a continuous community distinct from the other residents of SJC prior to 1920 and the establishment of the Mission Indian Federation (MIF). From 1920 to 1964, some of the petitioner's ancestors (and some living members) took part in a variety of activities related to the settlement of the 1928 Claims Act, particularly those organized by non-Indian Marcos H. Forster and SJC Indian descendant Clarence Lobo, but the evidence indicates that most of this interaction was limited to the claims activities. There is no evidence in the record of any organization of members

between the 1964 settlement of the claims issue and the 1975 establishment of the Capistrano Indian Council (CIC), and little evidence that members outside of SJC participated in the CIC organization or associated with any town residents other than close relatives. There is some evidence of social interaction and communication among some JBM members, especially those involved in archaeological site monitoring, between 1978 and 1995. This evidence occurred predominantly within the realm of the JBM organization, and does not demonstrate the widespread significant interactions required to demonstrate the existence of a community under 83.7(b). The JBB petitioner has not explained the inclusion of many new people and families with no former documented connection to the JBM, after the group separated from the JBM in 1996, or has it explained the absence of some of the other JBM members who are no longer present on the JBB group's membership lists (other than those who are now members of the JBA or JBMI–IP). The fluctuations in membership also demonstrate that the JBB is not the JBM under a different name, as the membership of the JBB has changed dramatically and no other evidence demonstrates that a cohesive continuing social community remained in place throughout these membership fluctuations. From 1996 to the present, there is insufficient evidence that the petitioner's members comprise a distinct community. The historical SJC Indian tribe would meet this criterion until 1834, but the JBB petitioning group has not demonstrated that it meets the requirements of the criterion since 1834. Therefore, the JBB petitioner does not meet the requirements of criterion 83.7(b) at any time from 1834 to the present.

Criterion 83.7(c) requires that the petitioner maintain political influence or authority over its members as an autonomous entity from historical times until the present. The evidence in the record demonstrates that the JBB petitioner is not a continuation of the historical SJC Indian tribe present at SJC Mission until 1834. Only a portion of the petitioner's members have demonstrated descent from Indians of the historical SJC Indian tribe, and these individuals appear to have left the historical SJC Indian tribe as individuals, often before 1834. There is also no available evidence from the early statehood period which demonstrates by a reasonable likelihood that representatives of a political entity of descendants from the historical SJC Indian tribe signed any of the 1852 unratified treaties. The petitioner did not present sufficient evidence of formal or informal leadership within an Indian group of which its ancestors were part during the late 19th century or early 20th century. The formation of the umbrella organization of the MIF in 1920 appears to have served as a catalyst for the organization of the local SJC MIF chapter. However, the information provided about the SJC MIF chapter indicates that it functioned predominantly as a claims organization, and does not indicate that the claims were of importance to the petitioner's ancestors prior to the founding of the MIF. There is no evidence in the petition to indicate that the leadership of the SJC chapter of the MIF addressed diverse issues of immediate importance to its membership.

Evidence in the record related to claimed SJC leader Clarence Lobo's activities in the late 1940's through the mid-1960's provides little evidence of a bilateral political relationship between Lobo and the undefined group of people claiming to SJC Indian descendants. His activities also appear to focus almost exclusively on claims activities, and in this regard, his advocacy on behalf of pan-Indian organizations and a discrete group of Indian descendants in the town of SJC is sometimes uncertain. The record included no evidence of Clarence Lobo's leadership outside of his involvement with a number of pan-Indian organizations and the California claims issues. Lobo himself complained that few SJC claimants joined him in his political activities, although some claimants provided limited financial support for his claims work. There is little evidence that SJC Indian claimants influenced or informed Lobo's actions.

The record presents no evidence of any formal political activity between the settlement of the California Claims in 1964 and the establishment of the CIC. There is also no indication of any informal leadership during this time. After the 1975 establishment of the CIC, an organization which included non-Indians and non-SJC Indians, some information showed limited political organization among some of the SJC residents claiming to be SJC Indian descendants. However, the evidence indicated very little participation in the organization of people who lived outside the town, and there is no indication that the people outside of SJC formed any parallel organizations of their own. From 1975 until 1978, the CIC appears to have politically influenced some of the residents of the town of SJC. The JBM, which first organized in 1978 as a part of the CIC, quickly became a separate organization. From 1978 until approximately 1989, the JBM and CIC provided some leadership. These organizations appear to have represented two populations (with little crossover): The JBM was composed predominantly of those who lived outside the town of SJC, while the CIC was composed of those who lived inside the town of SJC. The 1989 change in leadership (from Raymond Belardes to his cousin, SJC town resident David Belardes) and the JBM involvement in the Floyd Nieblas dispute with the administration of the Catholic Church located at the historical SJC Mission in 1990 does appear to have opened a door of membership to local CIC member not previously identified as members of the JBM organization. From approximately 1990 to 1996, the JBM demonstrated some influence over its members, both inside and outside of the town of SJC, but rates of participation in its activities and decision-making were exceedingly low. This influence continued until a group of members under the leadership of Sonia Johnston separated in 1996. Both groups claimed to be JBM, and the Department designated the Johnston-led group as ''JBB'' and the group under David Belardes as ''JBA.'' From 1996 until the present, the JBB petitioner has not demonstrated political influence over its members that satisfies the requirements of the regulations. The historical SJC Indian tribe would meet this criterion until 1834, but the JBB petitioner has not demonstrated that it meets the requirements of the criterion since 1834. Further, it has not demonstrated political authority within such a continuously existing entity at any time since 1834. Therefore, the JBB petitioner does not meet the requirements of criterion 83.7(c) at any time from 1834 to the present.

Criterion 83.7(d) requires that the petitioner provide a copy of the group's present governing document including its membership criteria. The JBB petitioner submitted a copy of its current governing document which includes its membership criteria. Therefore, the JBB petitioner meets the requirements of criterion 83.7(d).

Criterion 83.7(e) requires that the petitioner's membership consists of individuals who descend from a historical Indian tribe or from historical Indian tribes which combined and functioned as a single autonomous political entity. The November 28, 2005, JBB membership list included 908 living adult members. The JBB petitioner indicated that nearly 600 of its members did not appear on the membership list submitted for this PF. The evidence in the record demonstrates that most of the

JBB petitioner's members claim descent only from individuals who were not part of the historical Indian tribe at Mission SJC as it existed between 1776 and 1834. This PF finds that only 4 percent (36 of 908) of JBB members have actually demonstrated descent from one of the Indians of the historical SJC Indian tribe. Therefore, because the petitioner's membership does not consist of individuals who descend from the historical SJC Indian tribe in 1834 (96 percent have not sufficiently demonstrated descent), JBB petitioner does not meet the requirements of criterion 83.7(e).

Criterion 83.7(f) requires that the membership of the petitioning group be composed principally of persons who are not members of any acknowledged North American Indian tribe. A review of the membership rolls of those mission Indian tribes in California that would most likely include the JBB petitioner's members revealed that the JBB membership is composed principally of persons who are not members of any acknowledged North American Indian tribe. Therefore, the JBB petitioner meets the requirements of criterion 83.7(f).

Criterion 83.7(g) requires that neither the petitioner nor its members be the subject of congressional legislation that has expressly terminated or forbidden the Federal relationship. No evidence has been found to indicate that the JBB petitioner was the subject of congressional legislation to terminate or prohibit a Federal relationship as an Indian tribe. The JBB petitioner meets the requirements of criterion 83.7(g).

Based on this preliminary factual determination, the Department proposes not to extend Federal Acknowledgment as an Indian tribe under 25 CFR part 83 to the JBB petitioner known as the Juaneño Band of Mission Indians.

As provided by 25 CFR 83.1(h), a report summarizing the evidence, reasoning, and analyses that are the basis for the PF will be provided to the petitioner and interested parties, and is available to other parties upon written request.

Comments on the PF and/or requests for a copy of the summary evaluation of the evidence should be addressed to the Office of the Assistant Secretary—Indian Affairs, Attention: Office of Federal Acknowledgment, 1951 Constitution Avenue, NW., Mail Stop 34B–SIB, Washington, DC 20240.

Comments on the PF should be submitted within 180 calendar days from the date of publication of this notice. Comments by interested and informed parties must be provided to the petitioner as well as to the Federal Government (83.10(h)). After the close of the 180-day comment period, the petitioner has 60 calendar days to respond to third-party comments (83.10(k)).

After the expiration of the comment and response periods described above, the Department will consult with the petitioner concerning establishment for a schedule for preparation of the FD. The AS–IA will publish the FD of the petitioner's status in the **Federal Register** as provided in 25 CFR 83.10(1), at a time that is consistent with that schedule.

On November 23, 2007, the AS–IA, Carl J. Artman, approved the Proposed Finding Against Acknowledgment of the Juaneño Band of Mission Indians (Petitioner #84B). On November 26, 2007, he authorized his acting AS–IA to approve this **Federal Register** notice.

Dated: November 26, 2007.

Debbie Clark,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. E7–23361 Filed 11–30–07; 8:45 am]

BILLING CODE 4310–G1–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–060–1320–EL, WYW155132]

Notice of Availability of the Record of Decision for the Eagle Butte West Coal Lease-by-Application, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, the Federal Land Policy and Management Act of 1976, and the Bureau of Land Management (BLM) regulations and policies, the BLM announces the availability of the Record of Decision (ROD) for the Eagle Butte West Coal Lease-by-Application (LBA) located in the Casper Field Office (CFO).

ADDRESSES: Copies of the ROD/Final EIS are available via the internet at *http://www.blm.gov/wy/st/en/info/NEPA/cfodocs/eaglebutte-westcoal.html* or upon request from the following BLM office locations:

- Bureau of Land Management, Wyoming State Office, 5353 Yellowstone Road, Cheyenne, Wyoming.
- Bureau of Land Management, Casper Field Office, 2987 Prospector Drive, Casper, Wyoming.

FOR FURTHER INFORMATION CONTACT: Mr. Bob Janssen, Wyoming Coal Coordinator, (307) 775–6206 or Ms. Julie Weaver, Land Law Examiner, (307) 775–6260. Both Mr. Janssen's and Ms. Weaver's offices are located at the BLM Wyoming State Office, 5353 Yellowstone Road, Cheyenne, Wyoming 82009.

SUPPLEMENTARY INFORMATION: The ROD covered by this Notice of Availability (NOA) is for the LBA WYW155132 known as the Eagle Butte West Coal LBA Tract and addresses leasing coal administered by the BLM Casper Field Office in Campbell County, Wyoming. The BLM adopts Alternative 1. Under Alternative 1, the Eagle Butte West LBA Tract, as modified by BLM, would be offered for competitive sale. The Eagle Butte West LBA Tract, as modified by BLM, includes 1,427.77 acres, more or less, and contains an estimated 255 million tons of mineable coal. A competitive coal lease sale will be announced in the **Federal Register**.

This decision is subject to appeal to the Interior Board of Land Appeals (IBLA) as provided in 43 CFR part 4 within thirty (30) days from the date of publication of this NOA in the **Federal Register**. The ROD contains instructions for filing an appeal with the IBLA.

Dated: October 18, 2007.

Robert A. Bennett,

State Director.

[FR Doc. E7–23344 Filed 11–30–07; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

[AK–910–1310–DB–NSSI–241A]

North Slope Science Initiative Science Technical Advisory Panel: Notice of Intent To Renew Charter and Call for Nominations

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of intent to renew and call for nominations for the North Slope Science Initiative Science Technical Advisory Panel.

SUMMARY: This notice announces the renewal of the North Slope Science Initiative Science Technical Advisory Panel (Science Panel) by the Secretary of the Interior (Secretary) and calls for nominations to serve on the Science Technical Advisory Panel in accordance with the provisions of the Federal Advisory Committee Act (FACA) of 1972, 5 U.S.C. Appendix. A copy of the renewed Science Panel charter will be filed with the appropriate committees of Congress and the Library of Congress in accordance with Section 9(c) of FACA.

DATES: Submit a completed nomination form and nomination letters to the

address listed below no later than January 17, 2008.

FOR FURTHER INFORMATION CONTACT: John F. Payne, Ph.D., Executive Director, North Slope Science Initiative (AK–910), c/o Bureau of Land Management; 222 W. Seventh Ave., #13; Anchorage, AK 99513, telephone (907) 271–3431.

SUPPLEMENTARY INFORMATION: The purpose of the Science Panel is to advise the North Slope Science Initiative (NSSI) Oversight Group on issues such as identifying and prioritizing inventory, monitoring and research needs, and providing other scientific advice as requested by the Oversight Group. The Oversight Group consists of the Alaska Regional Directors of the Fish and Wildlife Service, Minerals Management Service, National Park Service, Geological Survey, and National Marine Fisheries Service; the BLM-Alaska State Director; The Commissioners of the Alaska Department of Natural Resources and the Department of Fish and Game; the Mayor of the North Slope Borough; and the President of the Arctic Slope Regional Corporation. Advisory entities to the Oversight Group include the U.S. Department of Energy and the U.S. Arctic Research Commission.

The Science Panel shall consist of a representative group of not more than 15 scientists and technical experts from diverse professions and interests, including the oil and gas industry, subsistence users, Alaska Native entities, conservation organizations, wildlife management organizations, and academia, as determined by the Secretary. The members will be selected from among, but not limited to, the following disciplines: North Slope traditional and local knowledge, landscape ecology, petroleum engineering, civil engineering, geology, botany, hydrology, limnology, habitat biology, wildlife biology, biometrics, sociology, cultural anthropology, economics, ornithology, oceanography, fisheries biology, and climatology.

The duties of the Science Panel are solely advisory to the Oversight Group, which will give direction to the Science Panel regarding priorities for decisions needed for the Department of the Interior's management. Duties could include the following:

a. Advise the Oversight Group on science planning and relevant research and monitoring projects;

b. Advise the Oversight Group on scientific information relevant to the Oversight Group's mission;

c. Review selected reports to advise the Oversight Group on their content and relevance;

d. Review ongoing scientific programs of NSSI member organizations on the North Slope at the request of the member organizations to promote compatibility in methodologies and compilation of data;

e. Advise the Oversight Group on how to ensure that scientific products generated through NSSI activities are of the highest technical quality;

f. Periodically review the North Slope Science Plan and provide recommendations for changes to the Oversight Group;

g. Provide recommendations for proposed NSSI-funded inventory, monitoring and research activities to the Oversight Group;

h. Provide other scientific advice as requested by the Oversight Group; and

i. Coordinate with groups and committees appointed or requested by the Oversight Group to provide science advice, as needed.

The Executive Director for the NSSI shall serve as the Designated Federal Officer for the Science Panel. Specifically, the membership will consist of professionals with advanced degrees and a minimum of five years of work experience in their field in Alaska, preferably in the North Slope region. Professionals will be selected from among those disciplines and entities described above. Any individual or organization may nominate one or more persons to serve on the Science Panel. Members will be appointed for three-year terms. At the discretion of the Secretary of the Interior, Science Panel members may be reappointed indefinitely.

Individuals may nominate themselves to the Science Panel. You may obtain nomination forms from the Executive Director, NSSI (see address above), or from *www.northslope.org*. To make a nomination, you must submit a completed nomination form with a letter of reference that describes the nominee's qualifications to serve on the Science Panel. The professional discipline the nominee would like to represent should be identified in the letter of nomination and in the nomination form. Nominees may be scientists and technical experts from diverse professions and interests, including the oil and gas industry, subsistence users, Alaska Native entities, conservation organizations, wildlife management organizations, and academia. Nominees selected to serve on the Science Panel will serve only in their professional capacity and will not serve to represent any group, agency or entity with whom they may be affiliated.

The Executive Director shall collect the nomination forms and letters of reference and distribute them to the Oversight Group for the NSSI. The Oversight Group will submit their recommendations through the BLM to the Secretary of the Interior who has responsibility for making the appointments.

Members on the Science Panel will serve without monetary compensation. Members will be reimbursed for travel and per diem expenses at current rates for Government employees.

Certification

I hereby certify that the establishment of the Science Technical Advisory Panel for the NSSI is necessary and in the public interest in connection with the Secretary of the Interior's responsibilities to manage the lands, resources and facilities by the Department of the Interior, and in compliance with Section 348, Energy Policy Act of 2005 (Pub. L. 109–58).

Dated: November 8, 2007.

Thomas P. Lonnie,

State Director, Alaska.

[FR Doc. E7–23347 Filed 11–30–07; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–100–08–1610–DJ]

Notice of Call for Nominations for the Pinedale Anticline Working Group (PAWG) as Part of the Adaptive Management Program for the Pinedale Anticline Project Area in Southwestern Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

DATES: All nominations should be postmarked by January 17, 2008. Final appointments will be made by the Secretary of the Interior.

ADDRESSES: Nominations should be sent to Caleb Hiner, Pinedale Field Office, 1625 West Pine Street, P.O. Box 768, Pinedale, Wyoming 82941.

SUMMARY: On June 26, 2006, the Secretary of the Interior renewed the Charter for the PAWG. Representatives of the public-at-large, the State of Wyoming, Office of the Governor, and the landowners within or bordering the Pinedale Anticline area are being solicited. Individuals or groups interested in becoming a member of the PAWG should submit the specified

information by the date specified in the **DATES** section of this notice.

FOR FURTHER INFORMATION CONTACT: Caleb Hiner, PAWG and Task Groups Coordinator, Bureau of Land Management, Pinedale Field Office, P.O. Box 768, Pinedale, Wyoming 82941, telephone (307) 367–5352.

SUPPLEMENTARY INFORMATION: On June 26, 2006, the Secretary of the Interior renewed the Charter for the Pinedale Anticline Working Group and Task Groups (PAWG). Nine members representing interest groups, governmental agencies, and local interests are appointed to the PAWG to serve a 2-year term. Representatives of the public-at-large, the State of Wyoming, and the adjacent landowners have resigned. Nominations are being taken for these three positions.

Additional information can be found at: *http://www.blm.gov/wy/st/en/field_offices/Pinedale/pawg.html.*

The charter established several membership selection criteria and operational procedures were developed once the Working Group became active. These are listed as follows:

1. The PAWG is composed of nine members and six additional representatives who reside in the State of Wyoming. The PAWG members will be appointed by and serve at the pleasure of the Secretary of the Interior.

2. Members to be selected to serve on the PAWG are as follows:

a. A representative from the State of Wyoming, Office of the Governor.

b. A representative from the landowners within or bordering the Pinedale Anticline area.

c. A representative of the public-at-large.

3. All members should have demonstrated an ability to analyze and interpret data and information, evaluate proposals, identify problems, and promote the use of collaborative management techniques (such as, long term planning, management across jurisdictional boundaries, data sharing, information exchange, and partnerships), and a knowledge of issues involving oil and gas development activities.

4. The service of the PAWG members shall be as follows:

a. PAWG members will be appointed to 2-year terms, subject to removal by the Secretary of the Interior. At the discretion of the Secretary of the Interior, members may be reappointed to additional terms.

b. The Chairperson of the PAWG will be selected by the PAWG.

c. The term of the Chairperson will not exceed 2 years.

Individuals, or representatives of groups, who wish to become members of the Pinedale Anticline Working Group should complete and submit the following information to this office by the date specified in the **DATES** section of this notice.

1. Representative Group to be considered for:

2. Nominee's Full Name:

3. Business Address:

4. Business Phone:

5. Home Address:

6. Home Phone:

7. Occupation/Title:

8. Qualifications (education including colleges, degrees, major field of study and/or training):

9. Career highlights (significant related experience, civil and professional activities, elected offices, prior advisory committee experience, or career achievements related to the interest to be represented):

10. Experience in collaborative management techniques, such as long term planning, management across jurisdictional boundaries, data sharing, information exchange and partnerships:

11. Experience in data analysis and interpretation, problem identification and evaluation of proposals:

12. Knowledge of issues involving oil and gas development:

13. Indicate specific area of interest to be represented from the following:

a. A representative from the State of Wyoming, Office of the Governor;

b. A representative from the landowners within or bordering the Pinedale Anticline area; and

c. A representative from the public-at-large.

14. List any leases, licenses, permits, contracts or claims that you hold which involve lands or resources administered by the BLM:

15. Attach two or three letters of reference from interests or organization(s) to be represented:

16. Nominated by: Include nominator's name, address, and telephone number(s):

17. Date of nomination.

Groups that nominate more than one person should indicate their preferred order of appointment selection.

Dated: October 19, 2007.

Robert A. Bennett,

State Director.

[FR Doc. E7–23324 Filed 11–30–07; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Privacy Act of 1974 as Amended; Notice of Proposed Addition of a New System of Records

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974, as amended, (5 U.S.C. 552a), the Bureau of Land Management (BLM) is issuing public notice of its intent to add a new electronic Bureau-wide system of records, the Wild Horse and Burro Program System (WHBPS). This system supports the management of the Wild Horse and Burro (WHB) program and will contain data covered by the Privacy Act of 1974, as amended (5 U.S.C. 552A). The WHBPS is a centrally hosted Web-based application that is only accessible by authorized government users through the BLM intranet for the purpose of administering the WHB program. This action is necessary to meet the requirements of the Privacy Act to publish in the **Federal Register** notice of the existence and character of records systems maintained by the agency (5 U.S. C. 552a(e)(4)).

DATES: *Effective Date:* 5 U.S.C. 552a(e)(11) requires that the public be provided a 30-day period in which to comment on the agency's intended use of the information in the system of records. The Office of Management and Budget, in its Circular A–130, requires an additional 10-day period (for a total of 40 days) in which to make these comments. Any persons interested in commenting on this proposed system of records may do so by submitting comments in writing to the Bureau of Land Management Privacy Act Officer, Information Resources Management Governance Division, Department of the Interior, WO560/725 LS, 1849 C Street, NW., Washington, DC 20240. Comments received within 40 days of the publication of this notice in the **Federal Register** will be considered. The system will be effective as proposed at the end of the comment period unless comments are received which would require a contrary determination.

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.

ADDRESSES: Send written comments to the Bureau of Land Management Privacy Act Officer, Information Resources Management Governance Division, Department of the Interior, WO560/725 LS, 1849 C Street, NW., Washington, DC 20240. Hand deliver comments to the Information Resources Management Policy Group, Room 725, 1620 L Street, NW., Washington, DC. Comments may be submitted by e-mail to Ms. Laura F. Bell, via *lfbell@blm.gov.*

FOR FURTHER INFORMATION CONTACT: Don Glenn, Group Manager, Wild Horse and Burro Program, U.S. Department of the Interior, Bureau of Land Management, 18th and C Streets, NW., Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The BLM is proposing to add a new system of records, the Wild Horse and Burro Program System (WHBPS), to support management of the Wild Horse and Burro (WHB) program. This system will replace the legacy Wild Horse and Burro Information System (WHBIS) as the WHBIS is no longer technologically supported. The WHBPS is a centrally hosted web-based application that is only accessible by authorized government users through the BLM intranet. The new system covers the full range of activities related to management of wild horses and burros. As a part of managing those activities, the WHBPS will contain information on adopters and buyers of wild horses or burros and information on government employees, contractors, volunteers and service providers supporting WHB program activities.

A copy of the system notice for the ''Wild Horse and Burro Program System, (WHBPS)'' follows:

Laura F. Bell,

Freedom of Information Act Officer.

SYSTEM NAME:

Wild Horse & Burro Program System (WHBPS)

SYSTEM LOCATION:

The WHBPS is a centrally hosted web-based application that is only accessible by authorized government users through the BLM intranet. The hardware and database supporting the system is located at: U.S. Department of the Interior, Bureau of Land Management (BLM), National Information Resources Management Center (NIRMC), Building 40, Denver Federal Center, Denver, CO 80225.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Applicants to adopt wild horse(s) and burro(s), persons who have adopted one or more wild horse(s) or burro(s) and buyers of wild horses and burros that meet sale criteria as outlined under law.

(2) Contractors and contract operators of facilities; veterinarians who are serving the program; volunteers; service providers, and BLM, Forest Service (FS) and Animal and Plant Health Inspection Service (APHIS) employees with WHB Program responsibilities. This system may also contain records on corporation and other business entities but those records are not subject to the Privacy Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) For category 1, the records contain the potential adopter's, adopter's, or buyer's identification and qualifications to obtain custody of a wild horse or burro (as detailed on the Adopt A Wild Horse or Burro Internet web application, Application for Adoption of Wild Horse(s) or Burro(s) (OMB Form 4710–10) or Bill of Sale for Wild Horse(s) and Burro(s) (BLM Form 4710–23)), the record of the disposition of the application, the cooperative agreement when custody is granted, evidence of title or sale when ownership transfers, information on fees assessed, and information on the person's compliance with the terms of the agreement.

(2) For category 2, the record contains information for use internal to the program regarding an individual's identification and contact information, job qualifications/certifications, services supplied, system access roles and approval authorities. This information is necessary to administer the WHB program and identify suppliers of services or products necessary for WHB program administration.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Wild Free Roaming Horse and Burro Act of 1971,

The Federal Land Policy and Management Act,

The Public Rangelands Improvement Act,

43 CFR 4700,

16 U.S.C. 1333.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The WHBPS will include information on applicants for adoption, buyers of animals, adopters and those individuals listed in category 2 above.

The primary uses of the records are to

(1) Identify individuals who have applied to obtain custody of a wild horse or burro through adoption or sale;

(2) Document the rejection, suspension or granting of the request for adoption or sale;

(3) Monitor compliance with laws/regulations concerning maintenance of adopted animals;

(4) Identify contractors/employees/volunteers/service providers required to perform program functions;

(5) Provide necessary program management information to other agencies involved in management of wild horses and burros on public lands (FS and APHIS); and

(6) Identify and assign level of system access required by BLM, FS and APHIS WHB program personnel.

Disclosures outside the Department of the Interior may be made to:

(1) Organizations and members of the general public as to the disposition of wild horses or burros;

(2) The U.S. Department of Justice or in a proceeding before a court or adjudicative body when:

(a) The United States, the Department of the Interior, a component of the Department, or, when represented by the government, an employee of the Department is a party to litigation or anticipated litigation or has an interest in such litigation;

(b) The Department of the Interior determines that the disclosure is relevant or necessary to the litigation and is compatible with the purpose for which the records were compiled; and

(c) Information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigation or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

(3) A Congressional office for the record of an individual in response to an inquiry the individual has made to the Congressional office; and

(4) Appropriate agencies, entities, and persons when the:

(a) Agency suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised;

(b) Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; or

(c) Disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosure pursuant to 5 U.S.C. 552a(b)(12): Disclosures may be made to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manually through file folders arranged alphabetically by name and electronically in the computer data base management system.

RETRIEVABILITY:

Indexed by name or other identifying information.

SAFEGUARDS:

Steps were taken to comply with Department of the Interior Privacy Act regulations on safeguard requirements detailed at 43 CFR 2.51. In accordance with the E-Government Act of 2002, a Privacy Impact Assessment was completed to ensure that privacy risks and safeguard measures were assessed in the creation, development and maintenance of the systems maintaining WHB program information.

RETENTION AND DISPOSAL:

Records will be maintained in accordance with BLM Manual 1220, Records and Information Management, Appendix 2—GRS BLM Combined Records Schedules. Individual data elements will be destroyed when superseded or no longer needed for administrative purposes. Computer files are archived periodically and the archive media stored securely.

SYSTEM MANAGER(S) AND ADDRESS:

Group Manager, Wild Horse and Burro Program, U.S. Department of the Interior, Bureau of Land Management, 18th and C Streets, NW., Washington, DC 20240.

NOTIFICATION PROCEDURE:

To determine whether records are maintained on you in this system, write to the System Manager at the address above. For additional information see 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

To see your records, write to the System Manager at to the address above. Describe as specifically as possible the records sought. If copies are desired, indicate the maximum you are willing to pay. For additional information see 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

To request corrections or the removal of material from your files, write the System Manager. For additional information see 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

(1) Category 1: Individuals applying for adoption of a wild horse or burro either in hard copy form or through the web application; individuals adopting a wild horse or burro; or buyers of wild horses or burros: Personal information is provided by the individual.

(2) Category 2: Contractors and contract operators of facilities; veterinarians who are serving the program; volunteers; service/supply providers and BLM, FS and APHIS employees with WHB Program responsibilities. Personal information will be provided by the individual.

[FR Doc. E7–23357 Filed 11–30–07; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Environmental Assessment (EA), Liberty Development and Production Plan (DPP) Ultra Extended Reach Drilling From Endicott Satellite Drilling Island (SDI)—MMS 2007–054

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of Availability of an Environmental Assessment and Finding of No Significant Impact.

SUMMARY: The Minerals Management Service (MMS) is in receipt of a Development and Production Plan (DPP) from British Petroleum (BP) that proposes an ultra extended reach drilling project in the Beaufort Sea Outer Continental Shelf (OCS) scheduled for construction in 2009. In accordance with the National Environmental Policy Act (NEPA), MMS has prepared an environmental assessment (EA) that concludes that with required mitigation no significant adverse effects (40 CFR 1508.27) on the quality of the human environment would occur. Therefore MMS has issued a Finding of No Significant Impact (FONSI). In accordance with 40 CFR 1501.4(e)(2)(i), MMS is making the FONSI available for public review for 30 days before making a final determination whether to prepare an EIS and before taking final action on the proposed Liberty DPP.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Alaska OCS Region, 3801 Centerpoint Drive, #500, Anchorage, Alaska 99503–5820, or Jeff Walker at (907) 334–5300.

EA Availability: To obtain a copy of the EA and FONSI, you may contact the Minerals Management Service, Alaska OCS Region, Attention: Public Information, 3801 Centerpoint Drive, #500, Anchorage, Alaska 99503–5820, telephone 1–800–764–2627. You may also view the EA and FONSI on the MMS Web site at *http://www.mms.gov/alaska.*

Dated: November 5, 2007.

John T. Goll,

Regional Director, Alaska OCS Region.

[FR Doc. E7–23325 Filed 11–30–07; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Preparation of an Environmental Assessment (EA) for Proposed Outer Continental Shelf (OCS) Oil and Gas Lease Sale 207 in the Western Gulf of Mexico (GOM) Planning Area (2008)

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Preparation of an Environmental Assessment (EA).

SUMMARY: The MMS is issuing this notice to advise the public, pursuant to the National Environmental Policy Act of 1969 (NEPA), as amended, 42 U.S.C. 4321 *et seq.*, that MMS intends to prepare an EA for proposed OCS Oil and Gas Lease Sale 207 in the Western GOM Planning Area (Lease Sale 207) scheduled for August 2008. The MMS is issuing this notice to facilitate public involvement. The preparation of this EA is an important step in the decision process for Lease Sale 207. The proposal for Lease Sale 207 was identified by the Call for Information and Nominations published in the **Federal Register** on April 28, 2006, and was analyzed in the *Gulf of Mexico OCS Oil and Gas Lease Sales:* 2007–2012; *Western Planning Area Sales 204, 207, 210, 215, and 218; Central Planning Area Sales 205, 206, 208, 213, 216, and 222—Final Environmental Impact Statement; Volumes I and II* (Multisale Environmental Impact Statement (EIS), OCS EIS/EA MMS 2007–018). This EA for proposed Lease Sale 207 will

reexamine the potential environmental effects of the proposed lease sale and its alternatives (excluding the unleased blocks near biologically sensitive topographic features, use of a nomination and tract selection leasing system, and no action) based on any new information regarding potential impacts and issues that were not available at the time the Multisale EIS was prepared.

FOR FURTHER INFORMATION CONTACT: Mr. Dennis Chew, Minerals Management Service, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, Mail Stop 5410, New Orleans, Louisiana 70123–2394. You may also contact Mr. Chew by telephone at (504) 736–2793.

SUPPLEMENTARY INFORMATION: In April 2007, the MMS published a Multisale EIS that addressed 11 proposed Federal actions that would offer for lease areas on the GOM OCS that may contain economically recoverable oil and gas resources. Federal regulations allow for several related or similar proposals to be analyzed in one EIS (40 CFR 1502.4). Since each proposed lease sale and its projected activities are very similar each year for each planning area, a single EIS was prepared for the 11 Western Planning Area (WPA) and Central Planning Area (CPA) lease sales scheduled in the proposed OCS Oil and Gas Leasing Program: 2007–2012 (5-Year Program). The Multisale EIS addressed WPA Lease Sale 204 in 2007, Sale 207 in 2008, Sale 210 in 2009, Sale 215 in 2010, and Sale 218 in 2011; and CPA Lease Sale 205 in 2007, Sale 206 in 2008, Sale 208 in 2009, Sale 213 in 2010, Sale 216 in 2011, and Sale 222 in 2012. Although the Multisale EIS addresses 11 proposed lease sales, at the completion of the EIS process, Records of Decision were published in July and August 2007 for only proposed WPA Lease Sale 204 and proposed CPA Lease Sale 205, respectively. Prior to each of the nine subsequent proposed lease sales, including Lease Sale 207, an additional NEPA review (an EA) will be conducted to address any new information relevant to that proposed lease sale. After completion of the EA, the MMS will determine whether to prepare a Finding of No New Significant Impact (FONNSI) or a Supplemental EIS. The MMS prepares a Consistency Determination (CD) to determine whether the lease sale is consistent with each affected state's federally-approved coastal zone management program. Finally, the MMS will solicit comments via the Proposed Notice of Sale (PNOS) from the governors of the affected states on the size, timing, and location of the lease sale. The tentative schedule for the prelease decision process for Lease Sale 207 is as follows: EA/FONNSI or Supplemental EIS decision, March 2008; CD's sent to affected states, March 2008; PNOS sent to governors of the affected states, March 2008; Final Notice of Sale published in the **Federal Register**, July 2008; and Lease Sale 207, August 2008.

Public Comments: Interested parties are requested to send within 30 days of this Notice's publication, comments regarding any new information or issues that should be addressed in the EA. Comments may be submitted in one of the following two ways:

1. In written form enclosed in an envelope labeled ''Comments on WPA Lease Sale 207 EA'' and mailed (or hand-carried) to the Regional Supervisor, Leasing and Environment (Mail Stop 5410), Minerals Management Service, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394.

2. Electronically to the MMS e-mail address: *http://www.environment@mms.gov.*

To obtain single copies of the Multisale EIS, you may contact the Minerals Management Service, Gulf of Mexico OCS Region, Attention: Public Information Office (Mail Stop 5034), 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana 70123–2394 (1–800–200–GULF). You may also view the Multisale EIS or check the list of libraries that have copies of the Multisale EIS on the MMS Web site at *http://www.gomr.mms.gov.*

Dated: November 9, 2007.

Chris C. Oynes,

Associate Director for Offshore Minerals Management.

[FR Doc. E7–23332 Filed 11–30–07; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Capital Region; Notice of Intent To Prepare an Environmental Impact Statement

AGENCY: Department of the Interior, National Park Service.

ACTION: Notice of intent to prepare an Environmental Impact Statement to analyze the impacts associated with the exchange of lands owned by Georgetown University and the National Park Service and the impacts associated with the construction of a proposed boathouse for Georgetown University.

SUMMARY: The National Park Service (NPS) announces its intention to prepare an Environmental Impact Statement (EIS) and to conduct scoping to analyze the impacts associated with a land exchange between Georgetown University (University) and the NPS and the impacts associated with the construction of a proposed boathouse for the University on a site within the Chesapeake and Ohio Canal National Historical Park (C&O Canal NHP). In 1995 the NPS conducted an Environmental Assessment (EA) on a proposed land exchange of the site owned by the University within the boundaries of the C&O Canal NHP). In 1995 the NPS conducted an Environmental Assessment (EA) on a proposed land exchange of the site owned by the University within the boundaries of the C&O Canal NHP and a site located within the non-motorized boathouse zone established by the Georgetown Waterfront Park Plan. This EA resulted in a Finding of No Significant Impact (FONSI). The three primary land use goals evaluated were:

(1) Precluding development of a boathouse on the University's largely undisturbed inholding in the park with existing significant natural and cultural resources;

(2) Extinguishing nearly a mile of private access over the Capital Crescent Trail; and

(3) Placing the boathouse on property within the boathouse zone in furtherance of the recreational mandate of C&O Canal NHP Act and Georgetown Waterfront Park Plan.

In 1997, the NPS signed a Memorandum of Agreement (MOA) with the District of Columbia Historic Preservation Office that contained a provision that the proposed University Boathouse would not have a footprint greater than 15,000 square feet. Since the University subsequently proposed an 18,600 square foot boathouse, an amendment to the MOA was required. As part of that process, the NPS conducted public meetings in June and July 2004 to determine whether to revise the MOA. As a result of those meetings and additional written comments, the NPS determined that an EA should be undertaken for the construction of the proposed boathouse. NPS released an EA on the proposed boathouse for public comment from April 25 thorough June 15, 2006, and held a public open house on the EA. Approximately 2,500 comments were received.

Based on comments received on the 2006 EA, and pursuant to section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969, as implemented by the Council on Environmental Quality (40 CFR Parts 1500–1508), NPS has determined a EIS

that will evaluate both the proposed land exchange and the construction impacts of the proposed boathouse is the proper NEPA compliance document. For this reason, NPS announces its intent to prepare an EIS to analyze potential environmental impacts from the proposed action, the range of reasonable alternatives, and mitigation options.

This EIS will consider alternative actions. Those alternatives may include:

(1) Construction of a boathouse with a footprint of 18,682 square feet on the NPS-owned site within the C&O Canal NHP, which is described as Alternative C in the 2006 EA;

(2) Construction of a boathouse with a footprint of 15,000 square feet on the NPS-owned site within the C&O Canal NHP;

(3) Construction of a University Boathouse east of 34th Street on an NPS-owned site within the Georgetown Waterfront Park;

(4) Construction of a University Boathouse upon the site owned by the University; and

(5) A No Action alternative, which would not require this land exchange and would involve the continued use of the Thompson's Boat Center to house the University's rowing program.

Topics for analysis may include the constructability of the boathouse and/or by-right development on the University-owned site; natural, cultural and intangible resource values of the University-owned site; hydrology within the project area; possible impacts on wildlife; possible wetlands; balancing uses on the Capital Crescent Trail; and the cumulative impacts of the project in combination with the Washington Canoe Club, Potomac Boat Club, Jacks Boats, Dempsey's boathouse site, potential George Washington University boathouse and Thompson's Boat Center.

The EIS will be prepared in compliance with NEPA and applicable regulations, including NPS Director's Order 12 and Interior Departmental Manual at 516 DM.

DATES: The NPS will conduct an additional scoping meeting for this EIS on December 11, 2007, 6:30–9 p.m. at St. John's Church, 3240 O Street, NW., Washington, DC., which will be widely announced in newspapers of general circulation as well as through the extensive mailing list developed during the EA process. NPS invites interested agencies, organization, and members of the public to submit comments or suggestions to assist in identifying significant environmental issues and in determining the appropriate scope of the EIS. Written comments on the scope of the EIS are invited.

The public scoping period will continue for at least 45 days from the date of publication of this notice. NPS will hold at least one public meeting during the public scoping period, which will be widely announced in newspapers of general circulation as well as through the extensive mailing list developed during the EA process.

ADDRESSES: Comments and suggestions on the scope of the EIS should be addressed to: Kevin Brandt, Superintendent, C&O Canal NHP, 1850 Dual Highway, Suite 100, Hagerstown, Maryland 21742; or by electronic mail at *NCR_Georgetownboathouse@nps.gov.*

FOR FURTHER INFORMATION CONTACT: Kevin Brandt, Superintendent, C&O Canal NHP, 1850 Dual Highway, Suite 100, Hagerstown, Maryland 21742.

SUPPLEMENTARY INFORMATION: The 1986 plan for the Georgetown Waterfront Park, which was established in 1984 by the National Capital Planning Commission as part of the Park System of the Nation's Capital, includes a non-motorized boathouse zone, as detailed below, in the proximity of Key Bridge where boathouses had been located historically. The University Boathouse was proposed for location within this boathouse zone which encompasses portions of the C&O Canal NHP as well as the Georgetown Waterfront Park.

To accommodate the growth of the historic sport of rowing on the Potomac River, the Georgetown Waterfront Plan, which was approved in 1986, established a non-motorized boathouse zone along the shoreline in Georgetown from 34th Street to approximately 1,250 feet above Key Bridge, at roughly the historic location of boathouses dating back to the 19th century. A total of five boathouses would be located in the boathouse zone, including the University (future, private), Washington Canoe Club (existing, private), Potomac Boat Club (existing, private), NPS boathouse for singles, doubles, canoes and kayaks (future, public), and George Washington University (future, private). Additionally, Thompson's Boat Center (NPS concessioner) would continue to provide space for scholastic and privately-owned shells.

In 1989 the University acquired a one-acre boathouse site with a one-mile long perpetual access easement over the Capital Crescent Trail. Because its collegiate rowing program is housed at Thompson's Boat Center which is inadequate for its purposes, the University evaluated building a University boathouse on the site and using its easement to access the site. The NPS, concerned about the proposal of the University to build a boathouse outside the boathouse zone upon the sensitive site owned by the University, has been engaged in negotiations with the University since 1989.

Dated: November 8, 2007.

Joseph M. Lawler,

Regional Director, National Capital Region.

[FR Doc. 07–5901 Filed 11–30–07; 8:45 am]

BILLING CODE 4312–JK–M

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–618]

In the Matter of Certain Computer Systems, Printers and Scanners; Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on October 30, 2007, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Acer Incorporated of Taiwan. Supplements to the complaint were filed on November 13, 2007 and November 16, 2007. The complaint, as supplemented, alleges violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain computer systems, printers and scanners by reason of infringement of certain claims of U.S. Patent Nos. 5,214,761 and 5,581,122. The complaint, as supplemented, further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after the investigation, issue an exclusion order and a cease and desist order.

ADDRESSES: The complaint and supplements, except for any confidential information contained therein, are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Room 112, Washington, DC 20436, telephone 202–205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons

with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: Jeffrey T. Hsu, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2579.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2006).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on November 27, 2007, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain computer systems, printers and scanners by reason of infringement of one or more of claims 1–25 of U.S. Patent No. 5,214,761 and claims 1–10 of U.S. Patent No. 5,581,122, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—Acer Incorporated, 8F, 88, Sec. 1, Hsin Tai Wu Rd., Hsichih, Taipei, Hsien 221, Taiwan.

(b) The respondent is the following entity alleged to be in violation of section 337, and is the party upon which the complaint is to be served: Hewlett-Packard Company, 3000 Hanover Street, Palo Alto, California 94304.

(c) The Commission investigative attorney, party to this investigation, is Jeffrey T. Hsu, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Suite 401, Washington, DC 20436; and

(3) For the investigation so instituted, the Honorable Paul J. Luckern is designated as the presiding administrative law judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondent in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of the respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of a permanent exclusion order or cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: November 28, 2007.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E7–23355 Filed 11–30–07; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. AGOA–002]

Denim Fabric: Use in AGOA Countries During Fiscal Year 2007

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation and scheduling of hearing; change in numbering format for AGOA reports.

SUMMARY: Pursuant to section 112(c)(2)(B)(iii) of the African Growth and Opportunity Act (AGOA) (19 U.S.C. 3721(c)(2)(B)(iii)), the Commission has instituted investigation No. AGOA–002, *Denim Fabric: Use in AGOA Countries During Fiscal Year 2007,* for the purpose of gathering information and making the determination required concerning the extent to which denim fabric deemed to be available in commercial quantities during fiscal year 2007 for use by lesser developed beneficiary (LDB) sub-Saharan African (SSA) countries was used in the production of apparel articles receiving preferential treatment during fiscal year 2007.

DATES: December 3, 2007: Institution of investigation.

March 18, 2008: Deadline for filing request to appear at the public hearing.

March 21, 2008: Deadline for filing pre-hearing briefs and statements.

April 9, 2008: Public hearing.

April 23, 2008: Deadline for filing post-hearing briefs and statements.

April 28, 2008: Deadline for filing all other written submissions.

July 1, 2008: Transmittal of Commission report to the President and U.S. Trade Representative.

ADDRESSES: All Commission offices, including the Commission's hearing rooms, are located in the United States International Trade Commission Building, 500 E Street, SW., Washington, DC. All written submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street, SW., Washington, DC 20436. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://www.usitc.gov/secretary/edis.htm.*

FOR FURTHER INFORMATION CONTACT: Project leaders Justino de la Cruz (202–205–3252 or *justino.delacruz@usitc.gov*) or Dawn Heuschel (202–205–2577 or *dawn.heuschel@usitc.gov*) for information specific to this investigation. For information on the legal aspects of this investigation, contact William Gearhart of the Commission's Office of the General Counsel (202–205–3091 or *william.gearhart@usitc.gov*). The media should contact Margaret O'Laughlin, Office of External Relations (202–205–1819 or *margaret.olaughlin@usitc.gov*). Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal at 202–205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

Background: On December 20, 2006, the President signed into law amendments to section 112(c) of the African Growth and Opportunity Act (AGOA) (19 U.S.C. 3721(c)), included in Public Law 109–432. The amendments require the Commission to make certain determinations relating to the commercial availability of regional fabric or yarn for use in LDB SSA

countries in apparel articles receiving U.S. preferential treatment under AGOA, and also require the Commission to make determinations with regard to the extent that the quantity of fabric or yarn determined to be so available was so used. Section 112(c)(2)(C) of AGOA deemed denim fabric provided for in subheading 5209.42.00 of the Harmonized Tariff Schedule of the United States to be available in the amount of 30 million square meter equivalents for such purposes during the period October 1, 2006–September 30, 2007 (fiscal year 2007). Section 112(c)(2)(B)(iii) of AGOA now requires the Commission to determine the extent to which the denim fabric deemed to be available during fiscal year 2007 was used in the production of apparel articles receiving preferential treatment under AGOA that were entered during fiscal year 2007. The Commission expects to transmit its determination and report to the President and the U.S. Trade Representative on or before July 1, 2008.

The Commission has also re-designated the recently completed investigation No. AGOA–07–001, *Commercial Availability of Fabric & Yarns in AGOA Countries: Certain Denim,* as investigation No. AGOA–001, Commission Publication 3950, September 2007. This change was made principally for the purpose of facilitating docketing and public searches through the Commission's EDIS system.

The Commission will institute a separate investigation in the near future for the purpose of gathering information and making determinations concerning whether such denim fabric will be available in commercial quantities during fiscal year 2009 for use in LDB SSA countries in the production of apparel articles receiving preferential treatment under AGOA, and if so, the quantity that will be available. This investigation will be designated as investigation No. AGOA–003. The Commission made similar determinations with respect to availability during fiscal year 2008 in recently completed investigation No. AGOA–001.

Public Hearing: A public hearing in connection with this investigation will be held at the U.S. International Trade Commission Building, 500 E Street, SW., Washington, DC, beginning at 9:30 a.m. on April 9, 2008. To facilitate attendance at the hearing by parties also interested in attending the hearing in investigation No. AGOA–003, the Commission will hold a consolidated hearing for both investigations. Requests to appear at the public hearing should be filed with the Secretary, no later than 5:15 p.m., March 18, 2008, in accordance with the requirements in the ''Submissions'' section below. All pre-hearing briefs and statements should be filed not later than 5:15 p.m., March 21, 2008; and all post-hearing briefs and statements should be filed not later than 5:15 p.m., April 23, 2008. In the event that, as of the close of business on March 18, 2008, no witnesses are scheduled to appear at the hearing, the hearing will be canceled. Any person interested in attending the hearing as an observer or nonparticipant may call the Secretary to the Commission (202–205–2000) after March 18, 2008, for information concerning whether the hearing will be held.

Written Submissions: In lieu of or in addition to participating in the hearing, interested parties are invited to submit written statements concerning this investigation. All written submissions should be addressed to the Secretary. All written submissions (except for requests to appear at the hearing and pre- and post-hearing briefs and statements with earlier due dates) should be received not later than 5:15 p.m., April 28, 2008. All written submissions must conform with the provisions of section 201.8 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.8). Section 201.8 requires that a signed original (or a copy so designated) and fourteen (14) copies of each document be filed. In the event that confidential treatment of a document is requested, at least four (4) additional copies must be filed, in which the confidential information must be deleted (see the following paragraph for further information regarding confidential business information). The Commission's rules authorize filing submissions with the Secretary by facsimile or electronic means only to the extent permitted by section 201.8 of the rules (see Handbook for Electronic Filing Procedures, *http://www.usitc.gov/secretary/fed_reg_notices/rules/documents/handbook_on_electronic_filing.pdf*). Persons with questions regarding electronic filing should contact the Secretary (202–205–2000).

Any submissions that contain confidential business information must also conform with the requirements of section 201.6 of the *Commission's Rules of Practice and Procedure* (19 CFR 201.6). Section 201.6 of the rules requires that the cover of the document and the individual pages be clearly marked as to whether they are the ''confidential'' or ''non-confidential'' version, and that the confidential business information be clearly identified by means of brackets. All written submissions, except for confidential business information, will be made available for inspection by interested parties.

The Commission may include some or all of the confidential business information submitted in the course of this investigation in the report it sends to the President and the U.S. Trade Representative. After transmitting its report, the Commission intends to publish a public version of its report, with any confidential business information deleted. Any confidential business information received by the Commission in this investigation and used in preparing this report will not be published in the public version of the report in a manner that would reveal the operations of the firm supplying the information.

By order of the Commission.

Issued: November 28, 2007.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E7–23356 Filed 11–30–07; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–986–987 (Review)]

Ferrovanadium From China and South Africa

AGENCY: United States International Trade Commission.

ACTION: Institution of five-year reviews concerning the antidumping duty orders on ferrovanadium from China and South Africa.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty orders on ferrovanadium from China and South Africa would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; [1] to be assured of

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 08–5–177, expiration date June 30, 2008. Public reporting burden for the request is estimated to average 10 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

consideration, the deadline for responses is January 22, 2008. Comments on the adequacy of responses may be filed with the Commission by February 15, 2008. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

EFFECTIVE DATE: December 3, 2007.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On January 28, 2003, the Department of Commerce issued antidumping duty orders on imports of ferrovanadium from China and South Africa (68 FR 4168 and 4169). The Commission is conducting reviews to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full reviews or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to these reviews:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by the Department of Commerce.

(2) The *Subject Countries* in these reviews are China and South Africa.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise.* In its original determinations, the Commission found a single *Domestic Like Product* consisting of ferrovanadium of all grades coextensive with Commerce's scope.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product,* or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determinations, the Commission defined a single *Domestic Industry* consisting of the U.S. producers of ferrovanadium, i.e., Bear Metallurgical Co.; Shieldalloy Metallurgical Corp.; and International Specialties Alloys. The Commission did not include tollees U.S. Vanadium Corp. and Gulf Chemical & Metallurgical Corp. in the *Domestic Industry.*[2]

(5) The *Order Date* is the date that the antidumping duty orders under review became effective. In these reviews, the *Order Date* is January 28, 2003.

(6) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the reviews and public service list.—Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Former Commission employees who are seeking to appear in Commission five-year reviews are reminded that they are required, pursuant to 19 CFR 201.15, to seek Commission approval if the matter in which they are seeking to appear was pending in any manner or form during their Commission employment. The Commission's designated agency ethics official has advised that a five-year review is the ''same particular matter'' as the underlying original investigation for purposes of 19 CFR 201.15 and 18 U.S.C. 207, the post-employment statute for Federal employees. Former employees may seek informal advice from Commission ethics officials with respect to this and the related issue of whether the employee's participation was ''personal and substantial.'' However, any informal consultation will not relieve former employees of the obligation to seek approval to appear from the Commission under its rule 201.15. For ethics advice, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions.—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is January 22, 2008. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is February 15, 2008.

[2] In its views in the original investigations, the Commission noted ''While we recognize that these firms' ferrovanadium-related production and other activities are substantial, these firms produce an intermediate product, vanadium pentoxide, but do not actually produce the domestic like product.''

All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules, and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 Fed. Reg. 68036 (November 8, 2002). Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews, you do not need to serve your response).

Inability to provide requested information.—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determinations in the reviews.

Information To Be Provided in Response to This Notice of Institution: If you are a domestic producer, union/worker group, or trade/business association; import/export *Subject Merchandise* from more than one *Subject Country;* or produce *Subject Merchandise* in more than one *Subject Country,* you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent *Subject Country.* As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the *Domestic Like Product*, a U.S. union or worker group, a U.S. importer of the *Subject Merchandise,* a foreign producer or exporter of the *Subject Merchandise,* a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty orders on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry*.

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product*. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in the *Subject Countries* that currently export or have exported *Subject Merchandise* to the United States or other countries since the *Order Date*.

(7) If you are a U.S. producer of the *Domestic Like Product,* provide the following information on your firm's operations on that product during calendar year 2006 (report quantity data in pounds of contained vanadium and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) the quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s); and

(c) the quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from the *Subject Country(ies),* provide the following information on your firm's(s') operations on that product during calendar year 2006 (report quantity data in pounds of contained vanadium and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of *Subject Merchandise* imported from each *Subject Country;* and

(c) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from each *Subject Country*.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Country(ies)*, provide the following information on your firm's(s') operations on that product during calendar year 2006 (report quantity data in pounds of contained vanadium and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in each *Subject Country* accounted for by your firm's(s') production; and

(b) the quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in each *Subject Country* since the *Order Date*, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of

production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in each *Subject Country,* and such merchandise from other countries.

(11) (OPTIONAL) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.

Issued: November 26, 2007.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E7–23226 Filed 11–30–07; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–929–931 (Review)]

Silicomanganese From India, Kazakhstan, and Venezuela

Determinations

On the basis of the record [1] developed in the subject five-year reviews, the United States International Trade Commission (Commission) determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)), that revocation of the antidumping duty orders on silicomanganese from India, Kazakhstan, and Venezuela would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission instituted these reviews on April 2, 2007 (72 FR 15726) and determined on July 6, 2007 that it would conduct expedited reviews (72 FR 52581, September 14, 2007).

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

The Commission transmitted its determinations in these reviews to the Secretary of Commerce on November 28, 2007. The views of the Commission are contained in USITC Publication 3963 (November 2007), entitled *Silicomanganese From India, Kazakhstan, and Venezuela: Investigation Nos. 731–TA–929–931 (Review).*

By order of the Commission.

Issued: November 28, 2007.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E7–23353 Filed 11–30–07; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—IMS Global Learning Consortium, Inc.

Notice is hereby given that, on October 18, 2007, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301, *et seq.* (''the Act''), IMS Global Learning Consortium, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Icodeon Ltd., Cambridge, UNITED KINGDOM; Korea Education & Research Information Service (KERIS), Seoul, REPUBLIC OF KOREA; National Association of College Stores (NACS), Oberlin, OH; TIDIA Ae FAPESP Project, Sao Paulo, BRAZIL; and UOC—Universitat Oberta de Catalunya, Barcelona, SPAIN have been added as parties to this venture. Also, Apple Computer, Cupertino, CA has withdrawn as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and IMS Global Learning Consortium, Inc. intends to file additional written notifications disclosing all changes in membership.

On April 7, 2000, IMS Global Learning Consortium, Inc. filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on September 13, 2000 (65 FR 55283).

The last notification was filed with the Department on August 7, 2007. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on September 11, 2007 (72 FR 51840).

Patricia A. Brink,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 07–5898 Filed 11–30–07; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–62,243]

Electric Mobility Corporation; Sewell, NJ; Notice of Affirmative Determination Regarding Application for Reconsideration

By application dated November 19, 2007, the petitioner requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, applicable to workers and former workers of the subject firm. The denial notice was signed on November 1, 2007 and published in the **Federal Register** on November 15, 2007 (72 FR 64247).

The initial investigation resulted in a negative determination based on the finding that the subject firm did not separate or threaten to separate a significant number or proportion of workers as required by Section 222 of the Trade Act of 1974.

In the request for reconsideration, the petitioner provided additional information regarding the subject firm's employment.

The Department has reviewed the workers' request for reconsideration and the existing record, and has determined that an administrative review is appropriate. Therefore, the Department will conduct further investigation to determine if the workers meet the eligibility requirements of the Trade Act of 1974.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed in Washington, DC, this 26th day of November, 2007.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–23375 Filed 11–30–07; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–62,021]

Emcore Corporation; Emcore Fiber Optics Division; Naperville, IL; Notice of Negative Determination Regarding Application for Reconsideration

By application dated October 12, 2007, a worker requested administrative reconsideration of the Department's negative determination regarding eligibility for workers and former workers of Emcore Corporation, Emcore Fiber Optics Division, Naperville, Illinois (the subject firm) to apply for Trade Adjustment Assistance (TAA) and Alternative Trade Adjustment Assistance (ATAA). The negative determination was issued on September 28, 2007. On October 12, 2007, the Department's Notice of negative determination was published in the **Federal Register** (72 FR 58131). Workers at the subject firm design, assemble, test, troubleshoot, disassemble, and repair LX4 digital fiber optic components for semiconductors. Workers are not separately identifiable by product.

The negative determination was based on the Department's findings that after the subject firm shifted production of digital fiber optic components to Thailand, the subject firm did not import and did not intend to import articles like or directly competitive with those produced by the subject firm.

In the request for reconsideration, the worker alleges that production of digital fiber optic components shifted from the subject firm to Thailand and that the shift of production was followed by increased imports of articles like or directly competitive with those produced at the subject firm.

Pursuant to 29 CFR 90.18(c), administrative reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a mis-interpretation of facts or of the law justified reconsideration of the decision.

After careful review of the request for reconsideration and previously submitted materials, the Department determines that there is no new information that supports a finding that there was a shift of production to a country that is a party to a free trade agreement with the United States or a country that is named as a beneficiary under the Andean Trade Preference Act, the African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act.

Thailand does not have a free trade agreement with the United States and is not a party to any of the previously-identified Acts.

After careful review of the request for reconsideration and previously submitted materials, the Department also determines that there is no new information that supports a finding that there were increased imports (actual or likely) of articles like or directly competitive with those produced by the subject firm following the subject firm's shift of production abroad, and that there was no mistake or misinterpretation of the facts or of the law regarding the Department's initial determination that the subject workers are not eligible to apply for TAA and ATAA.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 20th day of November 2007.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–23373 Filed 11–30–07; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–62,463]

Franklin Pump Systems, Inc., Little Rock, AR; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on November 14, 2007 in response to a worker petition filed by a state agency representative on behalf of workers of Franklin Pump Systems, Inc., Little Rock, Arkansas.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 27th day of November 2007.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–23370 Filed 11–30–07; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–62,368]

G-Tech Professional Staffing, Inc., Leased On-Site Workers Employed at Ford Motor Company Wixom Assembly Plant; Wixom, MI; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on October 26, 2007 in response to a worker petition filed by the State Workforce Office on behalf of workers of G-Tech Professional Staffing employed at Ford Motor Company Wixom Assembly Plant in Wixom, Michigan.

The petitioning group of workers is covered by an active certification, TA–W–61,324. That certification was part of an Amended Notice of Revised Determination issued on November 14, 2007, and expiring on August 22, 2009.

Signed at Washington, DC this 26th day of November 2007.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–23377 Filed 11–30–07; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–62,392]

G.E. Zenith Controls; Bonham, TX; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on October 31, 2007, in response to a worker petition filed by a company official on behalf of workers at G.E. Zenith Controls, Bonham, Texas.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 20th day of November 2007.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–23378 Filed 11–30–07; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–62,300]

General Electric (GE) C&I Mattoon Lamp Plant; Lighting Division; Mattoon, IL; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on October 12, 2007 in response to a worker petition filed by a company official on behalf of workers of General Electric (GE) C&I Mattoon Lamp Plant, Lighting Division, Mattoon, Illinois.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC this 15th day of November 2007.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–23376 Filed 11–30–07; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–62,439]

PI, Inc., Custom Molding Division, Athens, TN; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on November 9, 2007 in response to a petition filed by a company official on behalf of workers of PI, Inc., Custom Molding Division, Athens, Tennessee.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated. Further investigation in this case would serve no purpose.

Signed at Washington, DC, this 20th day of November 2007.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–23380 Filed 11–30–07; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than December 13, 2007.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than December 13, 2007.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room C–5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 20th day of November 2007.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

APPENDIX

[TAA petitions instituted between 11/13/07 and 11/16/07]

TA–W	Subject firm (Petitioners)	Location	Date of institution	Date of petition
62444	Poirier's Inc. (Comp)	Fall River, MA	11/13/07	11/12/07
62445	Samsons Manufacturing (Comp)	Waynesboro, GA	11/13/07	11/09/07
62446	VF Jeanswear Limited Partnership (Comp)	Greensboro, NC	11/13/07	11/12/07
62447	Georgia Pacific (State)	Logansport, LA	11/13/07	11/09/07
62448	Integram St. Louis Seating (Comp)	Pacific, MO	11/13/07	11/09/07
62449	Newburgh Hardwood Co., Inc. (Comp)	Newburgh, IN	11/13/07	11/11/07
62450	Shape Global Technology (Comp)	Sanford, ME	11/13/07	11/12/07
62451	Hickory Dyeing and Winding Co., Inc. (Comp)	Hickory, NC	11/13/07	11/09/07
62452	ITW Powertrain (Wkrs)	Darlington, WI	11/13/07	11/09/07
62453	Base Corporation (Wkrs)	Enka, NC	11/14/07	10/22/07
62454	Kimberly-Clark/Ballard Medical Products (Comp)	Pocatello, ID	11/14/07	10/22/07
62455	Morgan Corporation (Wkrs)	Morgantown, PA	11/14/07	11/08/07

APPENDIX—Continued

[TAA petitions instituted between 11/13/07 and 11/16/07]

TA–W	Subject firm (Petitioners)	Location	Date of institution	Date of petition
62456	Springfield Wire, Inc. (Comp)	Springfield, MA	11/14/07	11/09/07
62457	Only In USA (State)	Los Angeles, CA	11/14/07	11/06/07
62458	Hutchens Industries, Inc. (State)	Mansfield, MO	11/14/07	11/08/07
62459	Thermo Pressed Laminates (Comp)	Klamath Falls, OR	11/14/07	11/08/07
62460	Amweld Building Products (Comp)	Garrettsville, OH	11/14/07	11/02/07
62461	Universal Tire Mold (Wkrs)	Corinth, MS	11/14/07	11/13/07
62462	Enhance America of Missouri, Inc. (Wkrs)	Washington, MO	11/14/07	11/08/07
62463	Franklin Pump Systems, Inc. (State)	Little Rock, AR	11/14/07	11/13/07
62464	Engineered Plastic Components (Wkrs)	Rantoul, IL	11/14/07	11/02/07
62465	Hyper Knits Sales, Inc. (Comp)	New York, NY	11/14/07	11/13/07
62466	B and C Research, Inc. (State)	Barberton, OH	11/15/07	11/14/07
62467	US Aprons, Inc. (Wkrs)	Sidney, NE	11/15/07	11/14/07
62468	VWR International (Wkrs)	Bridgeport, NJ	11/15/07	11/14/07
62469	Springs Global, US, Inc. (Comp)	Lancaster, SC	11/15/07	11/13/07
62470	BMI Electronics, Inc. (State)	Hardaway, AL	11/16/07	11/15/07
62471	AGY (UNITE)	Huntingdon, PA	11/16/07	10/29/07
62472	Corsair Memory (Comp)	Fremont, CA	11/16/07	11/09/07
62473	Pfizer Global Manufacturing (State)	Croton, CT	11/16/07	11/15/07
62474	Siemens (State)	Huntsville, AL	11/16/07	11/14/07
62475	Nutra Max (Comp)	Houston, TX	11/16/07	11/14/07

[FR Doc. E7–23371 Filed 11–30–07; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–62,413]

Simclar (North America), Inc.; Winterville, NC; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on November 6, 2007, in response to a worker petition filed by a company official on behalf of workers of Simclar (North America), Inc., Winterville, North Carolina.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 16th day of November 2007.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–23379 Filed 11–30–07; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–62,211]

Strick Corporation Monroe, IN; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on September 27, 2007 in response to a petition filed by a company official on behalf of workers at Strick Corporation, Monroe, Indiana.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 16th day of November 2007.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–23374 Filed 11–30–07; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–60,827]

Sun Microsystems, Inc., Louisville, CO; Notice of Negative Determination on Reconsideration

By application dated April 15, 2007, a worker requested administrative reconsideration. The request for reconsideration alleged that the subject firm shifted production and support functions abroad. On May 27, 2007, the Department issued a Notice of Affirmative Determination Regarding Application for Reconsideration for the workers and former workers of Sun Microsystems, Inc., Louisville, Colorado (the subject firm). The Department's Notice of Affirmative Determination was published in the **Federal Register** on June 7, 2007 (72 FR 31614).

The worker-filed petition for Trade Adjustment Assistance (TAA) and Alternative Trade Adjustment Assistance (ATAA) identified the appropriate subdivision employing the workers group as ''Sun Microsystems, Louisville, Colorado,'' the articles produced at the subject firm as ''high tech computer storage devices,'' and the subject worker group as workers engaged in ''Production AME + R+D (Inspection).'' The petitioners stated that their work has been ''outsourced to Mexico and possible Hungary.''

Because the petition is dated January 19, 2007, the relevant period is January 19, 2006 through January 18, 2007.

The initial negative determination (issued March 14, 2007) stated that the subject firm ''did not shift work performed in Louisville, Colorado abroad, nor did it shift production from its manufacturing facility in Puerto Rico to a foreign country;'' that the parent entity, Sun Microsystems (Sun), sold the Puerto Rico facility to another firm, ''thus curtailing the need for support persons'' at the subject firm; and that ''separations of workers at the Louisville location are in great part attributable to

a worldwide company restructuring and reduction in workforce.''

A document attached to a petition (dated February 6, 2007, and filed on behalf of the same worker group) explained that, as a result of Sun's acquisition of StorageTek Classic (StorageTek), certain staff positions in the Storage Operations organization were eliminated. For example, StorageTek's products and their associated business processes, tools and systems would be merged with Sun's products and their associated business processes, tools and systems; the supply chain management and materials organizations for Sun and StorageTek would be consolidated into a single team; Sun's manufacturing and support activities in Puerto Rico would be outsourced in September 2006 to a contract manufacturer; and the staff that supported Sun's Puerto Rico facility would be eliminated since the contract manufacturer would be taking over those functions.

According to previously-submitted information, StorageTek was a company with production facilities in Puerto Rico and a pre-production facility in Louisville, Colorado. The information also revealed that after Sun acquired StorageTek in August 2005, Sun ceased to operate the manufacturing facility in Puerto Rico and that those workers at the Louisville, Colorado facility who supported the Puerto Rico facility were separated.

Because the subject workers inspected sheetmetal parts, cables, harnesses, tape rollers, motherboards, personal computer boards, and disk drives during the relevant period, and the workers are not separately identifiable by product line, the Department determines that the subject workers are engaged in the production of inspected component parts of computer storage devices.

In order for a TAA certification to be issued, the subject workers must meet the group eligibility requirements under Section 222 of the Trade Act of 1974, as amended. The applicable requirements can be satisfied in one of two ways:

I. Section (a)(2)(A)—

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated; *and*

B. the sales or production, or both, of such firm or subdivision have decreased absolutely; *and*

C. increased imports of articles like or directly competitive with articles produced by such firm or subdivision have contributed importantly to such workers' separation or threat of separation and to the decline in sales or production of such firm or subdivision; or

II. Section (a)(2)(B)—

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated; *and*

B. there has been a shift in production by such workers' firm or subdivision to a foreign country of articles like or directly competitive with articles which are produced by such firm or subdivision; *and*

C. One of the following must be satisfied:

1. The country to which the workers' firm has shifted production of the articles is a party to a free trade agreement with the United States; *or*

2. the country to which the workers' firm has shifted production of the articles is a beneficiary country under the Andean Trade Preference Act, African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act; *or*

3. there has been or is likely to be an increase in imports of articles that are like or directly competitive with articles which are or were produced by such firm or subdivision.

Previously-submitted information revealed that the subject firm's employment level declined more than five percent from the corresponding period the previous year, the Department determines that a significant number or proportion of the workers at the subject firm has become totally or partially separated. Because the subject firm has ceased to inspect component parts of computer storage devices, the Department determines that, during the relevant period, the subject firm's production of inspected component parts of computer storage devices have decreased absolutely.

Because the employment decline and the production decline criteria were met, the Department focused the reconsideration investigation on whether either Section (a)(2)(A)(C) or Section (a)(2)(B)(B) *and* Section (a)(2)(B)(C) were met.

The first issue is whether, during the relevant period, the subject firm shifted production of inspected component parts of computer storage devices to a country that is a party to a free trade agreement with the United States or a beneficiary country under the Andean Trade Preference Act, African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act.

Sun officials confirmed that after Sun acquired StorageTek in August 2005, it ceased to operate the facility in Puerto Rico. The official also stated that, pursuant to a September 2006 agreement between Sun and a domestic contract manufacturer, the contract manufacturer is performing production and inspection work at Sun's Puerto Rico facility. As such, the Department determines that the subject firm did not shift production to a foreign country; rather, the inspection work that was done by the subject workers is being done by the afore-mentioned contract manufacturer in Puerto Rico.

Even if the subject firm shifted inspection work to Puerto Rico, the subject workers would not be eligible to apply for TAA benefits because Puerto Rico is a U.S. Territory and is not a foreign country.

The second issue is whether, during the relevant period, increased imports of articles like or directly competitive with the inspected component parts produced at the subject firm contributed importantly to the subject workers' separations.

During the reconsideration investigation, Sun officials confirmed that Sun's Louisville, Colorado facility did not import articles like or directly competitive with the component parts produced at the subject firm. Because the inspected component parts produced at the subject firm were sent to Puerto Rico to be assembled, the Sun officials also confirmed that while it controlled the Puerto Rico facility during the relevant period, the Puerto Rico facility did not import any articles like or directly competitive with the component parts produced at the subject firm. Further, the contract manufacturer who took over production at the Puerto Rico facility provided information that revealed no imports of articles like or directly competitive with the component parts produced at the subject firm.

Because the reconsideration investigation has not produced any information that support a finding that the subject workers' separations are due to either a shift of production abroad or increased imports of articles like or directly competitive with the inspected component parts produced at the subject firm, the Department affirms the initial negative determination.

In order for the Department to issue a certification of eligibility to apply for Alternative Trade Adjustment Assistance (ATAA), the subject worker group must be certified eligible to apply for Trade Adjustment Assistance (TAA). Since the subject workers are denied

eligibility to apply for TAA, the workers cannot be certified eligible for ATAA.

Conclusion

After careful reconsideration, I affirm the original notice of negative determination of eligibility to apply for worker adjustment assistance for workers and former workers of Sun Microsystems, Inc., Louisville, Colorado.

Signed at Washington, DC, this 20th day of November 2007.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–23372 Filed 11–30–07; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Affirmative Decisions on Petitions for Modification

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Notice of Affirmative Decisions on Petitions for Modification Granted in Whole or in Part.

SUMMARY: The Mine Safety and Health Administration (MSHA) enforces mine operator compliance with mandatory safety and health standards that protect miners and improve safety and health conditions in U.S. Mines. This **Federal Register** Notice (FR Notice) notifies the public that it has investigated and issued a final decision on certain mine operator petitions to modify a safety standard.

ADDRESSES: Copies of the final decisions are posted on MSHA's Web Site at *http://www.msha.gov/indexes/petition.htm*. The public may inspect the petitions and final decisions during normal business hours in MSHA's Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2349, Arlington, Virginia 22209. All visitors must first stop at the receptionist desk on the 21st Floor to sign-in.

FOR FURTHER INFORMATION CONTACT: Edward Sexauer, Chief, Regulatory Development Division at 202–693–9444 (Voice), *sexauer.edward@dol.gov* (E-mail), or 202–693–9441 (Telefax), or Barbara Barron at 202–693–9447 (Voice), *barron.barbara@dol.gov* (E-mail), or 202–693–9441 (Telefax). [These are not toll-free numbers].

SUPPLEMENTARY INFORMATION:

I. Introduction

Under section 101 of the Federal Mine Safety and Health Act of 1977, a mine operator may petition and the Secretary of Labor (Secretary) may modify the application of a mandatory safety standard to that mine if the Secretary determines that: (1) An alternative method exists that will guarantee no less protection for the miners affected than that provided by the standard; or (2) that the application of the standard will result in a diminution of safety to the affected miners.

MSHA bases the final decision on the petitioner's statements, any comments and information submitted by interested persons, and a field investigation of the conditions at the mine. In some instances, MSHA may approve a petition for modification on the condition that the mine operator complies with other requirements noted in the decision.

II. Granted Petitions for Modification

On the basis of the findings of MSHA's investigation, and as designee of the Secretary, MSHA has granted or partially granted the following petitions for modification:

• *Docket Number:* M–2005–056–C:
FR Notice: 70 FR 48984 (August 22, 2005).
Petitioner: Hawthorne Coal Company, Inc., 2708 Cranberry Square, Morgantown, West Virginia 26505.
Mine: Hawthorne Preparation Plant, MSHA I.D. No. 46–05544.
Regulation Affected: 30 CFR 77.214(a) (Refuse piles; general).

• *Docket Number:* M–2005–074–C:
FR Notice: 70 FR 71861 (November 30, 2005).
Petitioner: Brooks Run Mining Company, LLC, 25 Little Birch Road, Sutton, West Virginia 25601.
Mine: Saylor Mine, MSHA I.D. No. 46–09126.
Regulation Affected: 30 CFR 75.1002 (Installation of electric equipment and conductors; permissibility).

• *Docket Number:* M–2005–079–C:
FR Notice: 70 FR 76892 (December 28, 2005).
Petitioner: R S & W Coal Company, Inc., 207 Creek Road, Klingerstown, Pennsylvania 17941.
Mine: R S & W Drift Mine, MSHA I.D. No. 36–01818 .
Regulation Affected: 30 CFR 75–1312(a), (b), and (e)(1) (Explosives and detonators in underground magazines).

• *Docket Number:* M–2005–080–C:
FR Notice: 70 FR 76892 (December 28, 2005).
Petitioner: Canyon Fuel Company, LLC, 397 South 800 West, Salina, Utah 84654.
Mine: West Elk Mine, MSHA I.D. No. 05–03672; SUFCO Mine, MSHA I.D. No. 42–00089; Skyline Mine No. 3, MSHA I.D. No. 42–01566; and Dugout Canyon Mine, MSHA I.D. No. 42–01890.
Regulation Affected: 30 CFR 75.1909(b)(6) (Nonpermissible diesel-powered equipment; design and performance requirements).

• *Docket Number:* M–2005–085–C:
FR Notice: 71 FR 3890 (January 24, 2006).
Petitioner: Anthracite Underground Rescue, Inc., 44 Crescent Street, Tremont, Pennsylvania 17981, for the following Anthracite Underground Coal Mines in District 1: R S & W Coal Company, R S & W Drift Mine, (MSHA I.D. No. 36–01818); Orchard Coal Company, Orchard Slope Mine, (MSHA I.D. No. 36–08346); S & M Coal Company, Buck Mountain Slope Mine, (MSHA I.D. No. 36–02022); R & R Coal Company, R & R Coal Company Mine, (MSHA I.D. No. 36–08498); R & D Coal Company, R & D Coal Co., Inc. Mine, (MSHA I.D. No. 36–02053); F.K.Z. Coal Company, No. 1 Slope Mine, (MSHA I.D. No. 36–08637); Snyder Coal Company, N & L Slope Mine, (MSHA I.D. No. 36–02203); Joliett Coal Company, #3 Vein Slope Mine, (MSHA I.D. No. 36–08702); Tito Coal Company, Whites Vein Slope Mine, (MSHA I.D. No. 36–06815); Alfred Brown Coal Company, 7 Ft. Slope Mine, (MSHA I.D. No. 36–08893); Chestnut Coal Company, No. 10 Slope Mine, (MSHA I.D. No. 36–07059); Six M Coal Company No. 1 Slope Mine, (MSHA I.D. No. 36–09138); B & B Coal Company, Rockridge No. 1 Slope Mine, (MSHA I.D. No. 36–07741); Snyder Coal Company, Rock Slope #1 Mine, (MSHA I.D. No. 36–09256); UAE Coalcorp Association, Harmony Mine, (MSHA I.D. No. 36–07838); Little Buck Coal Company, No. 2 Slope Mine, (MSHA I.D. No. 36–08299); Bear Gap Coal Company, Bear Gap #6 Slope Mine, (MSHA I.D. No. 36–09296); D & D Anthracite Coal Company, Primrose Slope Mine, (MSHA I.D. No. 36–08341).
Regulation Affected: 30 CFR 49.6(a)(1) & (5) (Equipment and maintenance requirements).

• *Docket Number:* M–2006–008–C:
FR Notice: 71 FR 17145 (April 5, 2006).
Petitioner: Bridger Coal Company, P.O. Box 68, Point of Rocks, Wyoming 82942.
Mine: Bridger Underground Coal Mine, MSHA I.D. No. 48–01646.
Regulation Affected: 30 CFR 75.1909(b)(6) (Non-permissible diesel-powered equipment; design and performance; requirements).

• *Docket Number:* M–2006–013–C:
FR Notice: 71 FR 28715 (May 17, 2006).

Petitioner: Twentymile Coal Company, Three Gateway Center, Suite 1340, 401 Liberty Avenue, Pittsburgh, Pennsylvania 15222.

Mine: Foidel Creek Mine, MSHA I.D. No. 05–03836.

Regulation Affected: 30 CFR 75.362(a)(2) (On-shift examination).

• *Docket Number:* M–2006–017–C:

FR Notice: 71 FR 50947 (August 28, 2006).

Petitioner: AMFIRE Mining Company, LLC, One Energy Place, Latrobe, Pennsylvania 15650.

Mine: Gillhouser Run Mine, MSHA I.D. No. 36–09033.

Regulation Affected: 30 CFR 75.1100–2(e)(2) (Quantity and location of firefighting equipment).

• *Docket Number:* M–2006–018–C:

FR Notice: 71 FR 50947 (August 28, 2006).

Petitioner: Eastern Associated Coal Company, LLC, Three Gateway Center, Suite 1340, 401 Liberty Avenue, Pittsburgh, Pennsylvania 15222.

Mine: Federal No. 2 Mine, MSHA I.D. No. 46–01456.

Regulation Affected: 30 CFR 75.1700 (Oil and gas wells).

• *Docket Number:* M–2006–019–C:

FR Notice: 71 FR 53134 (September 8, 2006).

Petitioner: F K Z Coal, Inc., P.O. Box 62, Locust Gap, Pennsylvania 17840.

Mine: No. 1 Slope Mine, MSHA I.D. No. 36–08637.

Regulation Affected: 30 CFR 75.1400 (Hoisting equipment; general).

• *Docket Number:* M–2006–020–C:

FR Notice: 71 FR 53135 (September 8, 2006).

Petitioner: McElroy Coal Company, RD #4, Box 425, Route 2, Moundsville, West Virginia 26041.

Mine: McElroy Mine, MSHA I.D. No. 46–01437.

Regulation Affected: 30 CFR 77.214(a) (Refuse piles; general).

• *Docket Number:* M–2006–021–C:

FR Notice: 71 FR 53135 (September 8, 2006).

Petitioner: AMFIRE Mining Company, One Energy Place, Latrobe, Pennsylvania 15650.

Mine: Madison Mine, MSHA I.D. No. 36–09127.

Regulation Affected: 30 CFR 75.1100–2(e)(2) (Quantity and location of firefighting equipment).

• *Docket Number:* M–2006–042–C:

FR Notice: 71 FR 56179 (September 26, 2006).

Petitioner: Drummond Company, Inc., P.O. Box 10246, Birmingham, Alabama 35202.

Mine: Shoal Creek Mine, MSHA I.D. No. 01–02901.

Regulation Affected: 30 CFR 75.507 (Power connection points).

• *Docket Number:* M–2006–057–C:

FR Notice: 71 FR 56180 (September 26, 2006).

Petitioner: Excel Coal Company, RD #2, Box 665, Shamokin, Pennsylvania 17872.

Mine: Three S Slope Mine, MSHA I.D. No. 36–09309.

Regulation Affected: 30 CFR 75.1400 (Hoisting equipment; general).

• *Docket Number:* M–2006–059–C:

FR Notice: 71 FR 56180 (September 26, 2006).

Petitioner: Excel Coal Company, RD #2, Box 665, Shamokin, Pennsylvania 17872.

Mine: Three S Slope Mine, MSHA I.D. No. 36–09309.

Regulation Affected: 30 CFR 75.1200(d) and (i) (Mine map).

• *Docket Number:* M–2006–060–C:

FR Notice: 71 FR 56180 (September 26, 2006).

Petitioner: Excel Coal Company, RD #2, Box 665, Shamokin, Pennsylvania 17872.

Mine: Three S Slope Mine, MSHA I.D. No. 36–09309.

Regulation Affected: 30 CFR 49.2(b) (Availability of mine rescue teams).

• *Docket Number:* M–2006–061–C:

FR Notice: 71 FR 56180 (September 26, 2006).

Petitioner: Big River Mining, LLC, P.O. Box 186, New Haven, West Virginia 25626.

Mine: Broad Run Mine, MSHA I.D. No. 46–09136.

Regulation Affected: 30 CFR 75.900 (Low- and medium-voltage circuits serving three-phase alternating current equipment; circuit breakers).

• *Docket Number:* M–2006–064–C:

FR Notice: 71 FR 58434 (October 3, 2006).

Petitioner: Bridger Coal Company, P.O. Box 68, Point of Rocks, Wyoming 82942.

Mine: Bridger Underground Mine, MSHA I.D. No. 48–01646.

Regulation Affected: 30 CFR 75.500(d) (Permissible electric equipment).

• *Docket Number:* M–2006–065–C:

FR Notice: 71 FR 58434 (October 3, 2007).

Petitioner: Bridger Coal Company, P.O. Box 68, Point of Rocks, Wyoming 82942.

Mine: Bridger Underground Mine, MSHA I.D. No. 48–01646.

Regulation Affected: 30 CFR 75.1002 (Installation of electric equipment and conductors, permissibility).

• *Docket Number:* M–2006–071–C:

FR Notice: 71 FR 70549 (December 5, 2006).

Petitioner: Excel Coal Company, RD #2, Box 665, Shamokin, Pennsylvania 17872.

Mine: Three S Slope Mine, MSHA I.D. No. 36–09309.

Regulation Affected: 30 CFR 75.1202 and 30 CFR 75.1202–1(a) (Temporary notations, revisions, and supplements).

• *Docket Number:* M–2006–072–C:

FR Notice: 71 FR 70549 (December 5, 2006).

Petitioner: Excel Coal Company, RD #2, Box 665, Shamokin, Pennsylvania 17872.

Mine: Three S Slope Mine, MSHA I.D. No. 36–09309.

Regulation Affected: 30 CFR 49.6(a)(1) & (5) (Equipment and maintenance requirements).

• *Docket Number:* M–2006–073–C:

FR Notice: 71 FR 70550 (December 5, 2006).

Petitioner: T.J.S. Mining, Inc., 2340 Smith Road, Shelocta, Pennsylvania 15774.

Mine: Rossmoyne No. 1 Mine, MSHA I.D. No. 36–09075; T.J.S. No. 5 Mine, MSHA I.D. No. 36–09159; T.J.S. No. 6 Mine, MSHA I.D. No. 36–09464.

Regulation Affected: 30 CFR 75.1100–2(e)(2) (Quantity and location of firefighting equipment).

• *Docket Number:* M–2006–082–C:

FR Notice: 72 FR 8202 (February 23, 2007).

Petitioner: Rosebud Mining Company, 301 Market Street, Kittanning, Pennsylvania 16201.

Mine: Penfield Mine, MSHA I.D. No. 36–09355.

Regulation Affected: 30 CFR 75.1100–2(e)(2) (Quantity and location of firefighting equipment).

• *Docket Number:* M–2006–083–C:

FR Notice: 72 FR 8203 (February 23, 2007).

Petitioner: Dominion Coal Corporation, P.O. Box 70, Vansant, Virginia 24656.

Mine: Dominion No. 22 Mine, MSHA I.D. No. 44–06645.

Regulation Affected: 30 CFR 77.214(a) (Refuse piles; general).

• *Docket Number:* M–2006–084–C:

FR Notice: 72 FR 8203 (February 23, 2007).

Petitioner: The North American Coal Corporation, P.O. Box 399, Jourdanton, Texas 78026.

Mine: San Miguel Mine, MSHA I.D. No. 41–02840.

Regulation Affected: 30 CFR 77.803 (Fail safe ground check circuits on high–voltage resistance grounded systems).

• *Docket Number:* M–2006–087–C:

FR Notice: 72 FR 8204 (February 23, 2007).

Petitioner: Energy West Mining Company, P.O. Box 310, Huntington, Utah 84528.

Mine: Deer Creek Mine, MSHA I.D. No. 42–00121 and Bridger Underground Coal Mine, MSHA I.D. No. 48–01646.

Regulation Affected: 30 CFR 75.1909(b)(6) (Nonpermissible diesel-powered equipment; design and performance requirements).

• *Docket Number:* M–2006–089–C:

FR Notice: 72 FR 8205 (February 23, 2007).

Petitioner: The Ohio Valley Coal Company, 56854 Pleasant Ridge Road, Alledonia, Ohio 43902.

Mine: Powhatan No. 6 Mine, MSHA I.D. No. 33–01159.

Regulation Affected: 30 CFR 75.507 (Power connection points).

• *Docket Number:* M–2006–090–C:

FR Notice: 72 FR 20886 (April 26, 2007).

Petitioner: Dominion Coal Corporation, P.O. Box 207, Tazewell, Virginia 24651.

Mine: Mine No. 26, MSHA I.D. No. 44–06718.

Regulation Affected: 30 CFR 77.214(a) (Refuse files; general).

• *Docket Number:* M–2007–003–C:

FR Notice: 72 FR 20887 (April 26, 2007).

Petitioner: Summit Engineering, Inc., on behalf of Stirrat Coal Company, P.O. Box 484, Omar, West Virginia 25638.

Mine: Mine No. 21, MSHA I.D. No. 46–02515.

Regulation Affected: 30 CFR 77.214(a) (Refuse piles; general).

• *Docket Number:* M–2007–015–C:

FR Notice: 72 FR 31860 (June 8, 2007).

Petitioner: Summit Engineering, Inc., on behalf of Spartan Mining Company, P.O. Box 130, 3016 Route 10, Chapmanville, West Virginia 25508.

Mine: No. 38 Mine, MSHA I.D. No. 46–07874.

Regulation Affected: 30 CFR 77.214(a) (Refuse piles; general).

• *Docket Number:* M–2007–021–C:

FR Notice: 72 FR 30396 (May 31, 2007).

Petitioner: Black Beauty Coal Company, P.O. Box 347, Francisco, Indiana 47649.

Mine: Francisco Mine-Underground Pit, MSHA I.D. No. 12–02295.

Regulation Affected: 30 CFR 75.1909(b)(6) (Nonpermissible diesel-powered equipment; design and performance requirements).

• *Docket Number:* M–2007–023–C:

FR Notice: 72 FR 31862 (June 8, 2007).

Petitioner: Little Buck Coal Company, 57 Lincoln Road, Pine Grove, Pennsylvania 17963.

Mine: Bottom Split Slope Mine, MSHA I.D. 36–09491.

Regulation Affected: 30 CFR 75.1200(d) and (i) (Mine map).

• *Docket Number:* M–2007–024–C:

FR Notice: 72 FR 31862 (June 8, 2007).

Petitioner: Little Buck Coal Company, 57 Lincoln Road, Pine Grove, Pennsylvania 17963.

Mine: Bottom Split Slope Mine, MSHA I.D. No. 36–09491.

Regulation Affected: 30 CFR 75.1202–1(a) (Temporary notations, revisions, and supplements).

• *Docket Number:* M–2007–025–C:

FR Notice: 72 FR 31862 (June 8, 2007).

Petitioner: Little Buck Coal Company, 57 Lincoln Road, Pine Grove, Pennsylvania 17963.

Mine: Bottom Split Slope Mine, MSHA I.D. No. 36–09491.

Regulation Affected: 30 CFR 75.1400 (Hoisting equipment; general).

• *Docket Number:* M–2006–013–M:

FR Notice: 72 FR 8202 (February 23, 2007).

Petitioner: Vulcan Construction Materials, L.P., 3001 Alcoa Highway, Knoxville, Tennessee 37920.

Mine: Richmond Road Underground Mine, MSHA I.D. No. 15–00107.

Regulation Affected: 30 CFR 49.2(c) (Availability of mine rescue teams).

• *Docket Number:* M–2006–014–M:

FR Notice: 72 FR 8202 (February 23, 2007).

Petitioner: Vulcan Construction Materials, L.P., 3001 Alcoa Highway, Knoxville, Tennessee 37920.

Mine: Central Underground Mine, MSHA I.D. No. 15–00016.

Regulation Affected: 30 CFR 49.2 (Availability of mine rescue teams).

• *Docket Number:* M–2006–015–M:

FR Notice: 72 FR 8202 (February 23, 2007).

Petitioner: Rogers Group, Inc., 2182 West Industrial Park Drive, Bloomington, Indiana 47404.

Mine: Jefferson County Stone Underground Mine, MSHA I.D. No. 15–18157.

Regulation Affected: 30 CFR 49.2 (Availability of mine rescue teams).

Dated: November 27, 2007.

Jack Powasnik,

Deputy Director, Office of Standards, Regulations, and Variances.

[FR Doc. E7–23395 Filed 11–30–07; 8:45 am]

BILLING CODE 4510–43–P

MILLENNIUM CHALLENGE CORPORATION

[MCC FR 07–13]

Notice of the December 12, 2007 Millennium Challenge Corporation Board of Directors Meeting; Sunshine Act Meeting

AGENCY: Millennium Challenge Corporation.

TIME AND DATE: 2 p.m. to 4 p.m., Wednesday, December 12, 2007.

PLACE: Department of State, 2201 C Street, NW., Washington, DC 20520.

FOR FURTHER INFORMATION CONTACT: Information on the meeting may be obtained from Suzi M. Morris via e-mail at *Board@mcc.gov* or by telephone at (202) 521–3600.

STATUS: Meeting will be closed to the public.

MATTERS TO BE CONSIDERED: The Board of Directors (the ''Board'') of the Millennium Challenge Corporation (''MCC'') will hold a meeting to consider the selection of countries that will be eligible for FY 2008 Millennium Challenge Account (''MCA'') assistance under Section 607 of the Millennium Challenge Act of 2003 (the ''Act''), codified at 22 U.S.C. 7706, or Threshold Program assistance under Section 616 of the Act (22 U.S.C. 7715); discuss progress on proposed Compacts with certain MCA-eligible countries; discuss MCC's proposed policy on suspension, remediation, and termination of assistance and eligibility; and certain administrative matters. The agenda items are expected to involve the consideration of classified information and the meeting will be closed to the public.

Dated: November 29, 2007.

William G. Anderson, Jr.,

Vice President and General Counsel, Millennium Challenge Corporation.

[FR Doc. 07–5922 Filed 11–29–07; 12:22 pm]

BILLING CODE 9210–01–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for

records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before January 2, 2008. Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

ADDRESSES: You may request a copy of any records schedule identified in this notice by contacting the Life Cycle Management Division (NWML) using one of the following means:

Mail: NARA (NWML), 8601 Adelphi Road, College Park, MD 20740–6001.

E-mail: requestschedule@nara.gov.

FAX: 301–837–3698.

Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

FOR FURTHER INFORMATION CONTACT: Laurence Brewer, Director, Life Cycle Management Division (NWML), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. *Telephone:* 301–837–1539. *E-mail: records.mgt@nara.gov.*

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval, using the Standard Form (SF) 115, Request for Records Disposition Authority. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too includes information about the records. Further information about the disposition process is available on request.

Schedules Pending

1. Department of the Army, Agency-wide (N1–AU–00–38, 2 items, 2 temporary items). Master file and outputs associated with an electronic information system used to track installation populations for resource planning purposes. Data includes installation identifiers, unit identification codes, and installation population counts (number of officers, enlisted, and civilians).

2. Department of Defense, Office of the Secretary of Defense (N1–330–08–2, 1 item, 1 temporary item). Master file associated with an electronic information system used to track, manage, and report personnel data. Data includes personnel contact information, position identifiers, security clearances information, assignment data, and related data.

3. Department of Energy, Idaho Operations Office (N1–434–08–1, 1 item, 1 temporary item). Records relating to radiographs of fuel elements. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

4. Department of Health and Human Services, Food and Drug Administration (N1–88–06–3, 16 items, 11 temporary items). Non-significant correspondence, presentations and daily activities of senior officials; routine and administrative program correspondence and original correspondence after entry into an electronic recordkeeping system; electronic data associated with tracking temporary correspondence; and background working files. Proposed for permanent retention are significant correspondence, presentations and daily activities of senior officials, significant program correspondence, and electronic data associated with tracking permanent correspondence. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

5. Department of Justice, Federal Bureau of Investigation (N1–65–08–1, 8 items, 8 temporary items). Inputs, outputs, master file, transfer agreements and other records related to the Employee Relocation Manager system. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

6. Department of State, All Foreign Service Posts (N1–84–08–1, 8 items, 6 temporary items). Routine correspondence and case files relating to public diplomacy activities. Proposed for permanent retention are general public diplomacy program files and locally produced publications. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium, for temporary items.

7. Department of Transportation, Federal Railroad Administration (N1–399–07–20, 7 items, 5 temporary items). Records used to produce outreach materials for the public or Congress, including background information, news clippings, public service awards, and records relating to public service recognition week. Proposed for permanent retention are agency press releases and biographical information on agency officials. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

8. Federal Deposit Insurance Corporation, Agency-wide (N1–34–07–1, 313 items, 276 temporary items). Comprehensive agency schedule covering insured depository oversight records, administrative records, and operational records. Proposed for permanent retention are the minutes of the Board of Directors, program and policy records of the Board and divisions, failed financial institution records, and bank management simulation records.

9. Federal Housing Finance Board, Agency-wide (N1–485–08–1, 1 item, 1 temporary item). Records relating to policies and procedures for administrative functions such as travel, leave, procurement, and parking.

10. Federal Maritime Commission, Bureau of Certification and Licensing (N1–358–07–2, 7 items, 7 temporary items). Office of Passenger Vessels and Information Processing records including Performance Certificate and Casualty Certificate application case files; copies of Performance and Casualty Certificates; insurance policy and trust fund files; and copies of correspondence reading files. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

11. Federal Maritime Commission, Agency-wide (N1–358–07–3, 1 item, 1 temporary item). Master file for an electronic information system which provides a contact list of all entities that are regulated by or do business with the Commission. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

12. Federal Mediation and Conciliation Service, Office of Director and Chief of Staff (N1–280–06–1, 13 items, 7 temporary items). General correspondence, reading files, reference copies of official directives, working or background files, travel files, and congressional hearing and testimony files. Proposed for permanent retention are policy records of the Director, the Director's official calendar, official copies of directives, Director's speeches, presentations, and associated index, and Advisory Committee records.

13. Federal Mediation and Conciliation Service, Office of General Counsel (N1–280–06–2, 7 items, 6 temporary items). Correspondence, case files, subpoena files, inquiry request files, congressional inquiry files, and reports to the Office of Management and Budget and General Services Administration. Proposed for permanent retention are legal opinion files.

14. Federal Mediation and Conciliation Service, Department of Public Affairs (N1–280–07–2, 5 items, 2 temporary items). Records include reference and convenience files. Proposed for permanent retention are electronic publications, audio-visual records, and history files.

15. Federal Mediation and Conciliation Service, Office of Budget and Finance (N1–280–07–4, 14 items, 11 temporary items). Budget estimates, correspondence, special analysis and year end reports, reference copies of budget documents maintained by other offices, telecommunication letters, and other budget records. Proposed for permanent retention are the official published budget submission, correspondence of the Director, and the five year strategic plan.

Dated: November 23, 2007.

Michael J. Kurtz,

Assistant Archivist for Records Services—Washington, DC.

[FR Doc. E7–23381 Filed 11–30–07; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978 (Pub. L. 95–541)

AGENCY: National Science Foundation.

ACTION: Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978, Pub. L. 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act at Title 45 Part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by January 2, 2008. This application may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Room 755, Office of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

FOR FURTHER INFORMATION CONTACT: Nadene G. Kennedy at the above address or (703) 292–7405.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541), as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas as requiring special protection. The regulations establish such a permit system to designate Antarctic Specially Protected Areas.

The applications received are as follows:

1. *Applicant:* Diana Wall, Colorado State University, Fort Collins, CO 80523–1499. Permit Application No. 2008–031.

Activity for Which Permit Is Requested: Enter Antarctic Specially Protected Areas. The applicant plans to enter Cape Crozier (ASPA #124), and Cape Royds (ASPA #121) to collect soil invertebrates (nematodes). Samples were collected previously from these locations; however, molecular data on nematodes from these soils is lacking. Samples are needed to determine if there is a genetic variation in the population that is indiscernible from previously collected data.

Location: Cape Crozier (ASPA #124), Cape Royds (ASPA #121), and Cape Bird, Ross Island.

Dates: January 14, 2008 to February 15, 2008.

Nadene G. Kennedy,

Permit Officer, Office of Polar Programs.

[FR Doc. E7–23326 Filed 11–30–07; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permits Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permits issued under the Antarctic Conservation of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice.

FOR FURTHER INFORMATION CONTACT: Nadene G. Kennedy, Permit Office, Office of Polar Programs, Rm. 755, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

SUPPLEMENTARY INFORMATION: On October 23, 2007, the National Science Foundation published a notice in the **Federal Register** of permit applications received. Permits were issued on November 23, 2007 to:

Gary Hockman, Permit No. 2008–023

Geoff Haines-Stiles, Permit No. 2008–024
Rennie S. Holt, Permit No. 2008–025
Craig Tweedie, Permit No. 2008–028
David L. Barbeau, Permit No. 2008–029

Nadene G. Kennedy,
Permit Officer.
[FR Doc. E7–23348 Filed 11–30–07; 8:45 am]
BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permits Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permits issued under the Antarctic Conservation of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice.

FOR FURTHER INFORMATION CONTACT: Nadene G. Kennedy, Permit Office, Office of Polar Programs, Rm. 755, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

SUPPLEMENTARY INFORMATION: On October 23, 2007, the National Science Foundation published a notice in the **Federal Register** of permit applications received. A permit was issued on November 28, 2007 to:

David Caron, Permit No. 2008–027

Nadene G. Kennedy,
Permit Officer.
[FR Doc. E7–23349 Filed 11–30–07; 8:45 am]
BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permits Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permits issued under the Antarctic Conservation of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit modification issued under the Antarctic Conservation Act of 1978. This is the required notice.

FOR FURTHER INFORMATION CONTACT: Nadene G. Kennedy, Permit Office, Office of Polar Programs, Rm. 755, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

SUPPLEMENTARY INFORMATION: On October 26, 2007, the National Science Foundation published a notice in the **Federal Register** of a Waste Management permit application received. A Waste Management permit was issued on November 26, 2007 to the following applicant:

Jon Bowermaster, Permit No.: 2008 WM–001

Nadene G. Kennedy,
Permit Officer.
[FR Doc. E7–23350 Filed 11–30–07; 8:45 am]
BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION (NSF)

National Science Board; Roundtable Discussion on Cost Sharing

DATE AND TIME: December 7, 2007; 8 a.m. to 4:30 p.m.

ADDRESSES: National Science Foundation, 4201 Wilson Blvd., Room 1235, Arlington, VA 22230. All visitors must report to the NSF visitor desk at the 9th and N. Stuart Streets entrance to receive a visitor's badge.

FOR FURTHER INFORMATION CONTACT: Jennifer Richards, National Science Board Office, Telephone: (703) 292–7000, e-mail: *jlrichar@nsf.gov*. Please refer to the National Science Board Web site (*http://www.nsf.gov/nsb*) for updated Agenda.

Status: This Roundtable Discussion will be open to the public.

Provisional Agenda

Roundtable Discussion on Cost Sharing

8 a.m. Welcoming Remarks
- Dr. Kelvin K. Droegemeier, National Science Board Member and Chair, Board Task Force on Cost Sharing

8:05 a.m. Motivation, Purpose and Goals
- Dr. Droegemeier

8:15 a.m. Process and Logistics for Board Workshops
- Dr. Michael P. Crosby, Executive Director, National Science Board

8:25 a.m. Introduction of Participants

8:35 a.m. Remarks: History of Cost Sharing in Federally Funded Research and Key Issues in Cost Sharing
Speaker: Robert J. Hardy, Director, Contracts and Intellectual Property Management, Council on Governmental Relations (RMR Author)*

9:20 a.m. Direct and Indirect Impacts of Cost Sharing on the University Research Enterprise
Discussion Moderator: Howard Gobstein, Vice President for Research and Science Policy, NASULGC*

Discussion Item: The Board is examining the effects of cost sharing requirements on the academic R&D enterprise and the extent to which cost sharing impedes or promotes strategic financial investments in research by colleges and universities. Of further interest is the impact of cost sharing on the overall costs of academic R&D borne by universities and colleges.

10:10 a.m. Break

10:25 a.m. The Nature and Role of Cost Sharing in the Proposal Decision Process
Discussion Moderator: Arthur Bienenstock, Special Assistant to the President for SLAC and Federal Research Policy, Stanford University (RMR Author)*

Discussion Item: The Board is examining the fundamental philosophy of mandated and voluntary cost sharing in Federally funded research. Regarding voluntary cost sharing (or institutional commitment), the Board is specifically examining the extent to which these resources should be regulated and monitored, and the extent to which they should be considered as part of the peer review or agency decision processes if they bear on the investigator's or institution's ability to complete the proposed work.

11:15 a.m Lunch

12:30 p.m. Impacts of Cost Sharing on University-Industry Research Partnerships
Discussion Moderator: Dan Mote, Co-Chair, Government-University-Industry Research Roundtable*

Discussion Item: The Board is examining whether cost sharing policies can be tailored for effective application to specific types of programs (such as those involving industry), and whether the elimination of non-statutory cost sharing has had a positive or negative impact on those specific types of programs.

1:20 p.m. Reporting and Auditing of Cost Sharing: Agency and Institutional Perspectives
Discussion Moderators: Sarah Wasserman, former Assistant Vice Chancellor for Research at the University of Illinois at Urbana-Champaign*

Discussion Item: The Board is examining the nature and magnitude of the challenges for both Federal agencies and grantee institutions in tracking and reporting both mandatory and voluntary cost sharing.

2:10 p.m. Break

2:25 p.m. Preventing the ''Have''/''Have Not'' Gap in University Competition for Federal Research Grants
Discussion Moderator: Irwin Feller,

Professor Emeritus of Economics, Pennsylvania State University*

Discussion Item: The Board is examining the extent to which cost sharing impacts participation in Federal research funding opportunities.

3:15 p.m. Roundtable Discussion: Options for Revision to Board Cost Sharing Policy for NSF
Discussion Moderator: Dr. Droegemeier
4:15 p.m. Summary and Next Steps
4:30 p.m. Adjourn

* pending acceptance of invitation

Note: This roundtable discussion will not involve National Science Board deliberations and is not subject to 5 U.S.C. 552b.

Michael P. Crosby,
Executive Officer and NSB Office Director.

[FR Doc. E7–23323 Filed 11–30–07; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Nuclear Waste and Materials; Meeting Notice

The Advisory Committee on Nuclear Waste and Materials (ACNW&M) will hold its 185th meeting on December 17–19, 2007, at 11545 Rockville Pike, Rockville, Maryland.

Monday, December 17, 2007, Room T–2B3

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACNW&M Chairman (Open)—The Chairman will make opening remarks regarding the conduct of today's sessions.

8:35 a.m.–10 a.m.: Electric Power Research Institute's Report on Drift Degradation at Yucca Mountain (Open)—A representative from the Electric Power Research Institute will summarize the approach, methods, and conclusions of their 2007 report on drift degradation.

1 p.m.–2:30 p.m.: Update on NRC Rulemaking on Groundwater Protection at the In-Situ Leach Uranium Mining Facilities (Open)—NRC staff from the Office of Federal and State Materials and Environmental Management Programs (FSME) will brief the Committee on the status of the rulemaking on groundwater protection at in-situ leach uranium recovery sites.

2:45 p.m.–3:30 p.m.: Vendor's View on the Transportation-Aging Disposal Performance Specifications (Open)—A representative from NAC International, a commercial cask vendor, will brief the Committee on their views on the Transportation-Aging-Disposal (TAD) performance specifications, possible challenges the vendor may be facing, and suggestions for expediting NRC approval of any TAD license application.

3:30 p.m.–5 p.m.: Discussion of ACNW&M Letter Reports (Open)—The Committee will discuss potential and proposed ACNW&M letter reports.

Tuesday, December 18, 2007, Room T–2B3

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACNW&M Chairman (Open)–The Chairman will make opening remarks regarding the conduct of today's sessions.

8:35 a.m.–9:30 a.m.: Status of Operations at the Barnwell Low-Level Radioactive Waste Disposal Facility (Open)—The Barnwell low-level radioactive waste (LLW) disposal facility is scheduled to close to non-compact states in July 2008. A representative of the site's operator, Energy Solutions, will update the Committee on activities at this commercial disposal facility in anticipation of scaled-back operations.

9:45 a.m.–11:30 a.m.: NRC 2006 Commercial LLW Strategic Planning Initiative (Open)—Representatives from the Office of FSME will brief the Committee on their recently-issued Commission Paper (SECY–07–0180) containing specific recommendations on the scope of work to be considered in any future NRC commercial LLW program. This briefing is also expected to include a summary of the public comments received in 2005.

1 p.m.–2 p.m.: Review of Planned Waste Management Activities at U.S. Department of Energy Mixed-Oxide Fuel Fabrication Facility (Open)—NRC staff from the Office of Nuclear Material Safety and Safeguards will brief the Committee on planned waste management activities at U.S. Department of Energy's (DOE) Mixed-Oxide Fuel Fabrication Facility in Aiken, South Carolina.

2 p.m.–3 p.m.: Briefing on Tritium Task Force Actions to Revise the Significance Determination Process to Address Spills and Leaks (Open)—A representative from the Office of Nuclear Reactor Regulation will report on the revisions to its Significance Determination Process to address radioactive liquid spills and leaks in response to an action recommended in the Tritium Task Force Report.

3:15 p.m.–5 p.m.: Discussion of ACNW&M Letter Reports (Open)—The Committee will discuss potential and proposed ACNW&M letter reports.

Wednesday, December 19, 2007, Room T–2B1

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACNW&M Chairman (Open)—The Chairman will make opening remarks regarding the conduct of today's sessions.

8:35 a.m.–3 p.m.: Discussion of ACNW&M Letter Reports (Open)—The Committee will continue discussion of proposed ACNW&M letter reports.

3 p.m.–4 p.m.: Miscellaneous (Open)—The Committee will discuss matters related to the conduct of ACNW&M activities and specific issues that were not completed during previous meetings, as time and availability of information permit. Discussions may include content of future letters and scope of future Committee Meetings.

Procedures for the conduct of and participation in ACNW&M meetings were published in the **Federal Register** on September 26, 2007 (72 FR 54693). In accordance with those procedures, oral or written views may be presented by members of the public. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Persons desiring to make oral statements should notify Dr. Antonio F. Dias (Telephone 301–415–6805), between 8:15 a.m. and 5 p.m. (ET), as far in advance as practicable so that appropriate arrangements can be made to schedule the necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during the meeting may be limited to selected portions of the meeting as determined by the ACNW&M Chairman. Information regarding the time to be set aside for taking pictures may be obtained by contacting the ACNW&M office prior to the meeting. In view of the possibility that the schedule for ACNW&M meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should notify Dr. Dias as to their particular needs.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, as well as the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by contacting Dr. Dias.

Video teleconferencing service is available for observing open sessions of ACNW&M meetings. Those wishing to use this service for observing ACNW&M meetings should contact Mr. Theron Brown, ACRS/ACNW&M Audio Visual Assistant (301–415–8066), between 7:30

a.m. and 3:45 p.m., (ET), at least 10 days before the meeting to ensure the availability of this service. Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment and facilities that they use to establish the video teleconferencing link. The availability of video teleconferencing services is not guaranteed.

During the days of the meeting, phone number 301–415–7360 should be used in order to access anyone in the ACNW&M Office.

ACNW&M meeting agenda, meeting transcripts, and letter reports are available through the NRC Public Document Room at *pdr@nrc.gov*, or by calling the PDR at 1–800–397–4209, or from the Publicly Available Records System (PARS) component of NRC's document system (ADAMS) which is accessible from the NRC Web site at *http://www.nrc.gov/reading-rm/adams.html* or *http://www.nrc.gov/reading-rm/doc-collections/acnw* (ACNW&M schedules and agendas).

Dated: November 27, 2007.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. E7–23331 Filed 11–30–07; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[EA–07–252]

In the Matter of All Licensees Identified in Attachment 1 and All Other Persons Who Seek or Obtain Access to Safeguards Information Described Herein; Order Imposing Fingerprinting and Criminal History Records Check Requirements for Access to Safeguards Information (Effective Immediately)

I

The Licensee identified in Attachment 1 [1] to this Order, holds a license issued in accordance with the Atomic Energy Act (AEA) of 1954, as amended, by the U.S. Nuclear Regulatory Commission (NRC or Commission), authorizing them to engage in an activity subject to regulation by the Commission or Agreement States. On August 8, 2005, the Energy Policy Act of 2005 (EPAct) was enacted. Section 652 of the EPAct amended Section 149 of the AEA to require fingerprinting and a Federal Bureau of Investigation (FBI) identification and criminal history records check of any person who is to be permitted to have access to Safeguards Information (SGI).[2] The NRC's implementation of this requirement cannot await the completion of the SGI rulemaking, which is underway, because the EPAct fingerprinting and criminal history records check requirements for access to SGI were immediately effective upon enactment of the EPAct. Although the EPAct permits the Commission by rule to except certain categories of individuals from the fingerprinting requirement, which the Commission has done (see 10 CFR 73.59, 71 FR 33,989 (June 13, 2006)), it is unlikely that licensee employees or others are excepted from the fingerprinting requirement by the ''fingerprinting relief'' rule. Individuals relieved from fingerprinting and criminal history records checks under the relief rule include Federal, State, and local officials and law enforcement personnel; Agreement State inspectors who conduct security inspections on behalf of the NRC; members of Congress and certain employees of members of Congress or Congressional Committees, and representatives of the International Atomic Energy Agency (IAEA) or certain foreign government organizations. In addition, individuals who have a favorably-decided U.S. Government criminal history records check within the last five (5) years, or individuals who have active federal security clearances (provided in either case that they make available the appropriate documentation), have satisfied the EPAct fingerprinting requirement and need not be fingerprinted again. Therefore, in accordance with Section 149 of the AEA, as amended by the EPAct, the Commission is imposing additional requirements for access to SGI, as set forth by this Order, so that affected licensees can obtain and grant access to SGI. This Order also imposes requirements for access to SGI by any person, from any person,[3] whether or not a Licensee, Applicant, or Certificate Holder of the Commission or Agreement States.

II

The Commission has broad statutory authority to protect and prohibit the unauthorized disclosure of SGI. Section 147 of the AEA grants the Commission explicit authority to issue such Orders as necessary to prohibit the unauthorized disclosure of SGI. Furthermore, Section 652 of the EPAct amended Section 149 of the AEA to require fingerprinting and an FBI identification and a criminal history records check of each individual who seeks access to SGI. In addition, no person may have access to SGI unless the person has an established need-to-know the information and satisfies the trustworthy and reliability requirements described in Attachment 3 to Order EA–07–251.

In order to provide assurance that the Licensees identified in Attachment 1 to this Order are implementing appropriate measures to comply with the fingerprinting and criminal history records check requirements for access to SGI, all Licensees identified in Attachment 1 to this Order shall implement the requirements of this Order. In addition, pursuant to 10 CFR 2.202, I find that in light of the common defense and security matters identified above, which warrant the issuance of this Order, the public health, safety and interest require that this Order be effective immediately.

III

Accordingly, pursuant to Sections 81, 147, 149, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, 10 CFR parts 30 and 73, it is hereby ordered, effective immediately, that all licensees identified in attachment 1 to this order and all other persons who seek or obtain access to safeguards information, as described above, shall comply with the requirements set forth in this order.

A. 1. No person may have access to SGI unless that person has a need-to-know the SGI, has been fingerprinted or who has a favorably-decided FBI identification and criminal history records check, and satisfies all other applicable requirements for access to SGI. Fingerprinting and the FBI identification and criminal history records check are not required, however, for any person who is relieved from that requirement by 10 CFR 73.59 (71 FR 33,989 (June 13, 2006)), or who has a favorably-decided U.S. Government criminal history records

[1] Attachment 1 contains sensitive information and will not be released to the public.

[2] Safeguards Information is a form of sensitive, unclassified, security-related information that the Commission has the authority to designate and protect under section 147 of the AEA.

[3] Person means (1) any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, government agency other than the Commission or the Department of Energy, except that the Department of Energy shall be considered a person with respect to those facilities of the Department of Energy specified in section 202 of the Energy Reorganization Act of 1974 (88 Stat. 1244), any State or any political subdivision of, or any political entity within a State, any foreign government or nation or any political subdivision of any such government or nation, or other entity; and (2) any legal successor, representative, agent, or agency of the foregoing.

check within the last five (5) years, or who has an active federal security clearance, provided in the latter two cases that the appropriate documentation is made available to the Licensee's NRC-approved reviewing official described in paragraph III.C.2 of this Order.

2. No person may have access to any SGI if the NRC has determined, based on fingerprinting and an FBI identification and criminal history records check, that the person may not have access to SGI.

B. No person may provide SGI to any other person except in accordance with Condition III.A. above. Prior to providing SGI to any person, a copy of this Order shall be provided to that person.

C. All Licensees identified in Attachment 1 to this Order shall comply with the following requirements:

1. The Licensee shall, within twenty (20) days of the date of this Order, establish and maintain a fingerprinting program that meets the requirements of Attachment 2 to this Order.

2. The Licensee shall, within twenty (20) days of the date of this Order, submit the fingerprints of one (1) individual who (a) the Licensee nominates as the ''reviewing official'' for determining access to SGI by other individuals, and (b) has established need-to-know information and has been determined to be trustworthy and reliable in accordance with the requirements described in Attachment 3 to Order EA–07–251. The NRC will determine whether this individual (or any subsequent reviewing official) may have access to SGI and, therefore, will be permitted to serve as the Licensee's reviewing official.[4] The Licensee may, at the same time or later, submit the fingerprints of other individuals to whom the Licensee seeks to grant access to SGI. Fingerprints shall be submitted and reviewed in accordance with the procedures described in Attachment 2 of this Order.

3. The Licensee shall, in writing, within twenty (20) days of the date of this Order, notify the Commission, (1) if it is unable to comply with any of the requirements described in this Order, including Attachment 2 to this Order, or (2) if compliance with any of the requirements is unnecessary in its specific circumstances. The notification shall provide the Licensee's justification for seeking relief from or variation of any specific requirement.

[4] The NRC's determination of this individual's access to SGI in accordance with the process described in Enclosure 5 to the transmittal letter of this Order is an administrative determination that is outside the scope of this Order.

Licensee responses to C.1., C.2., and C.3. above shall be submitted to the Director, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555. In addition, Licensee responses shall be marked as ''Security-Related Information—Withhold Under 10 CFR 2.390.''

The Director, Office of Federal and State Materials and Environmental Management Programs, may, in writing, relax or rescind any of the above conditions upon demonstration of good cause by the Licensee.

IV

In accordance with 10 CFR 2.202, the Licensee must, and any other person adversely affected by this Order may, submit an answer to this Order within twenty (20) days of the date of this Order. In addition, the Licensee and any other person adversely affected by this Order may request a hearing of this Order within twenty (20) days of the date of the Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made, in writing, to the Director, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension.

The answer may consent to this Order. If the answer includes a request for a hearing, it shall, under oath or affirmation, specifically set forth the matters of fact and law on which the Licensee relies and the reasons as to why the Order should not have been issued. If a person other than the Licensee requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d).

A request for a hearing must be filed in accordance with the NRC E-Filing rule, which became effective on October 15, 2007. The E-Filing Final Rule was issued on August 28, 2007, (72 FR 49139). The E-Filing process requires participants to submit and serve documents over the Internet or, in some cases, to mail copies on electronic optical storage media. Participants may not submit paper copies of their filings unless they seek a waiver in accordance with the procedures described below.

To comply with the procedural requirements associated with E-Filing, at least five (5) days prior to the filing deadline the requestor must contact the Office of the Secretary by e-mail at *HEARINGDOCKET@NRC.GOV,* or by calling (301) 415–1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any NRC proceeding in which it is participating; and/or (2) creation of an electronic docket for the proceeding (even in instances when the requestor (or its counsel or representative) already holds an NRC-issued digital ID certificate). Each requestor will need to download the Workplace Forms Viewer™ to access the Electronic Information Exchange (EIE), a component of the E-Filing system. The Workplace Forms Viewer™ is free and is available at *http://www.nrc.gov/site-help/e-submittals/install-viewer.html.* Information about applying for a digital ID certificate also is available on NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html.*

Once a requestor has obtained a digital ID certificate, had a docket created, and downloaded the EIE viewer, it can then submit a request for a hearing through EIE. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the filer submits its document through EIE. To be timely, electronic filings must be submitted to the EIE system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The EIE system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, any others who wish to participate in the proceeding (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request is filed so that they may obtain access to the document via the E-Filing system.

A person filing electronically may seek assistance through the ''Contact Us'' link located on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html* or by calling the NRC technical help line, which is available between 8:30 a.m. and 4:15 p.m., Eastern Time, Monday through Friday.

The help line number is (800) 397–4209 or locally, (301) 415–4737.

Participants who believe that they have good cause for not submitting documents electronically must file a motion, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at *http://ehd.nrc.gov/EHD_Proceeding/home.asp*, unless excluded pursuant to an order of the Commission, an Atomic Safety and Licensing Board, or a Presiding Officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, Participants are requested not to include copyrighted materials in their works.

If a hearing is requested by the Licensee or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), the Licensee may, in addition to requesting a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section III above shall be final twenty (20) days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section III shall be final when the extension expires if a hearing request has not been received.

An answer or a request for hearing shall not stay the immediate effectiveness of this order.

Dated this 20th day of November 2007.

For the Nuclear Regulatory Commission.

Charles L. Miller,

Director, Office of Federal and State Materials,and Environmental Management Programs.

Attachment 1: List of Applicable Materials Licensees Redacted

Attachment 2: Requirements for Fingerprinting and Criminal History Records Checks of Individuals When Licensee's Reviewing Official is Determining Access to Safeguards Information

Requirements for Fingerprinting and Criminal History Records Checks of Individuals When Licensee's Reviewing Official is Determining Access to Safeguards Information

General Requirements

Licensees shall comply with the requirements of this attachment.

A. 1. Each Licensee subject to the provisions of this attachment shall fingerprint each individual who is seeking or permitted access to Safeguards Information (SGI). The Licensee shall review and use the information received from the Federal Bureau of Investigation (FBI) and ensure that the provisions contained in the subject Order and this attachment are satisfied.

2. The Licensee shall notify each affected individual that the fingerprints will be used to secure a review of his/her criminal history record and inform the individual of the procedures for revising the record or including an explanation in the record, as specified in the ''Right to Correct and Complete Information'' section of this attachment.

3. Fingerprints need not be taken if an employed individual (e.g., a Licensee employee, contractor, manufacturer, or supplier) is relieved from the fingerprinting requirement by 10 CFR 73.59, has a favorably-decided U.S. Government criminal history records check within the last five (5) years, or has an active federal security clearance. Written confirmation from the Agency/employer which granted the federal security clearance or reviewed the criminal history records check must be provided. The Licensee must retain this documentation for a period of three (3) years from the date the individual no longer requires access to SGI associated with the Licensee's activities.

4. All fingerprints obtained by the Licensee pursuant to this Order must be submitted to the Commission for transmission to the FBI.

5. The Licensee shall review the information received from the FBI and consider it, in conjunction with the trustworthy and reliability requirements included in Attachment 3 to this Order, in making a determination whether to grant access to SGI to individuals who have a need-to-know the SGI.

6. The Licensee shall use any information obtained as part of a criminal history records check solely for the purpose of determining an individual's suitability for access to SGI.

7. The Licensee shall document the basis for its determination whether to grant access to SGI.

B. The Licensee shall notify the NRC of any desired change in reviewing officials. The NRC will determine whether the individual nominated as the new reviewing official may have access to SGI based on a previously-obtained or new criminal history check and, therefore, will be permitted to serve as the Licensee's reviewing official.

Prohibitions

A Licensee shall not base a final determination to deny an individual access to SGI solely on the basis of information received from the FBI involving: An arrest more than one (1) year old for which there is no information of the disposition of the case, or an arrest that resulted in dismissal of the charge or an acquittal.

A Licensee shall not use information received from a criminal history check obtained pursuant to this Order in a manner that would infringe upon the rights of any individual under the First Amendment to the Constitution of the United States, nor shall the Licensee use the information in any way which would discriminate among individuals on the basis of race, religion, national origin, sex, or age.

Procedures for Processing Fingerprint Checks

For the purpose of complying with this Order, Licensees shall, using an appropriate method listed in 10 CFR Part 73.4, submit to the NRC's Division of Facilities and Security, Mail Stop T6E46, one completed, legible standard fingerprint card (Form FD–258,

ORIMDNRCOOOZ) or, where practicable, other fingerprint records for each individual seeking access to Safeguards Information, to the Director of the Division of Facilities and Security, marked for the attention of the Division's Criminal History Check Section. Copies of these forms may be obtained by writing the Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, by calling (301) 415–5877, or by e-mail to *forms@nrc.gov*. Practicable alternative formats are set forth in 10 CFR part 73.4. The Licensee shall establish procedures to ensure that the quality of the fingerprints taken results in minimizing the rejection rate of fingerprint cards due to illegible or incomplete cards.

The NRC will review submitted fingerprint cards for completeness. Any Form FD–258 fingerprint record containing omissions or evident errors will be returned to the Licensee for corrections. The fee for processing fingerprint checks includes one re-submission if the initial submission is returned by the FBI because the fingerprint impressions cannot be classified. The one free re-submission must have the FBI Transaction Control Number reflected on the re-submission. If additional submissions are necessary, they will be treated as initial submittals and will require a second payment of the processing fee.

Fees for processing fingerprint checks are due upon application. Licensees shall submit payment with the application for processing fingerprints by corporate check, certified check, cashier's check, money order, or electronic payment, made payable to ''U.S. NRC.'' [For guidance on making electronic payments, contact the Facilities Security Branch, Division of Facilities and Security, at (301) 415–7404]. Combined payment for multiple applications is acceptable. The application fee (currently $27) is the sum of the user fee charged by the FBI for each fingerprint card or other fingerprint record submitted by the NRC on behalf of a Licensee, and an NRC processing fee, which covers administrative costs associated with NRC handling of Licensee fingerprint submissions. The Commission will directly notify Licensees who are subject to this regulation of any fee changes.

The Commission will forward to the submitting Licensee all data received from the FBI as a result of the Licensee's application(s) for criminal history records checks, including the FBI fingerprint record.

Right To Correct and Complete Information

Prior to any final adverse determination, the Licensee shall make available to the individual the contents of any criminal records obtained from the FBI for the purpose of assuring correct and complete information. Written confirmation by the individual of receipt of this notification must be maintained by the Licensee for a period of one (1) year from the date of the notification. If, after reviewing the record, an individual believes that it is incorrect or incomplete in any respect and wishes to change, correct, or update the alleged deficiency, or to explain any matter in the record, the individual may initiate challenge procedures. These procedures include either direct application by the individual challenging the record to the agency (i.e., law enforcement agency) that contributed the questioned information, or direct challenge as to the accuracy or completeness of any entry on the criminal history record to the Assistant Director, Federal Bureau of Investigation Identification Division, Washington, DC 20537–9700 (as set forth in 28 CFR Part 16.30 through 16.34). In the latter case, the FBI forwards the challenge to the agency that submitted the data and requests that agency to verify or correct the challenged entry. Upon receipt of an official communication directly from the agency that contributed the original information, the FBI Identification Division makes any changes necessary in accordance with the information supplied by that agency. The Licensee must provide at least ten (10) days for an individual to initiate an action challenging the results of an FBI criminal history records check after the record is made available for his/her review. The Licensee may make a final SGI access determination based upon the criminal history record only upon receipt of the FBI's ultimate confirmation or correction of the record. Upon a final adverse determination on access to SGI, the Licensee shall provide the individual its documented basis for denial. Access to SGI shall not be granted to an individual during the review process.

Protection of Information

1. Each Licensee who obtains a criminal history record on an individual pursuant to this Order shall establish and maintain a system of files and procedures for protecting the record and the personal information from unauthorized disclosure.

2. The Licensee may not disclose the record or personal information collected and maintained to persons other than the subject individual, his/her representative, or to those who have a need to access the information in performing assigned duties in the process of determining access to Safeguards Information. No individual authorized to have access to the information may re-disseminate the information to any other individual who does not have a need-to-know.

3. The personal information obtained on an individual from a criminal history record check may be transferred to another Licensee if the Licensee holding the criminal history record check receives the individual's written request to re-disseminate the information contained in his/her file, and the gaining Licensee verifies information such as the individual's name, date of birth, Social Security number, sex, and other applicable physical characteristics for identification purposes.

4. The Licensee shall make criminal history records, obtained under this section, available for examination by an authorized representative of the NRC to determine compliance with the regulations and laws.

5. The Licensee shall retain all fingerprint and criminal history records received from the FBI, or a copy if the individual's file has been transferred, for three (3) years after termination of employment or determination of access to SGI (whether access was approved or denied). After the required three (3) year period, these documents shall be destroyed by a method that will prevent reconstruction of the information in whole or in part.

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NUCLEAR REGULATORY COMMISSION

[EA–07–251]

In the Matter of All Licensees Identified in Attachment 1 and All Other Persons Who Obtain Safeguards Information Described Herein; Order Imposing Requirements for the Protection of Certain Safeguards Information (Effective Immediately)

I

The Licensee, identified in Attachment 1[1] to this Order, holds a license issued in accordance with the Atomic Energy Act of 1954, as amended, (AEA) by the U.S. Nuclear Regulatory Commission (NRC or Commission),

[1] Attachment 1 contains sensitive information and will not be released to the public.

authorizing it to possess and transfer items containing radioactive material quantities of concern. The NRC intends to issue security Orders to this licensee in the near future. The Order will require compliance with specific compensatory measures to enhance the security for large panoramic irradiators. The Commission has determined that these documents will contain Safeguards Information, will not be released to the public, and must be protected from unauthorized disclosure. Therefore, the Commission is imposing the requirements, as set forth in Attachments 2 and 3 to this Order and in Order EA–07–252, so that the Licensee can receive these documents. This Order also imposes requirements for the protection of Safeguards Information in the hands of any person, [2] whether or not a licensee of the Commission, who produces, receives, or acquires Safeguards Information.

II

The Commission has broad statutory authority to protect and prohibit the unauthorized disclosure of Safeguards Information. Section 147 of the AEA grants the Commission explicit authority to ''* * * issue such orders, as necessary to prohibit the unauthorized disclosure of safeguards information* * *.'' This authority extends to information concerning the security measures for the physical protection of special nuclear material, source material, and byproduct material. Licensees and all persons who produce, receive, or acquire Safeguards Information must ensure proper handling and protection of Safeguards Information to avoid unauthorized disclosure in accordance with the specific requirements for the protection of Safeguards Information contained in Attachments 2 and 3 to this Order. The Commission hereby provides notice that it intends to treat violations of the requirements contained in Attachments 2 and 3 to this Order applicable to the handling and unauthorized disclosure of Safeguards Information as serious breaches of adequate protection of the public health and safety and the common defense and security of the United States.

Access to Safeguards Information is limited to those persons who have established the need to know the information, are considered to be trustworthy and reliable, and meet the requirements of Order EA–07–252. A need-to-know means a determination by a person having responsibility for protecting Safeguards Information that a proposed recipient's access to Safeguards Information is necessary in the performance of official, contractual, or licensee duties of employment.

The Licensee and all other persons who obtain Safeguards Information must ensure that they develop, maintain and implement strict policies and procedures for the proper handling of Safeguards Information to prevent unauthorized disclosure, in accordance with the requirements in Attachments 2 and 3 to this Order. The Licensee must ensure that all contractors whose employees may have access to Safeguards Information either adhere to the licensee's policies and procedures on Safeguards Information or develop, or maintain and implement their own acceptable policies and procedures. The Licensee remains responsible for the conduct of their contractors. The policies and procedures necessary to ensure compliance with applicable requirements contained in Attachments 2 and 3 to this Order must address, at a minimum, the following: The general performance requirement that each person who produces, receives, or acquires Safeguards Information shall ensure that Safeguards Information is protected against unauthorized disclosure; protection of Safeguards Information at fixed sites, in use and in storage, and while in transit; correspondence containing Safeguards Information; access to Safeguards Information; preparation, marking, reproduction and destruction of documents; external transmission of documents; use of automatic data processing systems; removal of the Safeguards Information category; the need-to-know the information; and background checks to determine access to the information.

In order to provide assurance that the Licensee is implementing prudent measures to achieve a consistent level of protection to prohibit the unauthorized disclosure of Safeguards Information, the Licensee shall implement the requirements identified in Attachments 2 and 3 to this Order. In addition, pursuant to 10 CFR 2.202, I find that in light of the common defense and security matters identified above, which warrant the issuance of this Order, the public health, safety and interest require that this Order be effective immediately.

III

Accordingly, pursuant to Sections 81, 147, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, 10 CFR part 30, 10 CFR part 32, 10 CFR part 35, and 10 CFR part 70, IT IS HEREBY ORDERED, EFFECTIVE IMMEDIATELY, THAT ALL LICENSEES IDENTIFIED IN ATTACHMENT 1 TO THIS ORDER AND ALL OTHER PERSONS WHO PRODUCE, RECEIVE, OR ACQUIRE THE ADDITIONAL SECURITY MEASURES IDENTIFIED ABOVE (WHETHER DRAFT OR FINAL) OR ANY RELATED SAFEGUARDS INFORMATION SHALL COMPLY WITH THE REQUIREMENTS OF ATTACHMENTS 2 AND 3 TO THIS ORDER.

The Director, Office of Federal and State Materials and Environmental Management Programs, may, in writing, relax or rescind any of the above conditions upon demonstration of good cause by the licensee.

IV

In accordance with 10 CFR 2.202, the Licensee must, and any other person adversely affected by this Order may, submit an answer to this Order within twenty (20) days of the date of this Order. In addition, the Licensee and any other person adversely affected by this Order may request a hearing of this Order within twenty (20) days of the date of the Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made, in writing, to the Director, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension.

The answer may consent to this Order. If the answer includes a request for a hearing, it shall, under oath or affirmation, specifically set forth the matters of fact and law on which the Licensee relies and the reasons as to why the Order should not have been issued. If a person other than the Licensee requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d).

A request for a hearing must be filed in accordance with the NRC E-Filing

[2] Person means (1) any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, government agency other than the Commission or the Department of Energy, except that the Department of Energy shall be considered a person with respect to those facilities of the Department of Energy specified in section 202 of the Energy Reorganization Act of 1974 (88 Stat. 1244), any State or any political subdivision of, or any political entity within a State, any foreign government or nation or any political subdivision of any such government or nation, or other entity; and (2) any legal successor, representative, agent, or agency of the foregoing.

rule, which became effective on October 15, 2007. The E-Filing Final Rule was issued on August 28, 2007, (72 Fed. Reg. 49,139). The E-Filing process requires participants to submit and serve documents over the internet or, in some cases, to mail copies on electronic optical storage media. Participants may not submit paper copies of their filings unless they seek a waiver in accordance with the procedures described below.

To comply with the procedural requirements associated with E-Filing, at least five (5) days prior to the filing deadline the requestor must contact the Office of the Secretary by e-mail at *HEARINGDOCKET@NRC.GOV,* or by calling (301) 415–1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any NRC proceeding in which it is participating; and/or (2) creation of an electronic docket for the proceeding (even in instances when the requestor (or its counsel or representative) already holds an NRC-issued digital ID certificate). Each requestor will need to download the Workplace Forms Viewer™ to access the Electronic Information Exchange (EIE), a component of the E-Filing system. The Workplace Forms Viewer™ is free and is available at *http://www.nrc.gov/site-help/e-submittals/install-viewer.html.* Information about applying for a digital ID certificate also is available on NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html.*

Once a requestor has obtained a digital ID certificate, had a docket created, and downloaded the EIE viewer, it can then submit a request for a hearing through EIE. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the filer submits its document through EIE. To be timely, electronic filings must be submitted to the EIE system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The EIE system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, any others who wish to participate in the proceeding (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request is filed so that they may obtain access to the document via the E-Filing system.

A person filing electronically may seek assistance through the ''Contact Us'' link located on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html* or by calling the NRC technical help line, which is available between 8:30 a.m. and 4:15 p.m., Eastern Time, Monday through Friday. The help line number is (800) 397–4209 or locally, (301) 415–4737.

Participants who believe that they have good cause for not submitting documents electronically must file a motion, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville, Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at *http://ehd.nrc.gov/EHD_Proceeding/home.asp,* unless excluded pursuant to an order of the Commission, an Atomic Safety and Licensing Board, or a Presiding Officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, Participants are requested not to include copyrighted materials in their works.

If a hearing is requested by the Licensee or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), the Licensee may, in addition to requesting a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section III above shall be final twenty (20) days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section III shall be final when the extension expires if a hearing request has not been received.

An answer or a request for hearing shall not stay the immediate effectiveness of this order.

Dated this 20th day of November 2007.

For The Nuclear Regulatory Commission.

Charles L. Miller,

Director, Office of Federal and State Materials and Environmental Management Programs.

Attachment 1: List of Applicable Materials Licensees Redacted

Attachment 2: Modified Handling Requirements for the Protection of Certain Safeguards Information (SGI–M)

Modified Handling Requirements for the Protection of Certain Safeguards Information (SGI–M) General Requirement

Information and material that the U.S. Nuclear Regulatory Commission (NRC) determines are safeguards information must be protected from unauthorized disclosure. In order to distinguish information needing modified protection requirements from the safeguards information for reactors and fuel cycle facilities that require a higher level of protection, the term ''Safeguards Information—Modified Handling'' (SGI–M) is being used as the distinguishing marking for certain materials licensees. Each person who produces, receives, or acquires SGI–M shall ensure that it is protected against unauthorized disclosure. To meet this requirement, licensees and persons shall establish and maintain an information protection system that includes the measures specified below. Information protection procedures employed by state and local police forces are deemed to meet these requirements.

Persons Subject to These Requirements

Any person, whether or not a licensee of the NRC, who produces, receives, or acquires SGI–M is subject to the requirements (and sanctions) of this document. Firms and their employees that supply services or equipment to materials licensees would fall under this requirement if they possess facility SGI–M. A licensee must inform contractors and suppliers of the existence of these requirements and the need for proper protection. (See more under Conditions for Access)

State or local police units who have access to SGI–M are also subject to these requirements. However, these organizations are deemed to have adequate information protection systems. The conditions for transfer of information to a third party, i.e., need-to-know, would still apply to the police organization as would sanctions for unlawful disclosure. Again, it would be prudent for licensees who have arrangements with local police to advise them of the existence of these requirements.

Criminal and Civil Sanctions

The Atomic Energy Act of 1954, as amended, explicitly provides that any person, ''whether or not a licensee of the Commission, who violates any regulations adopted under this section shall be subject to the civil monetary penalties of section 234 of this Act.'' Furthermore, willful violation of any regulation or order governing safeguards information is a felony subject to criminal penalties in the form of fines or imprisonment, or both. *See sections 147b. and 223 of the Act.*

Conditions for Access

Access to SGI–M beyond the initial recipients of the order will be governed by the background check requirements imposed by the order. Access to SGI–M by licensee employees, agents, or contractors must include both an appropriate need-to-know determination by the licensee, as well as a determination concerning the trustworthiness of individuals having access to the information. Employees of an organization affiliated with the licensee's company, e.g., a parent company, may be considered as employees of the licensee for access purposes.

Need-to-Know

Need-to-know is defined as a determination by a person having responsibility for protecting SGI–M that a proposed recipient's access to SGI–M is necessary in the performance of official, contractual, or licensee duties of employment. The recipient should be made aware that the information is SGI–M and those having access to it are subject to these requirements as well as criminal and civil sanctions for mishandling the information.

Occupational Groups

Dissemination of SGI–M is limited to individuals who have an established need-to-know and who are members of certain occupational groups. These occupational groups are:

A. An employee, agent, or contractor of an applicant, a licensee, the Commission, or the United States Government;

B. A member of a duly authorized committee of the Congress;

C. The Governor of a State or his designated representative;

D. A representative of the International Atomic Energy Agency (IAEA) engaged in activities associated with the U.S./IAEA Safeguards Agreement who has been certified by the NRC;

E. A member of a state or local law enforcement authority that is responsible for responding to requests for assistance during safeguards emergencies; or

F. A person to whom disclosure is ordered pursuant to Section 2.744(e) of Part 2 of part 10 of the Code of Federal Regulations.

G. State Radiation Control Program Directors (and State Homeland Security Directors) or their designees.

In a generic sense, the individuals described above in (A) through (G) are considered to be trustworthy by virtue of their employment status. For non-governmental individuals in group (A) above, a determination of reliability and trustworthiness is required. Discretion must be exercised in granting access to these individuals. If there is any indication that the recipient would be unwilling or unable to provide proper protection for the SGI–M, they are not authorized to receive SGI–M.

Information Considered for Safeguards Information Designation

Information deemed SGI–M is information the disclosure of which could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of theft, diversion, or sabotage of materials or facilities subject to NRC jurisdiction.

SGI–M identifies safeguards information which is subject to these requirements. These requirements are necessary in order to protect quantities of nuclear material significant to the health and safety of the public or common defense and security.

The overall measure for consideration of SGI–M is the usefulness of the information (security or otherwise) to an adversary in planning or attempting a malevolent act. The specificity of the information increases the likelihood that it will be useful to an adversary.

Protection While in Use

While in use, SGI–M shall be under the control of an authorized individual. This requirement is satisfied if the SGI–M is attended by an authorized individual even though the information is in fact not constantly being used. SGI–M, therefore, within alarm stations, continuously manned guard posts or ready rooms need not be locked in file drawers or storage containers.

Under certain conditions the general control exercised over security zones or areas would be considered to meet this requirement. The primary consideration is limiting access to those who have a need-to-know. Some examples would be:

Alarm stations, guard posts and guard ready rooms;

Engineering or drafting areas if visitors are escorted and information is not clearly visible;

Plant maintenance areas if access is restricted and information is not clearly visible;

Administrative offices (e.g., central records or purchasing) if visitors are escorted and information is not clearly visible.

Protection While in Storage

While unattended, SGI–M shall be stored in a locked file drawer or container. Knowledge of lock combinations or access to keys protecting SGI–M shall be limited to a minimum number of personnel for operating purposes who have a ''need-to-know'' and are otherwise authorized access to SGI–M in accordance with these requirements. Access to lock combinations or keys shall be strictly controlled so as to prevent disclosure to an unauthorized individual.

Transportation of Documents and Other Matter

Documents containing SGI–M when transmitted outside an authorized place of use or storage shall be enclosed in two sealed envelopes or wrappers. The inner envelope or wrapper shall contain the name and address of the intended recipient, and be marked both sides, top and bottom with the words ''Safeguards Information—Modified Handling.'' The outer envelope or wrapper must be addressed to the intended recipient,

must contain the address of the sender, and must not bear any markings or indication that the document contains SGI–M.

SGI–M may be transported by any commercial delivery company that provides nationwide overnight service with computer tracking features, U.S. first class, registered, express, or certified mail, or by any individual authorized access pursuant to these requirements.

Within a facility, SGI–M may be transmitted using a single opaque envelope. It may also be transmitted within a facility without single or double wrapping, provided adequate measures are taken to protect the material against unauthorized disclosure. Individuals transporting SGI–M should retain the documents in their personal possession at all times or ensure that the information is appropriately wrapped and also secured to preclude compromise by an unauthorized individual.

Preparation and Marking of Documents

While the NRC is the sole authority for determining what specific information may be designated as ''SGI–M,'' originators of documents are responsible for determining whether those documents contain such information. Each document or other matter that contains SGI–M shall be marked ''Safeguards Information—Modified Handling'' in a conspicuous manner on the top and bottom of the first page to indicate the presence of protected information. The first page of the document must also contain (i) the name, title, and organization of the individual authorized to make a SGI–M determination, and who has determined that the document contains SGI–M, (ii) the date the document was originated or the determination made, (iii) an indication that the document contains SGI–M, and (iv) an indication that unauthorized disclosure would be subject to civil and criminal sanctions. Each additional page shall be marked in a conspicuous fashion at the top and bottom with letters denoting ''Safeguards Information Modified Handling.''

In addition to the ''Safeguards Information—Modified Handling'' markings at the top and bottom of each page, transmittal letters or memoranda which do not in themselves contain SGI–M shall be marked to indicate that attachments or enclosures contain SGI–M but that the transmittal does not (e.g., ''When separated from SGI–M enclosure(s), this document is decontrolled'').

In addition to the information required on the face of the document, each item of correspondence that contains SGI–M shall, by marking or other means, clearly indicate which portions (e.g., paragraphs, pages, or appendices) contain SGI–M and which do not. Portion marking is not required for physical security and safeguards contingency plans.

All documents or other matter containing SGI–M in use or storage shall be marked in accordance with these requirements. A specific exception is provided for documents in the possession of contractors and agents of licensees that were produced more than one year prior to the effective date of the order. Such documents need not be marked unless they are removed from file drawers or containers. The same exception applies to old documents stored away from the facility in central files or corporation headquarters.

Since information protection procedures employed by state and local police forces are deemed to meet NRC requirements, documents in the possession of these agencies need not be marked as set forth in this document.

Removal From SGI–M Category

Documents containing SGI–M shall be removed from the SGI–M category (decontrolled) only after the NRC determines that the information no longer meets the criteria of SGI–M. Licensees have the authority to make determinations that specific documents *which they created* no longer contain SGI–M information and may be decontrolled. Consideration must be exercised to ensure that any document decontrolled shall not disclose SGI–M in some other form or be combined with other unprotected information to disclose SGI–M.

The authority to determine that a document may be decontrolled may be exercised only by, or with the permission of, the individual (or office) who made the original determination. The document shall indicate the name and organization of the individual removing the document from the SGI–M category and the date of the removal. Other persons who have the document in their possession should be notified of the decontrolling of the document.

Reproduction of Matter Containing SGI–M

SGI–M may be reproduced to the minimum extent necessary consistent with need without permission of the originator. Newer digital copiers which scan and retain images of documents represent a potential security concern. If the copier is retaining SGI–M information in memory, the copier cannot be connected to a network. It should also be placed in a location that is cleared and controlled for the authorized processing of SGI–M information. Different copiers have different capabilities, including some which come with features that allow the memory to be erased. Each copier would have to be examined from a physical security perspective.

Use of Automatic Data Processing (ADP) Systems

SGI–M may be processed or produced on an ADP system provided that the system is assigned to the licensee's or contractor's facility and requires the use of an entry code/password for access to stored information. Licensees are encouraged to process this information in a computing environment that has adequate computer security controls in place to prevent unauthorized access to the information. An ADP system is defined here as a data processing system having the capability of long term storage of SGI–M. Word processors such as typewriters are not subject to the requirements as long as they do not transmit information offsite. (Note: if SGI–M is produced on a typewriter, the ribbon must be removed and stored in the same manner as other SGI–M information or media.) The basic objective of these restrictions is to prevent access and retrieval of stored SGI–M by unauthorized individuals, particularly from remote terminals. Specific files containing SGI–M will be password protected to preclude access by an unauthorized individual. The National Institute of Standards and Technology (NIST) maintains a listing of all validated encryption systems at *http://csrc.nist.gov/cryptval/1401/1401val.htm*. SGI–M files may be transmitted over a network if the file is encrypted. In such cases, the licensee will select a commercially available encryption system that NIST has validated as conforming to Federal Information Processing Standards (FIPS). SGI–M files shall be properly labeled as ''Safeguards Information—Modified Handling'' and saved to removable media and stored in a locked file drawer or cabinet.

Telecommunications

SGI–M may not be transmitted by unprotected telecommunications circuits except under emergency or extraordinary conditions. For the purpose of this requirement, emergency or extraordinary conditions are defined as any circumstances that require immediate communications in order to report, summon assistance for, or

respond to a security event (or an event that has potential security significance).

This restriction applies to telephone, telegraph, teletype, facsimile circuits, and to radio. Routine telephone or radio transmission between site security personnel, or between the site and local police, should be limited to message formats or codes that do not disclose facility security features or response procedures. Similarly, call-ins during transport should not disclose information useful to a potential adversary. Infrequent or non-repetitive telephone conversations regarding a physical security plan or program are permitted provided that the discussion is general in nature.

Individuals should use care when discussing SGI–M at meetings or in the presence of others to insure that the conversation is not overheard by persons not authorized access. Transcripts, tapes or minutes of meetings or hearings that contain SGI–M shall be marked and protected in accordance with these requirements.

Destruction

Documents containing SGI–M should be destroyed when no longer needed. They may be destroyed by tearing into small pieces, burning, shredding or any other method that precludes reconstruction by means available to the public at large. Piece sizes one half inch or smaller composed of several pages or documents and thoroughly mixed would be considered completely destroyed.

Attachment 3: Trustworthiness and Reliability Requirements for Individuals Handling Safeguards Information

Trustworthiness and Reliability Requirements for Individuals Handling Safeguards Information

In order to ensure the safe handling, use, and control of information designated as Safeguards Information, each licensee shall control and limit access to the information to only those individuals who have established the need-to-know the information, and are considered to be trustworthy and reliable. Licensees shall document the basis for concluding that there is reasonable assurance that individuals granted access to Safeguards Information are trustworthy and reliable, and do not constitute an unreasonable risk for malevolent use of the information.

The Licensee shall comply with the requirements of this attachment:

1. The trustworthiness and reliability of an individual shall be determined based on a background investigation:

(a) The background investigation shall address at least the past three (3) years, and, at a minimum, include verification of employment, education, and personal references. The licensee shall also, to the extent possible, obtain independent information to corroborate that provided by the employee (i.e., seeking references not supplied by the individual).

(b) If an individual's employment has been less than the required three (3) year period, educational references may be used in lieu of employment history.

The licensee's background investigation requirements may be satisfied for an individual that has an active Federal security clearance.

2. The licensee shall retain documentation regarding the trustworthiness and reliability of individual employees for three years after the individual's employment ends.

[FR Doc. E7–23366 Filed 11–30–07; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF MANAGEMENT AND BUDGET

2007 List of Designated Federal Entities and Federal Entities

AGENCY: Office of Management and Budget.

ACTION: Notice.

SUMMARY: As required by the Inspector General Act of 1978, as amended (IG Act), this notice provides a list of Designated Federal Entities and Federal Entities.

FOR FURTHER INFORMATION CONTACT: Audrey Duchesne, Office of Federal Financial Management, Office of Management and Budget, telephone (202) 395–3993.

SUPPLEMENTARY INFORMATION: This notice provides the 2007 List of Designated Federal Entities and Federal Entities which, under the IG Act, the Office of Management and Budget (OMB) is required to publish annually. The previous list was published in the **Federal Register** on July 13, 2006 (71 FR 39691). This list is also posted on the OMB Web site at *http://www.whitehouse.gov/omb.* The Designated Federal Entities have been updated to reflect the: (1) Addition of Amtrak's statutory name, National Railroad Passenger Corporation; (2) addition of the Postal Regulatory Commission and its entity head as the Chairman to reflect the 2006 amendment to section 8G(a)(2) of the Inspector General (IG) Act (5 U.S.C. App. 3) by section 603(b) of the Postal Accountability and Enhancement Act (Pub. L. 109–435 (Dec. 20, 2006); 39 U.S.C. 504; and (3) change in the title of the Denali Commission's entity head from Chairperson to Federal Cochairperson for consistency with its enabling statute (42 U.S.C. 3121 note). The Federal Entities have been updated to reflect the: (1) Change of the Armed Forces Retirement Home entity head from Board of Directors to Chief Operating Officer consistent with the 2001 amendment of the Armed Forces Retirement Home Act of 1991 ((Pub. L. 101–510 Div. A, Tit. XV (Nov. 5, 1990); 24 U.S.C. 401 *et seq.*) by Sect. 1403 of Pub. L. 107–107 (Dec. 28, 2001), which established the Chief Operating Officer as the head, subject to the authority, direction and control of the Secretary of Defense; and (2) deletion of the National Veterans Business Development Corporation established under 15 U.S.C. 657c(a) (and its entity head as the Chairperson) because the Corporation is a private entity that did not receive any appropriations in fiscal year 2007 and will likely not receive any in fiscal year 2008.

The list is divided into two groups: Designated Federal Entities and Federal Entities. Designated Federal Entities are listed in the IG Act, except for those agencies that have ceased to exist or that have been deleted from the list. The Designated Federal Entities are required to establish and maintain Offices of Inspector General to: (1) Conduct and supervise audits and investigations relating to programs and operations; (2) promote economy, efficiency, and effectiveness of, and to prevent and detect fraud and abuse in such programs and operations; and (3) provide a means of keeping the entity head and the Congress fully and currently informed about problems and deficiencies relating to the administration of such programs and operations and the necessity for, and progress of, corrective actions.

Section 8G(a)(1) of the IG Act defines a ''Federal entity'' as: Any Government corporation (within the meaning of section 103(1) of title 5, United States Code), any Government-controlled corporation (within the meaning of section 103(2) of such title), or any other entity in the Executive Branch of the Government, or any independent regulatory agency, but does not include:

(1) An establishment (as defined in section 11(2) of this Act or part of an establishment;

(2) A designated Federal entity [as defined in section 8G(a)(2) of the Act] or part of a designated Federal entity;

(3) The Executive Office of the President;

(4) The Central Intelligence Agency;

(5) The Government Accountability Office; or

(6) Any entity in the judicial or legislative branches of the Government, including the Administrative Office of the United States Courts and the Architect of the Capitol and any activities under the direction of the Architect of the Capitol.

Pursuant to section 8(G)(h)(2) of the IG Act, Federal Entities are required to report annually to each House of the Congress and OMB on audit and investigative activities in their organizations.

Danny Werfel,

Acting Controller.

Herein follows the text of the 2007 List of Designated Federal Entities and Federal Entities:

2007 List of Designated Federal Entities and Federal Entities

Section 8G(h)(1) of the IG Act, as amended, requires OMB to publish a list of ''Designated Federal Entities'' and ''Federal Entities'' and the heads of such entities. Designated Federal Entities are required to establish Offices of Inspector General and to report semiannually to each House of the Congress and the Office of the Management and Budget summarizing the activities of the Office during the immediately preceding six-month periods ending March 31 and September 30. Federal Entities are required to report annually on October 31 to each House of the Congress and the Office of Management and Budget on audit and investigative activities in their organizations.

Revised 2007 List of Designated Federal Entities and Federal Entities

Designated Federal Entities and Entity Heads

1. Amtrak (National Railroad Passenger Corporation)—Chairperson.
2. Appalachian Regional Commission—Federal Co-Chairperson.
3. The Board of Governors, Federal Reserve System—Chairperson.
4. Broadcasting Board of Governors—Chairperson.
5. Commodity Futures Trading Commission—Chairperson.
6. Consumer Product Safety Commission—Chairperson.
7. Corporation for Public Broadcasting—Board of Directors.
8. Denali Commission—Federal Cochairperson.
9. Election Assistance Commission—Chairperson.
10. Equal Employment Opportunity Commission—Chairperson.
11. Farm Credit Administration—Chairperson.
12. Federal Communications Commission—Chairperson.
13. Federal Election Commission—Chairperson.
14. Federal Housing Finance Board—Chairperson.
15. Federal Labor Relations Authority—Chairperson.
16. Federal Maritime Commission—Chairperson.
17. Federal Trade Commission—Chairperson.
18. Legal Services Corporation—Board of Directors.
19. National Archives and Records Administration—Archivist of the United States.
20. National Credit Union Administration—Chairperson.
21. National Endowment for the Arts—Chairperson.
22. National Endowment for the Humanities—Chairperson.
23. National Labor Relations Board—Chairperson.
24. National Science Foundation—National Science Board.
25. Peace Corps—Director.
26. Pension Benefit Guaranty Corporation—Chairperson.
27. Postal Regulatory Commission—Chairperson.
28. Securities and Exchange Commission—Chairperson.
29. Smithsonian Institution—Board of Regents.
30. United States International Trade Commission—Chairperson.
31. United States Postal Service—Governors of the Postal Service.

Federal Entities and Entity Heads

1. Advisory Council on Historic Preservation—Chairperson.
2. African Development Foundation—Chairperson.
3. American Battle Monuments Commission—Chairperson.
4. Architectural and Transportation Barriers Compliance Board—Chairperson.
5. Armed Forces Retirement Home—Chief Operating Officer.
6. Barry Goldwater Scholarship and Excellence in Education Foundation—Chairperson.
7. Chemical Safety and Hazard Investigation Board—Chairperson.
8. Christopher Columbus Fellowship Foundation—Chairperson.
9. Commission for the Preservation of America's Heritage Abroad—Chairperson.
10. Commission of Fine Arts—Chairperson.
11. Commission on Civil Rights—Chairperson.
12. Committee for Purchase from People Who Are Blind or Severely Disabled—Chairperson.
13. Court of Appeals for Veterans Claims—Chief Judge.
14. Court Services and Offender Supervision Agency for DC—Director.
15. Defense Nuclear Facilities Safety Board—Chairperson.
16. Delta Regional Authority—Federal Co-Chairperson.
17. Farm Credit System Insurance Corporation—Chairperson.
18. Federal Financial Institutions Examination Council—Chairperson.
19. Federal Mediation and Conciliation Service—Director.
20. Federal Mine Safety and Health Review Commission—Chairperson.
21. Federal Retirement Thrift Investment Board—Executive Director.
22. Harry S. Truman Scholarship Foundation—Chairperson.
23. Institute of American Indian and Alaska Native Culture and Arts Development—Chairperson.
24. Institute of Museum and Library Services—Director.
25. Inter-American Foundation—Chairperson.
26. James Madison Memorial Fellowship Foundation—Chairperson.
27. Japan-U.S. Friendship Commission—Chairperson.
28. Marine Mammal Commission—Chairperson.
29. Merit Systems Protection Board—Chairperson.
30. Millennium Challenge Corporation—Chief Executive Officer.
31. Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation—Chairperson.
32. National Capital Planning Commission—Chairperson.
33. National Commission on Libraries and Information Science—Chairperson.
34. National Council on Disability—Chairperson.
35. National Mediation Board—Chairperson.
36. National Transportation Safety Board—Chairperson.
37. Neighborhood Reinvestment Corporation—Chairperson.
38. Nuclear Waste Technical Review Board—Chairperson.
39. Occupational Safety and Health Review Commission—Chairperson.
40. Office of Government Ethics—Director.
41. Office of Navajo and Hopi Indian Relocation—Chairperson.
42. Office of Special Counsel—Special Counsel.
43. Overseas Private Investment Corporation—Board of Directors.
44. Presidio Trust—Chairperson.
45. Selective Service System—Director.
46. Smithsonian Institution/John F. Kennedy Center for the Performing Arts—Chairperson.

47. Smithsonian Institution/National Gallery of Art—President.
48. Smithsonian Institution/Woodrow Wilson International Center for Scholars—Director.
49. Trade and Development Agency—Director.
50. U.S. Holocaust Memorial Museum—Chairperson.
51. U.S. Interagency Council on Homelessness—Chairperson.
52. U.S. Institute of Peace—Chairperson.
53. Vietnam Education Foundation—Chairperson.
54. White House Commission on the National Moment of Remembrance—Chairperson.

[FR Doc. E7–23406 Filed 11–30–07; 8:45 am]

BILLING CODE 3110–01–P

POSTAL REGULATORY COMMISSION

Facility Tours

AGENCY: Postal Regulatory Commission.

ACTION: Notice of Commission tours.

SUMMARY: On Tuesday, December 4, and Wednesday, December 5, 2007, Postal Regulatory Commissioners and advisory staff members will tour the United Parcel Service facility in Louisville, Kentucky and meet with company officials. The purpose of the tour is to observe company operations.

DATES: December 4–5, 2007.

FOR FURTHER INFORMATION CONTACT: Ann C. Fisher, Chief of Staff, Postal Regulatory Commission, at 202–789–6803 or *ann.fisher@prc.gov.*

Steven W. Williams,

Secretary.

[FR Doc. 07–5893 Filed 11–30–07; 8:45 am]

BILLING CODE 7710–FW–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56840; File No. SR–DTC–2007–13]

Self-Regulatory Organizations; the Depository Trust Company; Notice of Filing of a Proposed Rule Change Relating to the Foreign Currency Payment Option

November 27, 2007.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on September 26, 2007, the Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by DTC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would provide that DTC's Foreign Currency Payment Option (''FCP Option'') may be used (1) in relation to securities denominated in U.S. dollars and (2) regardless of whether the terms of the issue originally contemplated the option of payment in one or more currencies.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC 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. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Currently, DTC offers the FCP Option in order for participants to elect the payment of dividend, interest, principal, redemption, or maturity payments either in foreign currency outside of DTC or in U.S. dollars within DTC with respect to a foreign denominated issue when the foreign currency option is included in the initial offering terms of the DTC-eligible issue.[3]

U.S. Denominated Securities

The proposed rule change would clarify that the FCP Option would be made available with respect to U.S. denominated securities as well as foreign denominated securities. The method of payment (U.S. dollars within DTC and foreign currency outside of DTC) and the election process would remain the same. When DTC initially filed to implement the FCP Option, the issues providing for multiple currencies payments were foreign denominated.[4] The wording inadvertently put U.S. denominated securities at a disadvantage with respect to the FCP Option. The proposed rule change seeks to clarify this unintentional result by allowing the FCP Option to be used with respect to U.S. denominated securities.

Designation of Payment Option After Initial Issuance

The proposed rule change would allow for the use of the FCP Option in relation to DTC-eligible securities that were not initially issued with the option of payment in multiple currencies. Additionally, DTC proposes that an issuer or its agent could use the FCP Option to add an additional currency to the payment options originally offered in relation to a DTC-eligible security.[5] In such a case, the issuer or its agent would instruct DTC, within prescribed timeframes and in a form satisfactory to DTC to send out a notice to participants holding positions in the subject security to inform them of the payment options for a particular payment event. Such a notice would contain all necessary information for a participant to be able to elect a particular currency option. The method of payment (U.S. dollars within DTC and foreign currency outside of DTC) and the election process would remain the same.

The proposed rule change is consistent with the requirements of Section 17A of the Act and the rules and regulations thereunder applicable to DTC because it promotes the prompt and accurate clearance and settlement of securities transactions by (1) not unnecessarily limiting payment options for U.S. denominated securities and (2) promoting efficiencies for payment in multiple currencies with respect to DTC-eligible securities.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC perceives no impact on competition by reason of the proposed rule change.

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified parts of these statements.

[3] Participants may make FCP Option elections for the payment of (a) dividends, interest, and principal through the EDS function and (b) redemption and maturity through the RCUR function.

[4] Securities Exchange Act Release Nos. 33597 (February 8, 1994), 59 FR 7272 (February 15, 1994) (File No. SR–DTC–93–10) and 29144 (April 30, 1991), 56 FR 21182 (May 7, 1991) (File No. SR–DTC–90–09).

[5] Payment in a different currency than offered when a security was initially issued might be desirable for example in the event of a change in tax withholding legislation subsequent to the initial issuance, which might make it more attractive for investors from a particular country to hold position in a security. It would in turn be helpful for such investors to have the ability to receive payments in relation to the subject security in their home country currency.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments from DTC participants or others have not been solicited or received on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five 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 ninety 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 the 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–DTC–2007–13 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–DTC–2007–13. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of DTC. 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–DTC–2007–13 and should be submitted on or before December 24, 2007.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Nancy M. Morris,

Secretary.

[FR Doc. E7–23315 Filed 11–30–07; 8:45 am]

BILLING CODE 8011–01–P

[6] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56843; File No. SR–ISE–2007–71]

Self-Regulatory Organizations; International Securities Exchange, LLC; Order Approving a Proposed Rule Change Relating to Fee Changes on a Retroactive Basis

November 27, 2007.

On October 2, 2007, the International Securities Exchange, LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] to retroactively apply a fee reduction that was implemented on September 4, 2007, as discussed below. The proposed rule change was published for comment in the **Federal Register** on October 22, 2007.[3] The Commission received no comments on the proposal. This order approves the proposed rule change.

On September 4, 2007, the Exchange implemented a fee reduction to the Schedule of Fees, effective for the month of September 2007, with respect to Electronic Access Member (''EAM'') Trading Application Software Fees (''Software Fees'').[4] Consequently, the Software Fees are as follows:

- Equity EAMs are charged $250 for each of the first and second connections and $50 for each additional connection thereafter, regardless of whether the Equity EAM is connected via Financial Information eXchange (''FIX'') or Application Programming Interface (''API'').[5]
- Options EAMs that connect via API are charged $250 for each of the first five connections and $100 for each additional connection.
- Options EAMs that connect via FIX are charged $250 for each of the first and second connections and $50 for each additional connection thereafter.

The Exchange now seeks to apply retroactively these reduced fees to the time period of July 1, 2007 to August 31, 2007 (''Retroactive Period'').

The Commission finds that the proposed rule change is consistent with the requirements of Section 6 of the Act[6] and the rules and regulations thereunder applicable to a national securities exchange. In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(4) of the Act,[7] in that it will reduce the Software Fees during the Retroactive Period and result in an equitable allocation of reasonable dues, fees, and other charges among the Exchange's members and other persons using its facilities.[8]

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[9] that the proposed rule change (SR–ISE–2007–71) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Nancy M. Morris,

Secretary.

[FR Doc. E7–23318 Filed 11–30–07; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 56662 (October 16, 2007), 72 FR 59576.

[4] *See* Securities Exchange Act Release No. 56379 (September 10, 2007), 72 FR 52591 (September 14, 2007) (SR–ISE–2007–79) (notice of filing and immediate effectiveness of a proposed rule change relating to fee changes).

[5] ISE uses an open API, which members program to in order to develop applications that send trading commands and/or queries to and receive broadcasts and/or transactions from the trading system. FIX is an industry-wide messaging standard protocol.

[6] 15 U.S.C. 78(f)(b).

[7] 15 U.S.C. 78f(b)(4).

[8] In approving this rule change, the Commission notes that it has considered the proposal's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[9] 15 U.S.C. 78s(b)(2).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56841; File No. SR–NASDAQ–2007–089]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify Fees for Members Using the Nasdaq Market Center

November 27, 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 October 1, 2007, The NASDAQ Stock Market LLC (''Nasdaq'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the Exchange. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq proposes to modify pricing for Nasdaq members using the Nasdaq Market Center. Nasdaq will implement this proposed rule change on November 1, 2007. The text of the proposed rule change is available at the Exchange's Web site, *www.nasdaq.complinet.com,* the Exchange and the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Effective November 1, 2007, Nasdaq is implementing changes to its fees for routing to the New York Stock Exchange (''NYSE'') that reflect recently announced changes to order execution fees at that venue. Specifically, NYSE has eliminated a transaction fee of $0.0004 per share on ''at the opening'' and ''at the opening only'' orders in equity securities (excluding exchange-traded funds).[5] Similarly, Nasdaq is eliminating the $0.0004 fee it charges to members when their orders are routed to NYSE and execute in the NYSE opening process as ''at the opening'' or ''at the opening only'' orders.

In addition, effective October 1, 2007, NYSE implemented a fee of $0.0004 per share for odd lot transactions (including the odd lot portions of partial round lots).[6] At that time, Nasdaq did not implement a routing fee that specifically distinguished these transactions from other transactions executed at NYSE. Nasdaq is now implementing such a fee at the same $0.0004 per share level as the NYSE execution fee, effective November 1, 2007.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[7] in general, and with Section 6(b)(4) of the Act,[8] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system, which Nasdaq operates or controls. The change responds to fee changes by NYSE to ensure that Nasdaq's fees for routing to NYSE are generally consistent with charges that NYSE imposes on Nasdaq when it routes orders to it.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change is filed pursuant to Section 19(b)(3)(A)(ii) of the Act[9] and subparagraph (f)(2) of Rule 19b–4 thereunder[10] because it establishes or changes a due, fee, or other charge applicable only to a member imposed by a self-regulatory organization. Accordingly, the proposal is effective upon Commission receipt of the filing. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2007–089 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–NASDAQ–2007–089. 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

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(2).

[5] *See* Securities Exchange Act Release No. 56740 (November 5, 2007), 72 FR 63636 (November 9, 2007) (SR–NYSE–2007–100).

[6] *See* Securities Exchange Act Release No. 56590 (October 1, 2007), 72 FR 57369 (October 9, 2007) (SR–NYSE–2007–88).

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(4).

[9] 15 U.S.C. 78s(b)(3)(A)(ii).

[10] 17 CFR 240.19b–4(f)(2).

with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of Nasdaq. 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–NASDAQ–2007–089 and should be submitted on or before December 24, 2007.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Nancy M. Morris,

Secretary.

[FR Doc. E7–23316 Filed 11–30–07; 8:45 am]

BILLING CODE 8011–01–P

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56842; File No. SR–NYSE–2007–77]

Self-Regulatory Organizations; New York Stock Exchange LLC; Order Approving a Proposed Rule Change, as Modified by Amendment Nos. 1, 2, and 3 Thereto, To Amend Listing Fees for Structured Products

November 27, 2007.

On August 24, 2007, the New York Stock Exchange LLC (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend certain provisions of its Listed Company Manual (''Manual'') governing structured product fees. Except as described below, the proposed changes would apply retroactively as of October 3, 2007. On October 3, 2007, the Exchange filed Amendment No. 1 to the proposed rule change. On October 12, 2007, the Exchange filed Amendment No. 2 to the proposed rule change. On October 22, 2007, the Exchange filed Amendment No. 3 to the proposed rule change. The proposed rule change and Amendments Nos. 1, 2, and 3 thereto were published for comment in the **Federal Register** on October 26, 2007.[3] The Commission received no comments on the proposal. This order approves the proposed rule change, as modified by Amendment Nos. 1, 2, and 3.

Section 902.06 of the Manual sets forth the listing and annual fees for ''short-term'' securities, *i.e.*, those having a term of seven years or less. The Exchange proposes to revise Section 902.06 to clarify the scope of the rule's coverage. For example, proposed Section 902.06 excludes from its coverage certain short-term securities—namely, securities listed pursuant to Sections 703.15 (Foreign Currency Warrants and Currency Index Warrants), 703.17 (Stock Index Warrants Listing Standards), and 703.22 (Equity Index-Linked Securities, Commodity-Linked Securities and Currency-Linked Securities and Currency-Linked Securities)—that would instead be subject to lower fees set forth in proposed new Section 902.09.

The proposed listing fees applicable to securities subject to Section 902.09 of Manual are based on the total number of shares outstanding. The proposed fees would apply each time an issuer lists a security of one of the classes specified in Section 902.09 of the Manual and also to subsequent listings of additional shares of the same security. The Exchange would treat each series of the security as a separate issue. Proposed Section 902.09 would also establish annual fees based on the total number of shares outstanding. The proposed annual fees would be billed in January for the forthcoming year. Additionally, a $2,500 fee for certain changes that involve modifications to Exchange records would apply.

The Exchange also proposes to amend Section 902.05 of the Manual to provide that the fees applicable to: (1) Structured products listed under the debt criteria set out in Section 703.19 (Other Securities) and traded on NYSE Bonds are set forth in Section 902.08 (Listings Fees for Debt Securities); and (2) short-term structured products are set forth in Section 902.06.

Additionally, the Exchange seeks to codify its existing practice whereby it applies the fee schedules set forth in Sections 902.05 and 902.06 of the Manual to securities listed pursuant to Sections 703.15, 703.17 and 703.22 of the Manual. However, Sections 902.05 and 902.06 of the Manual do not identify Sections 703.15, 703.17 and 703.22 as securities to which the fees would apply. Through this proposed rule change, the Exchange proposes to apply retroactively for the period from June 7, 2006 to October 2, 2007 the fee schedules set forth in Sections 902.05 and 902.06 of the Manual to all securities previously listed pursuant to Sections 703.15, 703.17 and 703.22 of the Manual. Therefore, beginning October 3, 2007, all securities listed pursuant to Sections 703.15, 703.17 and 703.22 of the Manual would be subject to the fee schedule set forth in Section 902.09 of the Manual.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[4] In particular, the Commission believes that the proposal is consistent with Section 6(b)(4) of the Act,[5] which requires, among other things, that the rules of a national securities exchange be designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities. The Commission notes that no comments have been received regarding the proposed rule change, and that the proposed fees are similar to those it approved for the American Stock Exchange LLC.[6]

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[7] that the proposed rule change (File No. SR–NYSE–2007–77), as modified by Amendment Nos. 1, 2, and 3 thereto, be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Nancy M. Morris,

Secretary.

[FR Doc. E7–23317 Filed 11–30–07; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 56688 (October 23, 2007), 72 FR 60924.

[4] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[5] 15 U.S.C. 78f(b)(4).

[6] *See* Securities Exchange Act Release No. 45403 (February 6, 2002), 67 FR 6553 (February 12, 2002) (SR–Amex–2001–100).

[7] 15 U.S.C. 78s(b)(2).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56845; File No. SR–OCC–2007–14]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Descriptions of OCC's Assignment Procedures

November 27, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on October 9, 2007, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by OCC. OCC filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[2] and Rule 19b–4(f)(4) thereunder,[3] so that the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would update the descriptions of OCC's assignment procedures to reflect the expanded use of sub-accounts at OCC.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC 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. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[4]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

OCC currently maintains two separate procedures for assigning exercise notices to clearing members. One is the standard assignment procedure, which is commonly referred to as ''random'' assignment and is applied to most options classes.[5] The other is the pro rata procedure which is applied to options on the S&P 500 Index as well as all flexibly structured foreign currency and cross-rate foreign currency options.[6] The purpose of this filing is to modify the descriptions of both procedures to account for the expanded use of sub-accounts as described in File No. SR–OCC–2007–11. Specifically, the modified descriptions reflect that OCC will assign exercise notices directly to short positions held in a sub-account established by a clearing member for a single beneficial owner.

The proposed change is consistent with Section 17A of the Act because it promotes the prompt and accurate clearance and settlement of securities transactions and fosters cooperation and coordination with persons engaged in the clearance and settlement of securities transactions by updating the descriptions of OCC's assignment procedures. The proposed rule change is not inconsistent with the existing rules of OCC, including any other rules proposed to be amended.

(B) Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[7] and Rule 19b–4(f)(4)[8] promulgated thereunder because the proposal effects a change in an existing service of OCC that (A) does not adversely affect the safeguarding of securities or funds in the custody or control of OCC or for which it is responsible and (B) does not significantly affect the respective rights or obligations of OCC or persons using the service. At any time within sixty days of the filing of the proposed rule change, the Commission could summarily abrogate such rule change if it appears to the Commission that such action was necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–OCC–2007–14 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–OCC–2007–14. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of OCC. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78s(b)(3)(iii).

[3] 17 CFR 240.19b–4(f)(4).

[4] The Commission has modified parts of these statements.

[5] Securities Exchange Act Release No. 46735 (October 28, 2002), 67 FR 67434 (November 5, 2002) (File No. SR–OCC–2002–19).

[6] Securities Exchange Act Release Nos. 48908 (December 11, 2003), 68 FR 74689 (December 24, 2003) (File No. SR–OCC–2003–05) and 38165 (January 14, 1997), 62 FR 3070 (January 21, 1997) (File No. SR–OCC–96–19).

[7] 15 U.S.C. 78s(b)(3)(A)(iii).

[8] 17 CFR 240.19b–4(f)(4).

should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–OCC–2007–14 and should be submitted on or before December 21, 2007.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Nancy M. Morris,

Secretary.

[FR Doc. E7–23319 Filed 11–30–07; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56846; File No. SR–OCC–2007–11]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Expanding Sub-Accounts

November 27, 2007.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on September 28, 2007, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by OCC. OCC filed the proposed rule change pursuant to section 19(b)(3)(A)(iii) of the Act[2] and Rule 19b–4(f)(4) thereunder,[3] so that the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would expand the functions associated with sub-accounts.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC 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. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[4]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed rule change allows clearing members to maintain sub-accounts for certain types of accounts for position reporting, margin, collateral, and settlement purposes.[5] These sub-accounts would be gradually rolled out to interested clearing members and would be available for firm lien accounts, customers' accounts, customers' lien accounts, and customer segregated funds accounts. Clearing members could continue to be allowed to maintain sub-accounts for combined market-makers' accounts only for position reporting purposes although, as described below, OCC's system sub-accounting function would also be used to enable clearing members to maintain three separate combined market-maker account types under the same clearing member number and to have each account treated as a separate account for all purposes under OCC's By-laws and Rules. Sub-accounting would not be available for separate market-maker's accounts, firm non-lien accounts, or cross-margin accounts other than the OCC internal cross-margin accounts, which are segregated funds accounts in which OCC-cleared securities options may be cross-margined with OCC-cleared futures products.

All sub-accounts for eligible accounts would be enabled to carry positions in OCC-cleared contracts. However, as described in more detail below, margin, collateral, and settlement functions could be turned on or off at the clearing member's election except in combined market-makers' accounts. A sub-account would have to be margin-enabled in order to be collateral enabled and collateral-enabled in order to be settlement-enabled.

If a sub-account is not ''margin enabled,'' the positions in the sub-account will simply be included in the parent account for purposes of calculating the margin requirement except that if a short option position in the sub-account is covered by an escrow deposit or a specific deposit or if the short position has been properly identified in a spread instruction, the short position will not be included in the margin calculation for the parent account. If a sub-account is margin enabled, OCC will calculate and report to the clearing member a separate margin requirement considering only the positions in the sub-account. However, if the account is not collateral enabled or settlement enabled, any margin deficiency will be added to the margin requirement of the parent account. Any excess long option or other asset value in a margin enabled sub-account will not be applied against a margin deficit in the parent account. The provision of OCC Rule 604(b)(4), under which equity and debt issues of a single issuer may not be valued in excess of 10% of the margin requirement of the account in which the securities are deposited, will be separately applied to sub-accounts that are margin enabled.

If a sub-account is ''margin and collateral enabled,'' collateral deposited by a clearing member to satisfy its margin requirements can be identified as being in the particular sub-account at the direction of the clearing member. If the account lacks sufficient excess collateral or has no excess, any margin deficiency will be added to the margin requirement of the parent account. Accordingly, a clearing member may withdraw collateral from the sub-account even if it has a margin deficiency or a margin deficiency would be created provided that the parent account has sufficient excess.

If a sub-account is ''margin, collateral, and settlement enabled,'' OCC will make separate daily cash settlement with respect to the sub-account. The clearing member may but does not have to designate a bank account for such settlements that is different from the bank accounts used for other settlements. If there is a margin deficiency in the sub-account, OCC will draft the clearing member's bank account for the deficit without regard to any margin excess in the parent account. Escrow deposits and specific deposits with respect to positions in a sub-account must specify the sub-account regardless of whether the sub-account is margin enabled. Similarly, spread instructions with respect to any position carried in a sub-account must identify the sub-account and will be given no effect unless both legs of the spread are in the same sub-account regardless of whether the sub-account is margin enabled.

The new sub-accounts are not intended as a mechanism for identifying

[9] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78s(b)(3)(iii).

[3] 17 CFR 240.19b–4(f)(4).

[4] The Commission has modified parts of these statements.

[5] In File No. SR–OCC–2005–14, OCC established an interpretation to Article VI, Section 3 of OCC's By-Laws under which clearing members may maintain sub-accounts with respect to any account for position reporting purposes. However, this functionality is currently available only with respect to combined market makers' accounts.

positions or other property as belonging to individual customers of a clearing member or as a substitute for a clearing member's own books and records. Rather they are intended primarily to allow clearing members more flexibility in structuring the interface between the data they receive from OCC and their own systems. The new sub-accounts are not intended to have any effect on the way in which clearing member accounts would be liquidated in the event of the clearing member's insolvency, and they will not impose any limits on OCC's use of proceeds of collateral or positions that are credited to a particular sub-account. For these purposes, each sub-account is simply a part of the parent account to which it is attached, and proceeds will be pooled and netted as and to the extent that they would be if the sub-accounts did not exist and all positions and collateral were commingled and carried in the parent account. Interpretation and Policy .02 to Article VI, section 3 of OCC's By-Laws, which is not being amended, together with Interpretation and Policy .03 to Article VI, section 3, which is not being amended in relevant part, make this clear. Accordingly, the sub-accounts are not intended to provide any segregation or separation of property to satisfy legal requirements such as the customer protection rules of the Commission or Commodities Futures Trading Commission although, as noted, sub-accounts may be used within a segregated account for purposes of convenience.

The ability of clearing members to use sub-accounts for margin, collateral, and settlement purposes is operational and will not result in lessened margin requirements. In fact, the use of the margin enabling function could result in a higher margin requirement for clearing members because positions in sub-accounts may not be offset against positions in other sub-accounts for purposes of calculating a clearing member's margin requirement, and a margin excess in one sub-account may not be applied against a margin requirement in another sub-account or in the parent account.

In addition to the expansion of functions of sub-accounts, OCC is proposing to use the sub-account capability to facilitate clearing members' ability to maintain separate types of combined market makers' accounts. Under the existing account structure for market-maker accounts, collateral can only be deposited with respect to an entire range of market-maker accounts, including individual market-maker accounts, all combined market-makers' accounts, and any sub-accounts. If a clearing member wishes to clear market-maker business and carry accounts for proprietary market-makers, associated market-makers, and independent market-makers, OCC generally requires that the clearing member open separate clearing member numbers so that proprietary, associated, and independent market-maker collateral can be separated under different clearing numbers. OCC is proposing to allow proprietary, associated, and independent collateral with respect to combined market-makers' accounts to be separated under the same clearing member number. In addition, margin requirements would be calculated separately with regard to the three account types. The account types for proprietary, associated, and independent market-makers would be treated as separate accounts in the event of a liquidation. Other than with respect to this separation of proprietary, associated, and independent market-maker accounts, use of the sub-account capability with respect to market maker accounts would be permitted only for position reporting purposes.

OCC proposes to expand Interpretation and Policy .03 under Article VI, Section 3, which already addresses the sub-accounts available to clearing members with respect to combined market-makers' accounts to describe the expanded uses of sub-accounts and the accounts for which they are available. This Interpretation and Policy would also be expanded to require clearing members to specify the sub-accounts with respect to which escrow and specific deposits, segregation instructions, and pledges of securities are made. In addition, the portion of the Interpretation and Policy clarifying that sub-accounts will be disregarded in connection with the liquidation of a clearing member would be simplified. OCC is proposing to add Interpretation and Policy .04 under Article VI, Section 3 to explain the manner in which the sub-account capability can be used to separate proprietary, associated, and independent market-maker accounts under the same clearing member number and to clarify that these three account types would be treated as separate for all purposes under OCC's By-laws and Rules. Interpretation and Policy .04 would also clarify that while clearing members may deposit collateral with respect to all combined market-maker account types under the same clearing member number, collateral deposited for this purpose would be proprietary collateral and would be treated as such for all purposes under the By-laws and Rules.

OCC is proposing to add an Interpretation and Policy under Rule 501, which would also be applicable to Rules 502 and 503, to make it clear that daily cash settlement amounts will be calculated separately for sub-accounts that are settlement enabled. A similar Interpretation and Policy would be added under Rule 601, and be applicable to all of Chapter VI, to clarify the manner in which margin is calculated with respect to sub-accounts and their parent accounts. OCC also proposes to add an Interpretation and Policy to Rule 604 stating that the 10% concentration limit of Rule 604(b)(4) would be separately applied to sub-accounts that are margin enabled.

An Interpretation and Policy would be added under Rule 803, which would relate to assignment of exercise notices to clearing members, stating that where an account is divided into sub-accounts assignment of exercise notices will be made to specific sub-accounts. OCC is also proposing to add an Interpretation and Policy under Rule 804, which would relate to allocation of exercises by clearing members to specific short positions, under which clearing members would be required to allocate exercises by sub-account in accordance with OCC's assignment procedures described in the Interpretation and Policy to Rule 803.

The proposed rule change is consistent with the purposes and requirements of Section 17A of the Act because it is designed to promote the prompt and accurate clearance and settlement of transactions in options and futures, and to foster cooperation and coordination with persons engaged in the clearance and settlement of such transactions, to remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of such transactions, and, in general, to protect investors and the public interest. The proposed rule change accomplishes this purpose by permitting clearing members to establish sub-accounts within certain of the OCC account types in order that clearing members may identify positions or property belonging to individual customers for the clearing members' internal purposes while having no adverse impact on OCC's to maintain adequate security for clearing members' obligations under OCC's By-laws and Rules.

(B) Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [6] and Rule 19b–4(f)(4) [7] promulgated thereunder because the proposal effects a change in an existing service of OCC that (A) does not adversely affect the safeguarding of securities or funds in the custody or control of OCC or for which it is responsible and (B) does not significantly affect the respective rights or obligations of OCC or persons using the service. At any time within sixty days of the filing of the proposed rule change, the Commission could have summarily abrogated such rule change if it appeared to the Commission that such action was necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–OCC–2007–11 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-OCC–2007–11. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of OCC. 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-OCC–2007–11 and should be submitted on or before December 24, 2007.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Nancy M. Morris,

Secretary.

[FR Doc. E7–23320 Filed 11–30–07; 8:45 am]

BILLING CODE 8011–01–P

[6] 15 U.S.C. 78s(b)(3)(A)(iii).

[7] 17 CFR 240.19b–4(f)(4).

[8] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 6000]

Bureau of Educational and Cultural Affairs Office of Citizen Exchanges; Amendment to Original RFGP (Open Competition Seeking Professional Exchange Programs in Africa, East Asia, Europe, the Near East, North Africa, South Central Asia, and the Western Hemisphere)

SUMMARY: The United States Department of State, Bureau of Educational and Cultural Affairs, announces revisions to the original RFGP announced in the **Federal Register** on Tuesday, November 20, 2007 (**Federal Register** Volume 72, Number 223).

The due date for this competition is revised from February 15, 2007 to February 15, 2008.

All other terms and conditions remain the same.

ADDITIONAL INFORMATION: Interested organizations should contact Brent Beemer, Office of Citizen Exchanges, Bureau of Educational and Cultural Affairs, U.S. Department of State, ECA/PE/C, SA–44, Rm 220, 301 4th Street, SW., Washington, DC 20547, prior to February 15, 2008.

Dated: November 27, 2007.

C. Miller Crouch,

Acting Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. E7–23405 Filed 11–30–07; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Random Drug and Alcohol Testing Percentage Rates of Covered Aviation Employees for the Period of January 1, 2008 Through December 31, 2008

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: The FAA has determined that the minimum random drug and alcohol testing percentage rates for the period January 1, 2008 through December 31, 2008 will remain at 25 percent of safety-sensitive employees for random drug testing and 10 percent of safety-sensitive employees for random alcohol testing.

FOR FURTHER INFORMATION CONTACT: Mr. Jeffrey Stookey, Office of Aerospace Medicine, Drug Abatement Division, Program Administration Branch (AAM–810), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8442.

Discussion: Pursuant to 14 CFR part 121, appendix I, section V.C, the FAA Administrator's decision on whether to change the minimum annual random drug testing rate is based on the reported random drug test positive rate for the entire aviation industry. If the reported random drug test positive rate is less than 1.00%, the Administrator may continue the minimum random drug testing rate at 25%. In 2006, the random drug test positive rate was 0.55%. Therefore, the minimum random drug testing rate will remain at 25% for calendar year 2008.

Similarly, 14 CFR part 121, appendix J, section III.C, requires the decision on

the minimum annual random alcohol testing rate to be based on the random alcohol test violation rate. If the violation rate remains less than 0.50%, the Administrator may continue the minimum random alcohol testing rate at 10%. In 2006, the random alcohol test violation rate was 0.08%. Therefore, the minimum random alcohol testing rate will remain at 10% for calendar year 2008.

SUPPLEMENTARY INFORMATION: If you have questions about how the annual random testing percentage rates are determined, please refer to the Code of Federal Regulations Title 14: part 121, appendix I, section V.C (for drug testing), and appendix J, section III.C (for alcohol testing).

Issued in Washington, DC, on November 26, 2007.

Frederick E. Tilton,

Federal Air Surgeon.

[FR Doc. 07–5900 Filed 11–30–07; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Opportunity for Public Comment on Surplus Property Release at Auburn-Opelika Airport, Auburn, AL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on land release request.

SUMMARY: Under the provisions of Title 49, U.S.C. 47153(c), notice is being given that the FAA is considering a request from Auburn University to release a 1.603-acre parcel of airport property, located at the Auburn-Opelika Airport, to the City of Auburn to construct a public access road on the property to the new airport terminal area.

DATES: Comments must be received on or before January 2, 2008.

ADDRESSES: Comments on this notice may be mailed or delivered in triplicate to the FAA at the following address:

Jackson Airports District Office, 100 West Cross Street, Suite B, Jackson, MS 39208–2307.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Bill Hutto Jr., Executive Director, at the following address:

Mr. William T. Hutto, Jr., Executive Director, Auburn University Aviation, 700 Airport Road, Auburn, AL 36830.

FOR FURTHER INFORMATION CONTACT: Keafur Grimes, Program Manager, Jackson Airports District Office, 100 West Cross Street, Suite B, Jackson, MS 39208–2307, (601) 664–9886. The land release request may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA is reviewing a request by Auburn University Aviation to release 1.603 acres of airport property at the Auburn-Opelika Airport. The property will be released to the City of Auburn to construct a public access road to the new terminal area at the airport. The net value of the released property will be reinvested in the new Auburn-Opelika Terminal Building.

Any person may inspect the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon request, inspect the request, notice and other documents germane to the request in person at the Auburn-Opelika Airport.

Issued in Jackson, Mississippi, on November 19, 2007.

Kristi Ashley,

Acting Manager, Jackson Airports District Office, Southern Region.

[FR Doc. 07–5899 Filed 11–30–07; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on the renewal of an information collection, as required by the Paperwork Reduction Act of 1995. An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OCC is soliciting comment concerning an information collection titled, ''Record and Disclosure Requirements—FRB Regulations B, E, M, Z, CC, and DD.'' The OCC also gives notice that it has submitted this information collection to OMB for review and approval.

DATES: Comments must be submitted on or before January 2, 2008.

ADDRESSES: Communications Division, Office of the Comptroller of the Currency, Public Information Room, Mailstop 1–5, Attention: 1557–0176, 250 E Street, SW., Washington, DC 20219. In addition, comments may be sent by fax to (202) 874–4448, or by electronic mail to *regs.comments@occ.treas.gov.* You may personally inspect and photocopy comments at the OCC's Public Information Room, 250 E Street, SW., Washington, DC. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 874–5043. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to security screening in order to inspect and photocopy comments.

Additionally, you should send a copy of your comments to OCC Desk Officer, 1557–0176, by mail to U.S. Office of Management and Budget, 725 17th Street, NW., #10235, Washington, DC 20503, or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: You may request additional information or a copy of the collection and supporting documentation submitted to OMB by contacting: Mary Gottlieb, (202) 874–5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

Title: Record and Disclosure Requirements—FRB Regulations B, E, M, Z, CC, and DD.

OMB Control No.: 1557–0176.

Type of Review: Regular review.

Description: This information collection covers the Board of Governors of the Federal Reserve System's (FRB) Regulations (Regs) B, C, E, M, Z, CC, and DD.

Reg B—12 CFR 202—Equal Credit Opportunity

Prohibits lenders from discriminating against credit applicants, establishes guidelines for gathering and evaluating information about personal characteristics in applications for certain dwelling-related loans, requires lenders to provide applicants with copies of appraisal reports in connection with credit transactions, and requires written notification of action taken on a credit application.

Reg C–12 CFR 203—Home Mortgage Disclosure

Requires certain mortgage lenders to report certain home loan application information and to disclose certain data regarding their home mortgage lending.

Reg E–12 CFR 205—Electronic Fund Transfers

Establishes the rights, liabilities, and responsibilities of parties in electronic funds transfers and protects consumers when they use such systems.

Reg M–12 CFR 213—Consumer Leasing

Implements the consumer leasing provisions of the Truth in Lending Act by requiring meaningful disclosure of leasing terms.

Reg Z–12 CFR 226—Truth in Lending

Prescribes uniform methods for computing the cost of credit, for disclosing credit terms and costs, and for resolving errors on certain types of credit accounts.

Reg CC–12 CFR 229—Availability of Funds and Collection of Checks

Governs the availability of funds deposited in checking accounts, the collection and return of checks, and substitute checks.

Reg DD–12 CFR 230—Truth in Savings

Requires depository institutions to provide disclosures to enable consumers to make meaningful comparisons of deposit accounts.

Affected Public: Businesses or other for-profit.

Burden Estimates:

Estimated Number of Respondents: 1,800.

Estimated Number of Responses: 1,800.

Estimated Annual Burden: 3,539,052 hours.

Frequency of Response: On occasion.

Comments: The OCC issued a 60-day **Federal Register** notice on May 21, 2007. 72 FR 28555. Comments continue to be invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;

(b) The accuracy of the agency's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: November 27, 2007.

Stuart Feldstein,

Assistant Director, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency.

[FR Doc. 07–5908 Filed 11–30–07; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8838

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8838, Consent To Extend the Time To Assess Tax Under Section 367—Gain Recognition Agreement.

DATES: Written comments should be received on or before February 1, 2008 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for copies of the form and instructions should be directed to Allan Hopkins at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–6665, or through the internet at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Consent To Extend the Time To Assess Tax Under Section 367—Gain Recognition Agreement.

OMB Number: 1545–1395.

Form Number: 8838.

Abstract: Form 8838 is used to extend the statute of limitations for U.S. persons who transfer stock or securities to a foreign corporation. The form is filed when the transferor makes a gain recognition agreement. This agreement allows the transferor to defer the payment of tax on the transfer. The IRS uses Form 8838 so that it may assess tax against the transferor after the expiration of the original statute of limitations.

Current Actions: There are no changes being made to the Form 8838 at this time.

Type of Review: Extension of a current approval.

Affected Public: Business or other for-profit organizations and individuals.

Estimated Number of Respondents: 666.

Estimated Time per Respondent: 8 hrs., 14 min.

Estimated Total Annual Burden Hours: 5,482.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: November 26, 2007.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E7–23276 Filed 11–30–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8893

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8893, Election of Partnership Level Tax Treatment.

DATES: Written comments should be received on or before February 1, 2008 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for copies of the form and instructions should be directed to Allan Hopkins at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–6665, or through the internet at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Election of Partnership Level Tax Treatment.

OMB Number: 1545–1912.

Form Number: 8893.

Abstract: IRC section 6231(a)(1)(B)(ii) allows small partnerships to elect to be treated under the unified audit and litigation procedure. Form 8893 will allow IRS to better track these elections by providing a standardized format for this election.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 100.

Estimated Time per Respondent: 1 hours, 27 minutes.

Estimated Total Annual Burden Hours: 227.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: November 26, 2007.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E7–23278 Filed 11–30–07; 8:45 am]

BILLING CODE 4830–01–P

Corrections

Federal Register

Vol. 72, No. 231

Monday, December 3, 2007

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–0109; Directorate Identifier 2007–NM–235–AD]

RIN 2120–AA64

Airworthiness Directives; Lockheed Model 382, 382B, 382E, 382F, and 382G Series Airplanes

Correction

In proposed rule document 07–5595 beginning on page 64005 in the issue of Wednesday, November 14, 2007, make the following corrections:

1. On page 64006, in the second column, under the ''Development of the SSIP'' heading, in the eighth line, ''easement'' should read ''reassessment''.

2. On page 64007, in the Estimated Costs table, in the third column, in the second entry, ''80'' should read ''$80''.

§ 39.13 [Corrected]

3. On page 64008, in the first column, in § 39.13(g), in the second line, ''incorporte'' should read ''incorporate''.

[FR Doc. C7–5595 Filed 11–30–07; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Monday,
December 3, 2007

Part II

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 701, 773, 774 et al.
Ownership and Control; Permit and Application Information; Transfer, Assignment, or Sale of Permit Rights; Final Rule

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 701, 773, 774, 778, 843, and 847

RIN 1029–AC52

Ownership and Control; Permit and Application Information; Transfer, Assignment, or Sale of Permit Rights

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final Rule.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSM), are publishing this final rule to amend certain provisions of our ''ownership and control'' and related rules, as well as our rules pertaining to the transfer, assignment, or sale of permit rights. More specifically, we are amending our definitions pertaining to ownership, control, and transfer, assignment, or sale of permit rights and our regulatory provisions governing: permit eligibility determinations; improvidently issued permits; ownership or control challenges; post-permit issuance actions and requirements; transfer, assignment, or sale of permit rights; application and permit information; and alternative enforcement. Additionally, we are removing our current rules pertaining to improvidently issued State permits. This final rule implements various provisions of, and is authorized by, the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act).

EFFECTIVE DATE: January 2, 2008.

FOR FURTHER INFORMATION CONTACT: Debbie J. Feheley, Chief, Applicant/Violator System Office, Office of Surface Mining Reclamation and Enforcement, Appalachian Region, 2679 Regency Road, Lexington, Kentucky 40503. Telephone: (859) 260–8424 or (800) 643–9748; electronic mail: *dfeheley@osmre.gov*.

Additional information concerning OSM, this rule, and related documents may be found on OSM's Internet home page (Internet address: *http://www.osmre.gov*) and on our Applicant/Violator System Office's (AVS Office's) Internet home page (Internet address: *http://www.avs.osmre.gov*).

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IV. Procedural Determinations

I. Background to the Final Rule

This final rule is based on our October 10, 2006, proposed rule (71 FR 59592), in which we proposed to amend certain provisions of our 2000 final ownership and control rule (65 FR 79582) and our rules pertaining to the transfer, assignment, or sale of permit rights at 30 CFR 701.5 (definition of *transfer, assignment, or sale of permit rights*) and 30 CFR 774.17 (regulatory requirements). The 2000 final rule, which took effect for Federal programs (*i.e.*, SMCRA programs for which OSM is the regulatory authority) on January 18, 2001, primarily addresses areas related to ownership or control of surface coal mining operations under section 510(c) of SMCRA. 30 U.S.C. 1260(c). Under section 510(c), an applicant for a permit to conduct surface coal mining and reclamation operations (hereafter ''applicant'' or ''permit applicant'') is not eligible to receive a permit if the applicant owns or controls any surface coal mining operation that is in violation of SMCRA or other applicable laws. In addition to implementing section 510(c), the 2000 final rule also addresses, among other things, permit application information requirements, post-permit issuance information requirements, entry of information into the Applicant/Violator System (AVS), application processing procedures, and alternative enforcement. *See generally* 65 FR 79661–79671. Previously, we viewed our transfer, assignment, or sale rules as related to our ownership and control rules because our previous definition of *transfer, assignment, or sale of permit rights* incorporated ownership and control concepts. *See* 30 CFR 701.5 (2007).

Shortly after we promulgated our 2000 final rule, the National Mining Association (NMA) filed a lawsuit in the U.S. District Court for the District of Columbia in which NMA challenged the ownership and control and related provisions of our 2000 final rule on multiple grounds. NMA's suit also included a challenge to our transfer, assignment, or sale rules. Although the 2000 rule did not amend our transfer, assignment, or sale rules, NMA argued that we reopened those rules by proposing to revise them in the proposed rule that preceded the 2000 final rule.

As we explained in our 2006 proposed rule, NMA's lawsuit was another in a series of lawsuits concerning ownership and control and related issues. Litigation in this area—involving, at times, OSM, State regulatory authorities (administering OSM-approved State programs), NMA, and environmental groups—has been contentious and ongoing since at least 1988. The 2000 final rule replaced a 1997 interim final rule (62 FR 19451), which was partially invalidated by the U.S. Court of Appeals for the District of Columbia Circuit. *National Mining Ass'n* v. *Dep't of the Interior*, 177 F.3d 1 (DC Cir. 1999) (*NMA* v. *DOI II*). The interim final rule replaced three sets of predecessor regulations dating back to 1988 and 1989 (53 FR 38868, 54 FR 8982, 54 FR 18438), which were invalidated by the D.C. Circuit because the court found that one aspect of the rules was inconsistent with section 510(c) of SMCRA. *National Mining Ass'n* v. *Dep't of the Interior*, 105 F.3d 691 (DC Cir. 1997) (*NMA* v. *DOI I*). The

preamble to our 2000 final rule contains a detailed discussion of the prior rules and the related litigation. *See generally* 65 FR 79582–79584.

This continuous litigation has created regulatory uncertainty for OSM, State regulatory authorities, the regulated community, and the public. In an effort to end the litigation concerning our 2000 final rule, we entered into negotiations with NMA in an attempt to settle NMA's judicial challenge. Ultimately, in three partial settlement agreements, we were able to settle all of the issues presented in NMA's rule challenge. The three partial settlement agreements (along with a modification to the third of those agreements), which were filed with and approved by the court, are included in our public record supporting this final rule. Under the terms of the settlement, we agreed to publish two proposed rules in the **Federal Register** (one pertaining to ownership and control and related issues and the other pertaining to transfer, assignment, or sale issues) in accordance with the Administrative Procedure Act's standard notice and comment procedures. We did not agree to finalize any of the provisions as proposed and, indeed, this final rule departs from the settlement agreement and our 2006 proposed rule in significant respects. To the extent we promulgate final rules in accordance with the terms of the three partial settlements, NMA agreed not to challenge those final rules.

With respect to the two proposed rules, the settlement obligated us to take various types of actions. For example, in some instances, we agreed to propose specific rule language. In other instances, we agreed only to publish certain clarifications to the preamble supporting our 2000 rule (we published these clarifications in our 2006 proposed rule—71 FR 59605–59606—and do not repeat them in this final rule). With regard to transfer, assignment, or sale issues, we agreed only to publish a proposed rule, and did not agree upon any specific rule language. As part of the overall settlement, NMA also agreed to drop several of its claims without any further action on our part. We view the settlement as highly favorable in that it gave us the opportunity to clarify and simplify our regulations without hampering our ability to enforce SMCRA. More importantly, the settlement allowed us to retain key aspects of our regulatory program without the risk of having them overturned in court.

After giving due consideration to all public comments received on our 2006 proposed rule, we decided to issue this final rule. Our final rule clarifies ambiguous provisions in our previous regulations and clearly sets forth the responsibilities and obligations of the regulated community and regulatory authorities. Most importantly, however, this final rule ensures that we and our State counterparts have the tools we need to enforce SMCRA. While we are certainly aware that not all interested parties will be entirely satisfied with every aspect of this final rule, we are confident that, on balance, the rule, which required difficult line drawing, strikes a fair and appropriate balance between competing interests. Our sincere hope is that this final rule will introduce regulatory stability—which is important to all interested parties—to aspects of our regulatory program that have been mired in uncertainty and litigation for years.

II. Public Participation in the Rulemaking Process

In order to obtain as broad a range of suggestions and ideas as possible, we made sure there were ample opportunities for public participation in the rulemaking process. To satisfy our obligations under the settlement, we published the first of the two proposed rules—relating to ownership and control and related issues—on December 29, 2003. 68 FR 75036 (2003 proposed rule). We received and granted a request for an extension of the public comment period. The public comment period, as extended, closed on March 29, 2004. We published the second proposed rule—relating to the transfer, assignment, or sale of permit rights—on January 26, 2005. 70 FR 3840 (2005 proposed rule). Again, we received and granted an extension request. The public comment period, as extended, closed on April 15, 2005.

After the comment periods had closed on the two proposed rules described above, we reviewed all comments received and decided to meet with representatives of our State co-regulators before taking further action. States with OSM-approved SMCRA programs (primacy states) have primary responsibility for the regulation of surface coal mining and reclamation operations within their State and must have State rules that are consistent with, and no less stringent than, our national rules. Because any new national rules could impact the primacy States, it was important to meet with those States prior to issuing a final rule. We met with State representatives from June 7–9, 2005, in Cincinnati, OH. The results of the outreach meeting are detailed in a report that is included in our public record supporting this rulemaking.

Based on the comments from our 2003 and 2005 proposed rules and information gathered at our meeting with the States, we decided it was best to combine the topics covered in the two proposed rules and issue one new, reproposed rule. Whereas we could have proceeded to finalize the 2003 and 2005 proposed rules, without additional public participation, we issued the combined 2006 proposed rule for the express purpose of allowing the public another opportunity to comment on the proposed changes.

Our combined proposed rule was published on October 10, 2006. We did not receive any extension requests, and the comment period closed on December 11, 2006. We received 15 comment documents, including seven submitted by or on behalf of State regulatory authorities, seven from companies and associations connected with the coal mining industry, and one from organizations representing environmental and citizens' interests. The three primary sets of comments we received were from the Interstate Mining Compact Commission (IMCC), the National Mining Association (NMA), and Kentucky Resources Council, Inc. and Citizens Coal Council (KRC/CCC) (these organizations submitted one joint comment document). IMCC represents State regulatory authorities, the front-line regulators under SMCRA in most coal-producing states. IMCC's comments were supported, in whole or in part, by several State regulatory authorities. NMA is an industry trade association. NMA's comments were supported, in whole or in part, by several coal companies. KRC/CCC represent environmental and citizens' interests.

We did not receive a request for a public hearing and none was held. After our evaluation of all the public comments, and based on our nearly 30 years of implementing the relevant statutory provisions, we decided to issue a final rule. In short, this final rule is the culmination of a carefully-considered, lengthy process, marked by ample opportunities for meaningful public comment.

III. Discussion of the Final Rule

This final rule amends our definitions of ownership, control, and transfer, assignment or sale of permit rights; amends our regulatory provisions governing permit application information collection, permit eligibility reviews and determinations, provisionally issued permits, improvidently issued permits, ownership or control challenges, post-

permit issuance information requirements, and alternative enforcement; and removes the Federal procedures for improvidently issued State permits. Below, we discuss each aspect of this final rule and respond to comments received on our 2006 proposed rule.

A. General Comments

On balance, most aspects of our 2006 proposed rule were well received by most commenters. One commenter said that, ''[g]enerally, the proposed rule is an improvement over the existing rule,'' noting that ''the improvement is primarily the result of the simplification of the rules.'' Similarly, another commenter found the proposed rule to be a ''breath of fresh air'' that will put an end to ''unnecessary complexity.'' Another commenter said the ''new proposed rule provides a more reasonable and workable framework for regulatory authorities.'' We appreciate these comments.

One commenter disagreed with virtually every aspect of our 2006 proposed rule. In addition to specific comments on the proposed amendments, this commenter opined that we should not amend our 2000 rule because, unlike our 2006 proposed rule, the 2000 rule was ''fully considered.'' We disagree with the premise of this comment. As explained above, this final rule is the culmination of a lengthy process that afforded ample opportunity for public participation. Indeed, rather than finalizing our 2003 and 2005 proposed rules, we instead reproposed the amendments to allow another opportunity for public comments. In this final rule, as with our 2000 rule, we carefully considered, and responded to, all of the comments we received. In fact, we modified the proposed rule in several respects based on comments.

This commenter also stated that, with a single exception, the proposed amendments lacked a ''reasoned analysis'' or ''lawful purpose,'' particularly to the extent that we proposed to ''change course'' by rescinding prior rule provisions. Consistent with the Administrative Procedure Act (APA), the primary purpose of the proposed rule was to provide sufficient explanation of the proposed amendments to allow for informed public comments. The best evidence that we achieved that objective is the quality of the comments we actually received on the proposed rule, including the comments submitted by this commenter. Further, with regard to this final rule, it is well accepted that we, as the agency charged with implementing SMCRA, may reconsider the wisdom of our policies on a continuing basis. None of our interpretations are set in stone. In our discussion of the substantive provisions of this final rule, below, we sufficiently set forth a ''reasoned analysis'' and the basis and purpose of the amendments to our previous rules. Finally, in many instances, the amendments to our 2000 rule do not constitute a reversal of policy but are better described as clarifications to our previous rules.

The commenter also chides us for not litigating NMA's challenge to our 2000 rule and instead electing to settle the litigation. In this regard, the commenter refers to our decision to settle as an ''astonishing collapse.'' We disagree. Any litigation has an attendant risk of loss, as past litigation over our previous ownership and control rules demonstrates. In both *NMA* v. *DOI I* and *NMA* v. *DOI II*, the D.C. Circuit invalidated key aspects of our prior rules, even though we thought those rules were well reasoned and lawful. We saw our settlement with NMA as an opportunity to eliminate the risk of losing important aspects of our regulatory program. This rulemaking initiative has also allowed us to simplify and clarify our previous rules, while continuing to ensure that regulatory authorities have all the tools they need to enforce SMCRA. We view the settlement as a success, not a ''collapse.''

The commenter implies that, as a result of our settlement with NMA, we may have prejudged this final rule. The commenter similarly refers to our ''supposedly reserved discretion'' to decline to adopt the revisions we agreed to propose under the settlement. We reiterate that under the settlement agreement, we were only required to propose two rules—*i.e.*, our 2003 and 2005 proposed rules—and were not required to finalize any provisions as proposed. The best evidence that we have not prejudged this final rule is the fact that the rule departs from the settlement agreement and our 2003, 2005, and 2006 proposed rules in significant respects, especially with regard to the information permit applicants must disclose in their permit applications (*see* heading III.W., below).

Next, the commenter asserts that we did not ''endorse the proposed changes as better interpretation[s] of the statute at issue or as better policy choices.'' Specifically with regard to our 2003 proposed rule (which has been withdrawn), the commenter states that we ''did not believe that SMCRA requires or would be best implemented by many, if indeed any, of the proposed revisions.'' In support of these comments, the commenter points to isolated portions of the preambles to our *proposed* rules, where we did not state, or even imply, that we did not endorse our own proposed rules. Rather, we simply pointed out that, at the proposed rule stage, we did not necessarily agree with NMA's analysis supporting its position with regard to *one* proposed amendment in this multi-issue rulemaking. Moreover, our statements were limited to the specific issue being discussed and did not, in any way, apply to the totality of the proposed rules. To be sure, we fully endorse every aspect of this final rule—each of which is authorized by SMCRA—as part of our comprehensive regulatory program related to ownership and control issues.

This commenter also expressed the opinion that our administrative record for this rulemaking is inadequate with regard to our settlement with NMA or our potential prejudgment of the issues in the proposed rulemaking. The commenter asked us to supplement our public record supporting this rulemaking with various documents pertaining to the settlement, including the settlement agreements themselves, every draft of the agreements, every item of correspondence relating to the settlement, and every note or memorandum of communications relating to the settlement. After the requested supplementation of our public record, the commenter requested that we reopen the comment period to solicit further comments regarding any ''actual basis'' for this rulemaking and any possible agency prejudgment of its outcome.

In response to this comment, we will place the three partial settlement agreements, along with a modification to the third of those agreements, in our public record, but we otherwise decline to honor the commenter's requests. The three partial settlement agreements discussed above, which were filed with and approved by the U.S. District Court for the District of Columbia, collectively represent the totality of our settlement agreement with NMA. We note that these agreements have been publicly available ever since they were filed with the court. The additional information requested by the commenter is irrelevant to this rulemaking and/or privileged. If this final rule is challenged in court, the administrative record we will lodge with the court will contain all information that is legally required to support the rulemaking.

Another commenter asked about the transition from our previous rules to these new rules. For example, the commenter asked whether there will be a requirement for existing permittees to

provide information for their permits under the new rules. The provisions we adopt in this final rule will become effective for Federal programs 30 days after the publication date of this final rule and will apply prospectively. The rule will apply to Federal permitting as applications are received for new permits, renewals, revisions, and transfers, assignments or sales. Similarly, with regard to information requirements, existing permittees will not have to comply with the new permit application information disclosures until their next permitting action. The rule will become effective in primacy States after we approve amendments to State programs and will apply in the manner outlined above for Federal programs.

An industry commenter said it would be desirable to have better coordination between OSM and the State regulatory authorities with regard to the maintenance and application of ownership and control information. We believe coordination between our AVS Office and the State regulatory authorities on ownership or control issues is already excellent. However, we appreciate this comment and will continue to strive to achieve even greater levels of cooperation and coordination with the States.

Finally, some State commenters expressed concern that our 2006 proposed rule would place an undue burden on state regulatory authorities to identify persons who control surface coal mining operations. In this final rule, we believe we have alleviated this concern by making sure State regulatory authorities will have the information they need to identify potential controllers. Further, as always, our AVS Office remains ready to assist the States with ownership or control investigations.

B. Section 701.5—Definition: Control or Controller

Under section 510(c) of SMCRA, 30 U.S.C. 1260(c), where ''any surface coal mining operation owned or controlled by the applicant is currently in violation of this Act or such other laws referred to [in] this subsection, the permit shall not be issued * * *.'' Thus, under this section, permit applicants who own or control surface coal mining operations with outstanding violations of SMCRA or certain other laws are not eligible for new permits. SMCRA does not define the terms ''owned'' or ''controlled,'' or any variations thereof.

At 30 CFR 701.5, our 2000 rule contained definitions of ''*control* or *controller*'' and ''*own, owner*, or *ownership*'' to implement section 510(c) of the Act. In our 2006 proposed rule, we identified a problem with our 2000 rule. On the one hand, the 2000 rule had a broad, flexible definition of *control* or *controller* (30 CFR 701.5). For example, any person who had the ''ability'' to determine the manner in which a surface coal mining operation was conducted was a controller. At the same time, we had information disclosure requirements at 30 CFR 778.11(c)(5) that required permit applicants to disclose all of their controllers in a permit application. We deemed this unfair to permit applicants because, under the flexible definition, reasonable minds could differ as to who met the regulatory definition of *control* or *controller*, and permit applicants could be taken to task for failing to identify a person the regulatory authority later deemed to be a controller.

To remedy this problem, we could have modified the definition of *control* or *controller* to make it more specific, removing a regulatory authority's leeway and flexibility to determine control relationships on a case-by-case basis. Or, we could have made the information disclosure requirements more objective, while retaining the flexible definition of *control* or *controller*. In our 2006 proposed rule, we chose to propose the latter approach. We conclude that the ''ability to determine'' standard is desirable from a regulatory standpoint because it ''gives regulatory authorities flexibility to consider all of the relevant facts, on a case-by-case basis, in determining whether control is present; regulatory authorities also have the leeway to follow control wherever it may exist in a series of business relationships.'' (One commenter aptly referred to the ''ability to determine'' standard as a ''general, functional definition'' that ''enable[s] regulatory authorities to follow control in whatever unconventional direction it may lead.'') We also conclude that it would be easier for the regulated community to evade a definition with specific categories of controllers by reorganizing their business structures and relationships so as not to fall within the defined categories. In short, we feel it is essential to have a flexible definition of *control* or *controller* that allows regulatory authorities to identify controllers in real-world situations. For these reasons, we are retaining the flexible ''ability to determine'' standard that was contained in our 2000 rule by adopting the definition of *control* or *controller* as proposed, with one minor modification. In conjunction with retaining the ''ability to determine'' standard, we are amending our permit application information disclosure requirements so that they are more objective. *See* heading III.W., below.

While we proposed to retain the ''ability to determine'' standard, we proposed to amend other aspects of our definition. In our 2000 final rule, we defined *control* or *controller* in terms of circumstances or relationships that establish a person's control of a surface coal mining operation. We also took the somewhat unusual step of including in the regulatory text examples of persons who may be, but are not always, controllers. As we explained in our 2006 proposed rule, the National Mining Association, in its judicial challenge to our 2000 rule, alleged that our definition of *control* or *controller* was vague, arbitrary and capricious, and contrary to *NMA* v. *DOI II*.

To settle NMA's claim, we agreed to propose removing certain specific categories of controllers from our definition at previous paragraphs (3) (general partner in a partnership) and (4) (person who has the ability to commit financial or real property assets). In addition, from previous paragraph (5), we agreed to propose removing the phrase ''alone or in concert with others,'' the phrase ''indirectly or directly,'' and all the examples of control at previous paragraphs (5)(i) through (5)(vi). In satisfaction of our obligation under the settlement agreement, we proposed these revisions to our definition of *control* or *controller* in December 2003 (68 FR 75037). When we issued our 2006 proposed rule, on which this final rule is based, we decided to carry forward these aspects of our 2003 proposal. In this final rule, we are adopting the proposed amendments because they streamline and simplify the previous definition, without weakening it.

We stress that though we are removing certain language from the previous definition, the new definition still allows a regulatory authority to reach any person or entity with the ability to determine how a surface coal mining operation is conducted. Further, the ''ability to determine'' standard will continue to encompass both indirect and direct control, as well as control in concert with others, where there is actual ability to control. While we are removing from the regulatory text two specific categories of controllers (general partner in a partnership; person who has the ability to commit financial or real property assets), as well as the list of examples of persons who may be controllers, we stress that, under this final rule, all of these persons may still be controllers. In fact, as we explained

in the proposed rule, general partners and persons who can commit assets are almost always controllers. *See, e.g., NMA* v. *DOI II*, 177 F.3d at 7. However, because these persons are already covered under the ''ability to determine'' standard, specific reference to them in the regulatory text is unnecessary.

With specific reference to the examples of controllers, we deemed it awkward to retain them in the regulatory text when the examples do not impose any regulatory requirements. These types of examples, we concluded, are best addressed in preamble language. Further, the examples were potentially misleading, as they did not describe the universe of persons who could be controllers. Although we are removing the examples of controllers from the regulatory text, the persons in the examples may still be controllers if they in fact have the ability to control a surface coal mining operation. As we said in the proposed rule, in our experience implementing section 510(c) of the Act since 1977, the persons identified in the examples are often controllers. Therefore, our discussion of these examples in the preamble to the 2000 final rule (65 FR 79598–600) remains instructive.

For ease of reference, the examples of controllers in the 2000 definition are as follows: (1) The president, an officer, a director (or a person performing functions similar to a director), or an agent of an entity; (2) a partner in a partnership, or a participant, member, or manager of a limited liability company; (3) a person who owns between 10 and 50 percent of the voting securities or other forms of ownership of an entity, depending upon the relative percentage of ownership compared to the percentage of ownership by other persons, whether a person is the greatest single owner, or whether there is an opposing voting bloc of greater ownership; (4) an entity with officers or directors in common with another entity, depending upon the extent of overlap; (5) a person who owns or controls the coal mined or to be mined by another person through lease, assignment, or other agreement and who also has the right to receive or direct delivery of the coal after mining; and (6) a person who contributes capital or other working resources under conditions that allow that person to substantially influence the manner in which a surface coal mining operation is or will be conducted. Relevant contributions of capital or working resources include, but are not limited to: (a) Providing mining equipment in exchange for the coal to be extracted; (b) providing the capital necessary to conduct a surface coal mining operation when that person also directs the disposition of the coal; or (c) personally guaranteeing the reclamation bond in anticipation of a future profit or loss from a surface coal mining operation. While we decided to reprint these examples for ease of reference, it is important to remember that not all persons identified in these examples are always controllers; in order to be a controller, the person must meet the regulatory definition in this final rule. Further, this list of examples is by no means exhaustive; that is, other persons not identified in the examples may also be controllers.

In sum, the definition of *control* or *controller* we are adopting in this final rule retains the most critical aspect of the 2000 definition, namely, the flexible ''ability to determine'' standard. Like our 2000 rule, this final rule also provides that permittees and operators of surface coal mining operations are always controllers. Although we removed some of the language from the 2000 definition of *control* or *controller* for the sake of simplifying the definition and removing unnecessary verbiage, the definition in this final rule is substantively identical to the prior definition, and we intend for regulatory authorities to enforce it as such.

Responses to Comments

Multiple commenters responded to our proposal both in favor of and against the proposed amendments. IMCC and other State commenters did not oppose our proposed definition of *control* or *controller*. In particular, these commenters found ''merit in the 'ability to determine' standard.'' IMCC and another State commenter said we should remove the word ''other'' from paragraph (3) of the proposed definition. In the proposed rule, paragraph (3) of the definition reads as follows: ''(3) Any *other* person who has the ability to determine the manner in which a surface coal mining operation is conducted.'' (Emphasis added.) We agree with these commenters that the word ''other'' is unnecessary. Thus, in this final rule, we are removing the word ''other,'' so that the final paragraph, redesignated as paragraph (c), reads: ''Any person who has the ability to determine the manner in which a surface coal mining operation is conducted.''

Another commenter said that eliminating specific categories from the definition, such as officers, directors, and general partners creates an unreasonable burden for the regulatory authorities and creates a false sense of security for applicants and permittees. We note that under our 2000 rule, officers and directors were not deemed to be controllers. Instead, they were included in the examples of persons who might be controllers. Because, as explained above, we are moving away from listing discrete categories of controllers in the regulatory definition, we decline to add these categories of persons to the definition. At the same time, under amended 30 CFR 778.11, discussed below under heading III.W., the identity of these persons will have to be disclosed by permit applicants in their permit applications. Thus, while regulatory authorities will have to make findings of control, they will have the information they need up front to identify potential controllers. This commenter also suggested that we create two classes of controllers, with one category of ''presumed'' controllers. In our 2000 rule, we made a considered decision to eliminate the use of presumptions of ownership or control in our definitions. We did not reopen that issue in our 2006 proposed rule, and the commenter has not given us sufficient reason to reconsider our decision.

NMA, an industry trade association, and other industry commenters, noted that our proposed definition of *control* or *controller* is a ''vast improvement over the current rules,'' but suggested that we further revise the definition ''to be more clearly based on operations owned or controlled by the applicant (instead of *entities* or *any person* owning or controlling them).'' We are not adopting this suggestion because we do not read section 510(c) of the Act to be so limiting. While section 510(c) provides that an applicant who owns or controls a surface coal mining *operation* with outstanding violations is not eligible for a permit, we have historically found that, in the specific context of section 510(c), control of an entity is a reasonable surrogate for control of that entity's surface coal mining operations. Thus, if an applicant controls an entity that, in turn, controls a surface coal mining operation with a violation, the applicant will not be eligible for a permit. This approach has been embodied in all versions of our ownership and control rules since the first rule was promulgated in 1988. Moreover, the approach was expressly approved by the United States Court of Appeals for the District of Columbia Circuit in NMA's challenge to a prior version of our rules. *NMA* v. *DOI II*, 177 F.3d at 4–5.

KRC/CCC disagreed with our proposal to remove paragraphs (3) (general partner in a partnership) and (4) (person who has the ability to commit financial

or real property assets) from our previous definition of *control* or *controller;* the examples of control at previous 30 CFR 701.5; and the language relating to ''indirect control'' and ''control in concert.'' KRC/CCC asserts that the ''sole rationale that OSM states for rescinding much of the current definition of *control* or *controller* is the same rationale the agency gives for rescinding the requirement to list all of a permit applicants' controllers: OSM prefers to establish a ''bright line,'' ''objective'' standard for permit information that an applicant must submit. KRC/CCC similarly asserts that these aspects of the proposed rule are based on our proposal to remove the requirement for an applicant to list all of its controllers in a permit application. These comments miss the mark. There is no linkage between our decision to simplify the definition by removing the examples of control and the other language identified by the commenters. Rather, as explained above, the aspect of the control definition that related to the information disclosure requirements was the flexible ''ability to determine'' standard. That is, if we were going to keep that flexible standard, which we deemed to be crucial, we wanted to eliminate information disclosure requirements based on that standard. Thus, in our 2006 proposed rule, we proposed to retain the ''ability to determine'' standard in the definition, while simultaneously proposing to make the information disclosure requirements more objective.

Our proposed definition of *control* or *controller* was an outgrowth of our settlement with NMA. In settling NMA's challenge to the definition, we were able to retain the ''ability to determine'' standard in exchange for proposing the other changes to the definition that the commenters take issue with. Given that the changes to the definition are non-substantive, and the new definition has the same reach as its 2000 counterpart, we view the settlement on this issue to be favorable. Moreover, we were not obligated to finalize the definition as proposed.

Aside from the settlement, we identified other bases for the proposed changes in the preamble to the proposed rule. For example, in support of our proposal to remove paragraphs (3) and (4) of the previous definition, along with the examples of control, we explained that the persons identified in those paragraphs were already covered by the ''ability to determine'' standard, and, thus, it was not necessary to include them separately in the regulatory text; we also explained that removal of the unnecessary verbiage would simplify the regulatory text, which had become rather unwieldy and cluttered with language that did not contain any regulatory requirements. 71 FR 59594. As we explained above, another reason we decided to remove the examples of control was that they were potentially misleading to the extent that the list was not exhaustive; we did not want to create the incorrect impression that only those persons listed could be controllers.

KRC/CCC also states that our decision to simplify the definition ''runs afoul of the fact that OSM promulgated the current definition six years ago bases on well-supported findings that all of its elements were necessary to allow the agency to implement SMCRA effectively.'' We disagree with this comment. In the very passage of the preamble to the 2000 rule cited by these commenters, we stated that the definition of ''*control* or *controller* stand[s] alone, but the examples are useful * * *.'' 65 FR 79599. Stating that the examples are ''useful'' hardly equates with saying they are a necessary part of the regulatory text. To the contrary, because the examples do not impose any independent regulatory requirements, we have determined that they are best discussed in preamble language explaining the scope of the rule.

KRC/CCC also object to the removal of the phrases ''alone or in concert with others'' and ''indirectly or directly'' from paragraph (5) of our previous definition of *control* or *controller*. They believe that the removal of the phrases will impact the ability of regulatory authorities to identify controllers, particularly in situations where control may only be exercised indirectly, in concert with others, or both. We understand the commenters' concern, but we nevertheless disagree with the comment. As we explained above, we are removing these phrases in order to simplify what had become a cumbersome definition and because they are already encompassed in the ''ability to determine'' standard that we are retaining in this final rule. We can understand how a change in substance might possibly be inferred from a change in the regulatory text without a corresponding explanation as to the effect of the change. However, we have expressly stated, in the preambles to our 2006 proposed rule and this final rule, that the ''ability to determine'' standard will continue to encompass both indirect and direct control, as well as control in concert with others, where there is actual ability to control. We will continue to enforce this aspect of the rule in Federal program states, and we expect State regulatory authorities to enforce it in primacy states.

After careful consideration of the public comments, we are adopting the revisions to the definition of *control* or *controller* as proposed, with the one minor modification discussed above. In sum, we determined that it is best to have a clear, concise definition of *control* and *controller* that retains the crucial ''ability to determine'' standard. We are fully confident that the definition in this final rule will continue to allow regulatory authorities to follow control wherever it exists.

C. Section 701.5—Definition: Own, Owner, or Ownership

As mentioned above, section 510(c) of the Act, 30 U.S.C. 1260(c), uses, but does not define, the term ''owned.'' Our 2000 rule, which we are amending in this final rule, contained a definition of *own, owner,* or *ownership* at 30 CFR 701.5. Shortly after we promulgated the 2000 rule, NMA filed its judicial challenge, which included a claim that our definition of *own, owner,* or *ownership* was inconsistent with SMCRA, arbitrary and capricious, and contrary to the DC Circuit's decision in *NMA* v. *DOI II*. NMA also took issue with the ''downstream'' reach of the rule, as it pertained to ownership. The term ''downstream,'' as used by the DC Circuit in the *NMA* v. *DOI I* and *NMA* v. *DOI II* decisions, means a surface coal mining operation that is down a corporate (or other business) chain from an applicant. For example, if an applicant has a subsidiary, the subsidiary would be considered ''downstream'' from the applicant; by contrast, if an applicant has a parent company, the parent company would generally be considered ''upstream'' from the applicant. NMA's claim pertained to how far downstream a regulatory authority can look from the applicant when making a permit eligibility determination based on ownership (as distinct from control) of a surface coal mining operation. Just as SMCRA does not define the terms ''owned'' or ''controlled,'' it also does not address the downstream reach of the ownership and control provisions.

To settle NMA's claim, we agreed to propose to revise our previous definition of *own, owner,* or *ownership* and the provision at previous 30 CFR 773.12(a)(2) that governs the downstream reach of the definition when making a permit eligibility determination. In satisfaction of the settlement agreement, we proposed the revisions in our 2003 proposed rule. When we issued our 2006 proposed rule, on which this final rule is based,

we decided to carry forward this aspect of the 2003 proposal. In this final rule, we are adopting the amendments as proposed.

The first revision is to the definition itself. Our prior definition of ownership, at 30 CFR 701.5, included persons ''possessing or *controlling* in excess of 50 percent of the voting securities or other instruments of ownership of an entity.'' (Emphasis added.) We have concluded that the prior definition of ownership was confusing to the extent that it included ''control'' concepts. Given that *control* or *controller* is defined in the same section of the CFR, the natural tendency of the reader was to try to import that definition into the definition of *own, owner,* or *ownership,* which renders the ownership definition nonsensical. To remove this confusion, we are adopting our proposal to amend the definition by substituting the term ''owning of record'' in place of ''possessing or controlling.'' Thus, the revised definition will read as follows: ''*Own, owner,* or *ownership,* as used in parts 773, 774, and 778 of this chapter (except when used in the context of ownership of real property), means being a sole proprietor or owning of record in excess of 50 percent of the voting securities or other instruments of ownership of an entity.''

Our use of the term ''owning of record'' better effectuates our intent with regard to the meaning of ownership (as distinct from control), creates a ''bright line'' standard, and removes the inherent confusion with the previous definition. As we explained in the preamble to our 2006 proposed rule, ''owning of record'' is a term found in section 507(b) of the Act, 30 U.S.C. 1257(b), under which permit applicants must identify, among other things, ''any person owning[ ] of record 10 per centum or more of any class of voting stock of the applicant * * *.'' Because the Act itself uses the term ''owning of record'' in an analogous context, we deemed it a good fit for our definition of *own, owner,* or *ownership.* Moreover, we used the statutory term ''owning of record'' in our ownership and control rules from 1988 through 2000. *See, e.g.*, 30 CFR 773.5 (2000). It was only in our 2000 rule that we used the phrase ''possessing or controlling'' in our ownership definition, and that definition was immediately challenged in Federal court, in part because of the confusion that results from defining ownership in terms of control. Since the term ''owning of record'' has been in the statute since 1977, and in our ownership and control rules from 1988 through 2000, regulatory authorities and the regulated industry will be familiar with the term and its meaning.

The second revision affects 30 CFR 773.12(a)(2), with respect to the downstream reach of the definition under the rules pertaining to permit eligibility. In *NMA* v. *DOI II*, the D.C. Circuit held that a regulatory authority can deny a permit based on limitless ''downstream'' *control* relationships. *NMA* v. *DOI II,* 177 F.3d at 4–5. That is, if an applicant indirectly controls an operation with a violation, through its ownership or control of intermediary entities, the applicant is not eligible for a permit. *Id.* at 5. The operation with a violation can be limitlessly downstream from the applicant.

Although the DC Circuit's decision clearly addresses downstream control in the context of permit eligibility, it does not squarely address the situation where there is downstream ownership of entities, without control. For example, assume Company A owns 51 percent of Company B, and Company B, in turn, owns 51 percent of Company C, a coal mining company whose mining operations are in violation of SMCRA. While it is clear that we could deny a permit to Company A if it *controls* Company C through its ownership or control of Company B, it is not clear, under the *NMA* v. *DOI II* decision, whether OSM could deny a permit to Company A based solely on Company A's *ownership* of Company B, which, in turn, owns the violator, Company C. There is at least a plausible argument that the DC Circuit's decision does not allow us to deny permits based solely on downstream ownership (absent control) of an operation with a violation.

Our former rules allowed us to reach ''downstream'' with regard to both ownership *and* control. Under those rules, the regulatory authority could deny a permit if an applicant indirectly owned an operation in violation of SMCRA or other applicable laws. The operation in violation could be infinitely downstream from the applicant—meaning that ownership of the operation could be indirect, through intermediary entities—as long as there was an uninterrupted chain of ownership between the applicant and the operation. NMA argued that this provision was contrary to the plain meaning of SMCRA and violated principles of corporate law. NMA claimed that ownership of a corporation does not equate to ownership of the corporation's assets (including mining operations). Thus, according to NMA, we should be able to deny a permit based on ownership only if one of the applicant's own operations has a violation.

To settle NMA's claim we agreed to propose a regulatory revision at 30 CFR 773.12(a) to limit the reach of permit denials based on ownership to ''one level down'' from the applicant. We proposed the revision in our 2003 proposed rule. Because we continued to find merit in the proposal, we carried it forward in our 2006 proposed rule. In this final rule, we are adopting the amendment to section 773.12(a) as proposed. Under this final rule, if an applicant *directly* owns an entity with an unabated or uncorrected violation of SMCRA or other applicable laws—meaning there are no intermediary entities between the applicant and the entity with a violation—the applicant is not eligible for a permit. In other words, the rule would reach one level down from the applicant to the entity the applicant owns. On the other hand, an applicant's *indirect* ownership of an entity with a violation, standing alone, would not make the applicant ineligible for a permit. However, the same applicant would not be eligible for a permit if it controls the violator entity.

While we stated in the preamble to our 2006 proposed rule that the ''one level down'' approach is not compelled by the Act, we conclude that it is a reasonable interpretation of the Act, especially in light of the DC Circuit's decision in *NMA* v. *DOI II.* Moreover, because regulatory authorities may continue to consider violations at ''downstream'' operations, as long as *control* (as opposed to *ownership*) is present, the amendment will not impair a regulatory authority's ability to adequately enforce section 510(c) of the Act. The mechanics of the amendment to 30 CFR 773.12(a) that pertains to the downstream reach of the definition of *own, owner,* or *ownership* is further discussed under heading III.J., below.

Responses to Comments

NMA, and other industry commenters, commented that our proposed definition of *own, owner,* or *ownership* is ''a significant improvement over the existing rule,'' but nevertheless stated that ''ownership of an entity alone does not equate to ownership of the entity's surface coal mining operation.'' As such, NMA maintains that the proposed rule ''is not entirely consistent with the principles of American corporate law.'' Under NMA's formulation, a regulatory authority could not even reach one level down with regard to ownership; that is, the regulatory authority could only deny a permit based on ownership if the applicant itself owns an *operation* (as opposed to an *entity*) with an outstanding violation. We disagree. We

have historically found that, in the specific context of section 510(c), which pertains to permit eligibility and does not impose personal financial liability on owners, ownership of an entity is a reasonable surrogate for ownership of that entity's surface coal mining operations. Furthermore, we have carefully considered whether this approach is not only reasonable but also consistent with the legal maxim that to abrogate a common-law principle, a statute must speak directly to the question addressed by the common law. The Supreme Court has addressed this issue consistently in *Isbrandtsen Co.* v. *Johnson,* 343 U.S. 779, 783 (1952); *Mobil Oil Corp.* v. *Higginbotham,* 436 U.S. 618, 625 (1978); *Astoria Fed. Sav. & Loan Assn* v. *Solimino,* 501 U.S. 104, 108 (1991); *United States* v. *Texas,* 507 U.S. 529, 534 (1993); and *United States* v. *Bestfoods,* 524 U.S. 51, 63 (1998). As to this specific principle of statutory interpretation, we believe that the interpretation of section 510(c) adopt today with respect to an owned surface coal mining operation is sufficiently broad to satisfy administrative purposes while being fully consistent with Supreme Court precedent and *NMA* v. *DOI II.*

KRC/CCC claims that our substitution of the phrase ''owning of record'' for ''possessing or 'controlling'' represents a substantive change, despite our assertion in our 2006 proposed rule that the change would be non-substantive. In support of their comment, KRC/CCC cites to the preamble to our 2000 final rule, in which we stated: ''We added the term 'controlling' based on the reality that sometimes persons who do not technically own stock (or other instruments of ownership) nonetheless have the ability to control the stock, either by holding the voting rights associated with the stock or other arrangement with the owner of record.'' While we agree with these commenters that this revision is not purely non-substantive, we are not persuaded to deviate from the proposed amendment. The confusion we identified in the definition—*i.e.*, defining ownership in terms of control—was real and is remedied by the amendment we are adopting in this final rule. Moreover, under the old definition, which included the ''possessing or controlling'' language, a regulatory authority would have had to make a finding that a person controlled in excess of 50 percent of the voting securities or other instruments of ownership of an entity. That same finding would, in all likelihood, support a finding that that person is a controller of the entity under our definition of *control* or *controller.* As such, anything that might be lost under the definition of *own, owner,* or *ownership,* would still be covered under the definition of *control* or *controller,* based on similar proof. Thus, as the commenters requested, the definitions, when taken together, will ''encompass[ ] all of the same persons that the existing regulations sweeps in.''

KRC/CCC also objected to our proposal to limit the downstream reach of our definition of *own, owner,* or *ownership.* These commenters' objection is multi-faceted. First, they reference our statements at 71 FR 59595 that ''we do not necessarily agree with NMA's analysis [that ownership of a corporation does not equate to ownership of the corporation's assets]'' and ''[w]e do not believe this approach is compelled by either SMCRA or the decision in *NMA* v. *DOI II.*'' It is important to remember that, as discussed above, under NMA's formulation of section 510(c) of the Act, regulatory authorities could not even look ''one level down'' with respect to ownership. Thus, in this final rule, we continue to disagree with NMA's argument that ownership of an entity does not equate to ownership of that entity's surface coal mining operations. Further, while the ''one level down'' approach is not necessarily compelled by the Act—which is entirely silent on the point—it is certainly a reasonable construction of section 510(c)'s ownership provision. Also, based on *NMA* v. *DOI II*'s uncertain holding on this issue (discussed above), we did perceive at least some risk of loss in court if our rules continued to reach infinitely downstream on the ownership side (as opposed to the control side). Thus, the amendment we adopt today is a good compromise on the issue, one which allows us to retain the ability to look one level down with regard to ownership, rather than just at the applicant's own operations.

KRC/CCC also asserts that our proposed amendment ''rests upon yet another glaring error of statutory and regulatory interpretation.'' The alleged ''error'' appears to be the commenters' perception that the amendment is inconsistent with our prior statements to the effect that ownership is distinct from control and that ownership of an operation with a violation, standing alone, can provide the basis for a permit denial. Our prior statements, which we continue to stand by, did not speak to the downstream reach of the definition and are, therefore, not inconsistent with today's amendment. Further, under this final rule, ownership and control are still distinct concepts; thus, if an applicant owns, but does not control, an operation with a violation, under the definition of *own, owner,* or *ownership,* the applicant is not eligible for a permit.

KRC/CCC further opines that ''ownership is more easily established than control.'' Thus, in KRC/CCC's view, ''the proposed regulation will make it more time consuming, costly, and uncertain for regulatory authorities to pursue links between applicants and remote downstream subsidiaries who are responsible for uncorrected regulatory violations.'' In response, we note that, even though ownership may be more easily established than control, regulatory authorities will be required to enforce the rules as written, regardless of the associated time and cost. Moreover, as explained above, regulatory authorities will be empowered to make case-specific determinations of control based on the flexible ''ability to determine'' standard.

Finally, KRC/CCC imply that Congress intended for SMCRA to reach infinitely downstream with regard to ownership and state that the proposed amendment would ''make it impossible for OSM or state regulatory authorities to deny permits to applicants that own subsidiaries responsible for uncorrected violations, where regulators cannot establish the applicant's actual control of the subsidiary.'' We disagree with the predicate to this comment—that Congress intended for section 510(c)'s ownership provision to reach infinitely downstream. As stated previously, Congress was entirely silent on this issue, and the holding in *NMA* v. *DOI II* casts at least some doubt on the correctness of KRC/CCC's position. Again, the amendment we adopt today represents a reasonable interpretation of section 510(c).

IMCC, whose member States will be the regulatory authorities most often making findings of downstream control under these provisions, did not object to our proposed amendment to the downstream reach of the rule with regard to ownership, as long as the States are empowered to obtain the information necessary to make control findings. As explained below under heading III.W., under this final rule, regulatory authorities will have the necessary information.

A State commenter said that our proposal to limit the downstream reach of ownership does not make sense. The premise of this comment is that, under our definition of *own, owner,* or *ownership,* an owner will always be a controller. Thus, if we can go limitlessly downstream with regard to control, we should be able to do the same with regard to ownership. We agree with this

commenter that owning greater than 50 percent of entity will almost always confer control over that entity. However, if Company A owns Company B and Company B owns Company C, it does not stand to reason that Company A controls Company C. However, Company A may in fact control or have the ability to control Company C; under this final rule, regulatory authorities are empowered to make that finding.

This commenter also said it appears inconsistent under section 510(c) of SMCRA to distinguish between ownership and control in terms of downstream relationships because section 510(c) couples ownership and control. We disagree with this comment. Section 510(c) refers disjunctively to ownership or control. As of our 2000 final rule, we have treated ownership and control as distinct concepts. Further, these terms have different meanings under corporate law. We conclude, for the reasons explained above, that it is entirely appropriate, and consistent with SMCRA, to continue to give separate effect to the ownership and control aspects of section 510(c).

D. Section 701.5—Definition: Transfer, Assignment, or Sale of Permit Rights

Over the years, we have found that the regulatory provisions pertaining to the transfer, assignment, or sale (TAS) of permit rights have generated a great deal of confusion. We have discovered that the various State regulatory authorities have very different views as to what constitutes a transfer, assignment, or sale requiring regulatory approval. As mentioned above, in order to settle the litigation instituted by NMA, we agreed to propose new transfer, assignment, or sale rules. However, we did not agree to propose any specific provisions. We viewed the rulemaking called for under the settlement as an excellent opportunity to revisit our TAS rules.

In accordance with the settlement agreement, we published a proposed rule on January 26, 2005. 70 FR 3840. In that proposed rule, we proposed fairly sweeping changes to our TAS regulations. More specifically, we proposed to: revise our regulatory definitions of *transfer, assignment, or sale of permit rights* and *successor in interest* at 30 CFR 701.5; revise our regulatory provisions at 30 CFR 774.17 relating to the transfer, assignment, or sale of permit rights; and create, for the first time, separate rules for successors in interest.

A number of commenters on our 2005 proposal suggested that the broad conceptual changes we proposed were not warranted. Several commenters stated that our statutory rationales for some of the proposed changes, including our reading of the legislative history, were flawed. Further, commenters suggested that we did not achieve our primary purpose of providing greater clarity in our transfer, assignment, or sale regulations. Upon consideration of those and other comments, and input from our State co-regulators, we determined that we could achieve our purpose of simplifying and clarifying our regulations through more modest revisions to our rules.

As a result, in our 2006 proposed rule, we proposed to revise our current definition of *transfer, assignment, or sale of permit rights* at section 701.5 but to keep our existing TAS regulatory requirements largely intact. The primary purpose of our 2006 proposal was to seek to distinguish clearly the circumstances that will trigger a transfer, assignment, or sale of permit rights as opposed to an information update under 30 CFR 774.12 (*see* heading III.T., below).

Section 511(b) of SMCRA, 30 U.S.C. 1261(b), provides that ''[n]o transfer, assignment, or sale of permit rights granted under any permit issued pursuant to this Act shall be made without the written approval of the regulatory authority.'' Under our previous definition, *transfer, assignment, or sale of permit rights* meant ''a change in ownership or other effective control over the right to conduct surface coal mining operations under a permit issued by the regulatory authority.'' We proposed to revise our regulatory definition of transfer, assignment, or sale of permit rights to mean a change of a permittee. Our 2006 proposal was informed by a decision of the Department of the Interior's Office of Hearing and Appeals (OHA) in *Peabody Western Coal Co.* v. *OSM,* No. DV 2000–1–PR (June 15, 2000) (*Peabody Western*), comments received on our 2005 proposed rule, and our further discussions with our State co-regulators. After consideration of the public comments we received on our 2006 proposal, we are adopting the amendment to our TAS definition as proposed.

In *Peabody Western,* OHA examined the impact of *NMA* v. *DOI II* on transfer, assignment, or sale issues. OSM had determined that Peabody Western's change of all of its corporate officers and directors constituted a transfer, assignment, or sale of permit rights under 30 CFR 701.5. The administrative law judge disagreed, explaining that, after *NMA* v. *DOI II*, OSM cannot presume that an officer or director is a controller and, therefore, a change of an officer or director, or even a change of all officers and directors, cannot, standing alone, automatically constitute a change of ''effective control'' triggering a transfer, assignment, or sale of permit rights. The administrative law judge also made other observations that we assigned particular weight to in developing our 2006 proposed rule. The judge noted that the ''other effective control'' language is ''vague and imprecise'' and ''discloses no meaningful standard and provides no advance notice to a regulated corporate entity'' as to which corporate changes will constitute a transfer, assignment, or sale. This defect, according to the judge, does not provide ''adequate advance notice of the purported regulatory standard'' and leaves permittees ''to speculate'' as to when regulatory approval is required. Because we ultimately agreed with many of the judge's observations about our previous TAS rules, we did not seek further review of OHA's decision.

Throughout our deliberations on TAS-related issues, we were mindful of OHA's admonitions that our previous definition, to the extent it relied on the concept of ''effective control,'' was ''vague and imprecise'' and ''disclose[d] no meaningful standard and provide[d] no advance notice to a regulated corporate entity'' as to which corporate changes would constitute a transfer, assignment, or sale. We acknowledge that our previous definition created confusion—among regulatory authorities, the regulated industry, and the public—that lead to various interpretations of the regulatory requirements.

We conclude that the imprecision in our previous definition was created largely by our inclusion of the phrase ''or other effective control.'' Under SMCRA, the concept of control, in the context of permit eligibility, is found in section 510(c) of the Act. As explained above, under that section, an applicant is not eligible to receive a permit if it owns or controls an operation with an unabated or uncorrected violation. Our previous definition of *transfer, assignment, or sale of permit rights* imported the ownership and control concept from section 510(c), but nothing in the Act compels that approach. We conclude that importing section 510(c) ownership and control concepts into our TAS regulations created undue confusion as to what constitutes a transfer, assignment, or sale of permit rights. Thus, the TAS definition we are adopting in this final rule disentangles TAS and ownership and control concepts. This final rule clearly provides that a change of a permittee's

owners or controllers does not constitute a transfer, assignment, or sale.

In addition to responding to the decision in *Peabody Western,* we also conclude that revising our definition of *transfer, assignment, or sale of permit rights* to mean a change of a permittee is consistent with the objective of section 511(b) of the Act. As explained above, section 511(b) requires regulatory approval for a transfer, assignment, or sale of permit rights. Those permit rights are held by the permittee. As long as the permit continues to be held by the same ''person''—under section 701(19) of the Act, 30 U.S.C. 1291(19), the term ''person'' includes corporations, partnerships, and other business organizations—we see no reason to apply the regulatory provisions governing transfer, assignment, or sale of permit rights.

Under this final rule, a change in permittee triggers a TAS that requires regulatory approval. In determining whether there is a change in permittee, we are looking for indicia that the existing permittee has actually conveyed its permit rights to a new person (the putative new permittee/successor in interest) who desires to continue mining under the permit. There would also be a change in permittee when an existing permittee reorganizes itself into a new type of business entity (for example, from a partnership to a limited liability company). In that instance, there is a fundamental legal change in the nature of the permittee that will trigger a TAS. Similarly, a merger or acquisition would trigger a TAS if the non-permittee entity seeks to become the new, named permittee or if the merger or acquisition results in a new type of business entity being created (*e.g.*, if the permittee is a corporation and the merged entities become a limited liability company).

If the permittee's owners or controllers change, but the permittee remains the same, there has not been a transfer, assignment, or sale; in this instance, the existing permittee is the entity that will continue mining under the permit and will, among other things, have to maintain appropriate bond coverage. We emphasize that while a permittee's change of an officer, director, shareholder, or certain other persons in its organizational structure would not trigger a transfer, assignment, or sale of permit rights under this proposal, the permittee would be required to report certain of these changes under final 30 CFR 774.12 (*see* heading III.T., below).

In sum, our final TAS definition introduces the clarity we have been seeking with regard to our TAS regulations. Importantly, the TAS definition also reduces the burden on both the coal mining industry and regulatory authorities due to the fact that fewer transactions or events will qualify as a transfer, assignment, or sale requiring an application and regulatory approval under 30 CFR 774.17. Our TAS definition is also fully consistent with the Act.

IMCC and other State commenters supported our proposed TAS definition. These commenters stated that ''this is a more sensible and understandable approach.'' Another State commenter said the new TAS definition is much simpler and eliminates much of the confusion regarding permit transactions.

IMMC also said we should clarify in the preamble that a corporation that converts to a limited liability company is considered a separate and distinct permittee, thus triggering a TAS, and that a merger will result in a TAS unless the new merged entity continues to do business in the existing permittee's name. In response to these comments, we have included a preamble discussion, above, of the TAS-related effects of these types of transactions.

NMA and other industry commenters strongly supported our proposed definition. These commenters agreed with the holding in *Peabody Western* and that the previous definition was confusing. They also agreed that ownership and control concepts should be removed from the definition of TAS. Another State commenter said it would really like to see a more streamlined process for permit transfers. For the reasons stated above, we believe our new TAS definition will substantially streamline the TAS process.

KRC/CCC opposed our proposed definition. These commenters said our proposal was inconsistent with SMCRA because it provides a clear avenue for circumvention of the ownership and control provisions of section 510(c) of the Act. These commenters opine that, under the proposed definition, an individual who owns or controls a surface coal mining operation that is in continuing violation of SMCRA might continue to mine without regard to section 510(c) of SMCRA by assuming control of a clean entity that already has a mining permit. They explain that the tainted individual may have been truly separate from the existing permittee or the permittee may be a ''straw man'' created by the tainted individual to circumvent section 510(c). Either way, these commenters said our proposed definition would leave regulatory authorities powerless to enforce section 510(c).

We understand these commenters' concerns but, for the reasons explained above, we disagree that there is a necessary linkage between section 510(c)'s ownership and control provisions and the TAS provisions of section 511(b). Based on our own analysis and the near unanimous support of other commenters, we have chosen to separate the two concepts, and KRC/CCC's comments do not persuade us to do otherwise. Moreover, we note that we are constrained by the DC Circuit's decisions in *NMA* v. *DOI I* and *NMA* v. *DOI II.* In *NMA* v. *DOI I,* the DC Circuit concluded that when making permit eligibility determinations under section 510(c), we can only consider violations at operations the applicant owns or controls; the court struck down our ability to deny permits based on violations at operations owned or controlled by the applicant's owners or controllers. 105 F.3d at 694. If we cannot consider these ''upstream'' violations in the first instance, when making permit eligibility determinations under section 510(c) and 30 CFR 773.12, we likewise cannot consider them under section 511(b)'s TAS provisions (even if there were a linkage between section 510(c) and section 511(b)). In *NMA* v. *DOI II,* the DC Circuit held that we can deny a permit under section 510(c) only when an applicant, through ownership or control, is in violation at the time of application. We cannot consider current violations at an operation the applicant ''has controlled'' but no longer does (unless the applicant has a demonstrated pattern of willful violations under section 510(c) of the Act). 177 F.3d at 5. Thus, even if we could consider an upstream controller's violations, we could not consider those violations if the controller ended the control relationship with the operation that is in violation.

With regard to the ''straw man'' hypothetical, we note that the DC Circuit has explained that we have the authority to determine who the ''real applicant is—*i.e.,* to pierce the corporate veil in cases of subterfuge'' in order to ensure that we have the true applicant before us. *NMA* v. *DOI I,* 105 F.3d at 695. Thus, if a violator does try to set up a ''straw man'' to evade section 510(c) of the Act, the regulatory authority is empowered to identify the ''real applicant'' and deny the permit if that person currently owns or controls an operation with a violation. And, of course, a regulatory authority can always pursue an appropriate alternative enforcement action against the ''tainted individual'' under the Act's various enforcement provisions. *See,*

e.g., SMCRA § 518(f), 30 U.S.C. 1268(f); 30 CFR part 846.

Finally, KRC/CCC takes us to task for relying on the decision in *Peabody Western* because, in these commenters' view, the judge's observations were *ultra vires.* These commenters assert that OHA ''is not authorized to review the validity of the Secretary's regulations or to shrink from applying them fully.'' These commenters also state that OHA's decision is not precedential and does not necessarily constitute a legal interpretation of OHA as a whole. As explained above, regardless of its precedential value, we ultimately agreed with *Peabody Western*'s observations about our previous definition and opted not to seek further review of that decision. Moreover, virtually all other commenters agreed with the underlying basis of the *Peabody Western* decision: That our previous definition was vague, imprecise, and confusing. After the decision, we reevaluated the statutory basis for our definition and determined that the Act does not require us to import ownership or control concepts into the TAS analysis.

Although IMCC and other State commenters supported our proposed TAS definition and related TAS provisions at 30 CFR 774.17 (*see* discussion under heading III.U., below), they did echo KRC/CCC's concerns about a new owner or controller with outstanding violations trying to ''enter through the back door'' by joining an existing permittee. They said that even though the addition of this person will no longer trigger a TAS, the regulatory authority should be able to ''suspend the permit immediately'' until the new person has complied with all provisions of the Act. These commenters offered specific language to this effect that they proposed for a new paragraph 774.12(d). Section 774.12 contains ''Post-permit issuance information requirements for permittees.'' *See* heading III.T., below, for a full discussion of that section.

Again, although we understand the concern, we decline to adopt this comment for the reasons discussed above. In the final analysis, we are constrained by the decision in *NMA* v. *DOI I* and otherwise find no authority in SMCRA to ''suspend the permit immediately'' when a new person with a violation, such as an officer, director, or shareholder, joins the permittee's organizational structure. However, as explained above, under section 510(c) of the Act, the regulatory authority has the authority to identify the true applicant and, the regulatory can always employ SMCRA's array of enforcement powers to seek to compel abatement of outstanding violations.

E. Section 773.3—Information Collection

At 30 CFR 773.3, our regulations contain a discussion of Paperwork Reduction Act requirements and the information collection aspects of 30 CFR part 773. We proposed to amend this section by streamlining the codified information collection discussion. We did not receive any comments on our proposal and are adopting the amendment as proposed. A more detailed discussion of the information collection burdens associated with part 773 is contained under the Procedural Determinations section (*see* heading IV.10.), below.

F. Section 773.7—Review of Permit Applications

We proposed to revise previous 30 CFR 773.7(a) to correct a cross-reference and to eliminate a cross-reference that is no longer relevant. In general, section 737.7(a) requires the regulatory authority to review certain information developed in connection with an application for a permit, revision, or renewal and to issue a written decision on the application. The second sentence of the previous section provided: ''If an informal conference is held under § 773.13(c), the decision shall be made within 60 days of the close of the conference, unless a later time is necessary to provide an opportunity for a hearing under paragraph (b)(2) of this section.'' In our 2000 final rule, we redesignated previous section 773.15(a)(1) as 773.7(a), but made no other revisions to the provision at that time. After the promulgation of our 2000 rule, it came to our attention that the cross-references in that provision were either incorrect or no longer applicable.

We proposed to correct the first cross-reference so that it properly refers to section 773.6(c). We also proposed to remove the language that included the second cross-reference because it is no longer relevant due to certain provisions in our 2000 final rule. More specifically, we proposed to remove the qualifier phrase ''unless a later time is necessary to provide an opportunity for a hearing under paragraph (b)(2) of this section'' because ''(b)(2)'' referred to a provision—previous 30 CFR 773.15(b)(2)—that no longer exists and because the logic behind the current provision is no longer applicable. The hearing contemplated by previous section 773.15(b)(2) was a hearing held in conjunction with an applicant's appeal of a notice of violation.

We did not receive any comments on our proposal and are adopting the amendments as proposed. Thus, under this final rule, if an applicant is pursuing a good faith appeal of a violation, and otherwise meets the criteria of 30 CFR 773.14 (*see* heading III.K., below), the applicant will be eligible to receive a provisionally issued permit. Under these circumstances, we no longer see a need to delay the permitting decision to provide an opportunity for a hearing on a violation.

G. Section 773.8—General Provisions for Review of Permit Application Information and Entry of Information Into AVS

Under 30 CFR 773.8, a regulatory authority is required to enter certain permit application information into AVS. (*See* 30 CFR 701.5 for definition of *Applicant/Violator System* or *AVS.*) We proposed to revise previous 30 CFR 773.8 by removing the phrase ''ownership and control'' from paragraph (b)(1). We proposed this revision because we also proposed to revise the heading of 30 CFR 778.11 by removing the phrase ''ownership and control.'' *See* discussion under heading III.W., below. Our rationale for the proposed revisions was that, under § 778.11, an applicant must submit information in addition to what could be called ''ownership and control'' information. At paragraph 773.8(b)(1), we also proposed to add language clarifying that the information described (through a cross-reference to sections 778.11 and 778.12(c)) is required to be disclosed.

We did not receive any specific comments on our proposal and are adopting the amendments as proposed. Under this final rule, the entire provision at paragraph 773.8(b)(1) now reads: ''The information you are required to submit under §§ 778.11 and 778.12(c) of this subchapter.''

H. Section 773.9—Review of Applicant and Operator Information

As part of a regulatory authority's permit eligibility determination, our regulations at 30 CFR 773.9 require regulatory authorities to review certain information provided by permit applicants. Similar to our amendment to section 773.8, we proposed to revise the section heading at 30 CFR 773.9 by removing references to ''ownership and control'' information. We also proposed to revise section 773.9(a) by removing the phrase ''applicant, operator, and ownership or control.'' We explained that these revisions clarify that the applicant information, required to be disclosed under section 778.11, is not

limited to ownership and control information.

As with the revision to section 773.8, we also proposed to revise section 773.9(a) by clarifying that the information described in the section (through a cross-reference to section 778.11) is not optional and must be disclosed in a permit application. Finally, we proposed to revise section 773.9(a) by changing the term ''business structure'' to ''organizational structure.'' We explained that this is a broader and more inclusive description of the entities subject to the review.

We are adopting the amendments as proposed. (We respond to the one comment we received on the proposed provision under heading III.W., below.) Thus, the amended section heading now reads: ''Review of applicant and operator information'' and amended paragraph (a) provides: ''We, the regulatory authority, will rely upon the information that you, the applicant, are required to submit under § 778.11 of this subchapter, information from AVS, and any other available information, to review your and your operator's organizational structure and ownership and control relationships.''

I. Section 773.10—Review of Permit History

We proposed to revise 30 CFR 773.10, which requires regulatory authorities to, among other things, review the permit history of a permit applicant and its operator during the permit eligibility review. More specifically, we proposed to revise section 773.10(b) by removing the reference to the applicant's ''controllers disclosed under §§ 778.11(c)(5) and 778.11(d) of this subchapter.'' In paragraph (c), we proposed to remove the language ''your controllers, or your operator's controllers'' from the first sentence. In the second sentence of paragraph (c), we proposed to remove the language ''and was not disclosed under § 778.11(c)(5) of this subchapter.'' We proposed these revisions because we also proposed to remove the requirement at section 778.11 for an applicant to disclose its controllers (including its ''designated controller'') in a permit application. *See* discussion under heading III.W., below.

We did not receive any specific comments on our proposal and are adopting the amendments as proposed. Under this final rule, paragraph (b) now reads: ''We will also determine if you or your operator have previous mining experience.'' Paragraph (c) now reads: ''If you or your operator do not have any previous mining experience, we may conduct an additional review under § 774.11(f) of this subchapter. The purpose of this review will be to determine if someone else with mining experience controls the mining operation.''

J. Section 773.12—Permit Eligibility Determination

We proposed to revise our provisions for permit eligibility determinations at 30 CFR 773.12, which, along with other provisions, implement section 510(c) of the Act. We received multiple comments about the different aspects of our proposed changes. After careful consideration of all the comments we received, we decided to adopt the amendments as proposed. Below, we discuss each aspect of the final rule provisions and respond to comments we received on our 2006 proposals.

1. Section 773.12(a)—''Downstream'' Ownership

As indicated above, under our discussion of the definition of *own, owner,* or *ownership* (*see* heading III.C), paragraph 773.12(a) is our regulatory provision that governs the ''downstream'' reach of the rule in terms of permit eligibility. We proposed to revise paragraph (a)(2) so that the regulatory authority would no longer be able to deny a permit based on indirect ownership of a surface coal mining operation with a violation; however, we explained that we would keep the right to deny a permit based on indirect control. To simplify the rule, we also proposed to merge previous paragraphs (a)(2) and (a)(3), without changing the substantive meaning of those provisions. Under the new paragraph (a)(2), we proposed to remove the reference to ownership so that a permit applicant would not be eligible for a permit if any surface coal mining operation that the applicant or the applicant's operator ''indirectly control[s] has an unabated or uncorrected violation and [the applicant's or operator's] control was established or the violation was cited after November 2, 1988.'' Thus, with respect to ownership, regulatory authorities could only look ''one level down'' from the applicant in making a permit eligibility determination. For the reasons explained under heading III.C., we are adopting these amendments as proposed.

We have already responded to comments relating to the downstream reach of the rule under the discussion of our amended definition of *own, owner,* or *ownership. See* heading III.C., above.

2. Section 773.12(b)—Independent Authority Language

We also proposed to remove previous 30 CFR 773.12(b). Consistently with the D.C. Circuit's ruling on retroactivity in *NMA* v. *DOI II,* our 2000 final rule explained, at paragraph 773.12(b), that an applicant is eligible to receive a permit, despite it or its operator's indirect ownership or control of an operation with an unabated or uncorrected violation, if both the violation and the assumption of ownership or control occurred before November 2, 1988. However, 30 CFR 773.12(b) also provided that the applicant is not eligible to receive a permit under this provision if there ''was an established legal basis, independent of authority under section 510(c) of the Act, to deny the permit * * *.''

NMA challenged 30 CFR 773.12(b), claiming that if there is an ''independent authority'' to deny the permit, that authority exists whether or not it is referenced in the regulatory language. According to NMA, the provision is superfluous and potentially confusing. To settle this claim, we proposed to remove 30 CFR 773.12(b). We satisfied our obligation under the settlement in our 2003 proposed rule. Because we continued to find merit in the proposal, we carried it forward in our 2006 proposed rule.

We conclude that any ''independent authority'' exists with or without this regulatory provision. Thus, because the language is in fact superfluous, we are adopting our proposal to remove this provision. We assume that regulatory authorities will be familiar with any other laws that may affect an applicant's ability to obtain a permit. We do note that the explanation in former 30 CFR 773.12 is still true and valid; however, we conclude that this type of explanatory information is best left for preamble language. This amendment makes section 773.12, as a whole, more clear and concise, without diminishing its effectiveness. Because we removed 30 CFR 773.12(b), we also redesignated paragraphs (c), (d), and (e) as (b), (c), and (d), respectively.

KRC/CCC oppose the removal of the ''independent authority'' language, asserting that this language served as an important reminder to regulatory authorities involved in permit eligibility determinations. Further, these commenters state that, because the Federal regulations serve as a benchmark for judging counterpart provisions in State programs, we should retain this language to signal to States that State programs may not be drawn

so as to eliminate independent authority as a basis for permit denial. Finally, these commenters claim that, to the extent the proposed change was intended to be non-substantive, we run the risk that regulatory personnel, the courts, or both will impute unintended meaning to the action that OSM proposed.

We conclude that explanatory language like that contained in previous 30 CFR 773.12 is properly contained in preamble discussions. To the extent that a change in policy can be inferred by our removal of this language, we clarify that we do not intend a policy change. Again, we trust that the States are aware of the legal authorities that could affect permit eligibility, and it is not our place to instruct States how to enforce laws other than SMCRA.

3. State Regulatory Authorities Apply Their Own Ownership and Control Rules

In our 2006 proposed rule, we explained in preamble language that, in meeting its obligations under section 510(c) of the Act and the State counterparts to that provision, each State, when it processes a permit application, must apply its own ownership and control rules to determine whether the applicant owns or controls any surface coal mining operations with violations. The concept is important enough to repeat in this final rule. Consistently with State primacy, it is appropriate for the regulatory authority with jurisdiction over an application to apply its own ownership or control rules when making a permit eligibility determination, since that regulatory authority has the greatest interest in whether or not mining should commence or continue within its jurisdiction. However, when a regulatory authority is applying its ownership or control rules to violations in other jurisdictions, it is advisable for the regulatory authority to consult and coordinate, as necessary, with the regulatory authority with jurisdiction over the violation and our AVS Office. We also stress that a regulatory authority processing a permit application has *no* authority to make determinations relating to the initial existence or current status of a violation, or a person's responsibility for a violation, in another jurisdiction.

We did not receive any specific comments on this explanation in our 2006 proposed rule. However, one commenter expressed a general concern that the ''practical effect of the proposed ownership and control rules on interstate evaluations will be to dilute the strongest state systems by applying the weaker rules of states who have adopted a lower standard.'' Based on our foregoing explanation, this result should not occur because each State will apply its own rules when making permit eligibility determinations. Thus, States with stronger rules will apply those provisions, and not those of any other State, when making permit eligibility determinations.

K. Section 773.14—Eligibility for Provisionally Issued Permits

Section 773.14 of our 2000 final rule allows for the issuance of a ''provisionally issued permit'' if the applicant meets the criteria under 30 CFR 773.14(b). The codified regulatory language used the word ''may,'' indicating that the regulatory authority had discretion to grant a provisionally issued permit, even if the applicant otherwise met the eligibility criteria at paragraph 773.14(b). While the preamble discussion in our 2000 rule is not explicit on this point, we intended, in this context, that an applicant *is* eligible to receive a provisionally issued permit under the specified circumstances. *See, e.g.*, 65 FR 79618–19, 79622–24, 79632, 79634–35, and 79638. In order to reconcile any ambiguity, we proposed to revise our rule language at 30 CFR 773.14(b) so that it plainly states that an applicant who meets the 30 CFR 773.14(b) eligibility criteria *will* be eligible for a provisionally issued permit.

One commenter, a State regulatory authority, said changing ''may'' to ''will'' improves this section. We did not receive any other comments on our proposal and are adopting the amendment as proposed. However, we stress that an applicant must meet all other permit application approval and issuance requirements before receiving a provisionally issued permit, and the provisional permittee must comply with all performance standards.

L. Section 773.21—Initial Review and Finding Requirements for Improvidently Issued Permits

Sections 773.21 through 773.23 of our rules are the provisions governing improvidently issued permits. These are permits that should not have been issued because of an applicant's ownership or control of a surface coal mining operation with an unabated or uncorrected violation at the time of permit issuance. We proposed two substantive revisions to 30 CFR 773.21(c). Below, we discuss each aspect of the final rule provisions and respond to comments we received on our 2006 proposals.

1. Evidentiary Standard

Our first proposed revision related to our burden of proof and evidentiary standard when making a preliminary finding that a permit was improvidently issued. In our 2003 proposed rule, in accordance with our settlement with NMA, we proposed to amend section 773.21(c) so that our preliminary finding that a permit was improvidently issued ''must be based on reliable, credible, and substantial evidence and establish a *prima facie* case that [the permittee's] permit was improvidently issued.'' *See* 68 FR 75039. Based on input received from our State co-regulators—both in their comments on our 2003 proposed rule and in our outreach meeting—we determined that requiring a *prima facie* case of improvident permit issuance to be based on ''reliable, credible, and substantial'' evidence is too high of a burden on a regulatory authority (particularly for a preliminary finding). As a result, in our 2006 proposed rule, we proposed that a preliminary finding that a permit was improvidently issued ''must be based on evidence sufficient to establish a *prima facie* case that [the permittee's] permit was improvidently issued.'' After reviewing the comments on our proposal, we conclude that this evidentiary standard is consistent with the standard that typically applies to OSM's regulatory findings. As such, we are adopting the amendment as proposed. *See* headings III.P. and III.S., below, for additional discussions on burden of proof issues.

We did not receive any adverse comments on our proposal. IMCC and other State commenters strongly supported the proposed revision. IMCC reiterated its comments on our 2003 proposed rule, noting that our 2003 proposal would have required more weighty evidence than would normally be the case and essentially converted the concept of ''*prima facie*'' to a higher evidentiary standard. KRC/CCC also supported the 2006 proposal. They explained that our 2003 proposed rule contained an unexplained and unnecessary evidentiary standard for *prima facie* showings. We agree with these comments and, therefore, abandoned the 2003 approach.

2. Removal of Various Posting Requirements

We proposed to remove previous 30 CFR 773.21(c)(2), which required us to post a notice of a preliminary finding of improvident permit issuance at our office closest to the permit area and on the Internet. Similarly, we also proposed to remove the requirement at

previous paragraph 773.22(d) to post a *preliminary* decision ''at our office closest to the permit area.'' Additionally, we proposed to remove all other Internet posting requirements adopted in our 2000 final rule. In addition to paragraph 773.21(c)(2), we proposed to remove the Internet posting requirements found at previous paragraphs 773.22(d), 773.23(c)(2), and 773.28(d). We proposed to retain the requirement at paragraph 773.23(c)(2) to post a notice of permit suspension or rescission at our office closest to the permit area. We also proposed to retain the requirement at paragraph 773.28(d) to post a final agency decision on a challenge of an ownership or control listing or finding on AVS. After consideration of the public comments, we adopted these amendments as proposed.

Our inclusion of the Internet posting requirements in our 2000 final rule was primarily based on comments that we should expand the public's access to our decisions. *See, e.g.*, 65 FR 79632. While public access to final decisions remains important, we have concluded that the various Internet posting requirements in our 2000 final rule were unduly burdensome to regulatory authorities, especially when public notice of final decisions can be accomplished by the less burdensome, conventional method of posting them at our office closest to the permit area. We deem it improper to require States to establish and maintain potentially costly information technology systems and hire qualified staff to implement posting requirements that do not have proven utility. Moreover, nothing in the Act requires these postings. In addition, regulatory authorities are already required to enter much of the relevant information into AVS, which is available to the public. We also conclude that posting preliminary findings by any method is unduly burdensome, particularly because this information is of questionable value to the public. In sum, in this final rule, we removed all Internet and preliminary finding posting requirements, but retained public posting of our final decisions.

We received only one comment on our proposal to remove these various posting requirements. KRC/CCC opposed our proposals. First, these commenters state that we pointed to no objection from any SMCRA regulatory authority or to any experience of our own to support our ''conclusory assertions.'' We concede that experience under these provisions has been limited, particularly because these requirements never took effect for the States. However, we note that the States have not expressed any objection to removing the provisions. In short, we reconsidered the wisdom of these provisions prior to their widespread implementation. As such, our removal of the provisions in this final rule does not alter the *status quo.* We have concluded that our multiple posting requirements were unnecessary overkill. Moreover, the Act provides ample opportunities for public participation, which have been adequate prior to and since 2000. These commenters have not given us any reason to conclude otherwise.

Next, these commenters point to a preamble discussion in our 2000 final rule where we acknowledged, generally, the Act's public participation requirements. However, we did not state or conclude that the provisions we are removing in this final rule are required by the Act. In the same preamble, we noted the Act's various public participation requirements. Upon reconsideration of this issue, we conclude that the Act's public participation requirements are sufficient.

Finally, these commenters assert that our statement in our 2006 proposed rule that these provisions were of ''questionable value to the public'' was politically motivated. We disagree. As explained above, upon further examination, we determined that the multiple posting requirements in our 2000 rule were unnecessary and excessive. We also note that these commenters do not present any concrete reasons why these posting requirements are needed. For example, the commenters do not explain why posting requirements not contained in the Act are so beneficial that we should require States to undertake the expense of implementing them. In short, these commenters have not provided a convincing argument in favor of retaining the provisions.

M. Section 773.22—Notice Requirements for Improvidently Issued Permits

We proposed to remove 30 CFR 773.22(d), which contained posting requirements similar to those found at previous 30 CFR 773.21(c)(2), discussed above under heading III.L. Specifically, we proposed to remove the requirement to post a notice of *proposed* suspension or rescission at our office closest to the permit area and on the Internet. Because we proposed to remove paragraph (d), we also proposed to redesignate paragraphs (e) through (h) as paragraphs (d) through (g). For the reasons discussed under heading III.L., above, we are adopting these amendments as proposed. In the final rule language that follows this preamble discussion of our final rule, our amendments to 30 CFR 773.22 are shown as a **Federal Register** instruction.

N. Section 773.23—Suspension or Rescission Requirements for Improvidently Issued Permits

We proposed to revise the posting requirements contained in 30 CFR 773.23. Previous 30 CFR 773.23(c)(2) required us to post a *final* notice of permit suspension or rescission (which requires the holder of the improvidently issued permit to cease all surface coal mining operations on the permit) at our office closest to the permit area and on the Internet. We proposed to remove the requirement to post final notices on the Internet. However, because section 773.23(c)(2) pertains to *final* findings (as opposed to *preliminary* and *proposed* findings under sections 773.21 and 773.22, respectively), we proposed to retain the requirement to post them at our office closest to the permit area. For the reasons discussed under heading III.L., above, we are adopting the amendments as proposed. We conclude it is appropriate to post such notices of final actions for public view.

O. Section 773.26—How To Challenge an Ownership or Control Listing or Finding

Sections 773.25 through 773.28 of our rules govern challenges to ownership or control listing or findings. Generally speaking, an ownership or control *listing* happens when an applicant identifies, or ''lists,'' a person as an owner or controller in a permit application. That information is then entered into AVS by a regulatory authority. By contrast, an ownership or control *finding* under 30 CFR 774.11(g) constitutes a regulatory authority's fact-specific determination that a person owns or controls a surface coal mining operation.

In its judicial challenge to our 2000 final rule, NMA claimed that previous 30 CFR 773.26(a) was confusing. That section explains how and where a person may challenge an ownership or control listing or finding. NMA claimed that the provision did not clearly delineate the appropriate forum in which to bring a challenge. NMA also expressed concern that the provision seemed to refer only to applicants and permittees but not other persons who are identified in AVS as owners or controllers.

Section 773.25 of our 2000 final rule provided that any person listed in a permit application or in AVS as an owner or controller, or found by a

regulatory authority to be an owner or controller, may challenge the listing or finding. As we explained in the preamble to the 2000 rule, our intent was to allow any person listed in a permit application or in AVS, or found to be an owner or controller, to initiate a challenge at any time, regardless of whether there is a pending permit application or an issued permit. *See* 65 FR 79631. Section 773.26(a) was never intended to limit who may use the challenge procedures under 30 CFR 773.25; rather, it only specified the procedure and forum in which to challenge an ownership or control listing or finding.

However, to provide even greater clarity to the language at section 773.26(a), and in accordance with our settlement with NMA, we proposed (in our 2003 proposed rule) to revise our regulations at 30 CFR 773.26(a) to more clearly specify the forum in which a person may initiate an ownership or control challenge. Because we continued to find merit in the proposal, we carried it forward to our 2006 proposed rule. Specifically, we proposed that challenges pertaining to a pending permit application must be submitted to the regulatory authority with jurisdiction over the pending application. We further proposed that all other challenges concerning ownership or control of a surface coal mining operation must be submitted to the regulatory authority with jurisdiction over the relevant surface coal mining operation. We are adopting this amendment as proposed.

We also proposed to add new 30 CFR 773.26(e), in accordance with our settlement with NMA. In this final rule, we are adopting new paragraph 773.26(e) as proposed. This new provision allows a person who is unsure why he or she is shown in AVS as an owner or controller of a surface coal mining operation to request an informal explanation from our AVS Office. The new provision requires us to respond to such a request within 14 days. Our response would be informal and would set forth in simple terms why the person is shown in AVS. In most, if not all, cases, the explanation would be as simple as specifying that the person was found to be an owner or controller under 30 CFR 774.11(g) (of which the person should already be aware due to that section's written notice requirement) or was listed as an owner or controller in a permit application. Understanding the basis for being shown in AVS will give persons a better sense of the type of evidence they will need to introduce in an ownership or control challenge. *See also* 30 CFR 773.27(c), which provides examples of materials a person may submit in support of his or her ownership or control challenge.

We emphasize that, in meeting its obligations under section 510(c) of the Act and the State counterparts to that provision, each State must apply its own ownership and control rules to determine whether the applicant owns or controls any surface coal mining operations with violations. *See generally* 65 FR 79637. Further, we stress that an ownership or control decision by one State is not necessarily binding on any other State. This approach is consistent with principles of State primacy and recognizes that not all States will have identical ownership and control rules.

We did not receive any adverse comments on the proposed amendments. NMA and other industry commenters voiced support for the changes, stating that the new language ''makes clear'' that any person listed in a permit application or in AVS may challenge that listing at any time. Further, these commenters state that proposed paragraph 773.26(e) adds another protection for persons listed in AVS.

P. Section 773.27—Burden of Proof for Ownership or Control Challenges

As discussed above, our rules contain provisions for challenging ownership or control listings or findings. Under previous 30 CFR 773.27(a), a successful challenger had to prove by a preponderance of the evidence that he or she is not, or was not, an owner or controller. In its judicial challenge to our 2000 final rule, NMA argued that we must demonstrate at least a *prima facie* case so that the challenger can know what evidence he or she must rebut.

The preamble to our 2000 final rule already made it clear that we had to establish a *prima facie* case when making a finding of ownership or control:

> [I]n making a finding [of ownership or control] under final § 774.11(f), the regulatory authority must indeed make a *prima facie* determination of ownership and control, based on the evidence available to the regulatory authority. In making a *prima facie* determination, the finding should include evidence of facts which demonstrate that the person subject to the finding meets the definition of *own, owner,* or *ownership* or *control* or *controller* in § 701.5.

65 FR 79640. Nonetheless, to settle NMA's claim and to set forth more clearly the relative burdens of the parties, we agreed to propose revisions to section 30 CFR 773.27(a) and 774.11(f), as well as a related revision to 30 CFR 773.21(c) (*see* discussion above under heading III.L. above). In satisfaction of our settlement obligation, we proposed the revisions in our 2003 proposed rule. Because we continued to find merit in the proposals, we carried them forward, in slightly modified form, in our 2006 proposed rule. After consideration of the public comments, we are adopting the amendments as proposed, with slight modifications.

Under this final rule, we are amending 30 CFR 774.11(f) to clarify that a regulatory authority's preliminary finding of ownership or control must be based on evidence sufficient to establish a *prima facie* case of ownership or control. We are also adding a new provision at paragraph 774.11(g) that requires us to issue a final finding of ownership or control after giving the person subject to the preliminary finding an opportunity to submit information tending to demonstrate a lack of ownership or control. The final finding at paragraph 774.11(g) will be based upon, and, if necessary, amplify, the *prima facie* finding under paragraph 774.11(f). As such, the final finding will, at a minimum, be based on evidence sufficient to establish a *prima facie* case. Based upon the changes at section 774.11, we have amended section 773.27(a) so that it reads:

> (a) When you challenge a listing of ownership or control, or a finding of ownership or control made under § 774.11(g) of this subchapter, you must prove by a preponderance of the evidence that you either—
>
> (1) Do not own or control the entire surface coal mining operation or relevant portion or aspect thereof; or
>
> (2) Did not own or control the entire surface coal mining operation or relevant portion or aspect thereof during the relevant time period.

Our amendment to paragraph (a) clarifies that a person can challenge either an ownership or control listing or a finding of ownership or control under 30 CFR 774.11(g). Further, due to the cross-reference to paragraph 774.11(g), it is clear that any such challenge will be based on a finding that is, at a minimum, supported by evidence sufficient to establish a *prima facie* case of ownership or control. At paragraphs 773.27(a)(1) and (a)(2), this final rule clarifies that the ''operation'' referred to in the previous provisions is a surface coal mining operation.

Under the burden of proof allocation in this final rule, as under our previous rules, if the challenge concerns a finding of ownership or control, the regulatory authority will already have borne the initial burden of establishing a *prima facie* case of ownership or control by

issuing its finding in accordance with paragraph 774.11(g). If the challenge concerns an ownership or control listing, the regulatory authority's initial burden is substantially lower: The regulatory authority must specify only the circumstances of the listing, such as who listed the person, the date of the listing, and in what capacity the person was listed. In either type of challenge, after the regulatory authority meets its initial burden, the burden shifts to the challenger to prove, by a preponderance of the evidence, that he or she does not, or did not, own or control the relevant surface coal mining operation. The challenger bears the ultimate burden of persuasion.

We did not receive any adverse comments on our proposed amendments. NMA and other industry commenters supported our proposals, noting that the *prima facie* standard adds fairness to the process. KRC/CCC did not oppose making express the implicit requirement that ownership or control findings must be based on evidence sufficient to establish a *prima facie* case.

Q. Section 773.28—Written Agency Decisions on Challenges to Ownership or Control Listings or Findings

We proposed to revise the posting requirements of 30 CFR 773.28, our rules governing written agency decisions on challenges to ownership or control listings or findings. Former paragraph 773.28(d) required us to post final decisions on ownership or control challenges on AVS and on the AVS Office's Internet home page. We proposed to remove the requirement to post these decisions on the Internet. However, because 30 CFR 773.28 pertains to final decisions on ownership or control challenges, we proposed to keep the requirement to post these decisions on AVS. Because these final decisions may have permit eligibility consequences, it is appropriate to make such decisions publicly available by posting them on AVS.

After consideration of the public comments received on our proposal, we decided to adopt this amendment as proposed. Our rationale for removing the Internet posting requirement and our responses to comments are set forth more fully above, under the discussion of 30 CFR 773.21 (*see* heading III.L).

One State commenter said we should specify the location of the posting required under paragraph 773.28(d). The final provision requires posting on AVS. After this rule takes effect in primacy States, our AVS Office will notify these States how to input the required information.

R. Section 774.9—Information Collection

At 30 CFR 774.9, our regulations contain a discussion of Paperwork Reduction Act requirements and the information collection aspects of 30 CFR part 774.9. We proposed to amend this section by streamlining the codified information collection discussion. We did not receive any comments and are adopting the amendment as proposed. A more detailed discussion of the information collection burdens associated with part 774 is contained under the Procedural Determinations section (*see* heading IV.10.), below.

S. Section 774.11—Post-permit Issuance Requirements for Regulatory Authorities

We proposed several revisions to 30 CFR 774.11, which primarily contains requirements for regulatory authorities following the issuance of a permit. After consideration of the public comments received on our proposals, we are adopting them as proposed, with the minor modifications described below.

First, we proposed to revise paragraph 774.11(a)(3), which previously required a regulatory authority to enter into AVS all ''[c]hanges of ownership or control within 30 days after receiving notice of a change.'' We proposed to revise paragraph (a)(3) by removing ''Changes in ownership or control'' and replacing it with ''Changes to information initially required to be provided by an applicant under 30 CFR 778.11.'' We proposed this revision because we also proposed to revise the heading of 30 CFR 778.11 by removing the phrase ''ownership and control.'' See discussion below, under heading III.W. Our rationale for the proposed revisions was that, under section 778.11, an applicant must submit information in addition to what could be called ''ownership and control'' information. We are adopting this amendment because we are also adopting the corresponding amendment to section 778.11.

Second, we proposed to revise 30 CFR 774.11(e). Under the specified circumstances, 30 CFR 774.11(c) of our rules requires us to make a preliminary finding of permanent permit ineligibility. Paragraph 30 CFR 774.11(d) provides for administrative review of a preliminary finding. Previous paragraph 774.11(e) provided: ''We must enter the results of the finding and any hearing into AVS.'' There was substantial confusion as to whether we had to enter a preliminary finding into AVS, prior to administrative resolution.

To settle a claim brought by NMA, we agreed to clarify that a finding of permanent permit ineligibility would be entered into AVS only if it is affirmed on administrative review or if the person subject to the finding does not seek administrative review and the time for seeking administrative review has expired. To incorporate this clarification into our regulatory requirements, we proposed to revise paragraph 774.11(e). Specifically, at the beginning of paragraph (e), we proposed to add the subheading ''Entry into AVS.'' We also proposed to create new paragraph (e)(1), to provide: ''If you do not request a hearing, and the time for seeking a hearing has expired, we will enter our finding into AVS,'' and new paragraph (e)(2), to provide: ''If you request a hearing, we will enter our finding into AVS only if that finding is upheld on administrative appeal.'' After consideration of the comments received on these proposals, we are adopting the amendments as proposed. We conclude that, given the severe consequences that attach to a finding of permanent permit ineligibility, it is only fair to afford a measure of due process before entering the finding into AVS.

Third, we proposed to revise 30 CFR 774.11(f), which governs a regulatory authority's finding of ownership or control. As with our amendment to 30 CFR 773.27, discussed above under heading III.P., we proposed to revise paragraph 774.11(f) to clarify that a regulatory authority's written finding of ownership or control must be based on evidence sufficient to establish a *prima facie* case. In the preamble to our 2000 final rule, we explained that a finding of ownership or control must be based on a *prima facie* determination of ownership or control (65 FR 79640). In our 2006 proposed rule, we proposed to make this implicit requirement explicit. In the context of a regulatory authority's finding of ownership or control, a *prima facie* case is one consisting of sufficient evidence to establish the elements of ownership or control and that would entitle the regulatory authority to prevail unless the evidence is overcome by other evidence.

In our 2003 proposed rule, we proposed that a regulatory authority's *prima facie* finding under section 774.11(f) must be based on reliable, credible, and substantial evidence. However, as with section 773.21 (*see* heading III.L., above), based on input received from our State co-regulators and other commenters, we determined that requiring a *prima facie* finding of ownership or control to be based on ''reliable, credible, and substantial'' evidence is too high of a burden on a regulatory authority for an initial finding.

Thus, in our 2006 proposed rule, we proposed that our findings of ownership or control under paragraph 774.11(f) ''must be based on evidence sufficient to establish a *prima facie* case of ownership or control.'' We explained that this is the evidentiary standard that typically applies to OSM's regulatory findings. After consideration of the public comments received on this proposal, we are adopting the amendment as proposed.

In this final rule, we are also modifying proposed paragraph 774.11(f) to clarify that the finding in this section is a *preliminary* finding. This amendment merely makes express an implicit aspect of our 2006 proposal. It was clear, in context, that the finding in paragraph 774.11(f) was intended to be preliminary, as it preceded the final determination required under proposed paragraph 774.11(g). We are also amending paragraph 774.11(f) to make clear that the ''operation'' referenced in that provision is a ''surface coal mining operation.''

For logistical reasons, we also proposed to merge previous paragraph 774.11(f)(1) into new paragraph 774.11(f); merge the substance of former paragraph 774.11(f)(2) into new paragraph 774.11(g) (discussed below); and remove former paragraph 774.11(f)(3) to be consistent with the removal of the requirements at previous 30 CFR 778.11(c)(5) and (d) (discussed below under heading III.W.). These proposed changes included the removal of the requirement at previous paragraph 774.11(f)(3) that, following a finding of ownership or control, a person had to disclose his or her identity under 30 CFR 778.11(c)(5) and, if appropriate, certify that he or she was a controller under 30 CFR 778.11(d). As discussed below under heading III.W., we removed the information disclosure requirements at previous paragraphs 778.11(c)(5) and (d). Therefore, the cross-references to those provisions in previous section 774.11 no longer made sense. We adopted these amendments as proposed.

Fourth, we proposed to revise section 774.11 to address NMA's claim that our 2000 final rule denied a person the right to challenge a decision to ''link'' it by ownership or control to a violation before the ''link'' is entered into AVS. While we disagree with the characterization that we enter ''links'' to violations into AVS, we proposed to create a new paragraph 774.11(g).

In our 2006 proposed rule, we explained that, under the new regulatory provision, after we make a preliminary written finding of ownership or control under paragraph 774.11(f), but before we enter the finding into AVS, we will allow the person subject to the preliminary finding 30 days in which to submit any information tending to demonstrate a lack of ownership or control. After reviewing all information submitted, if we are persuaded that the person is not an owner or controller, we will serve the person with a written notice to that effect; if we still find the person to be an owner or controller or if the person does not submit any information within the 30-day period, we must enter our finding into AVS. The requirement to enter our finding into AVS was previously found at paragraph 774.11(f)(2); we moved that requirement into new paragraph 774.11(g).

After consideration of the public comments we received on proposed paragraphs 774.11(f) and (g), we are adopting the amendments as proposed, with a minor modification. We modified the proposal to provide that, if we make a final finding (under paragraph 774.11(g)) that the person is an owner or controller, we will issue a written finding to that person. The process under new paragraph 774.11(g) will be informal and non-adjudicatory, and we expect regulatory authorities to make prompt determinations after receipt of any information under this provision. We conclude that NMA had a legitimate concern regarding previous paragraph 774.11(f). Moreover, any delay of entry of a finding of ownership or control into AVS will be very minor.

Fifth, we proposed to add a new paragraph 774.11(h), which would have specified that we do not need to make a finding of ownership or control before entering into AVS the information that permit applicants are required to disclose under paragraphs 778.11(b) and (c). With non-substantive changes, we are adopting the amendment as proposed. However, we decided to move this provision to new paragraph 778.11(e) because we determined that it makes more sense in the section pertaining to permit information. *See* complete discussion under heading III.W., below.

Finally, we proposed to make non-substantive revisions to previous paragraph 774.11(g) and redesignate that provision. We adopted this amendment as proposed. Final paragraph 774.11(h) now reads: ''If we identify you as an owner or controller under paragraph (g) of this section, you may challenge the finding using the provisions of §§ 773.25, 773.26, and 773.27 of this subchapter.''

IMCC and other State commenters strongly supported the evidentiary standards in our 2006 proposed rule. IMCC reiterated its comments on our 2003 proposed rule, noting that our 2003 proposal would have required more weighty evidence than would normally be the case and essentially converted the concept of ''*prima facie*'' to a higher evidentiary standard. Another State commenter said ''using the *prima facie* standard is an improvement and provides clarity.'' We agree with these comments.

NMA and other industry commenters also supported the *prima facie* standard. These commenters said the fact that OSM must establish a *prima facie* case, coupled with the changes that limit entry in AVS until after findings become final, provides fairness to the process. While NMA did reiterate its belief that it is not unreasonable to expect the agency to base its findings on ''reliable, credible, and substantial'' evidence, NMA accepts the *prima facie* standard as part of the larger settlement agreement. These commenters also supported our proposal to allow a person found to be an owner or controller 30 days to provide contrary evidence to the agency before the finding is entered into AVS. In sum, NMA said that our proposed revisions to sections 773.26 and 774.11, taken as a whole, would enhance the fairness of the AVS system by providing clearer avenues for those who are improperly listed in AVS to be removed in a prompt manner. We agree with these comments and conclude that the amendments we adopt today will in fact increase procedural fairness.

KRC/CCC supported our proposed *prima facie* standard. They explained that our 2003 proposed rule contained an unexplained and unnecessary evidentiary standard for *prima facie* showings. However, these commenters objected to what they consider an ''automatic stay'' for ownership or control findings under proposed paragraph 774.11(e). We disagree with these commenters that the proposed provision, which we have adopted in this final rule, amounts to an unlawful automatic stay.

One aspect of section 510(c) of the Act is that an applicant is not eligible for a permit ''after a finding by the regulatory authority, after opportunity for hearing, that the applicant, or the operator specified in the application, controls or has controlled mining operations with a demonstrated pattern of willful violations of this Act of such nature and duration with such resulting irreparable damage to the environment as to indicate an intent not to comply with the provisions of this Act.'' 30 U.S.C. 1260(c). We implement this ''permanent permit ineligibility'' provision at 30 CFR

774.11(c) through (e); these provisions are separate and distinct from the provisions relating to ownership and control findings at proposed (and final) paragraphs 774.11(f) and (g).

KRC/CCC assert that the proposed provision at 774.11(e), under which we would not enter a preliminary finding of permanent permit ineligibility into AVS unless the person subject to the finding fails to request an administrative hearing within the allotted time or the finding is upheld on administrative appeal, amounts to an impermissible automatic stay. In these commenters' view, the provision is inconsistent with sections 514(d) and 525(c) of the Act, 30 U.S.C. 1264(d), 1275(c), and their state law counterparts.

We disagree with these commenters. The relevant portion of section 510(c) provides that an applicant is permanently permit ineligible only ''*after* opportunity for hearing.'' (Emphasis added.) In our 2000 rule, we determined that the appropriate hearing is under 43 CFR 4.1350 through 4.1356. *See* 30 CFR 774.11(d) (2001). If we were to adopt KRC/CCC's comments, we would have to enter a *preliminary* finding of permanent permit ineligibility into AVS *prior* to an opportunity for hearing. Because that approach would be in contravention of the Act, we decline to adopt the comment.

These commenters' citation to a preamble discussion in our 2000 final rule is unpersuasive. In that passage, we were addressing ownership and control findings under previous paragraph 774.11(f), not preliminary findings of permanent permit ineligibility under paragraph 774.11(c). Because section 510(c) expressly requires a hearing before a finding of permanent permit ineligibility, our final provision at paragraph 774.11(e) is not inconsistent with our prior preamble discussion relating to ownership or control findings.

In sum, given the severity of a finding of permanent permit eligibility, we conclude that it is appropriate to delay entry of the finding into AVS until it becomes final, after the opportunity for a hearing. This approach is consistent with the Act's statutory mandate.

T. Section 774.12—Post-Permit Issuance Information Requirements for Permittees

We proposed to revise 30 CFR 774.12, which sets forth information reporting requirements for permittees after the issuance of a permit. More specifically, in the introductory language at paragraph 774.12(c), we proposed to remove the cross-reference to previous 30 CFR 778.11(d) because we also proposed to remove that provision. We are adopting this amendment as proposed because we are adopting the proposal to remove previous paragraph 778.11(d). As a result of our removal of previous paragraph 778.11(d), we are also redesignating paragraph 778.11(e) as new paragraph 778.11(d). Accordingly, we are revising the cross-reference at paragraph 774.12(c)(1) so that it properly refers to new section 778.11(d).

We also proposed to add new paragraph 774.12(c)(3), which would have required a permittee to provide written notification to the surety, bonding entity, guarantor, or other person that provides the bonding coverage currently in effect whenever there is an addition, departure, or change in any position of any person the permittee was required to identify under 30 CFR 778.11(c). However, based on numerous negative comments, we are not adopting the proposed surety notification language. Based on the comments, we have concluded that the proposed notification is unnecessary and that it is inappropriate for us to become involved in private contractual matters between permittees and sureties.

In addition, proposed paragraph 774.12(c)(3) would have provided that the regulatory authority with jurisdiction over the permit could require written verification of continued appropriate bond coverage following the identified additions, departures, or changes. However, due to negative comments, we are not adopting this proposed provision. We conclude that that verification is unnecessary because our regulations already provide that a surety bond is ''noncancellable'' during its term. 30 CFR 800.20.

We did not receive any comments in favor of requiring permittees to notify sureties or other bond providers upon the addition, departure, or change in position of any person identified in paragraph 778.11(c). Those who did comment were strongly against the proposal.

IMCC and other State commenters were against the surety notification provision. These commenters state that, while bonding entities may want to evaluate bond coverage following additions, departures, or changes in positions of certain persons, this is a private contractual matter between permittees and bonding companies. Another State commenter echoed these concerns, stating that the proposed provision is not supported by the Act and that these are private matters between the parties. This commenter also said that, in crafting their indemnity agreements, bond providers can require updated information from the insured.

IMCC explained that the States did not want to become involved in these otherwise private business transactions by having to monitor, track, and enforce these corporate changes. They assert that under the proposed rule, the States would have been responsible for insuring that these written verifications were provided to the surety and for enforcing any failures to do so. Another State commenter said it is not a logical approach to make the States responsible to verify that these written notifications take place. Two other State commenters said assuring compliance would likely create a substantial burden on both permittees and regulatory authorities.

IMCC and other State commenters also stated that there was a question as to how a State's failure to enforce the provision could impact the future viability of existing bonds. Similarly, another State commenter expressed concern that a permittee's failure to provide the notification to a surety could be raised as a defense by the surety in the event of a bond forfeiture.

NMA and other industry commenters strongly disagreed with our proposal. NMA explained that, under the proposal, the permittee would have to provide surety notification for additions, departures, or changes in position for persons including officers and directors. For large companies, NMA explained, these changes may be frequent. As such, NMA viewed our proposal as unduly burdensome and unnecessary. Like the State commenters, NMA also noted that OSM should not interfere in the contractual arrangements between the surety and the mining company. Another industry commenter, who supported the entire proposed rule except for our proposed revisions to section 774.12, asserted that the proposed revisions would be an imposition on the private contractual relations between sureties and the operator.

NMA and other industry commenters also noted that if a surety wants this type of information, the surety should bargain for it as part of its contract with the mining company. Similarly, one industry commenter said that sureties are well positioned to negotiate these types of notifications in their surety agreements, while another said sureties are quite adept at requiring information that satisfies their needs. Another industry commenter said the proposed notification is unneeded and may cause bonding companies to increase premiums. Finally, an industry

commenter said updates to permit documents are already subject to general public disclosure under the applicable regulations.

In sum, all commenters were strongly against our surety notification proposal. We agree with most of the concerns identified above, and, therefore, decided not to adopt our proposal.

IMCC and other State commenters did suggest that we adopt the substance of the second part of our proposal by requiring permittees to provide written verification of continued appropriate bond coverage within 60 days of any relevant addition, departure, or change. A State commenter agreed, noting that some sureties are of the view that such changes in a permittee's principals materially alter a surety's liability under the bond. Thus, this commenter agreed with IMCC that States should have the authority to require a permittee to provide assurances that the bond remains valid.

However, another State commenter disagreed with IMCC and the other State commenters on this point. This commenter disagreed that a permittee should be required to provide verification of bond coverage to a regulatory authority upon such change because bond coverage is irrevocable. NMA and other industry commenters likewise said there is no need for OSM to require written verification of continued appropriate bond coverage because, under 30 CFR 800.20, once a regulatory authority has a bond, the bond cannot be released until the regulatory authority approves the release. We agree with these commenters that, under section 800.20, surety bonds are ''noncancellable,'' and, therefore, a permittee's verification is unnecessary. As such, we are not adopting our proposal.

U. Section 774.17—Transfer, Assignment, or Sale of Permit Rights

In 2005, to effectuate our settlement with NMA, we proposed to revise our regulations governing the transfer, assignment, or sale of permit rights. Our proposal was expansive and constituted a significant departure from our then-existing regulations. As explained above under heading III.D., in our 2006 proposed rule, we decided to scale back the scope of our 2005 proposal. Under our 2006 proposal, the primary change to our transfer, assignment, or sale regulations was the proposed revision to our definition of *transfer, assignment, or sale of permit rights* at 30 CFR 701.5, which we have adopted in this final rule. By contrast, we proposed relatively minor revisions to our regulations at 30 CFR 774.17, which contain our regulatory procedures governing the transfer, assignment, or sale of permit rights.

Previous paragraph 774.17(a) provided that ''[n]o transfer, assignment, or sale of rights granted by a permit shall be made without the prior written approval of the regulatory authority.'' Our requirement for ''prior written approval'' of a transfer, assignment, or sale has been construed by some as an attempt to require regulatory authority approval of private business transactions. In this final rule, we want to make clear that we have no involvement in private business transactions. However, we also stress that a person's purported acquisition of the rights granted under a permit does not mean the person has acquired the right to mine. Only the regulatory authority can validate permit rights upon a transfer, assignment, or sale. In validating such permit rights, the regulatory authority must determine that the entity that proposes to mine as a result of the private transaction is eligible to conduct surface coal mining operations under the Act and its implementing regulations and that the entity has obtained sufficient bond coverage. Only upon validation by the regulatory authority can it be said that the acquiring entity has become the new permittee (or a *successor in interest,* as that term is defined under 30 CFR 701.5) and has a right to mine.

However, we also recognize that requiring operations to cease while a permittee seeks regulatory approval for a transfer, assignment, or sale of permit rights could result in unnecessary disruptions to the nation's energy supply. Thus, we proposed that operations on the permit may continue on a short-term basis, at the discretion of the regulatory authority, while the permittee seeks regulatory approval of a transfer, assignment, or sale, but only if the prospective successor in interest can demonstrate to the satisfaction of the regulatory authority that sufficient bond coverage will remain in place. We also explained that, prior to a decision on an application for a transfer, assignment, or sale, the regulatory authority retains all of its enforcement powers and should take immediate action if the prospective successor in interest is not complying with the terms of the permit or any requirements of the Act or its implementing regulations.

Based on the above considerations, we proposed to revise previous paragraph 774.17(a) as follows: ''(a) *General.* No transfer, assignment, or sale of rights granted by a permit shall be made without the prior written approval of the regulatory authority. At its discretion, the regulatory authority may allow a successor in interest to continue surface coal mining and reclamation operations under the permit during the pendency of an application for approval of a transfer, assignment, or sale of permit rights submitted under paragraph (b) of this section, provided that the successor in interest can demonstrate to the satisfaction of the regulatory authority that sufficient bond coverage will remain in place.'' After consideration of the public comments we received on this proposal, we are adopting the amendment as proposed, with minor modifications. In response to State comments, we added the word ''prospective'' before ''successor in interest.'' These changes recognize that an acquiring entity only becomes the successor in interest to the rights granted under the permit (under 30 CFR 701.5) after the regulatory authority approves the transfer, assignment, or sale.

At paragraph 774.17(d)(1), we proposed to revise the cross-references to our permit eligibility rules. We explained that while the reference to section 773.12 was still correct, the reference to section 773.15 was no longer correct, due to revisions we adopted in our 2000 final rule. Thus, we proposed to revise the paragraph so that it cross-references sections 773.12 and 773.14. We adopted this amendment as proposed.

IMCC and other State commenters said that in section 774.17(a), the word ''prospective'' should be inserted each time before the words ''successor in interest'' since the actual succession to the permit rights does not transpire until the transfer, assignment, or sale has been completed and approved by the regulatory authority. We agree with this comment and, as explained above, have modified the final rule provision accordingly.

One State commenter said that in addition to sufficient bond coverage, the prospective successor in interest should also be required to demonstrate that appropriate insurance coverage remains in place. We are not adopting this comment because it is not a requirement under SMCRA. However, States remain free to seek this information as part of their State programs.

NMA and other industry commenters supported our proposal to allow operations on the permit to continue while the permittee seeks regulatory approval of a TAS. These commenters stated that the proposed provision requiring the prospective successor in interest to demonstrate adequate bond coverage is an appropriate guarantee that the surface coal mining operation

will continue in an environmentally acceptable manner. NMA also agreed with our observation that that we retain all of our enforcement powers against the prospective successor pending approval of a TAS. Because of these protections that remain in place, NMA suggested that the final rule should provide that the regulatory *shall,* rather than *may,* allow a prospective successor to continue operations under the permit pending TAS review. We decline to adopt this comment. It is important for the regulatory authority to retain discretion in these matters because the regulatory authority will be in the best position to assess the situation on the ground and to make a reasonable forecast as to whether there are likely to be significant problems in approving the transfer, assignment, or sale. For example, the regulatory authority may already possess information that indicates that the TAS application is likely to be rejected. In that circumstance, it would make little sense to require the regulatory authority to allow mining to continue.

KRC/CCC objects to our proposal to allow operations to continue on a short-term basis pending TAS approval. These commenters assert that our proposal is flatly inconsistent with section 511(b) of SMCRA, 30 U.S.C. 1261(b). These commenters ''urge OSM not to waste the time and resources of all concerned by adopting this flawed proposal.'' We disagree with these commenters. Put simply, section 511(b) does not preclude the limited continued mining we are allowing for in this final rule. That section merely provides that no TAS ''shall be made without the written approval of the regulatory authority.'' The statutory provision is silent as to whether the permittee or the prospective successor can continue mining pending TAS review. For the reasons discussed above, we conclude that final section 774.17(a) is a reasonable interpretation of the statutory provision. The protections afforded by sufficient bond coverage and the regulatory authority's enforcement powers will ensure that the operation continues to be in compliance with the requirements of the Act during the limited time it takes for the regulatory authority to render a decision on a TAS application. Moreover, section 506(b) of the Act, 30 U.S.C. 1256(b), provides that a ''successor in interest to the permittee who applies for a new permit within thirty days of succeeding to such interest and who is able to obtain the bond coverage of the original permittee may continue'' mining operations until the application is granted or denied. This provision clearly demonstrates that Congress did not intend for mining operations to cease upon a transfer, assignment, or sale of permit rights.

V. Section 778.8—Information Collection

At 30 CFR 778.8, our regulations contain a discussion of Paperwork Reduction Act requirements and the information collection aspects of 30 CFR part 778. We proposed to amend this section by streamlining the codified information collection discussion. We did not receive any comments on this proposal and are adopting this amendment as proposed. A more detailed discussion of the information collection burdens associated with part 778 is contained under the Procedural Determinations section (*see* heading IV.10.), below.

W. Section 778.11—Providing Applicant and Operator Information

Section 507(b) of the Act, 30 U.S.C. 1257(b), contains minimum information requirements that permit applicants must comply with when they submit permit applications. Historically, our ownership and control and related rules have required permit applicants to disclose information in addition to section 507(b)'s minimum requirements. Most germane to this rulemaking, since 1989, we have required permit applicants to identify all of their ''owners and controllers'' in their permit applications. *See, e.g.,* 30 CFR 778.13(c) (1989); 30 CFR 778.11(c)(5) (2001).

Although section 507 does require the disclosure of certain ''upstream'' information, it does not require applicants to disclose all of their upstream ''owners'' and ''controllers,'' as those terms are used in the context of section 510(c) of the Act. Nevertheless, courts have consistently upheld our ability to collect information in excess of section 507(b)'s minimum requirements when that information is ''needed to ensure compliance with the Act.'' *NMA* v. *DOI II,* 177 F.3d at 9 (quoting *In re Permanent Surface Mining Regulation Litig.,* 653 F.2d 514, 523 (DC Cir.) (*en banc*), *cert. denied sub nom., Peabody Coal Co.* v. *Watt,* 454 U.S. 822 (1981).

In our settlement with NMA, we agreed to propose a definition of *control* or *controller* that retained the flexible ''ability to determine'' standard, coupled with a proposal to remove the requirement that permit applicants list all of their controllers in a permit application. We satisfied our settlement obligation by proposing those amendments in our 2003 proposed rule. Because we continued to find merit in the proposal, we carried it forward in our 2006 proposed rule. However, we also proposed to add a new provision that would require an applicant to disclose the identity of each business entity in the applicant's and operator's organizational structure, up to and including the ultimate parent entities of the applicant and operator.

In our 2006 proposed rule, we explained that while it is important to retain a flexible definition of control, it is difficult to have an objective information disclosure standard based on that type of definition. Our stated objective was to create a ''bright line,'' objective information disclosure standard for both applicants (who must submit certain information in permit applications) and regulatory authorities (who review applications for completeness and compliance with the Act).

Our proposal to remove the requirement for applicants to identify all of their controllers in a permit application generated the strongest adverse comments. In response to these comments, we modified the proposal in a key respect. Thus, in this final rule, permit applicants will have to continue to provide much of the ''upstream'' information that was required under the previous version of section 778.11, but will not have to identify all of their ''owners'' or ''controllers,'' as those terms are defined at 30 CFR 701.5. This final rule achieves the ''bright line'' information disclosure standard we desired, but also ensures that regulatory authorities will have the information they need to enforce the Act, including the ability to make informed ''control'' determinations. Below, we discuss the ''upstream'' information provisions of this final rule in greater detail as well as our other amendments to previous section 778.11.

We proposed to remove the term ''ownership and control'' from the heading of this section. We did not receive any specific comments on the proposed revision and are adopting the amendment as proposed. The new heading for 30 CFR 778.11 reads: ''Providing applicant and operator information.'' We revised this heading because, under section 778.11, an applicant must submit information in addition to what could be called ''ownership and control'' information and because we are also eliminating the requirements at former 30 CFR 778.11(c)(5) and (d) for applicants to disclose all of their owners and controllers in a permit application, including the ''certified controller'' under former paragraph (d). As a result

of these amendments, and the other amendments discussed below, revised 30 CFR 778.11 now more closely tracks the permit application information requirements contained in section 507(b) of the Act. While some of the persons identified under amended 30 CFR 778.11 could be owners or controllers under our regulatory definitions, the broad term ''applicant and operator information'' is a better description of the information an applicant is required to disclose.

Previous paragraph 778.11(a)(1) required permit applicants to identify whether they or their operators were ''corporations, partnerships, sole proprietorships, or other business entities.'' We proposed to add ''associations'' to this list of business entities to conform the provision more closely to section 507 of the Act. We did not receive any comments on this proposal and are adopting the amendment as proposed.

Previous paragraph 778.11(b)(4) required an applicant to disclose the identity of the person(s) responsible for submitting the Federal Coal Reclamation Fee Report (Form OSM–1) and for remitting the fee to OSM. In our 2006 proposed rule, we proposed to eliminate this requirement. After considering comments on our 2006 proposed rule, we are adopting this amendment as proposed. When we imposed this requirement in our 1989 permit information rule (54 FR 8982), we stated that: ''Furnishing the name of the person paying the reclamation fee will assist [OSM] in collecting the money and arranging for audits when necessary.'' *Id.* at 8983. In our experience since 1989, we have found that there is little correlation between obtaining this information and our ability to collect reclamation fees and arrange for audits. This is particularly true given that Subchapter R of our rules clearly sets forth requirements for submission of OSM–1 forms and payment of reclamation fees; the overlapping requirement at section 778.11 did little or nothing to enhance our enforcement of the reclamation fee provisions.

Further, the identity of the person who will ultimately be responsible for submission of the OSM–1 may not be known at the time of application. Knowing the name of the anticipated submitter at the time of application is of little utility when that person may change prior to actual submission of the form. We also note that the former provision required States to get this information even though mining operators pay the reclamation fee to OSM. We saw no reason to impose an information collection burden on the States when they do not need the information to enforce any provisions of their programs. Finally, we note that the information is not required to be in a permit application under section 507 of the Act.

We proposed to add a new provision at paragraph 778.11(b)(4) that would have required permit applicants to identify ''[e]ach business entity in the applicant's and operator's organizational structure, up to and including the ultimate parent entity.'' We are adopting a comment (discussed more fully below) to expand the proposed paragraph (b)(4) to require more ''upstream'' information. Under the proposed provision, an applicant would have had to identify only the business entities in its and its operator's organizational structures, and not, for example, the officers, directors, and shareholders of each of those entities. Under this final rule, permit applicants will have to identify the business entities in the relevant organizational structures, plus, for every such entity, every president, chief executive officer, and director (or persons in similar positions), and every person who owns, of record, 10 percent or more of the entity.

As discussed in more detail below, in our responses to the comments received on proposed section 778.11, we have concluded that while the information we are requiring under final paragraph 778.11(b)(4) is not required to be disclosed under section 507(b) of the Act, it is necessary to ensure compliance with the Act. Given that we are removing the requirement for applicants to disclose all of their controllers, we conclude that the information required to be submitted under final paragraph 778.11(b)(4) is necessary to allow regulatory authorities to make ''findings'' of control under amended 30 CFR 774.11(g). After the decisions in *NMA* v. *DOI I* and *NMA* v. *DOI II*, there has been a greater emphasis on enforcement actions, such as those under section 518(f) of the Act (30 U.S.C. 1268(f)), as opposed to the permit-blocking mechanism contained in section 510(c) of the Act. *See*, *e.g.*, *NMA* v. *DOI I*, 105 F.3d at 695 (noting that ''blocking permits under section 510(c) is not the only regulatory mechanism under SMCRA'' and referencing sections 518(a) (civil penalties), 518(f) (individual civil penalties), and 521(a), 30 U.S.C. 1271 (cessation orders)). As the DC Circuit concluded, some of the upstream information required under section 507(b) is relevant to other statutory provisions. For example, section 507(b)(4)'s requirement that a corporate applicant provide information pertaining to its officers and directors can be used to identify individuals subject to civil penalties under section 518(f). * * * In addition, OSM or the state regulatory authority can use the information required under section 507(b) to determine who the real applicant is—*i.e.*, to pierce the corporate veil in cases of subterfuge in order to ensure that it has the true applicant before it.

NMA v. *DOI I*, 105 F.3d at 695. We agree with the DC Circuit's analysis and similarly conclude that the upstream information we are requiring under final 30 CFR 778.11(b)(4), though in addition to the information required under section 507(b) of the Act, is necessary to ensure that regulatory authorities can make informed ''control'' determinations and implement the enforcement provisions of the Act.

While we are eliminating the requirement for applicants to disclose all of their ''controllers'' (*see* discussion below under this heading), the information we are requiring under final paragraph 778.11(b)(4) will significantly overlap with our previous upstream ownership and control information requirements at 778.11(c)(5). However, final paragraph 778.11(b)(4) has the critical advantage of being based on ''bright line,'' objective criteria. That is, all the persons required to be disclosed under the provision are readily identifiable, without subjectivity, ambiguity, confusion, or uncertainty. As such, we achieved one of the major goals of this rulemaking: creating concrete, objective information requirements while ensuring that regulatory authorities have all the information they need to ensure compliance with the Act.

We proposed several revisions to previous paragraph 778.11(c). Under this paragraph, a permit applicant must provide certain information for the persons listed in the provision. We proposed to add ''partner'' and ''member'' to this list of persons and to reorder the list. We proposed to add ''partner'' because that term is used in section 507(b)(4) of the Act and because partnerships are common business entities in the coal mining industry. Likewise, limited liability companies, comprised of ''members,'' have become prevalent in the industry. Thus, we proposed to include the term ''member'' to ensure that we obtain the necessary information for members of a limited liability company. We did not receive any adverse comments on our proposal to add ''partner'' and ''member'' to the list at section 778.11(c) and are adopting the amendments as proposed. One State

commenter said this section has been improved by adding ''partner'' and ''member.''

We also proposed to redesignate former 30 CFR 778.11(c)(4) as 30 CFR 778.11(c)(6) and to revise the regulatory language. The previous provision required permit applicants to provide certain information for every ''Person who owns 10 to 50 percent of the applicant or the operator.'' We proposed to revise the provision to read: ''Person who owns, of record, 10 percent or more of the applicant or operator.'' After due consideration to the comments received on this proposal, we are adopting the amendments as proposed. The previous provision did not cover persons who owned greater than 50 percent because those persons would have been covered under previous paragraph 778.11(c)(5). In this final rule, because we are removing previous paragraph 778.11(c)(5)—*i.e.*, the requirement to identify all owners and controllers—we are modifying the disclosure of ownership information to include all owners of 10 percent or more of the applicant and operator. This provision is designed to track section 507(b)(4) of the Act, which requires applicants to disclose ''any person owning, of record 10 per centum or more of any class of voting stock of the applicant.'' We decided not to include section 507(b)(4)'s reference to ''voting stock''; instead, final paragraph 778.11(c)(6) will include all instruments of ownership, not just voting stock. We conclude that this information, like the information required to be disclosed under final paragraph 778.11(b)(4), is necessary to ensure compliance with the Act.

As explained above, we also proposed to remove previous section 778.11(c)(5), which required applicants to identify all of their owners or controllers in a permit application. At this risk of repetition, our desire was to create a ''bright line'' reporting standard that permit applicants and regulatory authorities could easily understand. We received strong, adverse comments on this proposal (which we respond to below). Although we are finalizing this amendment as proposed, we have expanded final paragraph 778.11(b)(4), which will, as a practical matter, require applicants to identify many of the same persons they would have identified under previous section 778.11(c)(5). We note that section 507(b) of the Act does not require applicants to identify their ''owners'' or ''controllers,'' as those terms are used in the context of section 510(c), though it does require the disclosure of some upstream information. In final paragraph 778.11(b)(4), we have expanded on section 507(b)'s upstream information disclosure requirements to ensure that regulatory authorities have all the information they need to enforce section 510(c) and other provisions of the Act.

In addition to proposing to remove the requirement to list all controllers under previous section 778.11(c)(5), we proposed to remove previous paragraph 778.11(d). That section provided that ''[t]he natural person with the greatest level of effective control over the entire proposed surface coal mining operation must submit a certification, under oath, that he or she controls the proposed surface coal mining operation.''

NMA challenged previous paragraph 778.11(d) on procedural and substantive grounds, claiming, among other things, that it is vague and raises self-incrimination concerns. In our settlement with NMA, we were not required to propose elimination of this requirement; instead, in our 2003 proposed rule, we proposed to retain the ''certified controller'' concept, albeit with proposed amendments to the regulatory text. However, in our 2006 proposed rule, based on further internal deliberations and input from our State co-regulators, we proposed to remove this provision from our regulations. After reviewing comments on our 2006 proposed rule, we are adopting our proposal to remove this requirement. We conclude that the concept is unworkable given that an applicant may not know the identity of this person at the time of application, and the identity of the person may change over time. Further, the information is of questionable value to regulatory authorities because a regulatory authority cannot necessarily take an enforcement action against a person just because the person has certified that he or she is a controller. Moreover, despite the fact that applicants will not have to identify a certified controller, the person who would have been identified under this provision will almost certainly be identified under one of the other information disclosure provisions at paragraphs 778.11(b)(4) and 778.11(c). Finally, the identity of the person, at the time of application, who is expected to have the greatest level of effective control could be a matter of some dispute between the applicant and the regulatory authority. As such, retention of this provision would be at odds with our desire to create objective permit disclosure requirements.

Finally, we are adopting proposed paragraph 774.11(h) as new paragraph 778.11(e). We proposed to add a new paragraph 774.11(h) to specify that we do not need to make a finding of ownership or control under amended section 774.11 before entering into AVS the information that permit applicants are required to disclose under paragraphs 778.11(b) and (c). For example, if we find that an applicant failed to disclose an operator in a permit application, we can enter the identity of the operator into AVS without making a finding of ownership or control. This is so because an applicant is required to identify its operator under section 507(b)(1) of the Act. 30 U.S.C. 1257(b)(1); 30 CFR 778.11(b)(3).

Proposed paragraph (h) made clear that the *mere listing* of a person in AVS pursuant to 30 CFR 778.11(b) or (c) does not create a presumption or constitute a determination that such person owns or controls a surface coal mining operation. Of course, some of the persons required to be disclosed under sections 30 CFR 778.11(b) and (c) *will*, in fact, be owners or controllers, but that is because they meet the definition of *own*, *owner*, or *ownership* or *control* or *controller* at 30 CFR 701.5, not because they are listed in AVS. We did not receive any comments on our proposal and, with non-substantive changes, we are adopting the amendment as proposed. We decided to move this provision to new paragraph 778.11(e) because we determined that it makes more sense in the section pertaining to permit information.

Responses to Comments

''Upstream'' Permit Application Information

As mentioned above, the ''upstream'' information disclosure aspects of our 2006 proposed rule generated the strongest adverse comments. IMCC and other State commenters identified our proposed amendments to section 778.11 as their ''primary concern'' with our proposed rule. These commenters said that our proposed elimination of the requirement for applicants to identify their owners and controllers would leave the States in an ''untenable position'' in attempting to make control determinations and asserted that we ''painted with too broad of a brush'' in attempting to reconcile objections that our prior definition of control or controller was vague, arbitrary, and capricious. IMCC asserted that, without the information, States would have to undertake time-consuming and costly investigations, without adequate resources to do so. Other State commenter asserted that it is inappropriate and unnecessary to shift the workload to the States to identify controllers. While IMCC and other State commenters appreciate our retention of

a flexible definition of control, these commenters state that without the necessary permit application information, the discretion and flexibility that a State regulatory authority enjoys is meaningless. Finally, these commenters asserted that the lack of adequate permit application information would inhibit the States' ability to enforce various sections of the Act, including sections 510(c) and 518(f). Given that State regulatory authorities are the front-line regulators under SMCRA in most coal-producing states, we attached great weight to their comments.

IMCC and other State commenters offered concrete alternatives to alleviate the perceived shortcomings in our proposal. First, borrowing from our amended definition of *control* or *controller*, these commenters suggested that we modify our proposal by requiring applicants to disclose ''any person who has the ability to determine the manner in which a surface coal mining operation is conducted.'' We did not adopt this comment because it would have introduced the very uncertainty that we are attempting to avoid with respect to our permit application information disclosures. In this regard, another State commenter said that we overstate an applicant's uncertainty as to who its controllers are. While we agree with this commenter that our amended control definition is clearer than our previous definition, we still conclude that it is better to base our information disclosure requirements on purely objective criteria, rather than on our flexible control definition.

However, we are adopting IMCC's second suggestion. IMCC and other State commenters opined that

> if the applicant is not required to identify its controllers or the officers, directors and owners of its parent entities, the regulatory authority must find some other means to discover the identity of those persons and entities in order to determine who may be subject to individual liability and if there is subterfuge as to who is the real applicant.

To remedy this identified information deficit, these commenters suggested that we modify our proposal by requiring permit applicants to identify not only the business entities in their organizational structures but also, for each business entity, the identity of the president, chief executive officer (CEO), directors, and greater-than-10 percent shareholders. These commenters explained that presidents and CEOs are unique due to the responsibility imposed upon them under corporate law for the day-to-day operation of the entity. Likewise, directors typically elect and can remove the president and CEO, and shareholders elect the directors. By contrast, these commenters explained that, in the States' experience, it is rare that a junior officer several levels up the corporate chain is a controller. By obtaining the identified information, IMCC said that the States can effectively enforce the Act. We agree and, as discussed above, have adopted this comment in final paragraph 778.11(b)(4). IMCC's approach is an excellent compromise that allows us to create objective permit application information standards *and* obtain the information necessary for us and State regulatory authorities to enforce SMCRA.

Like the State commenters, KRC/CCC expressed dissatisfaction with our proposal to remove the requirement for applicants to identify all of their owners and controllers. These commenters stated that we could not lawfully promulgate the proposed revision based on our ''unexplained and unsubstantiated desire to establish 'bright line,' 'objective' permit information requirements.'' In support of their position, these commenters cite various excerpts from preambles to our prior rules where we explained that the ''upstream'' information provisions of previous section 778.11 were necessary to enforce section 510(c) and other provisions of the Act. They also state that ''it is inconceivable that allowing permit applicants to keep secret the identity of many, if not most, controllers would advance any of SMCRA's purposes.'' Further, these commenters state that permit applicants should not have any difficulty identifying their controllers in their permit applications. Finally, these commenters stated that we did not establish a lawful basis for our proposed revision to section 773.9. (Although the commenter referred to section 773.10, in context, it appears that the comment was actually directed at section 773.9.)

We understand and appreciate these comments. Upon consideration of these comments, and those submitted on behalf of the State regulatory authorities, we modified our proposed rule. As previously explained, under paragraph 778.11(b)(4) of this final rule, permit applicants will have to disclose each business entity in their organizational structure, up to and including their ultimate parent entity. Further, for every such business entity, applicants will be required to identify each president, CEO, and director (or persons in similar positions) and every person who owns 10 percent or more of the entity. While this upstream information is in addition to section 507's requirements, we agree with these commenters and the State commenters that this information is necessary to enforce the Act. We do reiterate, however, that under this final rule, permit applicants will not have to identify their owners or controllers as those terms are defined at final section 701.5. However, as explained above, under final paragraph 778.11(b)(4), permit applicants will be required to identify many of the same persons they would have identified under previous section 778.11(c)(5).

We disagree with these commenters to the extent they suggest that our desire to create ''bright line,'' ''objective'' permit information requirements does not justify our decision to remove the requirement for applicants to identify their owners and controllers. We believe it is a laudable goal, in and of itself, for any regulatory agency to make its rules as clear, concise, and objective as possible, which we feel we have accomplished in this final rule. Moreover, as we explained above, under heading III.B., we concluded there was a tension between our flexible control definition and the related, previous requirement for applicants to identify their controllers in permit applications. We have eliminated that tension by making the permit information disclosure requirements purely objective, while still ensuring that regulatory authorities have the information they need to enforce the Act. Further, shortly after we promulgated our 2000 rule, NMA sued us over the requirement for permit applicants to disclose all of their controllers, given the alleged vagueness of our previous definition. We perceived at least some risk of loss and, therefore, opted to settle NMA's challenge.

As mentioned, these commenters also said that permit applicants should not have any problem identifying their controllers and that allowing permit applicants to ''keep secret'' the identity of their controllers does not advance the purposes of SMCRA. As we stated in response to a similar State comment, our amended control definition is clearer than our previous definition; however, reasonable minds could still differ as to who meets the regulatory definition of *control* or *controller.* As such, we conclude that it is better to base our information disclosure requirements on purely objective criteria, rather than on our flexible control definition. This final rule is fully authorized by, and advances the purposes of, SMCRA. The rule comports with sections 507 and 510 of the Act, and provides regulatory authorities with the additional information they need to enforce the Act. The information

required under final paragraph 778.11(b)(4) will give regulatory authorities a complete picture of the applicant, allowing regulatory authorities to make informed permitting decisions and to take enforcement actions when necessary.

Finally, we respond to these commenters' statement that we did not establish a lawful basis for our proposed revision to section 773.9. That section, as amended in this final rule, requires regulatory authorities to rely on applicant and operator information, including the information applicants submit under section 778.11, to review the applicant's and operator's organizational structures and ownership or control relationships before making a permit eligibility determination under section 773.12. Given our adoption of final paragraph 778.11(b)(4), final section 773.9 is substantively identical to the previous provision, requiring the regulatory authority to engage in the same type of review, based on similar information, prior to making a permit eligibility determination. By not changing the substance of the provision, we have eliminated these commenters' concern that we did not provide a lawful basis for the proposed change.

NMA and other industry commenters strongly supported our proposed removal of the requirement for permit applicants to identify all of their owners and controllers in their permit applications, primarily because our proposal more closely resembled the information disclosure requirements of section 507 of the Act.

However, these commenters strongly opposed proposed paragraph 778.11(b)(4), which would have required permit applicants to disclose the identity of each business entity in the applicant's and operator's organizational structure, up to and including the ultimate parent entity of the applicant and operator. Quoting the DC Circuit's decision in *NMA* v. *DOI I,* these commenters argued that our proposal was impermissible because it amounted to an ''attempt[ ] to use section 510(c) to regulate those not covered by that section.'' *NMA* v. *DOI I,* 105 F.3d at 694. Similarly, contrary to the comments submitted by IMCC and other State regulatory authorities, one State commenter said proposed paragraph 778.11(b)(4) does not appear to be grounded in the Act and, from the regulatory viewpoint, appears to serve no purpose.

We strongly disagree with these commenters. In *NMA* v. *DOI I*, the DC Circuit concluded that when making permit eligibility determinations under section 510(c), we can only consider violations at operations the applicant owns or controls; the court struck down our ability to deny permits based on ''upstream'' violations—*i.e.*, violations at operations owned or controlled by the applicant's owners or controllers. In our proposed rule, we did not suggest that OSM could use proposed paragraph 778.11(b)(4)'s ''upstream'' information to deny permits and, therefore, we were not attempting to use section 510(c) to regulate persons not covered by that section. Further, as explained above, in *NMA* v. *DOI I,* the DC Circuit actually noted that section 507 of the Act itself requires disclosure of some upstream information that is relevant to statutory provisions other than section 510(c). *NMA* v. *DOI I,* 105 F.3d at 695. For example, the court noted that the upstream information can be used ''to identify individuals subject to civil penalties under section 518(f)'' or ''to determine who the real applicant is.'' *Id.* More importantly, in *NMA* v. *DOI II,* the DC Circuit expressly approved our previous information disclosure requirements that required permit applicants to identify all of their ''upstream'' owners or controllers. *NMA* v. *DOI II,* 177 F.3d at 9.

As explained above, we expanded proposed 778.11(b)(4) to require even more ''upstream'' information. Thus, under this final rule, permit applicants will have to disclose much of the same ''upstream'' information that they had to disclose under our prior rules. Based on our review of the comments submitted on our proposed rule, and a review of our own prior statements on the issue, we conclude that the information we are requiring in this final rule is necessary for us and the State regulatory authorities to enforce the Act. More specifically, by giving us a complete picture of the applicant and its organizational structure, the information will enhance our ability to take enforcement actions when necessary, identify ''real applicants,'' and verify the applicant's statement under section 507(b)(5) of the Act as to ''whether the applicant, any subsidiary, affiliate, or persons controlled by or under common control with the applicant'' has ever forfeited a mining bond or had a mining permit suspended or revoked within the 5-year period preceding the date of application. Because we have amply demonstrated the ''practical utility'' of the information required to be disclosed under this final rule, we also disagree with these commenters that our information requirements violate the Paperwork Reduction Act.

Certified Controller

Previous 30 CFR 778.11(d) required the natural person with the greatest level of effective control over the entire proposed surface coal mining operation to submit a certification of that status. IMCC and the States, in their comments on our 2003 proposed rule and again during our outreach meeting described above, suggested that previous paragraph 778.11(d) was problematic and that it should be eliminated. In our 2006 proposed rule, we proposed to remove the requirement. IMCC and the other State commenters did not comment on this aspect of our 2006 proposed rule and, therefore, presumably still support removal of the provision.

NMA and other industry commenters strongly supported our proposed removal of the ''certified controller'' provision. These commenters contended that the provision was vague and raised concerns about self-incrimination under the Fifth Amendment to the United States Constitution. They also noted that permit applicants may not know the identity of the person at the time of application, and the person may change over time. Finally, they stated it is unfair to require identification of the person in advance of any violations at the surface coal mining operation. While we have adopted our proposal to remove this provision, we do not agree with all of these commenters' observations. For example, we do not agree that the provision implicated the Fifth Amendment's protection against self-incrimination, nor do we agree that our prior rule was unfair to the extent it required identification of the certified controller prior to the occurrence of any violations. Rather, for the reasons discussed above, we decided to remove the provision because we agree with the States that it was relatively meaningless and lacked practical utility. We do agree with these commenters that the identity of this person may not be known at the time of application and may change over time.

KRC/CCC opposed our proposed removal of the provision, arguing that any entity competent to conduct surface coal mining operations should be able to identity the natural person with the greatest level of effective control over the proposed operation. They state that, despite NMA's litigating position, the provision was not vague and did not raise Fifth Amendment concerns. Finally, they said that the fact that the identity of the person may change over time did not justify eliminating the provision. As stated above, we agree that the provision did not implicate the

Fifth Amendment. However, we do feel that the provision lacked the pure objectivity we sought to achieve. For example, what if the regulatory authority disagreed with the applicant's designation? Could, or should, the regulatory authority substitute its judgment for that of the applicant? And, if so, to what end? As explained above, regulatory authorities could not necessarily have taken an enforcement action against a person just because the person had certified that he or she was a controller under our regulatory definition. In sum, this information is not required by the Act, and we conclude that it is not necessary to ensure compliance with the Act. Further, under final paragraphs 778.11(b) and (c), applicants will still have to disclose the identity of the persons most likely to control their surface coal mining operations (*e.g.*, officers, directors, etc.). Thus, if a violation does occur at the operation, regulatory authorities will know whom to talk to first.

Identity of Person Responsible for Submitting Form OSM–1

NMA and other industry commenters supported our proposal to remove previous 30 CFR 778.11(b)(4), which required permit applicants to identify the person(s) responsible for submitting the Coal Reclamation Fee Report (Form OSM–1) and for remitting payment to OSM. These commenters said the provision is unnecessary and duplicative. For the reasons explained above, we agree with these commenters and have adopted our proposal to remove the provision.

KRC/CCC opposed removal of the provision. They stated that when we first adopted this provision we ''necessarily concluded'' that ''identification of persons responsible for filing Form OSM–1 provides important information regarding ownership or control of the permit applicant.'' We disagree. As explained above, when we imposed this requirement in our 1989 permit information rule (54 FR 8982), we stated that: ''Furnishing the name of the person paying the reclamation fee will assist [OSM] in collecting the money and arranging for audits when necessary.'' *Id.* at 8983. We did not conclude that the information is important for ownership or control purposes. In our experience since 1989, we have found that there is little correlation between obtaining this information and our ability to collect reclamation fees and arrange for audits, particularly because we have similar provisions in our other regulations. These commenters also make the unsupported statement that requiring this information ''helps ensure the level of pre-planning that Congress sought to require the coal industry to undertake.'' We cannot speak for Congress on this point, but we note that Congress did not provide for disclosure of this information under section 507(b) of the Act. Finally, these commenters said the fact that States will most often obtain this information, even though States do not use the information for any purpose, does not justify eliminating the provision. As explained above, we see no reason to impose an information collection burden on the States, particularly when we have concluded that the information is duplicative and unnecessary. In sum, this information is not required to be disclosed under section 507 of the Act, and we conclude that removal of previous paragraph 778.11(b)(4) will not impair our ability to enforce the Act.

X. Section 843.21—Procedures for Improvidently Issued State Permits

We are adopting our 2006 proposal to remove 30 CFR 843.21 in its entirety. Section 843.21 contained Federal procedures relative to State-issued permits that may have been improvidently issued based on certain ownership or control relationships. The section provided for direct Federal inspection and enforcement, including our authority to issue notices of violation and cessation orders, if, after an initial notice, a State failed to take appropriate action or show good cause for not taking action with respect to an improvidently issued State permit. Its removal provides greater regulatory stability through clarification of the State/Federal relationship related to permitting in primacy States, which has been a source of great confusion for many years. *See, e.g.,* Coteau Prop. Co. v. 53 F. 3d 1466, 1472 (8th Cir. 1995) (''there exists a state of general confusion regarding SMCRA's allocation of power between OSM and primacy states'').

We first adopted regulations concerning improvidently issued permits on April 28, 1989 (54 FR 18438). In our 2003 proposed rule, we proposed to amend, but otherwise retain, section 843.21. More specifically, we proposed to eliminate the various provisions of section 843.21 that required posting of notices and findings on the Internet. In addition, based on our settlement with NMA, we proposed to clarify the basis for a notice under 30 CFR 843.21(a). After we issued our 2003 proposed rule, we reviewed our historic use of this section and, in our 2006 proposed rule, decided to propose its removal.

We are removing section 843.21 for two reasons. First, based on our experience implementing this section, we conclude that it is no longer needed. Since we issued the rule in 1989, we are not aware of a single instance of OSM's having to take an enforcement action under section 843.21 against a permittee holding a State-issued permit. The fact that OSM, to our knowledge, did not have to take any enforcement actions under this provision indicates to us that State regulatory authorities are making proper permit eligibility determinations in the first instance or, in the rare case of improvident permit issuance, properly applying State counterparts to our improvidently issued permit regulations. (Under our improvidently issued permit regulations—30 CFR 773.21 through 773.23—and the State counterparts to those regulations, a regulatory authority can initiate procedures to suspend or rescind permits it has improvidently issued due to certain ownership or control relationships.) Consequently, we conclude that there is not a need for the provision of previous section 843.21 authorizing us to take a direct enforcement action against a State permittee regarding a State permit that may have been improvidently issued.

The second reason we are removing section 843.21 is that a decision within the Department of the Interior caused us to reexamine our oversight role relative to State permitting decisions. On October 21, 2005, the Department of the Interior's Assistant Secretary for Land and Minerals Management (ASLMM) issued a final decision concerning a citizen's group's request that OSM conduct a Federal inspection in a case where the citizen's group was dissatisfied with a State regulatory authority's decision to issue a coal mining permit. (A copy of the ASLMM's October 21, 2005, final decision is contained in the public record for this rulemaking.) The citizen's group requested an inspection even though mining on the permit had not yet commenced and the citizen's group had failed to prosecute a direct appeal of the State's permitting decision in State tribunals.

In her decision, the ASLMM pointed out that ''OSM intervention at any stage of the state permit review and appeal process would in effect terminate the state's exclusive jurisdiction over the matter and [would frustrate SMCRA's] careful and deliberate statutory design.'' *See also Bragg* v. *Robertson,* 248 F. 3d 275, 288–289, 293–295 (4th Cir. 2001) (regulation under SMCRA is ''mutually

exclusive, either Federal or State law regulates coal mining activity in a State, but not both simultaneously''; primacy States have ''exclusive jurisdiction'' over surface coal mining operations on nonfederal lands within their borders).

The final decision also explained that in a ''primacy state, permit decisions and any appeals are solely matters of the state jurisdiction in which OSM plays no role.'' In support of this statement, the final decision cited the U.S. Court of Appeals for the District of Columbia Circuit's landmark *en banc* decision in *In re Permanent Surface Mining Regulation Litig.,* 653 F. 2d 514, 523 (DC Cir.) (*en banc*), *cert. denied sub nom., Peabody Coal Co.* v. *Watt,* 454 U.S. 822 (1981) (*PSMRL*). In that case, the *en banc* court held that SMCRA grants OSM the rulemaking authority to require States to secure permit application information beyond the Act's specific information requirements. *Id.* at 527. The court laid the groundwork for its holding with a discussion of the relative roles of the Secretary of the Interior and the States in administering the Act. More specifically, the court explained:

> In an approved and properly enforced state program, the state has the primary responsibility for achieving the purposes of the Act. First, *the State is the sole issuer of permits.* In performing this centrally important duty, the state regulatory authority decides who will mine in what areas, how long they may conduct mining operations, and under what conditions the operations will take place. *See* Act §§ 506, 510. It decides whether a permittee's techniques for avoiding environmental degradation are sufficient and whether the proposed reclamation plan is acceptable. Act § 510(b).
>
> *Administrative and judicial appeals of permit decisions are matters of state jurisdiction in which the Secretary [of the Interior] plays no role.* Act § 514.

Id. at 519 (emphasis added). In a footnote accompanying this passage, the DC Circuit went on to explain that ''[t]he independence of a state administering an approved state program under the Surface Mining Act may be contrasted with the continuing role of the Environmental Protection Agency after a state has assumed responsibility for pollution discharge permits under the Federal Water Pollution Control Act, 33 U.S.C. 1251–1376 (1976 & Supp. II 1978). The EPA Administrator retains veto power over individual permit decisions under that statute.'' *Id.*

The ASLMM's decision, and the materials cited therein, caused us to look more carefully at the statutory and regulatory scheme governing our oversight role related to State permitting decisions and, in particular, the propriety of retaining section 843.21. Inasmuch as section 843.21 authorized direct Federal enforcement against State permittees based on State permitting decisions, it was inconsistent with the ASLMM's decision and *PSMRL*'s admonition that a primacy State is the ''sole issuer of permits'' within the State.

Further, under SMCRA, State permitting is entirely separate from Federal inspections and associated Federal enforcement. The statutory provisions related to permit application review and permit decisions are found at section 510 of the Act, 30 U.S.C. 1260, and appeals of permitting decisions are provided for under section 514 of the Act, 30 U.S.C. 1264. There is no mention in these statutory provisions of the need for an inspection—the predicate to Federal enforcement under section 521 of the Act (30 U.S.C. 1271)—in connection with State permitting decisions, and certainly nothing in these provisions mandates Federal intervention in State permitting decisions. Our regulations governing administrative and judicial review of permitting decisions (30 CFR part 775) are likewise silent as to the need for an inspection in the context of permitting appeals. Moreover, nothing in our Federal inspection regulations at 30 CFR parts 842 and 843 suggests that those procedures can be used as an alternative to our permitting appeal provisions.

The Act's provisions for Federal inspections expressly provide that such inspections are of mining ''operations.'' *See* SMCRA § 517(a), 30 U.S.C. 1267(a) (referring to inspections of surface coal mining and reclamation operations) and SMCRA § 521(a) (referring to inspections of surface coal mining operations). The definitions of *surface coal mining and reclamation operations* and *surface coal mining operations* at SMCRA §§ 701(27) and (28), 30 U.S.C. 1291(27) and (28), do not mention anything about permits or permitting decisions. Instead, those definitions refer to activities and the areas upon which those activities occur. In short, the purpose of a Federal inspection is to determine what is happening *at the mine*, and, thus, SMCRA's inspection and enforcement provisions do not readily apply to State permitting decisions because they are not activities occurring at the mine. *See, e.g., Coteau*, 53 F. 3d at 1473 (''Permitting requirements such as revelation of ownership and control links are not likely to be verified through the statutorily-prescribed method of physical federal inspection of the mining operation * * *.'').

In summary, the statutory and regulatory provisions related to inspections and enforcement are separate and distinct, both practically and legally, from permitting actions. The Act and our regulations provide specific administrative and judicial procedures for persons adversely affected and seeking relief from permitting decisions; our Federal inspection regulations do not serve as an alternative to those procedures. Distinct from the review of permitting decisions, Congress provided for inspection and enforcement for activities occurring *at the mine* and purposely excluded permitting activities from the operation-specific inspection and enforcement process. In short, Congress did not intend for OSM to second guess a State's permitting decisions. Instead, the Secretary of the Interior's ultimate power over a State's lax implementation of its permitting provisions is set out in section 521(b) of the Act, 30 U.S.C. 1271(b). *PSMRL*, 653 F. 2d at 519. The Secretary's power under section 521(b) includes taking over an entire State permit-issuing process. *Id.*

In the preamble to our December 19, 2000, final rule—in which we, among other things, repromulgated previous section 843.21—we stated that, in *NMA* v. *DOI II*, the U.S. Court of Appeals for the D.C. Circuit upheld our ability to take remedial action relative to improvidently issued State permits. 65 FR 79653. After further internal review, we believe the better interpretation is that *NMA* v. *DOI II*, when taken together with the same court's decision in *PSMRL*, the ASLMM's final decision, and the statutory and regulatory framework discussed above, does not support retention of section 843.21.

In *NMA* v. *DOI II*, the D.C. Circuit addressed, among other things, NMA's assertion that our 1997 version of section 843.21 (*see* 62 FR 19450) impinged on State primacy. The D.C. Circuit agreed with NMA and invalidated our improvidently issued State permit regulations. 177 F. 3d at 9. In invalidating section 843.21, the court noted that section 521 of the Act ''sets out specific procedural requirements to be met before the Secretary may take remedial action against a state permittee.'' *Id.* Ultimately, the court concluded that our 1997 version of section 843.21 was invalid because it did not comply with the procedural requirements of section 521(a)(3) of the Act. *Id.* In our 2000 preamble, we interpreted the *NMA* v. *DOI II* decision as holding that our ability to take enforcement actions based on improvidently issued State permits is

authorized by section 521 of the Act, as long as we adhere to the specific procedures set forth in that section. Thus, in our 2000 final rule, we attempted to cure the defect in the 1997 version of section 843.21 by repromulgating it in accordance with the procedures set forth in section 521 of the Act. 65 FR 79652.

As mentioned above, we reassessed the viability of section 843.21, including our analysis of the *NMA* v. *DOI II* decision, in light of the ASLMM's final decision. Upon reexamination, we concluded that another reading of *NMA* v. *DOI II*, as it relates to our 1997 version of section 843.21, is that the court identified section 521(a)(3) of the Act as containing the only procedures under which we can take enforcement actions against a State permittee, but did not expressly hold that our improvidently issued State permits regulations could, if amended, fall within the contours of section 521(a)(3). For a number of reasons, we conclude this is the better reading of *NMA* v. *DOI II*.

For example, we have already discussed the fact that a Federal inspection of mining *operations* is a predicate to Federal enforcement under section 521(a) and that there is a mismatch between these types of inspections and alleged permitting defects. Further, as outlined in the ASLMM's decision, SMCRA's statutory scheme suggests that there is no Federal role in State permitting decisions. Up until our 2000 final rule, our provisions related to Federal enforcement against State permittees resulting from the inspections identified in section 521(a) were contained exclusively in 30 CFR 843.11 and 843.12. When we repromulgated section 843.21, we unintentionally created overlapping provisions implementing section 521(a). Removing section 843.21 eliminates any confusion or uncertainty created by these unintentionally overlapping provisions.

We did not receive any adverse comments on our proposal, but we did receive comments strongly in favor. As such, we are adopting our proposal to remove section 843.21.

IMCC and other State commenters strongly supported our proposal to remove section 843.21. These commenters stated: ''We wholeheartedly endorse and agree with all of the reasons and legal justifications set forth in OSM's well crafted preamble language accompanying the decision to remove Section 843.21.'' We appreciate this comment. In support of their position, these commenters also cited various passages of the Act, *PSMRL*, and the ASLMM decision described above. Another State commenter supported our proposal, noting that ''[r]emoval of this section reflects a more appropriate conception of the relationship between OSM and primacy states.'' We agree with these commenters' observations and took them into consideration when deciding to adopt our proposal to remove section 843.21.

NMA and other industry commenters also strongly supported our proposal, noting that ''OSM has set forth persuasive reasons for deleting this provision.'' NMA stated that removal of this provision would: (1) Conform the rules to the purpose and structure of that statute, which places exclusive regulatory and permitting jurisdiction with primacy States; (2) prevent third parties from circumventing the specific procedures for appealing State permits under the approved State permitting and administrative review provisions; and (3) recognize that inspections of mining operations were not intended, and are ill-suited, for questioning the efficacy of State permitting decisions. For the reasons set forth above, we agree with these observations.

NMA endorsed our reading of *NMA* v. *DOI II*, to the extent we suggested that the DC Circuit did not expressly hold that our previously-invalidated improvidently issued State permits regulations could, if amended, fall within the contours of section 521(a)(3). NMA also asserts that nothing in that decision suggests that section 843.21 was compelled by the Act. We agree with these comments. NMA also stated that ''OSM has clearly articulated a reasoned basis in this proposal for changing its interpretation and policy under SMCRA.'' Again, we agree.

In the balance of its comments on this issue, NMA cites many of the cases that are cited in the ASLMM's decision and in our discussion above. NMA also agreed with our observation that there is a mismatch between the subject matter of previous section 843.21 and the inspections contemplated under section 521(a) of the Act. On the other hand, NMA notes that section 521(b), 30 U.S.C. 1271(b), appears to be the one provision where Congress contemplated OSM's stepping in and becoming the regulatory authority for permitting decisions. For the reasons set forth above, we agree with these comments.

Finally, NMA noted that we ''identified compelling factual reasons'' for removing previous section 843.21, including the fact that we have never taken an enforcement action against a State permittee under previous section 843.21. NMA asserts that ''the rule has never served as an integral or necessary part of assuring that States faithfully execute their responsibilities under their approved State programs.'' Moreover, according to NMA, the previous rule was a substantial intrusion on State primacy and undermined the federalism established in SMCRA. Again, for the reasons discussed above, we agree with these comments.

Y. Section 847.11 and 847.16—Criminal Penalties and Civil Actions for Relief

In our 2000 rule, we adopted certain new ''alternative enforcement'' provisions to implement sections 518(e), 518(g), and 521(c) of the Act. 30 U.S.C. 1268(e), 1268(g), 1271(c). During the course of litigation over our 2000 final rule, NMA claimed that certain of these provisions unlawfully abrogated State prosecutorial discretion by making it mandatory for States to seek criminal penalties or institute civil actions for relief when certain specified conditions occurred. *See* 30 CFR 847.11 (2001) (criminal penalties), 847.16 (2001) (civil actions for relief), and 847.2(c) (requiring State regulatory programs to include criminal penalty and civil action provisions that are no less stringent than the Federal requirements).

Upon further reflection, we agreed that the regulatory authority—Federal or State—should have the discretion to evaluate the severity of a violation and ultimately to determine whether referral for alternative enforcement is warranted. Therefore, we agreed to settle NMA's claim. In 2003, to satisfy our obligation under the settlement, we proposed to revise our regulations at 30 CFR 847.11 and 847.16 to remove the mandatory nature of referrals for alternative enforcement. Because we continued to find merit in the proposal, we carried it forward in our 2006 proposed rule.

In this final rule, we are adopting the amendments as proposed. Specifically, we changed the word ''will'' to ''may'' in the operative provisions—*i.e.*, section 847.11 (introductory language) and paragraph 847.16(a)—to underscore that a regulatory authority ''may,'' but is not bound to, refer a particular matter for alternative enforcement.

We first promulgated these provisions in our 2000 final rule. *See generally* 65 FR 79655–58. Although we stated in the preamble to that rule that the newly-adopted provisions ''largely track the statutory provisions they implement,'' we did not explain why we chose to make these alternative enforcement actions mandatory when the Act does not compel that result.

Section 847.11 of our rules implements sections 518(e) and (g) of the Act. Under section 518(e), any person who willfully and knowingly commits certain actions, ''shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than one year or both.'' Similarly, under section 518(g), whoever knowingly undertakes certain actions, or knowingly fails to undertake certain required actions, ''shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than one year or both.'' By their terms, these sections do not make enforcement mandatory. As we explained in the preamble to our 2000 rule, the use of the word ''shall'' in sections 518(e) and (g) of SMCRA does not require the commencement of criminal proceedings, it only specifies the punishment that applies upon conviction. *See* 65 FR 79657. Thus, while these sections specify punishments, they do not specify when the regulatory authority is required to seek a conviction. As such, we assume that Congress intended for the government to retain prosecutorial discretion, as is customary in criminal law. Because we did not explain the basis for making these actions mandatory in our 2000 rule, and because we now determine that it is best for regulatory authorities to retain prosecutorial discretion, we are adopting the amendments to section 847.11 as proposed.

Section 847.16 of our rules implements section 521(c) of the Act. Under certain specified circumstances, section 521(c) of the Act provides that the ''Secretary may request the Attorney General to institute a civil action for relief * * *.'' (Emphasis added.) By its terms, this section—through use of the word ''may''—vests the Secretary with complete discretion to refer matters to the Attorney General. In our 2000 rule, we made these referrals mandatory but did not explain our rationale for deviating from the statutory text. We now conclude that it is better to afford regulatory authorities the discretion contemplated by the Act. Requiring regulatory authorities to refer even the most minor violations to the Attorney General is inefficient, time consuming, and potentially costly. As such, we are adopting our proposed amendment to paragraph 847.16(a).

IMCC and other State commenters supported our proposal. They stated that they agree ''it is important that the states retain the discretion to evaluate the severity of a violation and ultimately determine whether referral for alternative enforcement is warranted.'' Another State commenter said these sections have been improved by adding discretion for regulatory authorities. For the reasons set forth above, we agree with these comments.

NMA and other industry commenters also supported our proposal. These commenters stated that the previous rules abrogated State prosecutorial discretion by making it mandatory for States to seek criminal penalties or institute civil actions, regardless of merit. They asserted that our proposal ''will provide much rationality to the process, and will ensure that limited resources are allocated to the most important cases.'' NMA also said that our proposal was supported by case law and the Administrative Procedure Act. We agree with these comments.

KRC/CCC opposed our proposal, claiming that the ''sole reason that OSM gives for proposing the change is that it has come to sympathize with NMA's allegation that the current rule[s] unlawfully abrogate State prosecutorial discretion.'' To the contrary: We agree with NMA's assertion because it is grounded in the Act. In the discussion above, we have adequately explained the statutory authority for, and basis and purpose of, our amendments to our alternative enforcement provisions. In sum, the Act does not make alternative enforcement actions mandatory, and we conclude that it is better for regulatory authorities to retain the customary discretion in this area.

These commenters also assert that, in prior preamble statements supporting our 2000 final rule, we made clear that our previous rules did not abrogate prosecutorial discretion. For example, we said that ''[f]inal § 847.11 requires that the regulatory authority refer all cases meeting the criteria of section 518(e) and (g) to the Attorney General, who has the discretion to determine whether to act upon the referral.'' In this passage, we merely acknowledged that even if a regulatory authority makes a referral, the Attorney General will have prosecutorial discretion. In this final rule, we conclude that the SMCRA regulatory authorities, who have developed considerable expertise in the administration of the Act, should have the discretion to determine the severity of a violation in the first instance. Upon referral, the Attorney General will still have the usual prosecutorial discretion.

In another passage, we said that ''[t]he circumstances that precipitate a civil action for relief are very specific in the Act. If a regulatory authority encounters one of these circumstances, final § 847.16(a) requires that the regulatory authority refer the case to the Attorney General.'' Again, while we certainly made referrals under section 847.16(a) mandatory, we did not explain why we deviated from the statutory term ''may'' contained in section 521(c) of the Act. For the reasons discussed above, we have reconsidered the wisdom of our prior policy choice and decided to return to the language of the Act.

IV. Procedural Determinations

1. Executive Order 12866—Regulatory Planning and Review

This final rule is not considered a significant regulatory action under the criteria of Executive Order 12866.

a. The final rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities. The revisions to the regulations do not have an adverse economic impact on the coal industry or State regulatory authorities.

The revisions result in a minor reduction in expenses for the coal industry and State regulatory authorities because programmatic changes to the regulations reduce the reporting burden for certain types of applicants and transactions. Expenses are slightly reduced because revisions to the definition of transfer, assignment, or sale of permit rights at 30 CFR 701.5, result in fewer transactions or events qualifying as transfers, assignments, or sales requiring an application and regulatory approval under 30 CFR 774.17. In addition, permit applicants no longer identify all of their controllers in a permit application under 30 CFR 778.11(c), and State regulatory authorities no longer enter that information into AVS under 30 CFR 773.8(b)(1).

The programmatic changes to the regulations are estimated to result in a savings to the coal industry of approximately $64,000 per year and a savings to the State and Federal regulatory authorities of approximately $40,000 per year. None of the changes in the rule significantly alter the fundamental conceptual framework of our regulatory program.

b. This rulemaking does not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.

c. This rulemaking does not alter the budgetary effects of entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients.

d. This rulemaking does not raise novel legal or policy issues.

2. Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). As previously stated, the revisions to the regulations would likely reduce the cost of doing business for the regulated industry and State regulatory authorities and, therefore, would not have an adverse economic impact on the coal industry or State regulatory authorities. In addition, the rulemaking produces no adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States enterprises to compete with foreign-based enterprises in domestic or export markets.

3. Small Business Regulatory Enforcement Fairness Act

For the reasons previously stated, this rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

a. Does not have an annual effect on the economy of $100 million or more.

b. Will not cause major increases in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises.

4. Unfunded Mandates

For the reasons previously stated, 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. A statement concerning information required under the Unfunded Mandates Reform Act (2 U.S.C. 1531) is not required.

5. Executive Order 12630—Takings

We have determined that this rulemaking does not have any significant takings implications under Executive Order 12630. Therefore, a takings implication assessment is not required.

6. Executive Order 12988—Civil Justice Reform

In accordance with Executive Order 12988, the Department of the Interior's Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

7. Executive Order 13132—Federalism

For the reasons discussed above, this rule does not have significant Federalism implications that warrant the preparation of a Federalism Assessment under Executive Order 13132.

8. Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on Federally-recognized Indian tribes. We have determined that the rule would not have substantial direct effects 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.

9. Executive Order 13211—Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This rule is not considered a significant energy action under Executive Order 13211. For the reasons previously stated, the revisions to the regulations implementing SMCRA would not have a significant effect on the supply, distribution, or use of energy.

10. Paperwork Reduction Act

The collections of information contained in this final rule have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned control numbers 1029–0116 and 1029–0117.

11. National Environmental Policy Act

We have found that this final rule is categorically excluded from environmental review under section 102(2)(C) of the National Environmental Policy Act, 42 U.S.C. 4332(2)(C). This determination was made in accordance with the Department of the Interior's Departmental Manual. 516 DM 2.3(A)(2), Appendix 1.10. In addition, we have determined that none of the ''extraordinary circumstances'' exceptions to the categorical exclusion apply. 516 DM 2, Appendix 2.

12. Effect of the Rule on State Programs

Following publication of this final rule, we will evaluate the State programs approved under section 503 of SMCRA, 30 U.S.C. 1253, to determine any changes in those programs that may be necessary. When we determine that a particular State program provision should be amended, the particular State will be notified in accordance with the provisions of 30 CFR 732.17. On the basis of this rule, we have made a preliminary determination that State program revisions will be required.

List of Subjects

30 CFR Part 701

Law enforcement, Surface mining, Underground mining.

30 CFR Part 773

Administrative practice and procedure, Reporting and record keeping requirements, Surface mining, Underground mining.

30 CFR Part 774

Reporting and record keeping requirements, Surface mining, Underground mining.

30 CFR Part 778

Reporting and record keeping requirements, Surface mining, Underground mining.

30 CFR Part 843

Administrative practice and procedure, Law enforcement, Reporting and record keeping requirements, Surface mining, Underground mining.

30 CFR Part 847

Administrative practice and procedure, Law enforcement, Penalties, Surface mining, Underground mining.

Dated: November 7, 2007.

C. Stephen Allred,

Assistant Secretary, Land and Minerals Management.

■ For the reasons given in the preamble, OSM is amending 30 CFR parts 701, 773, 774, 778, 843, and 847 as set forth below.

PART 701—PERMANENT REGULATORY PROGRAM

■ 1. The authority citation for part 701 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

■ 2. Amend § 701.5 as follows:

■ a. Revise the definition of ''*control* or *controller*''.

■ b. Revise the definition of ''*own*, *owner*, or *ownership*''.

■ c. Revise the definition of ''*transfer, assignment, or sale of permit rights*''.

■ The revisions read as follows:

§ 701.5 Definitions.

* * * * *

Control or *controller*, when used in parts 773, 774, and 778 of this chapter, refers to or means—

(a) A permittee of a surface coal mining operation;

(b) An operator of a surface coal mining operation; or

(c) Any person who has the ability to determine the manner in which a surface coal mining operation is conducted.

* * * * *

Own, *owner*, or *ownership*, as used in parts 773, 774, and 778 of this chapter (except when used in the context of ownership of real property), means being a sole proprietor or owning of record in excess of 50 percent of the voting securities or other instruments of ownership of an entity.

* * * * *

Transfer, assignment, or sale of permit rights means a change of a permittee.

* * * * *

PART 773—REQUIREMENTS FOR PERMITS AND PERMIT PROCESSING

■ 3. The authority citation for part 773 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*, 16 U.S.C. 470 *et seq.*, 16 U.S.C. 661 *et seq.*, 16 U.S.C. 703 *et seq.*, 16 U.S.C. 668a *et seq.*, 16 U.S.C. 469 *et seq.*, and 16 U.S.C. 1531 *et seq.*

■ 4. Revise § 773.3 to read as follows:

§ 773.3 Information collection.

The collections of information contained in part 773 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1029–0115. The information collected will be used by the regulatory authority in processing surface coal mining permit applications. Persons intending to conduct surface coal mining operations must respond to obtain a benefit. A Federal 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. Response is required to obtain a benefit in accordance with SMCRA. Send comments regarding burden estimates or any other aspect of this collection of information, including suggestions for reducing the burden, to the Office of Surface Mining Reclamation and Enforcement, Information Collection Clearance Officer, Room 202—SIB, 1951 Constitution Avenue, NW., Washington, DC 20240.

■ 5. In § 773.7, revise paragraph (a) to read as follows:

§ 773.7 Review of permit applications.

(a) The regulatory authority will review an application for a permit, revision, or renewal; written comments and objections submitted; and records of any informal conference or hearing held on the application and issue a written decision, within a reasonable time set by the regulatory authority, either granting, requiring modification of, or denying the application. If an informal conference is held under § 773.6(c) of this part, the decision will be made within 60 days of the close of the conference.

* * * * *

■ 6. In § 773.8, revise paragraph (b)(1) to read as follows:

§ 773.8 General provisions for review of permit application information and entry of information into AVS.

* * * * *

(b) * * *

(1) The information you are required to submit under §§ 778.11 and 778.12(c) of this subchapter.

* * * * *

■ 7. In § 773.9, revise paragraph (a) to read as follows:

§ 773.9 Review of applicant and operator information.

(a) We, the regulatory authority, will rely upon the information that you, the applicant, are required to submit under § 778.11 of this subchapter, information from AVS, and any other available information, to review your and your operator's organizational structure and ownership or control relationships.

* * * * *

■ 8. In § 773.10, revise paragraphs (b) and (c) to read as follows:

§ 773.10 Review of permit history.

* * * * *

(b) We will also determine if you or your operator have previous mining experience.

(c) If you or your operator do not have any previous mining experience, we may conduct an additional review under § 774.11(f) of this subchapter. The purpose of this review will be to determine if someone else with mining experience controls the mining operation.

■ 9. In § 773.12, revise paragraphs (a)(1) and (a)(2), remove paragraphs (a)(3) and (b), and redesignate paragraphs (c), (d), and (e) as paragraphs (b), (c), and (d), respectively, to read as follows:

§ 773.12 Permit eligibility determination.

* * * * *

(a) * * *

(1) You directly own or control has an unabated or uncorrected violation; or

(2) You or your operator indirectly control has an unabated or uncorrected violation and your control was established or the violation was cited after November 2, 1988.

* * * * *

■ 10. In § 773.14, revise paragraph (b) introductory text to read as follows:

§ 773.14 Eligibility for provisionally issued permits.

* * * * *

(b) We, the regulatory authority, will find you eligible for a provisionally issued permit under this section if you demonstrate that one or more of the following circumstances exists with respect to all violations listed in paragraph (a) of this section—

* * * * *

■ 11. In § 773.21, revise paragraph (c) to read as follows:

§ 773.21 Initial review and finding requirements for improvidently issued permits.

* * * * *

(c) When we make a preliminary finding under paragraph (a) of this section, we must serve you with a written notice of the preliminary finding, which must be based on evidence sufficient to establish a *prima facie* case that your permit was improvidently issued.

* * * * *

■ 12. Amend § 773.22, by removing paragraph (d) and redesignating paragraphs (e), (f), (g), and (h) as (d), (e), (f), and (g), respectively.

■ 13. In § 773.23, revise paragraph (c)(2) to read as follows:

§ 773.23 Suspension or rescission requirements for improvidently issued permits.

* * * * *

(c) * * *

(2) Post the notice at our office closest to the permit area.

* * * * *

■ 14. In § 773.25 revise paragraphs (a) and (b) to read as follows:

* * * * *

(a) Listed in a permit application or AVS as an owner or controller of an entire surface coal mining operation, or any portion or aspect thereof:

(b) Found to be an owner or controller of an entire surface coal mining operation, or any portion or aspect thereof, under §§ 773.21 or 774.11(g) of this subchapter; or

■ 15. In § 773.26, revise the table in paragraph (a) and add new paragraph (e) to read as follows:

§ 773.26 How to challenge an ownership or control listing or finding.

* * * * *

(a) * * *

If the challenge concerns . . .	Then you must submit a written explanation to . . .
(1) a pending State or Federal permit application.	the regulatory authority with jurisdiction over the application.
(2) your ownership or control of a surface coal mining operation, and you are not currently seeking a permit.	the regulatory authority with jurisdiction over the surface coal mining operation.

* * * * *

(e) At any time, you, a person listed in AVS as an owner or controller of a surface coal mining operation, may request an informal explanation from the AVS Office as to the reason you are shown in AVS in an ownership or control capacity. Within 14 days of your request, the AVS Office will provide a response describing why you are listed in AVS.

■ 16. In § 773.27, revise paragraph (a) to read as follows:

§ 773.27 Burden of proof for ownership or control challenges.

* * * * *

(a) When you challenge a listing of ownership or control, or a finding of ownership or control made under § 774.11(g) of this subchapter, you must prove by a preponderance of the evidence that you either—

(1) Do not own or control the entire surface coal mining operation or relevant portion or aspect thereof; or

(2) Did not own or control the entire surface coal mining operation or relevant portion or aspect thereof during the relevant time period.

■ 17. In § 773.28, revise paragraph (d) to read as follows:

§ 773.28 Written agency decision on challenges to ownership or control listings or findings.

* * * * *

(d) We will post all decisions made under this section on AVS.

* * * * *

PART 774—REVISION; RENEWAL; TRANSFER, ASSIGNMENT, OR SALE OF PERMIT RIGHTS; POST-PERMIT ISSUANCE REQUIREMENTS; AND OTHER ACTIONS BASED ON OWNERSHIP, CONTROL, AND VIOLATION INFORMATION

■ 18. The authority citation for part 774 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

■ 19. Revise § 774.9 to read as follows:

§ 774.9 Information collection.

(a) The collections of information contained in part 774 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1029–0116. Regulatory authorities will use this information to:

(1) Determine if the applicant meets the requirements for revision; renewal; transfer, assignment, or sale of permit rights;

(2) Enter and update information in AVS following the issuance of a permit; and

(3) Fulfill post-permit issuance requirements and other obligations based on ownership, control, and violation information.

(b) A Federal 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. Response is required to obtain a benefit in accordance with SMCRA. Send comments regarding burden estimates or any other aspect of this collection of information, including suggestions for reducing the burden, to the Office of Surface Mining Reclamation and Enforcement, Information Collection Clearance Officer, Room 202–SIB, 1951 Constitution Avenue, NW., Washington, DC 20240.

■ 20. Amend § 774.11 as follows:

■ a. Revise the table in paragraph (a).

■ b. Revise paragraphs (e), (f), and (g).

■ c. Add new paragraph (h).

■ The amendments read as follows:

§ 774.11 Post-permit issuance requirements for regulatory authorities and other actions based on ownership, control, and violation information.

(a) * * *

We must enter into AVS all . . .	Within 30 days after . . .
(1) permit records	the permit is issued or subsequent changes made.
(2) unabated or uncorrected violations.	the abatement or correction period for a violation expires.
(3) changes to information initially required to be provided by an applicant under 30 CFR 778.11.	receiving notice of a change.
(4) changes in violation status.	abatement, correction, or termination of a violation, or a decision from an administrative or judicial tribunal.

* * * * *

(e) Entry into AVS.

(1) If you do not request a hearing, and the time for seeking a hearing has expired, we will enter our finding into AVS.

(2) If you request a hearing, we will enter our finding into AVS only if that finding is upheld on administrative appeal.

(f) At any time, we may identify any person who owns or controls an entire surface coal mining operation or any relevant portion or aspect thereof. If we identify such a person, we must issue a written preliminary finding to the person and the applicant or permittee describing the nature and extent of ownership or control. Our written preliminary finding must be based on evidence sufficient to establish a prima facie case of ownership or control.

(g) After we issue a written preliminary finding under paragraph (f) of this section, we will allow you, the person subject to the preliminary finding, 30 days in which to submit any information tending to demonstrate your lack of ownership or control. If, after reviewing any information you submit, we are persuaded that you are not an owner or controller, we will serve you a written notice to that effect. If, after reviewing any information you submit, we still find that you are an owner or controller, or if you do not submit any information within the 30-day period, we will issue a written finding and enter our finding into AVS.

(h) If we identify you as an owner or controller under paragraph (g) of this section, you may challenge the finding using the provisions of §§ 773.25, 773.26, and 773.27 of this subchapter.

■ 21. In § 774.12, revise paragraph (c) to read as follows:

§ 774.12 Post-permit issuance information requirements for permittees.

* * * * *

(c) Within 60 days of any addition, departure, or change in position of any person identified in § 778.11(c) of this subchapter, you must provide—

(1) The information required under § 778.11(d) of this subchapter; and

(2) The date of any departure.

■ 22. In § 774.17, revise paragraph (a), paragraph (d) introductory text, and paragraph (d)(1) to read as follows:

§ 774.17 Transfer, assignment, or sale of permit rights.

* * * * *

(a) *General.* No transfer, assignment, or sale of rights granted by a permit shall be made without the prior written approval of the regulatory authority. At its discretion, the regulatory authority

may allow a prospective successor in interest to engage in surface coal mining and reclamation operations under the permit during the pendency of an application for approval of a transfer, assignment, or sale of permit rights submitted under paragraph (b) of this section, provided that the prospective successor in interest can demonstrate to the satisfaction of the regulatory authority that sufficient bond coverage will remain in place.

* * * * *

(d) *Criteria for approval.* The regulatory authority may allow a permittee to transfer, assign, or sell permit rights to a successor, if it finds in writing that the successor—

(1) Is eligible to receive a permit in accordance with §§ 773.12 and 773.14 of this chapter;

* * * * *

PART 778—PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR LEGAL, FINANCIAL, COMPLIANCE, AND RELATED INFORMATION

■ 23. The authority citation for part 778 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

■ 24. Revise § 778.8 to read as follows:

§ 778.8 Information collection.

The collections of information contained in part 778 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1029–0117. The information collected will be used by the regulatory authority to ensure that all legal, financial, and compliance information requirements are satisfied before issuance of a permit. Persons intending to conduct surface coal mining operations must respond to obtain a benefit. A Federal 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. Response is required to obtain a benefit in accordance with SMCRA. Send comments regarding burden estimates or any other aspect of this collection of information, including suggestions for reducing the burden, to the Office of Surface Mining Reclamation and Enforcement, Information Collection Clearance Officer, Room 202–SIB, 1951 Constitution Avenue, NW., Washington, DC 20240.

■ 25. Amend § 778.11 as follows:

■ a. Revise the section heading.

■ b. Revise paragraph (a) introductory text and paragraphs (a)(1), (b)(4), and (c).

■ c. Remove paragraph (d).

■ d. Redesignate paragraph (e) as paragraph (d).

■ e. Revise newly designated paragraph (d) introductory text.

■ f. Add a new paragraph (e).

■ The revisions and addition read as follows:

§ 778.11 Providing applicant and operator information.

(a) You, the applicant, must provide in the permit application—

(1) A statement indicating whether you and your operator are corporations, partnerships, associations, sole proprietorships, or other business entities;

* * * * *

(b) * * *

(4) Each business entity in the applicant's and operator's organizational structure, up to and including the ultimate parent entity of the applicant and operator; for every such business entity, you must also provide the required information for every president, chief executive officer, and director (or persons in similar positions), and every person who owns, of record, 10 percent or more of the entity.

(c) For you and your operator, you must provide the information required by paragraph (d) of this section for every—

(1) Officer.

(2) Partner.

(3) Member.

(4) Director.

(5) Person performing a function similar to a director.

(6) Person who owns, of record, 10 percent or more of the applicant or operator.

(d) You must provide the following information for each person listed in paragraph (c) of this section—

* * * * *

(e) We need not make a finding as provided for under § 774.11(g) of this subchapter before entering into AVS the information required to be disclosed under this section; however, the mere listing in AVS of a person identified in paragraph (b) or (c) of this section does not create a presumption or constitute a determination that such person owns or controls a surface coal mining operation.

PART 843—FEDERAL ENFORCEMENT

■ 26. The authority citation for part 843 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

§ 843.21 [Removed]

■ 27. Remove § 843.21.

PART 847—ALTERNATIVE ENFORCEMENT

■ 28. The authority citation for part 847 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

■ 29. In § 847.11, revise the introductory text to read as follows:

§ 847.11 Criminal penalties.

Under sections 518(e) and (g) of the Act, we, the regulatory authority, may request the Attorney General to pursue criminal penalties against any person who—

* * * * *

■ 30. In § 847.16, revise paragraph (a) introductory text to read as follows:

§ 847.16 Civil actions for relief.

(a) Under section 521(c) of the Act, we, the regulatory authority, may request the Attorney General to institute a civil action for relief whenever you, the permittee, or your agent—

* * * * *

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Federal Register

Monday,
December 3, 2007

Part III

Department of Education

Office of Innovation and Improvement; Overview Information; Charter School Program (CSP); Notice Inviting Applications for New Awards for Fiscal Year (FY) 2008; Notice

DEPARTMENT OF EDUCATION

Office of Innovation and Improvement; Overview Information; Charter School Program (CSP); Notice Inviting Applications for New Awards for Fiscal Year (FY) 2008

Catalog of Federal Domestic Assistance (CFDA) Number: 84.282A.

Dates:

Applications Available: December 3, 2007.

Deadline for Transmittal of Applications: February 1, 2008.

Deadline for Intergovernmental Review: April 1, 2008.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of the CSP is to increase national understanding of the charter school model and to expand the number of high-quality charter schools available to students across the Nation by providing financial assistance for the planning, program design, and initial implementation of charter schools, and to evaluate the effects of charter schools, including their effects on students, student academic achievement, staff, and parents. The Secretary awards grants to State educational agencies (SEAs) to enable them to conduct charter school programs in their States. SEAs use their CSP funds to award subgrants to non-SEA eligible applicants for planning, program design, and initial implementation of a charter school, and to support the dissemination of information about, including information on successful practices in, charter schools.

Priorities: This competition includes five competitive preference priorities. In accordance with 34 CFR 75.105(b)(1) and 34 CFR 75.105(b)(2)(iv), priority 1 is from the notice of final priorities for discretionary grant programs, published in the **Federal Register** on October 11, 2006 (71 FR 60046), and priorities 2 through 5 are from section 5202(e) of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the No Child Left Behind Act of 2001 (NCLB), 20 U.S.C. 7221a(e).

Competitive Preference Priorities: For FY 2008 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, these priorities are competitive preference priorities. Under 34 CFR 75.105(c)(2)(i) we award up to an additional fifty (50) points to an application, depending on how well the application meets these priorities. In order to receive preference, an applicant must identify the priorities that it believes it meets and provide documentation supporting its claims. In order to receive points for priority 2 or to receive points for priorities 3 through 5, an application must meet priority 2 and must meet one or more of priorities 3 through 5.

An SEA that meets priority 2 but does not meet one or more of priorities 3 through 5 will not receive any points for priorities 2 through 5.

An SEA that does not meet priority 2 but meets one or more of priorities 3 through 5 will not receive any points for priorities 2 through 5.

These priorities are:

Priority 1—Secondary Schools (10 points). Projects that support activities and interventions aimed at improving the academic achievement of secondary school students who are at greatest risk of not meeting challenging State academic standards and not completing high school.

Priority 2—Periodic Review and Evaluation (10 points). The State provides for periodic review and evaluation by the authorized public chartering agency of each charter school at least once every five years, unless required more frequently by State law, to determine whether the charter school is meeting the terms of the school's charter, and is meeting or exceeding the student academic achievement requirements and goals for charter schools as provided under State law or the school's charter.

Priority 3—Number of High-Quality Charter Schools (10 points). The State has demonstrated progress in increasing the number of high-quality charter schools that are held accountable in the terms of the schools' charters for meeting clear and measurable objectives for the educational progress of the students attending the schools, in the period prior to the period for which an SEA applies for a grant under this competition.

Priority 4—One Authorized Public Chartering Agency Other than a Local Educational Agency (LEA), or an Appeals Process (10 points). The State—

(a) Provides for one authorized public chartering agency that is not an LEA, such as a State chartering board, for each individual or entity seeking to operate a charter school pursuant to State law; or

(b) In the case of a State in which LEAs are the only authorized public chartering agencies, allows for an appeals process for the denial of an application for a charter school.

Priority 5—High Degree of Autonomy (10 points). The State ensures that each charter school has a high degree of autonomy over the charter school's budgets and expenditures.

Note: In responding to each of the competitive preference priorities, the Secretary encourages applicants to provide documentation, including citations and examples from their State's charter school law.

Program Authority: 20 U.S.C. 7221–7221j.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 76, 77, 79, 80, 81, 82, 84, 85, 97, 98, and 99. (b) The notice of final priorities for discretionary grant programs published in the **Federal Register** on October 11, 2006 (71 FR 60046).

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: The Administration has requested $47,000,000 for new awards for this program for FY 2008. The actual level of funding, if any, depends on final congressional action. However, we are inviting applications to allow enough time to complete the grant process before the end of the current fiscal year, if Congress appropriates funds for this program.

Estimated Range of Awards: $500,000–$10,000,000 per year.

Estimated Average Size of Awards: $5,000,000 per year.

Estimated Number of Awards: 8–10.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

Note: Planning and implementation subgrants awarded by an SEA to non-SEA eligible applicants will be awarded for a period of up to three years, no more than 18 months of which may be used for planning and program design and no more than two years of which may be used for the initial implementation of a charter school. Dissemination subgrants are awarded for a period of up to two years.

III. Eligibility Information

1. *Eligible Applicants:* State educational agencies (SEA) in States with a State statute specifically authorizing the establishment of charter schools.

Note: Non-SEA eligible applicants in States in which the SEA elects not to participate in or does not have an application approved under the CSP may apply for funding directly from the Department. The Department plans to hold a separate competition for non-SEA eligible applicants under CFDA Nos. 84.282B and 84.282C.

2. *Cost Sharing or Matching:* This competition does not involve cost sharing or matching.

IV. Application and Submission Information

1. *Address to Request Application Package:* Dean Kern, U.S. Department of Education, 400 Maryland Avenue, SW., room 4W227, Washington, DC 20202–5970. Telephone: (202) 260–1882 or by e-mail: *dean.kern@ed.gov*.

If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

Individuals with disabilities may obtain a copy of the application package in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) by contacting the program contact person listed in this section.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. The Secretary strongly encourages applicants to limit Part III to the equivalent of no more than 60 pages, using the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. However, you must include all of the application narrative in Part III.

3. *Submission Dates and Times:*

Applications Available: December 3, 2007.

Deadline for Transmittal of Applications: February 1, 2008.

Applications for grants under this competition must be submitted electronically using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to section IV.6. *Other Submission Requirements* in this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII in this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

Deadline for Intergovernmental Review: April 1, 2008.

4. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

5. *Funding Restrictions:*

Use of Funds for Post-Award Planning and Design of the Educational Program and Initial Implementation of the Charter School. A non-SEA eligible applicant receiving a subgrant under this program may use the subgrant funds only for—

(a) Post-award planning and design of the educational program, which may include (i) refinement of the desired educational results and of the methods for measuring progress toward achieving those results; and (ii) professional development of teachers and other staff who will work in the charter school; and

(b) Initial implementation of the charter school, which may include (i) informing the community about the school; (ii) acquiring necessary equipment and educational materials and supplies; (iii) acquiring or developing curriculum materials; and (iv) other initial operational costs that cannot be met from State or local sources.

Use of Funds for Dissemination Activities. An SEA may reserve not more than 10 percent of its grant funds to support dissemination activities. A charter school may use those funds to assist other schools in adapting the charter school's program (or certain aspects of the charter school's program) or to disseminate information about the charter school through such activities as—

(a) Assisting other individuals with the planning and start-up of one or more new public schools, including charter schools, that are independent of the assisting charter school and the assisting charter school's developers and that agree to be held to at least as high a level of accountability as the assisting charter school;

(b) Developing partnerships with other public schools, including charter schools, designed to improve student academic achievement in each of the schools participating in the partnership;

(c) Developing curriculum materials, assessments, and other materials that promote increased student achievement and are based on successful practices within the assisting charter school; and

(d) Conducting evaluations and developing materials that document the successful practices of the assisting charter school and that are designed to improve student achievement.

Award Basis. In determining whether to approve a grant award and the amount of such award, the Department will consider, among other things, the amount of any carryover funds the applicant has under an existing grant under the program.

We reference additional regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Other Submission Requirements.* Applications for grants under this competition must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under the Charter School Program, CFDA Number 84.282A must be submitted electronically using the Governmentwide Grants.gov Apply site at *http://www.Grants.gov*. Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not e-mail an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks

before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement*.

You may access the electronic grant application for the Charter School Program at *http://www.Grants.gov*. You must search for the downloadable application package for this competition by the CFDA number. Do not include the CFDA number's alpha suffix in your search (e.g., search for 84.282, not 84.282A).

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not consider your application if it is date and time stamped by the Grants.gov system later than 4:30 p.m., Washington, DC time, on the application deadline date. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.
- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this program to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov at *http://e-Grants.ed.gov/help/GrantsgovSubmissionProcedures.pdf*.
- To submit your application via Grants.gov, you must complete all steps in the Grants.gov registration process (see *http://www.grants.gov/applicants/get_registered.jsp*). These steps include (1) registering your organization, a multi-part process that includes registration with the Central Contractor Registry (CCR); (2) registering yourself as an Authorized Organization Representative (AOR); and (3) getting authorized as an AOR by your organization. Details on these steps are outlined in the Grants.gov 3-Step Registration Guide (see *http://www.grants.gov/section910/Grants.govRegistrationBrochure.pdf*). You also must provide on your application the same D–U–N–S Number used with this registration. Please note that the registration process may take five or more business days to complete, and you must have completed all registration steps to allow you to submit successfully an application via Grants.gov. In addition you will need to update your CCR registration on an annual basis. This may take three or more business days to complete.
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.
- You must submit all documents electronically, including all information you typically provide on the following forms: Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications. Please note that two of these forms—the SF 424 and the Department of Education Supplemental Information for SF 424—have replaced the ED 424 (Application for Federal Education Assistance).
- You must attach any narrative sections of your application as files in a .DOC (document), .RTF (rich text), or .PDF (Portable Document) format. If you upload a file type other than the three file types specified in this paragraph or submit a password-protected file, we will not review that material.
- Your electronic application must comply with any page-limit requirements described in this notice.
- After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a second notification to you by e-mail. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (an ED-specified identifying number unique to your application).
- We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk, toll free, at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** in Section VII in this notice and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that that problem affected your ability to submit your application by 4:30 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

- You do not have access to the Internet; or
- You do not have the capacity to upload large documents to the Grants.gov system; *and*
- No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day

before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevent you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Dean Kern, U.S. Department of Education, 400 Maryland Avenue, SW., room 4W227, Washington, DC 20202–5970. FAX: (202) 205–5630.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the applicable following address:

By mail through the U.S. Postal Service: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.282A), 400 Maryland Avenue, SW., Washington, DC 20202–4260; or

By mail through a commercial carrier: U.S. Department of Education, Application Control Center, Stop 4260, Attention: (CFDA Number 84.282A), 7100 Old Landover Road, Landover, MD 20785–1506.

Regardless of which address you use, you must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.*

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.282A), 550 12th Street, SW., Room 7041, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8 a.m. and 4:30 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

Applicants applying for CSP grant funds must address both the statutory application requirements and the selection criteria described in the following paragraphs. An applicant may choose to respond to these application requirements in the context of its responses to the selection criteria.

(a) *Application Requirements.* (i) Describe the objectives of the SEA's charter school grant program and describe how these objectives will be fulfilled, including steps taken by the SEA to inform teachers, parents, and communities of the SEA's charter school grant program;

(ii) Describe how the SEA will inform each charter school in the State about Federal funds the charter school is eligible to receive and Federal programs in which the charter school may participate;

(iii) Describe how the SEA will ensure that each charter school in the State receives the school's commensurate share of Federal education funds that are allocated by formula each year, including during the first year of operation of the school and a year in which the school's enrollment expands significantly;

(iv) Describe how the SEA will disseminate best or promising practices of charter schools to each local educational agency (LEA) in the State;

(v) If an SEA elects to reserve part of its grant funds (no more than 10 percent) for the establishment of a revolving loan fund, describe how the revolving loan fund would operate;

(vi) If an SEA desires the Secretary to consider waivers under the authority of the CSP, include a request and justification for any waiver of statutory or regulatory provisions that the SEA believes is necessary for the successful operation of charter schools in the State; and

(vii) Describe how charter schools that are considered to be LEAs under State law and LEAs in which charter schools are located will comply with sections 613(a)(5) and 613(e)(1)(B) of the Individuals with Disabilities Education Act.

(b) *Selection Criteria.* The following selection criteria are from the authorizing statute for this program and 34 CFR 75.210 of EDGAR.

SEAs that propose to use a portion of their grant funds for dissemination activities must address each selection criterion (i) through (vi) individually and title each accordingly. SEAs that do not propose to use a portion of their grant funds for dissemination activities must address selection criteria (i) through (iv) and (vi), and need not address selection criterion (v). SEAs that do not address criterion (v) because they are not proposing to use a portion of their grant funds for dissemination activities will not be penalized.

The maximum possible score is 150 points for SEAs that do not propose to use grant funds to support dissemination activities and 180 points for SEAs that propose to use grant funds to support dissemination activities.

The maximum possible score for each criterion is indicated in parentheses following the criterion.

In evaluating an application, the Secretary considers the following criteria:

(i) The contribution the charter schools grant program will make in

assisting educationally disadvantaged and other students to achieve State academic content standards and State student academic achievement standards (30 points).

Note: The Secretary encourages applicants to provide a description of the objectives for the SEA's charter school grant program and how these objectives will be fulfilled, including steps taken by the SEA to inform teachers, parents, and communities of the SEA's charter school grant program and how the SEA will disseminate best or promising practices of charter schools to each LEA in the State.

(ii) The degree of flexibility afforded by the SEA to charter schools under the State's charter school law (30 points).

Note: The Secretary encourages the applicant to include a description of how the State's law establishes an administrative relationship between the charter school and the authorized public chartering agency and exempts charter schools from significant State or local rules that inhibit the flexible operation and management of public schools.

The Secretary also encourages the applicant to include a description of the degree of autonomy charter schools have achieved over such matters as the charter school's budget, expenditures, daily operation, and personnel in accordance with their State's law.

(iii) The number of high-quality charter schools to be created in the State (30 points).

Note: The Secretary considers the SEA's reasonable estimate of the number of new charter schools to be authorized and opened in the State during the three-year period of this grant.

The Secretary also considers how the SEA will inform each charter school in the State about Federal funds the charter school is eligible to receive and ensure that each charter school in the State receives the school's commensurate share of Federal education funds that are allocated by formula each year, including during the first year of operation of the school and during a year in which the school's enrollment expands significantly.

(iv) The quality of the management plan for the proposed project. In determining the quality of the management plan for the proposed project, the Secretary considers the adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks (30 points).

Note: In addition to describing the proposed objectives of the SEA charter school grant program and how these objectives will be fulfilled, the Secretary encourages applicants to provide descriptions of the steps to be taken by the SEA to award subgrant funds to eligible applicants desiring to receive these funds, including descriptions of the peer review process the SEA will use to review applications for assistance, the timelines for awarding such funds, and how the SEA will assess the quality of the applications.

(v) In the case of SEAs that propose to use grant funds to support dissemination activities under section 5204(f)(6) of the ESEA, the quality of the dissemination activities (15 points) and the likelihood that those activities will improve student academic achievement (15 points).

Note: The Secretary encourages applicants to describe the steps to be taken by the SEA to award these funds to eligible applicants, including descriptions of the peer review process the SEA will use to review applications for dissemination, the timelines for awarding such funds, and how the SEA will assess the quality of the applications.

(vi) The Secretary considers the quality of the evaluation to be conducted of the proposed project. In determining the quality of the evaluation, the Secretary considers the extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible (30 points).

Note: A strong evaluation plan should be included in the application narrative and should be used, as appropriate, to shape the development of the project from the beginning of the grant period. The plan should include benchmarks to monitor progress toward specific project objectives and also outcome measures to assess the impact on teaching and learning or other important outcomes for project participants. More specifically, the plan should identify the individual and/or organization that has agreed to serve as evaluator for the project and describe the qualifications of that evaluator.

The plan should describe the evaluation design, indicating: (1) What types of data will be collected; (2) when various types of data will be collected; (3) what methods will be used; (4) what instruments will be developed and when; (5) how the data will be analyzed; (6) when reports of results and outcomes will be available; and (7) how the applicant will use the information collected through the evaluation to monitor progress of the funded project and to provide accountability information both about success at the initial site and about effective strategies for replication in other settings. Applicants are encouraged to devote an appropriate level of resources to project evaluation.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we will notify your U.S. Representative and U.S. Senators and send you a Grant Award Notice (GAN). We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as specified by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on grantee reporting, please go to *http://www.ed.gov/fund/grant/apply/appforms/appforms.html.*

4. *Performance Measures:* The goal of the CSP is to support the creation and development of a large number of high-quality charter schools that are free from State or local rules that inhibit flexible operation, are held accountable for enabling students to reach challenging State performance standards, and are open to all students. The Secretary has set two performance indicators to measure this goal: (1) The number of charter schools in operation around the Nation, and (2) the percentage of charter school students who are achieving at or above the proficient level on State examinations in mathematics and reading. Additionally, the Secretary has established the following measure to examine the efficiency of the CSP: Federal cost per student in implementing a successful school (defined as a school in operation for three or more years).

All grantees will be expected to submit an annual performance report documenting their contribution in assisting the Department in meeting these performance measures.

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Dean Kern, U.S. Department of Education, 400 Maryland Avenue, SW., room 4W227, Washington, DC 20202–5961. Telephone: (202) 260–1882 or by e-mail: *dean.kern@ed.gov.*

If you use a TDD, call the FRS, toll free, at 1–800–877–8339.

VIII. Other Information

Alternative Format: Individuals with disabilities can obtain this document and a copy of the application package in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT** in section VII in this notice.

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Dated: November 28, 2007.

Morgan S. Brown,

Assistant Deputy Secretary for Innovation and Improvement.

[FR Doc. E7–23390 Filed 11–30–07; 8:45 am]

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REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT DECEMBER 3, 2007

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:
- Magnuson-Stevens Act provisions—
  - Domestic fisheries; observer health and safety; published 11-1-07

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:
- Kentucky; published 10-4-07
- Massachusetts; published 12-3-07
- Nevada; published 11-2-07

FEDERAL COMMUNICATIONS COMMISSION

Emergency Alert System; regulatory review; published 11-2-07

Radio stations; table of assignments:
- Kentucky; published 11-13-07

HEALTH AND HUMAN SERVICES DEPARTMENT

Inspector General Office, Health and Human Services Department

Medicare and State healthcare programs; fraud and abuse:
- Qualified health centers arrangements; safe harbor under Federal anti-kickback statute; published 10-4-07

HOMELAND SECURITY DEPARTMENT

Coast Guard

Drawbridge operations:
- New Jersey; published 11-9-07
- Texas; published 11-27-07

HOMELAND SECURITY DEPARTMENT

Federal Emergency Management Agency

Disaster assistance:
- Flood mitigation assistance; published 10-31-07

STATE DEPARTMENT

Exchange Visitor Program:
- Program services; fees and charges; published 11-1-07
- Sanctions and terminations; published 11-2-07

COMMENTS DUE NEXT WEEK

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:
- Alaska; fisheries of Exclusive Economic Zone—
  - Pacific halibut and sablefish; comments due by 12-14-07; published 11-14-07 [FR E7-22237]
- Northeastern United States fisheries—
  - Northeast multispecies; comments due by 12-14-07; published 11-14-07 [FR E7-22240]

Marine mammals:
- Scientific research and enhancement activities—
  - Permits; issuance criteria; comments due by 12-13-07; published 10-15-07 [FR E7-20229]
- Sea turtle conservation—
  - Chain-mat modified gear and sea scallop dredge gear; incidental take in compliance with gear modification requirements; comments due by 12-10-07; published 11-9-07 [FR E7-22073]

ENVIRONMENTAL PROTECTION AGENCY

Air programs:
- Stratospheric ozone protection—
  - Refrigerant recovery and recycling equipment standards; comments due by 12-10-07; published 11-9-07 [FR E7-21941]
  - Refrigerant recovery and recyling equipment standards; comments due by 12-10-07; published 11-9-07 [FR E7-21943]

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
- Furilazole; comments due by 12-10-07; published 10-10-07 [FR E7-19829]
- Spinetoram; comments due by 12-10-07; published 10-10-07 [FR E7-19947]

Water programs:
- Oil pollution prevention; spill prevention, control, and countermeasure rule requirements; comments due by 12-14-07; published 10-15-07 [FR E7-19701]

FEDERAL COMMUNICATIONS COMMISSION

Radio services, special:
- Advanced wireless services in 2155-2175 MHz band; service rules; comments due by 12-14-07; published 11-14-07 [FR 07-05632]

Radio stations; table of assignments:
- Arizona; comments due by 12-10-07; published 11-13-07 [FR E7-22119]
- California; comments due by 12-10-07; published 11-13-07 [FR E7-22120]
- Oklahoma; comments due by 12-10-07; published 11-13-07 [FR E7-22123]

FEDERAL RESERVE SYSTEM

Prohibition on funding of unlawful Internet gambling (Regulation GG):
- Unlawful Internet Gambling Act of 2006; implementation; comments due by 12-12-07; published 10-4-07 [FR 07-04914]

HOMELAND SECURITY DEPARTMENT

Coast Guard

Anchorage regulations:
- California; comments due by 12-10-07; published 10-11-07 [FR E7-19995]

Meetings:
- Bellaire Bridge, Bellaire, OH; public hearing; comments due by 12-12-07; published 11-15-07 [FR E7-22351]

Regattas and marine parades:
- Seventh Coast Guard District; recurring marine events; comments due by 12-13-07; published 11-13-07 [FR E7-21714]

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

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- Pet ownership for the elderly and persons with disabilities; comments due by 12-14-07; published 10-15-07 [FR E7-20196]

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Endangered and threatened species:
- Critical habitat designations—
  - Peninsular bighorn sheep; comments due by 12-10-07; published 10-10-07 [FR 07-04959]
- Findings on petitions, etc.—
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Migratory bird hunting:
- Alaska; 2008 subsistence harvest regulations; comments due by 12-14-07; published 10-15-07 [FR E7-20243]

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Occupational Safety and Health Administration

Occupational safety and health standards:
- Emergency response and preparedness; comprehensive standard; information request; comments due by 12-10-07; published 9-11-07 [FR E7-17771]

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Statutory licenses; rates and terms:
- Digital performance right in sound recordings and ephemeral recordings for new subscription service; comments due by 12-10-07; published 11-9-07 [FR E7-22044]

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Absence and leave:
- Transference of donated annual leave from an agency's voluntary leave bank program to an emergency leave program; comments due by 12-14-07; published 10-15-07 [FR E7-20205]

Federal Employees Dental and Vision Insurance Program:
- Program administration and explanation of rules; comments due by 12-14-07; published 10-15-07 [FR E7-20193]

Prevailing rate systems; comments due by 12-14-07; published 11-14-07 [FR E7-22262]

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Domestic Mail Manual:
- Automation, presorted, and carrier route flat-size mail;

new address and barcode requirements; comments due by 12-10-07; published 10-10-07 [FR E7-19932]

Automation, presorted, and carrier route rate letters; new address requirements; comments due by 12-10-07; published 10-10-07 [FR E7-19931]

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Electronic Data Gathering, Analysis, and Retrieval System (EDGAR):

Mandatory electronic submission of Investment Company Act applications and Regulation E filings; comments due by 12-14-07; published 11-9-07 [FR E7-21911]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

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Bombardier; comments due by 12-13-07; published 11-13-07 [FR E7-22103]

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Pratt & Whitney; comments due by 12-10-07; published 10-10-07 [FR E7-19927]

Rogerson Aircraft Corp.; comments due by 12-10-07; published 10-25-07 [FR E7-21001]

Viking Air Ltd.; comments due by 12-14-07; published 11-14-07 [FR E7-22264]

Airworthiness standards:

Special conditions—

Boeing Model 757 series airplanes; comments due by 12-12-07; published 11-27-07 [FR E7-23079]

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Motor vehicle safety standards:

Brake hoses; comments due by 12-10-07; published 10-9-07 [FR E7-19474]

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TREASURY DEPARTMENT

Prohibition on funding of unlawful Internet gambling:

Unlawful Internet Gambling Act of 2006; implementation; comments due by 12-12-07; published 10-4-07 [FR 07-04914]

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html*.

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H.R. 2089/P.L. 110–121

To designate the facility of the United States Postal Service located at 701 Loyola Avenue in New Orleans, Louisiana, as the "Louisiana Armed Services Veterans Post Office". (Nov. 30, 2007; 121 Stat. 1349)

H.R. 2276/P.L. 110–122

To designate the facility of the United States Postal Service located at 203 North Main Street in Vassar, Michigan, as the "Corporal Christopher E. Esckelson Post Office Building". (Nov. 30, 2007; 121 Stat. 1350)

H.R. 3297/P.L. 110–123

To designate the facility of the United States Postal Service located at 950 West Trenton Avenue in Morrisville, Pennsylvania, as the "Nate DeTample Post Office Building". (Nov. 30, 2007; 121 Stat. 1351)

H.R. 3307/P.L. 110–124

To designate the facility of the United States Postal Service located at 570 Broadway in Bayonne, New Jersey, as the "Dennis P. Collins Post Office Building". (Nov. 30, 2007; 121 Stat. 1352)

H.R. 3308/P.L. 110–125

To designate the facility of the United States Postal Service located at 216 East Main Street in Atwood, Indiana, as the "Lance Corporal David K. Fribley Post Office". (Nov. 30, 2007; 121 Stat. 1353)

H.R. 3325/P.L. 110–126

To designate the facility of the United States Postal Service located at 235 Mountain Road in Suffield, Connecticut, as the "Corporal Stephen R. Bixler Post Office". (Nov. 30, 2007; 121 Stat. 1354)

H.R. 3382/P.L. 110–127

To designate the facility of the United States Postal Service located at 200 North William Street in Goldsboro, North Carolina, as the "Philip A. Baddour, Sr. Post Office". (Nov. 30, 2007; 121 Stat. 1355)

H.R. 3446/P.L. 110–128

To designate the facility of the United States Postal Service located at 202 East Michigan Avenue in Marshall, Michigan, as the "Michael W. Schragg Post Office Building". (Nov. 30, 2007; 121 Stat. 1356)

H.R. 3518/P.L. 110–129

To designate the facility of the United States Postal Service located at 1430 South Highway 29 in Cantonment, Florida, as the "Charles H. Hendrix Post Office Building". (Nov. 30, 2007; 121 Stat. 1357)

H.R. 3530/P.L. 110–130

To designate the facility of the United States Postal Service located at 1400 Highway 41 North in Inverness, Florida, as the "Chief Warrant Officer Aaron Weaver Post Office Building". (Nov. 30, 2007; 121 Stat. 1358)

H.R. 3572/P.L. 110–131

To designate the facility of the United States Postal Service located at 4320 Blue Parkway in Kansas City, Missouri, as the "Wallace S. Hartsfield Post Office Building". (Nov. 30, 2007; 121 Stat. 1359)

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§§ 1.851–1.907	(869–062–00088–0)	61.00	Apr. 1, 2007
§§ 1.908–1.1000	(869–062–00089–8)	60.00	Apr. 1, 2007
§§ 1.1001–1.1400	(869–062–00090–1)	61.00	Apr. 1, 2007
§§ 1.1401–1.1550	(869–062–00091–0)	58.00	Apr. 1, 2007
§§ 1.1551–End	(869–062–00092–8)	50.00	Apr. 1, 2007
2–29	(869–062–00093–6)	60.00	Apr. 1, 2007
30–39	(869–062–00094–4)	41.00	Apr. 1, 2007
40–49	(869–062–00095–2)	28.00	[7] Apr. 1, 2007
50–299	(869–062–00096–1)	42.00	Apr. 1, 2007

Title	Stock Number	Price	Revision Date
300–499	(869–062–00097–9)	61.00	Apr. 1, 2007
500–599	(869–062–00098–7)	12.00	[6] Apr. 1, 2007
600–End	(869–062–00099–5)	17.00	Apr. 1, 2007
27 Parts:			
1–39	(869–062–00100–2)	64.00	Apr. 1, 2007
40–399	(869–062–00101–1)	64.00	Apr. 1, 2007
400–End	(869–062–00102–9)	18.00	Apr. 1, 2007
28 Parts:			
0–42	(869–062–00103–7)	61.00	July 1, 2007
43–End	(869–062–00104–5)	60.00	July 1, 2007
29 Parts:			
0–99	(869–062–00105–3)	50.00	[9] July 1, 2007
100–499	(869–062–00106–1)	23.00	July 1, 2007
500–899	(869–062–00107–0)	61.00	[9] July 1, 2007
900–1899	(869–062–00108–8)	36.00	July 1, 2007
1900–1910 (§§ 1900 to 1910.999)	(869–062–00109–6)	61.00	July 1, 2007
1910 (§§ 1910.1000 to end)	(869–062–00110–0)	46.00	July 1, 2007
1911–1925	(869–062–00111–8)	30.00	July 1, 2007
1926	(869–062–00112–6)	50.00	July 1, 2007
1927–End	(869–062–00113–4)	62.00	July 1, 2007
30 Parts:			
1–199	(869–062–00114–2)	57.00	July 1, 2007
200–699	(869–062–00115–1)	50.00	July 1, 2007
700–End	(869–062–00116–9)	58.00	July 1, 2007
31 Parts:			
0–199	(869–062–00117–7)	41.00	July 1, 2007
200–499	(869–062–00118–5)	46.00	July 1, 2007
500–End	(869–062–00119–3)	62.00	July 1, 2007
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–062–00120–7)	61.00	July 1, 2007
191–399	(869–062–00121–5)	63.00	July 1, 2007
400–629	(869–062–00122–3)	61.00	July 1, 2007
630–699	(869–062–00123–1)	37.00	July 1, 2007
700–799	(869–062–00124–0)	46.00	July 1, 2007
800–End	(869–062–00125–8)	47.00	July 1, 2007
33 Parts:			
1–124	(869–062–00126–6)	57.00	July 1, 2007
125–199	(869–062–00127–4)	61.00	July 1, 2007
200–End	(869–062–00128–2)	57.00	July 1, 2007
34 Parts:			
1–299	(869–062–00129–1)	50.00	July 1, 2007
300–399	(869–062–00130–4)	40.00	July 1, 2007
400–End & 35	(869–062–00131–2)	61.00	[8] July 1, 2007
36 Parts:			
1–199	(869–062–00132–1)	37.00	July 1, 2007
200–299	(869–062–00133–9)	37.00	July 1, 2007
300–End	(869–062–00134–7)	61.00	July 1, 2007
37	(869–062–00135–5)	58.00	July 1, 2007
38 Parts:			
0–17	(869–062–00136–3)	60.00	July 1, 2007
18–End	(869–062–00137–1)	62.00	July 1, 2007
39	(869–062–00138–0)	42.00	July 1, 2007
40 Parts:			
1–49	(869–062–00139–8)	60.00	July 1, 2007
50–51	(869–062–00140–1)	45.00	July 1, 2007
52 (52.01–52.1018)	(869–062–00141–0)	60.00	July 1, 2007
52 (52.1019–End)	(869–062–00142–8)	64.00	July 1, 2007
53–59	(869–062–00143–6)	31.00	July 1, 2007
60 (60.1–End)	(869–062–00144–4)	58.00	July 1, 2007
60 (Apps)	(869–062–00145–2)	57.00	July 1, 2007
61–62	(869–062–00146–1)	45.00	July 1, 2007
63 (63.1–63.599)	(869–062–00147–9)	58.00	July 1, 2007
63 (63.600–63.1199)	(869–062–00148–7)	50.00	July 1, 2007
63 (63.1200–63.1439)	(869–062–00149–5)	50.00	July 1, 2007
63 (63.1440–63.6175)	(869–062–00150–9)	32.00	July 1, 2007
63 (63.6580–63.8830)	(869–062–00151–7)	32.00	July 1, 2007
63 (63.8980–End)	(869–062–00152–5)	35.00	July 1, 2007
64–71	(869–062–00153–3)	29.00	July 1, 2007
72–80	(869–062–00154–1)	62.00	July 1, 2007
81–84	(869–062–00155–0)	50.00	July 1, 2007
85–86 (85–86.599–99)	(869–062–00156–8)	61.00	July 1, 2007
86 (86.600–1–End)	(869–062–00157–6)	61.00	July 1, 2007
87–99	(869–062–00158–4)	60.00	July 1, 2007
100–135	(869–062–00159–2)	45.00	July 1, 2007
136–149	(869–062–00160–6)	61.00	July 1, 2007
150–189	(869–062–00161–4)	50.00	July 1, 2007
190–259	(869–062–00162–2)	39.00	[9] July 1, 2007
260–265	(869–062–00163–1)	50.00	July 1, 2007
266–299	(869–062–00164–9)	50.00	July 1, 2007
300–399	(869–062–00165–7)	42.00	July 1, 2007
400–424	(869–062–00166–5)	56.00	[9] July 1, 2007
425–699	(869–062–00167–3)	61.00	July 1, 2007
700–789	(869–062–00168–1)	61.00	July 1, 2007
790–End	(869–062–00169–0)	61.00	July 1, 2007
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–062–00170–3)	24.00	July 1, 2007
101	(869–062–00171–1)	21.00	July 1, 2007
102–200	(869–062–00172–0)	56.00	July 1, 2007
201–End	(869–062–00173–8)	24.00	July 1, 2007
42 Parts:			
1–399	(869–060–00173–5)	61.00	Oct. 1, 2006
400–413	(869–060–00174–3)	32.00	Oct. 1, 2006
414–429	(869–060–00175–1)	32.00	Oct. 1, 2006
430–End	(869–060–00176–0)	64.00	Oct. 1, 2006
43 Parts:			
1–999	(869–060–00177–8)	56.00	Oct. 1, 2006
1000–end	(869–060–00178–6)	62.00	Oct. 1, 2006
44	(869–060–00179–4)	50.00	Oct. 1, 2006
45 Parts:			
*1–199	(869–062–00181–9)	60.00	Oct. 1, 2007
200–499	(869–060–00181–6)	34.00	Oct. 1, 2006
500–1199	(869–060–00182–4)	56.00	Oct. 1, 2006
1200–End	(869–060–00183–2)	61.00	Oct. 1, 2006
46 Parts:			
*1–40	(869–062–00185–1)	46.00	Oct. 1, 2007
*41–69	(869–062–00186–0)	39.00	Oct. 1, 2007
70–89	(869–060–00186–7)	14.00	Oct. 1, 2006
*90–139	(869–062–00188–6)	44.00	Oct. 1, 2007
140–155	(869–060–00188–3)	25.00	Oct. 1, 2006
156–165	(869–060–00189–1)	34.00	Oct. 1, 2006
166–199	(869–060–00190–5)	46.00	Oct. 1, 2006
*200–499	(869–062–00192–4)	40.00	Oct. 1, 2007
*500–End	(869–062–00193–2)	25.00	Oct. 1, 2007
47 Parts:			
0–19	(869–060–00193–0)	61.00	Oct. 1, 2006
20–39	(869–060–00194–8)	46.00	Oct. 1, 2006
40–69	(869–060–00195–6)	40.00	Oct. 1, 2006
70–79	(869–060–00196–4)	61.00	Oct. 1, 2006
80–End	(869–060–00197–2)	61.00	Oct. 1, 2006
48 Chapters:			
*1 (Parts 1–51)	(869–062–00199–1)	63.00	Oct. 1, 2007
1 (Parts 52–99)	(869–060–00199–9)	49.00	Oct. 1, 2006
*2 (Parts 201–299)	(869–062–00201–7)	50.00	Oct. 1, 2007
3–6	(869–060–00201–4)	34.00	Oct. 1, 2006

Title	Stock Number	Price	Revision Date
7–14	(869–060–00202–2)	56.00	Oct. 1, 2006
15–28	(869–060–00203–1)	47.00	Oct. 1, 2006
29–End	(869–060–00204–9)	47.00	Oct. 1, 2006
49 Parts:			
1–99	(869–060–00205–7)	60.00	Oct. 1, 2006
100–185	(869–060–00206–5)	63.00	Oct. 1, 2006
186–199	(869–060–00207–3)	23.00	Oct. 1, 2006
200–299	(869–060–00208–1)	32.00	Oct. 1, 2006
300–399	(869–060–00209–0)	32.00	Oct. 1, 2006
400–599	(869–060–00210–3)	64.00	Oct. 1, 2006
600–999	(869–060–00211–1)	19.00	Oct. 1, 2006
*1000–1199	(869–062–00213–1)	28.00	Oct. 1, 2007
1200–End	(869–060–00213–8)	34.00	Oct. 1, 2006
50 Parts:			
1–16	(869–060–00214–6)	11.00	[10] Oct. 1, 2006
17.1–17.95(b)	(869–060–00215–4)	32.00	Oct. 1, 2006
17.95(c)–end	(869–060–00216–2)	32.00	Oct. 1, 2006
17.96–17.99(h)	(869–060–00217–1)	61.00	Oct. 1, 2006
17.99(i)–end and 17.100–end	(869–060–00218–9)	47.00	[10] Oct. 1, 2006
18–199	(869–060–00219–7)	50.00	Oct. 1, 2006
200–599	(869–060–00220–1)	45.00	Oct. 1, 2006
600–659	(869–060–00221–9)	31.00	Oct. 1, 2006
660–End	(869–060–00222–7)	31.00	Oct. 1, 2006
CFR Index and Findings Aids	(869–062–00050–2)	62.00	Jan. 1, 2007
Complete 2007 CFR set		1,389.00	2007
Microfiche CFR Edition:			
Subscription (mailed as issued)		332.00	2007
Individual copies		4.00	2007
Complete set (one-time mailing)		332.00	2006
Complete set (one-time mailing)		325.00	2005

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 2005, through January 1, 2006. The CFR volume issued as of January 1, 2005 should be retained.

[5] No amendments to this volume were promulgated during the period January 1, 2006, through January 1, 2007. The CFR volume issued as of January 6, 2006 should be retained.

[6] No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2006. The CFR volume issued as of April 1, 2000 should be retained.

[7] No amendments to this volume were promulgated during the period April 1, 2006 through April 1, 2007. The CFR volume issued as of April 1, 2006 should be retained.

[8] No amendments to this volume were promulgated during the period July 1, 2005, through July 1, 2006. The CFR volume issued as of July 1, 2005 should be retained.

[9] No amendments to this volume were promulgated during the period July 1, 2006, through July 1, 2007. The CFR volume issued as of July 1, 2006 should be retained.

[10] No amendments to this volume were promulgated during the period October 1, 2005, through October 1, 2006. The CFR volume issued as of October 1, 2005 should be retained.

TABLE OF EFFECTIVE DATES AND TIME PERIODS—DECEMBER 2007

This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

DATE OF FR PUBLICATION	15 DAYS AFTER PUBLICATION	30 DAYS AFTER PUBLICATION	45 DAYS AFTER PUBLICATION	60 DAYS AFTER PUBLICATION	90 DAYS AFTER PUBLICATION
December 3	Dec 18	Jan 2	Jan 17	Feb 1	Mar 3
December 4	Dec 19	Jan 3	Jan 18	Feb 4	Mar 3
December 5	Dec 20	Jan 4	Jan 22	Feb 4	Mar 4
December 6	Dec 21	Jan 7	Jan 22	Feb 4	Mar 5
December 7	Dec 24	Jan 7	Jan 22	Feb 5	Mar 6
December 10	Dec 26	Jan 9	Jan 24	Feb 8	Mar 10
December 11	Dec 26	Jan 10	Jan 25	Feb 11	Mar 10
December 12	Dec 27	Jan 11	Jan 28	Feb 11	Mar 11
December 13	Dec 28	Jan 14	Jan 28	Feb 11	Mar 12
December 14	Dec 31	Jan 14	Jan 28	Feb 12	Mar 13
December 17	Jan 2	Jan 16	Jan 31	Feb 15	Mar 17
December 18	Jan 2	Jan 17	Feb 1	Feb 19	Mar 17
December 19	Jan 3	Jan 18	Feb 4	Feb 19	Mar 18
December 20	Jan 4	Jan 22	Feb 4	Feb 19	Mar 19
December 21	Jan 7	Jan 22	Feb 4	Feb 19	Mar 20
December 24	Jan 8	Jan 23	Feb 7	Feb 22	Mar 24
December 26	Jan 10	Jan 25	Feb 11	Feb 25	Mar 25
December 27	Jan 11	Jan 28	Feb 11	Feb 25	Mar 26
December 28	Jan 14	Jan 28	Feb 11	Feb 26	Mar 27
December 31	Jan 15	Jan 30	Feb 14	Feb 29	Mar 31