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WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WHEN: Tuesday, May 20, 2008
9:00 a.m.–Noon

WHERE: Office of the Federal Register
Conference Room, Suite 700
800 North Capitol Street, NW.
Washington, DC 20002

RESERVATIONS: (202) 741–6008

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–0048; Directorate Identifier 2007–NM–181–AD; Amendment 39–15503; AD 2008–09–22]

RIN 2120–AA64

Airworthiness Directives; Construcciones Aeronauticas, S.A. (CASA), Model CN–235, CN–235–100, CN–235–200, CN–235–300, and C–295 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) 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:

Subsequent to accidents involving Fuel Tank System explosions in flight * * * and on ground, * * * Special Federal Aviation Regulation 88 (SFAR88) * * * required a safety review of the aircraft Fuel Tank System * * *.

* * * * *

Fuel Airworthiness Limitations are items arising from a systems safety analysis that have been shown to have failure mode(s) associated with an 'unsafe condition' * * *. These are identified in Failure Conditions for which an unacceptable probability of ignition risk could exist if specific tasks and/or practices are not performed in accordance with the manufacturers' requirements.

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

DATES: This AD becomes effective June 5, 2008.

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

FOR FURTHER INFORMATION CONTACT: Shahram Daneshmandi, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1112; fax (425) 227–1149.

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 17, 2007 (72 FR 58770). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

Subsequent to accidents involving Fuel Tank System explosions in flight * * * and on ground, the FAA published Special Federal Aviation Regulation 88 (SFAR 88) in June 2001. SFAR 88 required a safety review of the aircraft Fuel Tank System to determine that the design meets the requirements of FAR (Federal Aviation Regulation) § 25.901 and § 25.981(a) and (b).

A similar regulation has been recommended by the JAA (Joint Aviation Authorities) to the European National Aviation Authorities in JAA letter 04/00/02/07/03–L024 of 3 February 2003. The review was requested to be mandated by NAA's (National Aviation Authorities) using JAR (Joint Aviation Regulation) § 25.901(c), § 25.1309.

In August 2005 EASA published a policy statement on the process for developing instructions for maintenance and inspection of Fuel Tank System ignition source prevention (EASA D 2005/CPRO, *www.easa.eu.int/home/cert_policy_statements_en.html*) that also included the EASA expectations with regard to compliance times of the corrective actions on the unsafe and the not unsafe part of the harmonised design review results. On a global scale the TC (type certificate) holders committed themselves to the EASA published compliance dates (see EASA policy statement). The EASA policy statement has been revised in March 2006: the date of 31–12–2005 for the unsafe related actions was set at 01–07–2006.

Fuel Airworthiness Limitations are items arising from a systems safety analysis that have been shown to have failure mode(s) associated with an 'unsafe condition' as defined in FAA's memo 2003–112–15 'SFAR 88—Mandatory Action Decision Criteria'. These are identified in Failure Conditions for which an unacceptable probability of ignition risk could exist if specific tasks and/or practices are not performed in accordance with the manufacturers' requirements.

This EASA Airworthiness Directive mandates the Fuel System Airworthiness Limitations (comprising maintenance/inspection tasks and Critical Design Configuration Control Limitations (CDCCL)) for the type of aircraft, that resulted from the design reviews and the JAA recommendation and EASA policy statement mentioned above.

The corrective action is revising the Airworthiness Limitations Section of the Instructions for Continued Airworthiness to include CDCCL data. You may obtain further information by examining the MCAI in the AD docket.

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.

Explanation of Changes to the AD

EASA Airworthiness Directive 2007–0007, dated January 9, 2007, specifies to incorporate into the aircraft maintenance program the fuel airworthiness limitation (FAL) maintenance and inspection tasks defined in EADS CASA CN–235/C–295 Technical Document DT–0–C00–05001, Issue C, dated October 2006. We cited both these documents in the NPRM and specified the FAL tasks in paragraph (f)(1) of the NPRM. However, further examination of the EADS CASA Technical Document has shown that it does not contain FAL maintenance and inspection tasks. Therefore, we have removed paragraph (f)(1) of the NPRM and re-identified the remaining paragraphs in this final rule. We have also removed Note 1 of the NPRM, which gave instructions regarding maintenance documents and new inspections. That note is no longer relevant in this final rule. We have also added a difference in Note 2 of this final rule to specify that we have not included the FAL action in this final

rule. If EADS CASA CN–235/C–295 Technical Document DT–0–C00–05001, Issue C, dated October 2006, is revised in the future to include the FAL tasks, or if these tasks are included in another document, we might consider additional rulemaking then.

This AD requires operators to revise the Airworthiness Limitations Section (ALS) of the Instructions for Continued Airworthiness to include CDCCL data. Operators must comply with the terms of the ALS, as specified in sections 43.16 (for persons maintaining products) and 91.403 (for operators) of the Federal Aviation Regulations (14 CFR 43.16 and 14 CFR 91.403). However, for the FAA to require compliance with any new or more restrictive life limits and inspections that the manufacturer or the FAA might impose in the ALS, we must engage in rulemaking; if we do not engage in rulemaking, the revised limitations in the maintenance manual cannot be made mandatory. We have, however, determined that it is appropriate in this case to allow accomplishing the ALS revision by incorporating the CDCCLs as defined in later revisions of EADS CASA CN–235/C–295 Technical Document DT–0–C00–05001, Issue C, dated October 2006. Therefore, we have revised paragraph (f)(3) of the NPRM (paragraph (f)(2) of this final rule) to allow later revisions of the EADS CASA technical document as acceptable methods of compliance if they are approved by the Manager, ANM–116, International Branch, Transport Airplane Directorate, FAA, or the European Aviation Safety Agency (EASA) (or its delegated agent).

We have also added Table 1 and a new Note 1 to this final rule to provide information about the EADS CASA Component Maintenance Manuals (CMMs) that are given as references in EADS CASA CN–235/C–295 Technical Document.

Conclusion

We reviewed the relevant data and determined that air safety and the public interest require adopting the AD with the changes described previously. We also determined that these changes will not increase the economic burden on any operator or increase the scope of the AD.

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

We estimate that this AD will affect about 8 products of U.S. registry. We also estimate that it will take about 1 work-hour per product to comply with the 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 $640, or $80 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 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.

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 the NPRM, 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.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, 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:

2008–09–22 Construcciones Aeronauticas, S.A. (CASA): Amendment 39–15503. Docket No. FAA–2007–0048; Directorate Identifier 2007–NM–181–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective June 5, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all CASA Model CN–235, CN–235–100, CN–235–200, CN–235–300, and C–295 airplanes; certificated in any category.

Subject

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

Reason

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

Subsequent to accidents involving Fuel Tank System explosions in flight * * * and on ground, the FAA published Special Federal Aviation Regulation 88 (SFAR 88) in June 2001. SFAR 88 required a safety review of the aircraft Fuel Tank System to determine that the design meets the requirements of FAR (Federal Aviation Regulation) § 25.901 and § 25.981(a) and (b).

A similar regulation has been recommended by the JAA (Joint Aviation Authorities) to the European National Aviation Authorities in JAA letter 04/00/02/07/03–L024 of 3 February 2003. The review was requested to be mandated by NAA's (National Aviation Authorities) using JAR (Joint Aviation Regulation) § 25.901(c), § 25.1309.

In August 2005 EASA published a policy statement on the process for developing instructions for maintenance and inspection of Fuel Tank System ignition source prevention (EASA D 2005/CPRO, *www.easa.eu.int/home/cert_policy_statements_en.html*) that also included the EASA expectations with regard to compliance times of the corrective actions on the unsafe and the not unsafe part of the harmonised design review results. On a global scale the TC (type certificate) holders committed themselves to the EASA published compliance dates (see EASA policy statement). The EASA policy statement has been revised in March 2006: The date of 31–12–2005 for the unsafe related actions was set at 01–07–2006.

Fuel Airworthiness Limitations are items arising from a systems safety analysis that have been shown to have failure mode(s) associated with an 'unsafe condition' as defined in FAA's memo 2003–112–15 'SFAR 88—Mandatory Action Decision Criteria'. These are identified in Failure Conditions for which an unacceptable probability of ignition risk could exist if specific tasks and/or practices are not performed in accordance with the manufacturers' requirements.

This EASA Airworthiness Directive mandates the Fuel System Airworthiness Limitations (comprising maintenance/inspection tasks and Critical Design Configuration Control Limitations (CDCCL)) for the type of aircraft, that resulted from the design reviews and the JAA recommendation and EASA policy statement mentioned above.

The corrective action is revising the Airworthiness Limitations Section of the Instructions for Continued Airworthiness to include CDCCL data.

Actions and Compliance

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

(1) Within 6 months after the effective date of this AD, or before December 16, 2008, whichever occurs first, revise the Airworthiness Limitations section of the Instructions for Continued Airworthiness to include the CDCCL data using a method approved in accordance with the procedures specified in paragraph (g)(1) of this AD. One approved method is EADS CASA CN–235/C–295 Technical Document DT–0–C00–05001, Issue C, dated October 2006. Where the EADS CASA technical document refers to an EADS CASA component maintenance manual (CMM), use the applicable CMM specified in Table 1 of this AD.

TABLE 1.—APPROVED METHODS OF COMPLIANCE

CDCCL No.	CDCCL description	CMM	Revision	Date
8	Fuel pumps	Parker Hannifin CMM with Illustrated Parts List 28–22–12 (replaces CM 1C12–34).	5	January 10, 2008.
8	Centrifugal fuel boost pump	Parker Hannifin CMM with Illustrated Parts List CM 1C7–20, –21 (replaces CMM RR54170).	B	November 20, 2006.
9	Low level sensor	EADS CASA CMM with Illustrated Parts List 28–21–12	002	June 15, 2007.
10	¾″ shutoff motorized valve	Eaton CMM with Illustrated Parts List 28–20–81	2	June 20, 2006.
11	2″ motorized spherical plug pressure relief valve.	Eaton CMM with Illustrated Parts List 28–10–63	3	June 20, 2006.
12	Signal conditioner	Gull CMM with Illustrated Parts List 28–40–61	3	June 28, 2007.
13	Fuel control unit	Zodiac Intertechnique CMM 28–41–05	3	September 25, 2006.

Note 1: Table 1 does not include CMM 28–22–15, CE400150–E01, and C 17MQ0020–005SE, which are listed in EADS CASA CN–235/C–295 Technical Document DT–0–C00–05001, Issue C, dated October 2006. These CMM document numbers no longer apply. In addition, CMM document number 28–21–81 in EADS CASA CN–235/C–295 Technical Document DT–0–C00–05001, Issue C, dated October 2006, should be CMM document number 28–20–81.

(2) After accomplishing the actions specified in paragraph (f)(1) of this AD, no alternative CDCCLs may be used unless the CDCCLs are part of a later revision of EADS CASA CN–235/C–295 Technical Document DT–0–C00–05001, Issue C, dated October 2006, that is approved by the Manager, ANM–116, International Branch, Transport Airplane Directorate, FAA, or the European Aviation Safety Agency (EASA) (or its delegated agent); or unless the CDCCLs are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (g)(1) of this AD.

FAA AD Differences

Note 2: This AD differs from the MCAI and/or service information as follows: Although EASA Airworthiness Directive 2007–0007, dated January 9, 2007, specifies to incorporate into the aircraft maintenance program the fuel airworthiness limitation maintenance and inspection tasks defined in EADS CASA CN–235/C–295 Technical Document DT–0–C00–05001, Issue C, dated October 2006, we have not included that action. The EADS CASA Technical Document does not contain FAL maintenance and inspection tasks.

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, ANM–116, International Branch, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Shahram Daneshmandi, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1112; fax (425) 227–1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

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

Related Information

(h) Refer to MCAI EASA Airworthiness Directive 2007–0007, dated January 9, 2007; and EADS CASA CN–235/C–295 Technical Document DT–0–C00–05001, Issue C, dated October 2006; for related information.

Material Incorporated by Reference

(i) None.

Issued in Renton, Washington, on April 24, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–9569 Filed 4–30–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0216; Directorate Identifier 2008–CE–004–AD; Amendment 39–15489; AD 2008–09–08]

RIN 2120–AA64

Airworthiness Directives; Przedsiebiorstwo Doswiadczalno-Produkcyjne Szybownictwa ''PZL-Bielsko'' Model SZD–50–3 ''Puchacz'' Gliders

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

ACTION: Final rule.

SUMMARY: We are superseding an existing 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:

On the pre-flight check of a SZD–50–3 glider, the Right Hand (RH) wing airbrake was found impossible to retract. Investigation revealed that the occurrence was caused by a loose bolt of the ''V'' shape airbrake bellcrank, named hereafter intermediate control lever. The Left Hand (LH) wing lever also presented, to a lesser extent, a loose bolt.

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

DATES: This AD becomes effective June 5, 2008.

As of February 1, 2008 (73 FR 3623), the Director of the Federal Register approved the incorporation by reference of Allstar PZL Glider Sp. z o. o. Service Bulletin No. BE–059/SZD–50–3/2007 ''PUCHACZ,'' dated October 15, 2007, listed in this AD.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at the Docket 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, Aerospace Engineer, 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 February 26, 2008 (73 FR 10188), and proposed to supersede AD 2008–02–09, Amendment 39–15339 (73 FR 3623, January 22, 2008).

AD 2008–02–09 was issued as an interim action in order to address the need for the immediate inspection for loose attachment bolts in the left-hand and right-hand wing airbrake intermediate control lever requirement and replacement if loose attachment bolts were found.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, issued Emergency AD No. 2007–0275–E, dated October 24, 2007 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products.

The EASA AD allows for repetitive inspections at intervals not to exceed 100 hours time-in-service or 12 months, whichever occurs first after the initial inspection if no loose bolts are found. The EASA AD also requires replacing the split helical spring lock washers with tab washers and the M8x34 bolts with M8x32 bolts on both wings at the next 1,000-hour inspection after the effective date of the AD.

The Administrative Procedure Act does not permit the FAA to ''bootstrap'' a long-term requirement into an urgent safety of flight action where the rule becomes effective at the same time the public has the opportunity to comment. The short-term action and the long-term action were analyzed separately for justification to bypass prior public notice.

We are issuing this AD to address the repetitive inspections and mandatory parts replacement issues.

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 about 6 products of U.S. registry. We also estimate that it will take about 1 work-hour per product to comply with the 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 on U.S. operators to be $480, or $80 per product.

In addition, we estimate that any necessary follow-on actions will take about 12 work-hours and require parts costing $40, for a cost of $1,000 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 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 removing Amendment 39–15339 (73 FR 3623, January 22, 2008), and adding the following new AD:

2008–09–08 Przedsiebiorstwo Doswiadczalno-Produkcyjne Szybownictwa ''PZL-Bielsko'': Amendment 39–15489; Docket No. FAA–2008–0216; Directorate Identifier 2008–CE–004–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective June 5, 2008.

Affected ADs

(b) This AD supersedes AD 2008–02–09, Amendment 39–15339.

Applicability

(c) This AD applies to Model SZD–50–3 ''Puchacz'' gliders, all serial numbers up to and including B–2207, 503199327, 503A04001, 503A05002, and 503A05003, 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:

On the pre-flight check of a SZD–50–3 glider, the Right Hand (RH) wing airbrake was found impossible to retract. Investigation revealed that the occurrence was caused by a loose bolt of the ''V'' shape airbrake bellcrank, named hereafter intermediate control lever. The Left Hand (LH) wing lever also presented, to a lesser extent, a loose bolt.

This AD requires inspection of the LH and RH wing airbrake intermediate control levers for loose attaching bolts and subsequent repetitive inspections and corrective actions, as necessary. As a terminating action, replacement of the bolts and their associated washers is required.

These actions are intended to address the identified unsafe condition so as to prevent loss of the airbrake control system which could result in an inadvertent forced landing with consequent sailplane damage and/or passenger injury.

Requirements Retained From AD 2008–02–09

(f) Do the following unless already done:

(1) Inspect the left-hand (LH) and the right-hand (RH) wing airbrake intermediate control levers for loose attaching bolts within 10 days after February 1, 2008 (the effective date of AD 2008–02–09), following Allstar PZL Glider Sp. z o. o. Service Bulletin No. BE–059/SZD–50–3/2007 ''PUCHACZ,'' dated October 15, 2007.

(2) If any loose bolt is found during the inspection required in paragraph (f)(1) of this AD, replace the split helical spring lock washers with tab washers and replace the M8x34 bolts with M8x32 bolts on both wings before further flight following Allstar PZL Glider Sp. z o. o. Service Bulletin No. BE–059/SZD–50–3/2007 ''PUCHACZ,'' dated October 15, 2007. After doing this replacement, no further action is required by this AD.

New Requirements of This AD: Actions and Compliance

(g) Do the following unless already done:

(1) If a loose bolt is not found during the initial inspection required in paragraph (f)(1) of this AD, repetitively inspect thereafter at intervals not to exceed 100 hours time-in-service (TIS) or 12 months, whichever occurs first, until you are required to do the replacement specified in paragraph (g)(2) or (g)(3) of this AD. Do the inspections following Allstar PZL Glider Sp. z o. o. Service Bulletin No. BE–059/SZD–50–3/2007 ''PUCHACZ,'' dated October 15, 2007.

(2) If any loose bolt is found during any inspection required in paragraph (g)(1) of this AD, replace the split helical spring lock washers with tab washers and replace the M8x34 bolts with M8x32 bolts on both wings before further flight following Allstar PZL Glider Sp. z o. o. Service Bulletin No. BE–059/SZD–50–3/2007 ''PUCHACZ,'' dated October 15, 2007. After doing this replacement, no further action is required by this AD.

(3) Replace the split helical spring lock washers with tab washers and replace the M8x34 bolts with M8x32 bolts on both wings within the next 1,000 hours TIS after June 5, 2008 (the effective date of this AD), following Allstar PZL Glider Sp. z o. o. Service Bulletin No. BE–059/SZD–50–3/2007 ''PUCHACZ,'' dated October 15, 2007. After doing this replacement, no further action is required by this AD.

FAA AD Differences

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

Other FAA AD Provisions

(h) 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, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; *telephone:* (816) 329–4130; *fax:* (816) 329–409. 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

(i) Refer to MCAI European Aviation Safety Agency (EASA) Emergency AD No. 2007–0275–E, dated October 24, 2007; and Allstar PZL Glider Sp. z o. o. Service Bulletin No. BE–059/SZD–50–3/2007 ''PUCHACZ,'' dated October 15, 2007, for related information.

Material Incorporated by Reference

(j) You must use Allstar PZL Glider Sp. z o. o. Service Bulletin No. BE–059/SZD–50–3/2007 ''PUCHACZ,'' dated October 15, 2007, to do the actions required by this AD, unless the AD specifies otherwise.

(1) On February 1, 2008 (73 FR 3623), the Director of the Federal Register previously approved the incorporation by reference of Allstar PZL Glider Sp. z o. o. Service Bulletin No. BE–059/SZD–50–3/2007 ''PUCHACZ,'' dated October 15, 2007.

(2) For service information identified in this AD, contact ALLSTAR PZL GLIDER Sp. z o.o., ul. Cieszynska 325, 453–300 Bielsko-Biala.

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

Issued in Kansas City, Missouri, on April 18, 2008.

David R. Showers,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–9578 Filed 4–30–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 95

[Docket No. 30606; Amdt. No. 474]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rules) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. This regulatory action is needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

DATES: *Effective Date:* 0901 UTC, June 5, 2008.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK. 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 95 of the Federal Aviation Regulations (14 CFR part 95) amends, suspends, or revokes IFR altitudes governing the operation of all aircraft in flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in part 95.

The Rule

The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference. The reasons and circumstances that create the need for this amendment involve matters of flight safety and operational efficiency in the National Airspace System, are related to published aeronautical charts that are essential to the user, and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment are impracticable and contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(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) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 95

Airspace, Navigation (air).

Issued in Washington, DC on April 28, 2008.

James J. Ballough,

Director, Flight Standards Service.

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me by the Administrator, part 95 of the Federal Aviation Regulations (14 CFR part 95) is amended as follows effective at 0901 UTC, June 5, 2008.

■ 1. The authority citation for part 95 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44719, 44721.

■ 2. Part 95 is amended to read as follows:

REVISIONS TO IFR ALTITUDES AND CHANGEOVER POINTS

[Amendment 474 effective date June 5, 2008]

From	To	MEA	MAA
§ 95.3001 Victor Routes—U.S.			
§ 95.3209 RNAV Route T209 Is Added To Read			
Ehejo, GA FIX	Jamta, GA WP	2000	17500
Jamta, GA WP	Colliers, SC VORTAC	2500	17500
§ 95.3251 RNAV Route T251 Is Added To Read			
Farmington, MO VORTAC	Foristell, MO VORTAC	3000	6000
Foristell, MO VORTAC	Rivrs, IL WP	2700	6000

REVISIONS TO IFR ALTITUDES AND CHANGEOVER POINTS—Continued

[Amendment 474 effective date June 5, 2008]

From	To	MEA	MAA
§ 95.4272 RNAV Route T272 Is Added To Read			
Hallsville, MO VORTAC	Vandalia, IL VORTAC	2700	6000

From	To	MEA
§ 95.6001 Victor Routes—U.S.		
§ 95.6001 VOR Federal Airway V1 Is Amended To Read in Part		
# Salisbury, MD VORTAC * 1500—MOCA # CHART NOTE: SBY R–039 UNUSABLE BELOW 5000.	Waterloo, DE VOR/DME	* 2000
§ 95.6034 VOR Federal Airway V34 Is Amended To Read in Part		
* Weets, NY FIX * 6000—MRA	Pawling, NY VOR/DME	4000
§ 95.6106 VOR Federal Airway V106 Is Amended To Read in Part		
Weard, NY FIX * 6000—MRA	* Weets, NY FIX	6000
* Weets, NY FIX * 6000—MRA	Pawling, NY VOR/DME	4000
Raymy, NH FIX * 2200—MOCA * 3000—GNSS MEA	Kennebunk, ME VORTAC	* 5500
§ 95.6123 VOR Federal Airway V123 Is Amended To Read in Part		
Mitch, MD FIX * 3000—GNSS MEA	Swann, MD FIX	* 5500
Swann, MD FIX * 4000—GNSS MEA	Tacks, MD FIX	* 7000
Haarp, CT FIX * 5000—MRA ** 2000—MOCA ** 3000—GNSS MEA	* Rymes, CT FIX	** 5000
§ 95.6157 VOR Federal Airway V157 Is Amended To Read in Part		
Lakeland, FL VORTAC	Ocala, FL VORTAC	2000
§ 95.6167 VOR Federal Airway V167 Is Amended To Read in Part		
Peake, MA FIX * 1600—MOCA	Marconi, MA VOR/DME	* 3000
Marconi, MA VOR/DME * 1600—MOCA * 4000—GNSS MEA	Kennebunk, ME VORTAC	* 5000
§ 95.6184 VOR Federal Airway V184 Is Amended To Read in Part		
Delro, PA FIX * 3900—MOCA * 4000—GNSS MEA	Modena, PA VORTAC	* 10000
§ 95.6195 VOR Federal Airway V195 Is Amended To Read in Part		
Oakland, CA VORTAC	Croit, CA FIX	4000
Croit, CA FIX * 6200—MCA CORDD, CA FIX , N BND	* Cordd, CA FIX	5000
Cordd, CA FIX * 8500—MRA ** 5000—MOCA	* Raggs, CA FIX	** 8500
* Raggs, CA FIX * 8500—MRA ** 7500—MCA BESSA, CA FIX , S BND ** 4800—MOCA	** Bessa, CA FIX	*** 7500
Bessa, CA FIX	Williams, CA VORTAC	5300

From	To	MEA
§ 95.6203 VOR Federal Airway V203 Is Amended To Read in Part		
Albany, NY VORTAC *2000—MOCA *3000—GNSS MEA	Otole, NY FIX	*6000
§ 95.6203 VOR Federal Airway V203 Is Amended To Read in Part		
Dinny, NY FIX	Saranac Lake, NY VOR/DME	6700
§ 95.6205 VOR Federal Airway V205 Is Amended To Read in Part		
Weard, NY FIX *6000—MRA *Weets, NY FIX *6000—MRA **5000—GNSS MEA	*Weets, NY FIX Stuby, CT FIX	6000 **8500
§ 95.6235 VOR Federal Airway V235 Is Amended To Read in Part		
Matzo, UT FIX *11400—MCA CEDAR CITY, UT VOR/DME , S BND	*Cedar City, UT VOR/DME	12400
§ 95.6268 VOR Federal Airway V268 Is Amended To Read in Part		
*Tonni, MA FIX *6000—MRA **5000—MRA ***4000—GNSS MEA	**Meshl, ME FIX	***5000
§ 95.6474 VOR Federal Airway V474 Is Amended To Read in Part		
Delro, PA FIX *3900—MOCA *4000—GNSS MEA	Modena, PA VORTAC	*10000
§ 95.6542 VOR Federal Airway V542 Is Amended To Read in Part		
#Albany, NY VORTAC *3000—MOCA #ALBANY R–067 UNUSABLE	Cambridge, NY VOR/DME	*4000

Airway Segment		Changeover points	
From	To	Distance	From
§ 95.8003 VOR Federal Airway Changeover Points V146 Is Amended To Add Changeover Point			
Albany, NY VORTAC	Chester, MA VOR/DME	8	Albany

[FR Doc. E8–9602 Filed 4–30–08; 8:45 am]
BILLING CODE 4910–13–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 381

[Docket No. RM08–9–000]

Annual Update of Filing Fees

April 24, 2008.

AGENCY: Federal Energy Regulatory Commission, Department of Energy.

ACTION: Final rule; annual update of Commission filing fees.

SUMMARY: In accordance with 18 CFR 381.104, the Commission issues this update of its filing fees. This notice provides the yearly update using data in the Commission's Management, Administrative, and Payroll System to calculate the new fees. The purpose of updating is to adjust the fees on the basis of the Commission's costs for Fiscal Year 2007.

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

FOR FURTHER INFORMATION CONTACT: Elizabeth Hensley, Office of the Executive Director, Federal Energy Regulatory Commission, 888 First Street, NE., Room 4R–03, Washington, DC 20426, 202–502–6240.

SUPPLEMENTARY INFORMATION:

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

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The Federal Energy Regulatory Commission (Commission) is issuing this notice to update filing fees that the Commission assesses for specific services and benefits provided to identifiable beneficiaries. Pursuant to 18 CFR 381.104, the Commission is establishing updated fees on the basis of the Commission's Fiscal Year 2007 costs. The adjusted fees announced in this notice are effective June 2, 2008. The Commission has determined, with the concurrence of the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget, that this final rule is not a major rule within the meaning of section 251 of Subtitle E of Small Business Regulatory Enforcement Fairness Act, 5 U.S.C. 804(2). The Commission is submitting this final rule to both houses of the United States Congress and to the Comptroller General of the United States.

The new fee schedule is as follows:

Fees Applicable to the Natural Gas Policy Act	
1. Petitions for rate approval pursuant to 18 CFR 284.123(b)(2). (18 CFR 381.403)	$10,440
Fees Applicable to General Activities	
1. Petition for issuance of a declaratory order (except under Part I of the Federal Power Act). (18 CFR 381.302(a))	20,970
2. Review of a Department of Energy remedial order:	
Amount in controversy	
$0–9,999. (18 CFR 381.303(b))	100
$10,000–29,999. (18 CFR 381.303(b))	600
$30,000 or more. (18 CFR 381.303(a))	30,620
3. Review of a Department of Energy denial of adjustment:	
Amount in controversy	
$0–9,999. (18 CFR 381.304(b))	100
$10,000–29,999. (18 CFR 381.304(b))	600
$30,000 or more. (18 CFR 381.304(a))	16,050
4. Written legal interpretations by the Office of General Counsel. (18 CFR 381.305(a))	6,010
Fees Applicable to Natural Gas Pipelines	
1. Pipeline certificate applications pursuant to 18 CFR 284.224. (18 CFR 381.207(b))	* 1,000
Fees Applicable to Cogenerators and Small Power Producers	
1. Certification of qualifying status as a small power production facility. (18 CFR 381.505(a))	18,030
2. Certification of qualifying status as a cogeneration facility. (18 CFR 381.505(a))	20,410

* This fee has not been changed.

List of Subjects in 18 CFR Part 381

Electric power plants, Electric utilities, Natural gas, Reporting and recordkeeping requirements.

Thomas R. Herlihy,

Executive Director.

■ In consideration of the foregoing, the Commission amends Part 381, Chapter I, Title 18, Code of Federal Regulations, as set forth below.

PART 381—FEES

■ 1. The authority citation for part 381 continues to read as follows:

Authority: 15 U.S.C. 717–717w; 16 U.S.C. 791–828c, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352; 49 U.S.C. 60502; 49 App. U.S.C. 1–85.

§ 381.302 [Amended]

■ 2. In 381.302, paragraph (a) is amended by removing ''$20,940'' and adding ''$20,970'' in its place.

§ 381.303 [Amended]

■ 3. In 381.303, paragraph (a) is amended by removing ''$30,560'' and adding ''$30,620'' in its place.

§ 381.304 [Amended]

■ 4. In 381.304, paragraph (a) is amended by removing ''$16,020'' and adding ''$16,050'' in its place.

§ 381.305 [Amended]

■ 5. In 381.305, paragraph (a) is amended by removing ''$6,000'' and adding ''$6,010'' in its place.

§ 381.403 [Amended]

■ 6. Section 381.403 is amended by removing ''$10,420'' and adding ''$10,440'' in its place.

§ 381.505 [Amended]

■ 7. In 381.505, paragraph (a) is amended by removing ''$18,000'' and adding ''$18,030'' in its place and by removing ''$20,380'' and adding ''$20,410'' in its place.

[FR Doc. E8–9548 Filed 4–30–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket No. FDA–2006–P–0405] (formerly Docket No. 2006P–0069)

Food Labeling: Health Claims; Soluble Fiber from Certain Foods and Risk of Coronary Heart Disease

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending its regulation authorizing a health claim on the relationship between soluble fiber from certain foods and risk of coronary heart disease (CHD). The amendment exempts certain foods from the nutrient content requirement of ''low fat.'' The exemption will apply if the food exceeds the ''low fat'' requirement due to fat content derived from whole oat sources. The amendment expands the use of this health claim to some whole oat products that are currently ineligible for the health claim. FDA is taking this

action in response to a petition submitted by the Quaker Oats Co.

DATES: This final rule is effective May 1, 2008.

FOR FURTHER INFORMATION CONTACT: Vincent de Jesus, Center for Food Safety and Applied Nutrition (HFS–830), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 301–436–1774.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of February 6, 2007 (72 FR 5367), FDA published a proposed rule to amend the regulation authorizing a health claim on the relationship between soluble fiber from certain foods and risk of CHD. FDA proposed to amend the CHD health claim at § 101.81 (21 CFR 101.81) so that foods that exceed the nutrient content requirement in § 101.62 for ''low fat'' due to fat content derived from whole oat sources (i.e., oat bran, rolled oats, whole oat flour, and oatrim) listed in § 101.81(c)(2)(ii)(A) would be eligible to bear the health claim. Specifically, FDA proposed to amend § 101.81(c)(2)(iii)(C) by removing the phrase, ''low fat'' food and creating a new § 101.81(c)(2)(iii)(D) to specify that the food shall meet the ''low fat'' food requirement, unless the food exceeds this requirement due to fat content derived from whole oat sources listed in § 101.81(c)(2)(ii)(A). FDA issued this proposed rule in response to a health claim petition submitted by the Quaker Oats Co. (the petitioner) on November 7, 2005, under section 403(r)(4) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 343(r)(4)). Section 403(r)(3)(B)(i) of the act (21 U.S.C. 343(r)(3)(B)(i)) states that the Secretary of Health and Human Services (the Secretary) (and, by delegation, FDA) shall issue regulations for health claims if the Secretary determines, based on the totality of publicly available scientific evidence, that there is significant scientific agreement that the claim is supported by such evidence (see also 21 CFR 101.14(c)). Section 403(r)(4) of the act sets out the procedures that FDA is to follow upon receiving a health claim petition. FDA filed the petition for comprehensive review in accordance with section 403(r)(4) of the act on February 15, 2006.

In regulations authorizing CHD-related health claims, FDA has required, with a few exceptions, that foods bearing such claims meet the ''low fat'' criterion defined by § 101.62(b)(2),[1] the ''low saturated fat'' criterion defined by § 101.62(c)(2), and the ''low cholesterol'' criterion defined by § 101.62(d)(2) (see authorized claims in 21 CFR 101.75, 101.77, 101.81, 101.82, and 101.83) rather than applying the total fat, saturated fat, and cholesterol content disqualifying levels specified in the general requirement for health claims (§ 101.14(a)(4)). The ''low fat'' criterion is currently applied to the soluble fiber from certain foods and CHD health claim in § 101.81(c)(2)(iii)(C).

Prior to the publication of this final rule, foods such as Quaker Oats Co.'s flavored reduced sugar instant oatmeal products were ineligible for the soluble fiber from certain foods and CHD health claim because these products did not meet the ''low fat'' criterion, whereas its flavored, unmodified instant oatmeal product containing the same amount of rolled oats and fat, but 12 grams (g) more sugar, per packet does meet the criterion. The removal of sugar from the flavored unmodified instant oatmeal product resulted in more whole oats (and thus fat from whole oats) per RACC. Thus, these food products were not eligible to bear the soluble fiber from certain foods and CHD health claim because these foods exceed the ''low fat'' criterion due to the fat contained in the whole oat source.

In the proposed rule, FDA stated that a food product that contains any fat from ingredients other than whole oat sources would not be exempt from the ''low fat'' requirement. However, FDA asked for comment on whether whole oat food products that contain sources of fat other than whole oat sources should be exempt from the ''low fat'' requirement and, if so, how much and what types(s) of fat contributed by these sources would be acceptable (72 FR 5367 at 5370).

FDA solicited comments on the proposed rule. The comment period closed on April 23, 2007. The agency received eight responses, each containing one or more comments, to the proposed rule. The comments were from trade associations, industry, a health professional organization, a foreign government, and consumers. Most of the comments supported the proposed amendment. One comment raised issues that were outside the scope of this rulemaking and will not be discussed in this document. The remaining comments and the agency's responses are discussed below.

(Comment 1) One comment opposed FDA exempting whole oat food products from the ''low fat'' requirement, but did not provide any specific information or data in support of its position.

(Response) The agency disagrees with this comment. FDA believes that the consumption of foods containing whole oat products is helpful in reducing the risk of CHD, and the amount by which the fat content derived solely from whole oat sources may exceed the low fat criterion would not be very significant and is not likely to be a health concern. Moreover, the exemption does not cover a food product that contains any fat from ingredients other than whole oat sources and granting this exemption will provide consumers more choices of whole oat products (72 FR 5367 at 5370). The comment did not provide any information or data in support of its position.

(Comment 2) One comment opposing the proposed rule argued that granting the exemption would be the same as saying that full fat whole oatmeal cookies could reduce the risk of heart disease.

(Response) The agency disagrees with the comment. As discussed in the proposed rule, only a limited number of products would be newly eligible to bear the claim (72 FR 5367 at 5372). Under the new exemption, a food must meet the ''low fat'' requirement ''unless the food exceeds this requirement due to fat content derived from whole oat sources'' (§ 101.81(c)(2)(iii)(D)). The products eligible to bear the claim would not contain any fat from sources other than the fat inherent in the whole oat sources. Food products that are typically made with other fat sources, such as cookies, would likely be ineligible for the claim.

(Comment 3) One comment opposing the proposed rule was concerned that the exemption allowing an exception to a marketing claim for a single food product that has been modified would confuse consumers.

(Response) FDA disagrees with the comment. Consumers will not be confused by this exemption because it does not apply only to a single food product. The final rule merely expands the use of this health claim to cover any whole oat product that was previously ineligible for the claim due to the fat derived from the whole oat source. The food product described in the petition only serves as an example of a consequence that was not intended

[1] ''Low fat'' food is defined in § 101.62(b)(2) as follows: (1) A food that has a RACC greater than 30 g or greater than 2 tablespoons and contains 3 g or less of fat per RACC; or (2) a food that has a RACC of 30 g or less or 2 tablespoons or less and contains 3 g or less of fat per reference amount customarily consumed (RACC) and per 50 g of food.

Further, under § 101.62(b)(3), meal products and main dish products (as defined in § 101.13(l) and § 101.13(m) respectively) are ''low fat'' if they contain 3 g or less of total fat per 100 g and not more than 30 percent of calories from fat.

(reduction of sugar leading to ineligibility for the claim) in the authorization of the original health claim. The agency wishes to eliminate this unintended consequence and allow consumers access to information about the health benefits of whole oat sources.

(Comment 4) One comment stated that any health claim related to CHD should meet requirements of ''low soluble fibre, low saturated fat, and low cholesterol.'' The comment did not provide any specific information or data in support of its position.

(Response) Foods eligible for CHD-related health claims are currently required to meet the definition of ''low fat,'' ''low saturated fat,'' and ''low cholesterol,'' unless specifically exempted (see 21 CFR 101.75 (dietary saturated fat and cholesterol and CHD)), 21 CFR 101.77 (fruits, vegetables, and grain products containing fiber and CHD), § 101.81 (soluble fiber and CHD), 21 CFR 101.82 (soy protein and CHD), and 21 CFR 101.83 (plant sterol/stanol esters and CHD)). This final rule does not change the nutrient content requirements for ''low saturated fat,'' ''low fat,''or ''low cholesterol'' found in these CHD-related health claims. The agency notes that the soy protein and CHD health claim also contains an exemption for the ''low fat'' requirement. Specifically, the soy protein and CHD health claim requires the food to meet the nutrient content requirement for ''low fat'' found in § 101.62 ''unless it consists of or is derived from whole soybeans and contains no fat in addition to the fat inherently present in the whole soybeans it contains or from which it is derived'' (§ 101.82(c)(2)(iii)(C)).

Contrary to what the comment infers, foods are not required to meet any soluble fiber requirements to bear a CHD-related health claim except in the specific case where fiber has been declared as the substance that is the subject of the claim (i.e., the fruits, vegetables, and grain products containing fiber and CHD-related health claim found at § 101.77 and the health claim discussed in this rule). Even in these cases, the fiber requirement is to meet certain fiber levels, not to keep the fiber (soluble or otherwise) ''low.'' The agency has determined in these CHD-related health claims that diets that are low in saturated fat and cholesterol and that include soluble fiber from certain foods may reduce the risk of CHD (see §§ 101.77(a) and 101.81(a) for explanations of the relationship between diets low in saturated fat and cholesterol that contain fiber). Therefore for these CHD-related health claims, the goal is to encourage the consumption of fiber-rich foods, and not to limit the amount of fiber in the food as the comment suggests.

(Comment 5) Two comments requested that FDA extend the exemption from the ''low fat'' requirement to other beta-glucan-containing food products, specifically whole grain barley, dry milled barley, and other barley products.

(Response) FDA is not now exempting other beta-glucan-containing food products from the ''low fat'' nutrient content requirement. As discussed in the proposed rule, it is possible that a product could exceed the maximum total fat permitted under the ''low fat'' requirement solely due to fat from whole oat sources. The total fat content of whole oat sources can be as high as 7.0 g per 100 g, whereas other cereal grain products are lower in fat. ''Whole oats contain a higher amount of total fat than barley (2.3 g per 100 g) or other cereal grains such as whole wheat (1.9 g per 100 g whole wheat flour), rice (2.9 g per 100 g brown rice) or corn (1.2 g per 100 g dry corn grits)'' (72 FR 5367 at 5369). As a result of these nutrient compositions, it is likely that additional cereal grain food products on the market consisting of other cereal grains (and not including other sources of fat) would already meet the ''low fat'' requirement for the soluble fiber claim and would not require any exemption to this requirement. The agency is aware, however, that advances in food technology (such as the reduction of sugar in oatmeal products) can lead to consequences unintended by the original health claim, and in those cases, the agency can be petitioned under section 403(r)(4) of the act to address the issue in rulemaking.

(Comment 6) Two comments requested that FDA eliminate the ''low fat'' requirement for this health claim based on the latest 2005 *Dietary Guidelines for Americans* science and dietary recommendations. The comments recommended that a ''moderate'' level of fat should be the requirement that foods eligible for the claim should have to meet. This change, the comments noted, could allow food products eligible to bear the claim to contain as much as 13 g total fat (the total fat disqualifying level). In support of their position, the comments pointed out that the 2005 *Dietary Guidelines for Americans* do not require that diets be low in fat.

(Response) FDA is not revising the rule as requested by the comment. Section 101.81(c)(2)(iii)(C) states that a food eligible to bear a soluble fiber and CHD health claim must meet the nutrient content requirements in § 101.62 for a ''low saturated fat,'' ''low cholesterol,'' and ''low fat'' food. ''Low saturated fat,'' ''low cholesterol,'' and ''low fat'' are nutrient content claims defined by regulation (§ 101.62). ''Moderate fat'' is not defined by regulation nor was defining this term foreshadowed in the proposal. However, any interested person can petition the agency to define and authorize a new nutrient content claim for ''moderate fat'' under section 403(r)(4) of the act.

(Comment 7) One comment requested that FDA exempt fat from fortificants (e.g., vitamin A palmitate) from the ''low fat'' requirement because the amount of fat from fortificants would likely be ''inconsequential.''

(Response) FDA is not granting the requested exemption. The agency asked for comment in the proposed rule about whether to exempt whole oat products that contain sources of fat other than whole oat sources and, if so, how much and what type(s) of fat contributed by these sources would be acceptable. However, FDA did not receive, nor does it have, sufficient data regarding fortificants, such as vitamin A palmitate, to determine if whole oat foods that contain sources of fat from fortificants should be exempted from the ''low fat'' requirement.

Although FDA is not now revising the rule to include fat from fortificants as a source of fat eligible for the exemption from the ''low fat'' requirement, any interested person can petition the agency for such an exemption under section 403(r)(4) of the act.

(Comment 8) One comment requested that FDA confirm the nutrient composition values for total fat because the USDA National Nutrient Database has been updated since the proposal was published in February 2007.

(Response) The agency has confirmed that the values for fat composition of the grains cited in the proposed rule (i.e., about 6.9 g per 100 g for whole oats (same as whole oat flour), 6.3 g per 100 g for rolled oats, and 7.0 g per 100 g for oat bran) have remained unchanged in the newest release of the USDA National Nutrient Database for Standard Reference, Release 20 (Ref. 1).

(Comment 9) One comment suggested that FDA also provide exemptions to the per 50 g provision of the ''low fat'' requirement for foods with small serving sizes. The comment stated that products should not need to meet the ''low fat'' criteria on a per 50 g basis in addition to a per RACC and labeled serving size basis since products with small serving sizes (e.g., ready-to-eat cereals) would not be eligible for the health claim.

(Response) FDA advises that the exemption to the ''low fat'' requirement is not restricted by this final rule to food products with typical serving sizes. If a whole oat food product with a small serving size of 30 g or less or 2 tablespoons or less exceeds the ''low fat'' requirement on a 50 g basis due to fat derived solely from the whole oat source, it is exempted from the ''low fat'' requirement as well.

Given the information discussed in the preamble to the proposed rule and the absence of contrary information in the comments, FDA is adopting as a final rule, without change, the proposed amendment to § 101.81 to exempt certain foods from the nutrient content requirement of ''low fat'' if the food exceeds this requirement due to fat content derived from whole oat sources.

II. Analysis of Economic Impacts

FDA has examined the impacts of the final rule under Executive Order 12866, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency does not believe that this final rule is an economically significant regulatory action as defined by the Executive order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because this final rule allows new voluntary behavior and imposes no additional restrictions on current practices, the agency certifies that this final rule will not have a significant impact on a substantial number of small entities.

Section 202(a) of the Unfunded Mandates Reform Act of 1995 requires that agencies prepare a written statement, which includes an assessment of anticipated costs and benefits, before finalizing ''any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year.'' The current threshold after adjustment for inflation is $127 million, using the most current (2006) Implicit Price Deflator for the Gross Domestic Product. FDA does not expect this final rule to result in any 1-year expenditure that would meet or exceed this amount.

A. The Need for Regulation

Current 21 CFR 101.81 authorizes a health claim on foods for the relationship between soluble fiber from certain foods and reduced risk of CHD. One of the requirements for the claim is the nutrient content requirement for ''low fat.'' In order to bear the claim, foods must contain no more than 3 g of fat per RACC. The RACC for plain oatmeal is 40 g dry weight and the RACC for flavored, sweetened oatmeal is 55 g dry weight, assuming that 15 g of sugar is added. The amount of fat in 40 g of rolled oats is just below 3 g, mostly polyunsaturated fatty acids and monounsaturated fatty acids. A recently introduced flavored reduced-sugar oatmeal does not meet the criterion of 3 g or less of fat per 55 g dry weight. Because the amount of added sugar in this reduced-sugar oatmeal is less than 15 g, the proportional amount of fat, essentially all from whole oats, is slightly more than 3 g of fat per 55 g of the product compared to the sweetened oatmeal, even though the total amount of fat in both the sweetened and reduced-sugar oatmeal products is the same.

The ineligibility of reduced-sugar oatmeal for this health claim due to less added sugar is an unintended consequence of the regulation. The current regulation, without amendment, causes a distortion in the market, where products are essentially penalized for adding less sugar or filler. In certain instances where two products are identical at the package level, except for the amount of sugar added, only the product with more sugar is able to carry the CHD health claim because the product with less sugar has more oats per RACC and exceeds the ''low fat'' requirement. The final rule is needed to remove this unintended consequence.

B. Regulatory Options Considered

The final rule amends the regulation authorizing a health claim on the relationship between soluble fiber from certain foods and risk of CHD. The amendment exempts certain foods from the nutrient content requirement of ''low fat''. The exemption applies if the food exceeds this requirement due to fat content derived from certain oat sources.

In drafting this rule, FDA considered two regulatory alternatives in addition to the final rule. The agency considered the following alternatives: (1) No additional regulatory action and (2) general relaxation of the total fat requirement, while keeping in place restrictions on saturated fat and cholesterol. This final rule will not be an economically significant regulatory action. FDA is not quantitatively estimating the benefits and costs of the regulatory alternatives to the final rule. In what follows, FDA qualitatively compares the costs and benefits of the regulatory options to the costs and benefits of the final rule.

1. Option one. The first option considered is no action. As stated earlier, the current rule as it stands causes an unintended distortion in the market. Consumers have a higher than necessary search cost to find products that are both reduced in sugar and that have similar attributes of those currently carrying the CHD claim. Furthermore, taking no action stifles the innovation of new products that have all of the attributes of those with the CHD claim and that are reduced in sugar.

2. *Option two*. A second alternative to the final rule is a general relaxation of the total fat requirement from all fat sources for all products covered by the rule, while keeping in place restrictions on saturated fat and cholesterol. Relaxing the restriction for total fat from whole oat sources will not dampen the signal of the CHD claim (i.e. it will not reduce the clarity of the message that products bearing that claim in their labeling may reduce the risk of CHD), whereas a general relaxation of total fat from all fat sources in such products may have a deleterious effect in that the fat content may be excessive and increase the risk of CHD and negate the health benefits from the beta-glucan soluble fiber sources. The total fat content is about 6.9 g per 100 g for whole oats (same as whole oat flour) (Ref. 1), 6.3 g per 100 g for rolled oats (Ref. 1), 7.0 g per 100 g for oat bran (Ref. 1), and 2.1 g per 100 g for oatrim (Ref. 2). Whole oats contain a higher amount of total fat than barley (2.3 g per 100 g) or other cereal grains such as whole wheat (1.9 g per 100 g whole wheat flour), rice (2.9 g per 100 g brown rice) or corn (1.2 g per 100 g dry corn grits) (Ref. 1). However, most whole oat products that are essentially all whole oats meet the ''low fat'' requirement unless fat from other sources are added. For some products that do not meet the ''low fat'' requirement due to fat from whole oat sources, the amount of fat exceeding the ''low fat'' requirement may be small. For example, if a flavored sweetened oatmeal product were made almost entirely of whole oats, the total fat content of this product would not exceed 4 g per 55 g of RACC.

Further, whole oats contain 1.2 g saturated fatty acids, 2.2 g monounsaturated fatty acids, and 2.5 g

polyunsaturated fatty acids per 100 g (Ref. 1), and thus, polyunsaturated and monounsaturated fatty acids are the predominant types of fat in whole oats. Whole oats do not contain cholesterol. The *2005 Dietary Guidelines for Americans* (Ref. 3) recommends total fat intake be kept between 20 to 35 percent of calories, with most fats coming from sources of polyunsaturated and monounsaturated fatty acids, and less than 10 percent of calories from saturated fatty acids, and cholesterol intake be kept at less than 300 mg/day. Thus, the fat profile of whole oats is consistent with the *2005 Dietary Guidelines for Americans* recommendation of a moderate amount of total fat with most sources coming from polyunsaturated and monounsaturated fatty acids, and limiting intake of saturated fatty acids and cholesterol. Relaxing the total fat requirement for fat from whole oats will not have a negative health effect, and will allow the CHD claim to retain clarity when directing consumers to products consistent with a diet that is low in saturated fat and cholesterol, and high in soluble fiber.

Relaxing the total fat requirement for fat from all fat sources in whole oat products may weaken the CHD claim signal that products bearing that claim in their labeling may reduce the risk of CHD. Under this scenario, products carrying the CHD claim could contain up to 13 g of fat per 55 g serving (i.e., the total fat disqualifying level for an individual food). The total fat disqualifying level is the level of total fat in a food above which the food will be disqualified from making a health claim (§ 101.14(a)(4)). Unlike whole oat sources, other products may have significantly more than the 3 g of fat per RACC that is the current total fat allowance for products carrying the CHD claim, and some may even approach the 13 g per RACC. Consumers using these products could easily increase their fat intake to levels above those recommended by the *2005 Dietary Guidelines for Americans* (Ref. 3). Furthermore, under current regulation that only stipulates disqualifying levels for saturated fat, cholesterol, and total fat, some of the increased fat intake could include *trans* fat.

The potential health benefits would therefore be lower and the costs higher under this option than under the final rule.

C. The Final Rule

This section details the costs and benefits of the final rule. The baseline in this case is the current rule, option one listed above, so the benefits of the final rule are derived from an increase in the number of products consumers have to choose from that carry the CHD claim. The costs of the final rule are the health effects associated with the potential net increase in fat intake and the new labeling costs if a manufacturer decides to voluntarily use the health claim.[2]

1. Coverage of the rule

Because much of the information required to assess whether a product will qualify for the CHD claim is not required on the Nutrition Facts label, FDA does not know with certainty how many products currently marketed will be affected by the final rule.[3] Furthermore, FDA cannot predict how many new products will be introduced because of the final rule.

In estimating the baseline number of products, FDA identified five products in the 2001 Food Label and Package Survey (FLAPS) (Ref. 4) that use the fiber related CHD claim. Of these products, three are hot cereals, one is a cold cereal, and one is wheat germ. Wheat germ products will not be affected by the final rule. Other types of products containing whole oats, such as cereal and snack bars, muffins, and cookies, will also not likely be affected by the final rule, as these products typically contain fat from sources other than whole oat sources, and would not be eligible to carry the CHD claim.

FLAPS is only a sample of all of the products available on the market. The five hot cereal products sampled made up 90 percent of all hot cereal sales in 2001. Therefore, it is possible that one or two products on the market that carry the CHD claim in 2001 were missed by the survey. The 6 cold cereals sampled made up only 18 percent of all cold cereal sales in 2001. Assuming the sample is representative implies that six or more products carrying the CHD claim were not included in the survey. Since 2001, new products carrying the claim may have entered the market and some products may have dropped out.

Through a search of the web and local grocery stores, FDA identified a single ''lower sugar'' hot cereal product that does not currently qualify for the CHD claim, but might under the final rule. The company that produces this product also produces two other ''lower sugar'' hot cereal products that qualify for the claim under the current rule. Beyond this single product, it is difficult to accurately predict how many products will be developed that would qualify for the claim under the final rule. Other ''lower sugar'' flavors might be developed. Furthermore, ''no sugar added'' products could be developed that could qualify for the CHD claim. Based on the current, limited information, FDA estimates that between one and ten current and future products will be affected by this final rule.

2. Benefits

The principal benefits of the final rule are derived from an increase in the number of products consumers have to choose from that carry the CHD claim. Society benefits from the increased number of CHD claim products in two ways: (1) Increased consumer information and (2) a potential health benefit.

a. Increased consumer information. Consumers place a premium on products bearing a reduced CHD risk claim. That is, they value these products more than similar products not carrying the CHD claim. Part of this premium is due to a perceived health benefit. Part of it is also due to the fact that the CHD claim on the label, if consistent,[4] This is where you want the beginning of your text to appear instantly gives the consumer a lot of information about the product and therefore reduces search costs. The final rule, for example, will greatly increase the efficiency of a consumer's search for a product that is lower in sugar and also has all the qualities of a product carrying the CHD claim.

b. Potential health benefit. If consumers substitute the new CHD claim products for less healthy alternatives, the final rule will have a positive health effect. If a consumer is currently eating a product daily that is ''lower in sugar'' but happens to be relatively high in saturated fat and cholesterol, that consumer could potentially enjoy better health by switching to the new ''lower in sugar'' product that also carries the CHD claim. For example, some evidence suggests that the risk of CHD may be decreased by more than 2 percent for every 1 g of

[2] As discussed in detail in section C.3 of this regulatory impact analysis, a firm will not choose to label its product with the CHD claim if the firm can not make up the cost in higher margins for its product, increased volume of sales, or a combination of the two. Further, consumers will not pay the higher margin, or CHD claim premium, if they do not value the product relatively more than other products not carrying the claim. This increase in consumer willingness to pay for the CHD claim, though not to be confused with health benefits, will offset the private cost of the new labels.

[3] For example, the source of the fat content is not required on the Nutrition Facts label.

[4] In section B.2 of this regulatory impact analysis, we assert that the relaxation of the total fat requirement for products made primarily of whole oats does not decrease the consistency or strength of the signal given by the CHD claim.

oat bran consumed daily (Ref. 5). Without data allowing a prediction of consumer response, FDA cannot quantify this effect. Because the number of new products is likely to be small and the total dietary intake of consumers across the population is not likely to change drastically due to substitution between breakfast cereals, the health benefit is expected to be small.

3. Costs

The principal costs of the final rule are the new labeling costs if a manufacturer decides to voluntarily use the health claim, and the possible negative health effect due to a potential increase in fat intake.

a. Labeling costs. Although voluntary labeling costs are necessarily less than the consumer premium placed on the products, it is useful to estimate the costs. Doing so gives a better idea of the costs generated and provides a lower bound to the total consumer utility gained from such products.

FDA used the 2004 Labeling Cost Model (Ref. 6) to calculate the potential new labeling costs produced by the final rule. The model calculates the cost of a new label based on the product type, label type, type of analytical and market tests necessary to develop the new label, compliance time, and inflation. Since the label is voluntary, firms can choose when to add the CHD label to their packaging and therefore can control the cost of the new label. If the firm chooses to immediately add the new label to the packaging, the full cost of redoing the label can be attributed to the CHD claim. Costs in this case will fall between $4,900 and $10,600 (mean = $6,800) per unique product. Firms typically update their label about every 3 years. If firms add the CHD claim when they would normally update their label, the cost of adding the new information on the package approaches zero.

New products that are developed because of the final rule will not incur new labeling costs due to the CHD claim label. They will simply work the claim into their initial label development. Since FDA only identified one current existing product that may qualify for the CHD claim because of the relaxation of the total fat requirement in the final rule, the one time new labeling costs are estimated to be between zero and $10,600.

b. Potential increase in fat intake. One other potential cost arises if total fat intake increases as a result of this claim. Total fat intake could either increase or decrease due to the final rule. Under the final rule, products carrying the CHD claim will on average contain more total fat than under the current rule. If there is no substitution between CHD claim products and other products, then the total intake of mostly polyunsaturated and monounsaturated fats would increase slightly in the population currently consuming CHD claim products. There is no evidence that a small increase in unsaturated fatty acids due to increased consumption of whole oat sources, even for a person eating multiple servings daily, would cause a negative health effect. In fact, a person with such a diet would still easily fall within the recommended fat intake (Ref. 3). If there is substitution between other products and CHD claims products (for example, between CHD claims cereal and other cereals that are higher in fat), it is possible that new CHD claims products might actually cause a decrease in total fat consumption.

Due to the small number of products likely to make the CHD claim in the future, the health effect is likely to be small, but because some substitution from higher fat products is likely to occur, the health effect of the final rule with respect to fat intake will probably be positive.

4. Summary of Benefits and Costs

Benefits and costs of the final rule are likely to be small because few products will be affected. Voluntary labeling costs for those manufacturers who choose to use the health claim are small (less than a one-time cost of $11,000) and necessarily less than the consumer premium placed on the products. Furthermore, it is likely that, with more product choices available bearing the CHD claim, there will be a net shift towards these products carrying the claim and away from other products. Although the size of this shift cannot be estimated with available data, it would result in a public health benefit.

III. Environmental Impact

FDA has determined under 21 CFR 25.32(p) that this action is of the 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.

IV. Paperwork Reduction Act of 1995

FDA concludes that labeling provisions of this rule are not subject to review by the Office of Management and Budget because they do not constitute a ''collection of information'' under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). Rather, the food labeling health claim on beta-glucan soluble fiber and CHD risk is a ''public disclosure of information originally supplied by the Federal Government to the recipient for the purpose of disclosure to the public.'' (see 5 CFR 1320.3(c)(2)).

V. Federalism

FDA has analyzed this final rule in accordance with the principles set forth in Executive Order 13132. FDA has determined that the rule will have a preemptive effect on State law. Section 4(a) of the Executive Order requires agencies to ''construe * * * a Federal statute to preempt State law only where the statute contains an express preemption provision or there is some other clear evidence that the Congress intended preemption of State law, or where the exercise of State authority conflicts with the exercise of Federal authority under the Federal statute.'' Section 403A of the act (21 U.S.C. 343–1) is an express preemption provision. Section 403A(a)(5) of the act provides that: ''* * * no State or political subdivision of a State may directly or indirectly establish under any authority or continue in effect as to any food in interstate commerce— * * * (5) any requirement respecting any claim of the type described in section 403(r)(1) made in the label or labeling of food that is not identical to the requirement of section 403(r). * * *''

This final rule amends existing food labeling regulations to provide an exemption for certain foods from the nutrient content requirement of ''low fat.'' Although this rule has a preemptive effect, in that it would preclude States from issuing any health claim labeling requirements for soluble fiber from certain foods and a reduced risk of CHD that are not identical to those required by this final rule, this preemptive effect is consistent with what Congress set forth in section 403A of the act. Section 403A(a)(5) of the act displaces both state legislative requirements and state common law duties. (*Riegel* v. *Medtronic*, 128 S. Ct. 999 (2008)).

FDA believes that the preemptive effect of this final rule is consistent with Executive Order 13132. Section 4(e) of the Executive Order provides that ''when an agency proposes to act through adjudication or rulemaking to preempt State law, the agency shall provide all affected State and local officials notice and an opportunity for appropriate participation in the proceedings.'' On February 5, 2007, FDA's Division of Federal and State Relations provided notice by fax and e-mail transmission to State health commissioners, State agriculture commissioners, food program directors, and drug program directors as well as

FDA field personnel, of FDA's publication of the proposed amendment to the health claim regulation authorizing the health claim for soluble fiber from certain foods and CHD (§ 101.81).

In addition, the agency sought input from all stakeholders through publication of the proposed rule (72 FR 5367). FDA received no comments from any states on the proposed rulemaking.

In conclusion, the agency believes that it has complied with all of the applicable requirements under the Executive Order and has determined that the preemptive effects of this final rule are consistent with Executive Order 13132.

VI. References

The following references have been placed on display in the Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852 and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday. (FDA has verified all Web site addresses, but FDA is not responsible for any subsequent changes to the Web sites after this document publishes in the **Federal Register**.)

1. U.S. Department of Agriculture, Agricultural Research Service. 2007. USDA National Nutrient Database for Standard Reference, Release 20. Nutrient Data Laboratory Home Page, *http://www.ars.usda.gov/ba/bhnrc/ndl*.

2. The Quaker Oats Co. and Rhodia, Inc., ''Oatrim [Beta Trim™] Health Petition,'' HCN1, vol. 1, Docket No. 01A–0313, April 12, 2001.

3. U.S. Department of Health and Human Services and U.S. Department of Agriculture, *Dietary Guidelines for Americans, 2005*, 6th Edition, Washington, DC: U.S. Government Printing Office, (*http://www.health.gov/dietaryguidelines/dga2005/document/*), January 2005.

4. U.S. Food and Drug Administration, CFSAN/Office of Nutritional Products, Labeling, and Dietary Supplements, *Food Label and Package Survey 2000–2001*, (*http://www.cfsan.fda.gov/~dms/lab-flap.html*), May 2006.

5. Institute of Medicine of the National Academies, *Dietary Reference Intakes for Energy, Carbohydrate, Fiber, Fat, Fatty Acids, Cholesterol, Protein, and Amino Acids*, the National Academies Press, Washington, DC, 2005, pp. 367–368.

6. RTI International, *FDA Labeling Cost Model, Final Report*, (*http://www.foodrisk.org/exclusives/FDA_LCM/*), October 2004.

List of Subjects in 21 CFR Part 101

Food labeling, Nutrition, Reporting and recordkeeping requirements.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 101 is amended as follows:

PART 101—FOOD LABELING

■ 1. The authority citation for 21 CFR part 101 continues to read as follows:

Authority: 15 U.S.C. 1453, 1454, 1455; 21 U.S.C. 321, 331, 342, 343, 348, 371; 42 U.S.C. 243, 264, 271.

■ 2. Section 101.81 is amended by revising paragraph (c)(2)(iii)(C) and by adding new paragraph (c)(2)(iii)(D) to read as follows:

§ 101.81 Health claims: Soluble fiber from certain foods and risk of coronary heart disease (CHD).

* * * * *

(c) * * *

(2) * * *

(iii) * * *

(C) The food shall meet the nutrient content requirement in § 101.62 for a ''low saturated fat'' and ''low cholesterol'' food; and

(D) The food shall meet the nutrient content requirement in § 101.62(b)(2) for a ''low fat'' food, unless the food exceeds this requirement due to fat content derived from whole oat sources listed in paragraph (c)(2)(ii)(A) of this section.

* * * * *

Dated: April 25, 2008.

Jeffrey Shuren,

Associate Commissioner for Policy and Planning.

[FR Doc. E8–9590 Filed 4–30–08; 8:45 am]

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DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 204

[DoD–2006–OS–0005]

RIN 0790–AH93

User Fees

AGENCY: Department of Defense.

ACTION: Final rule.

SUMMARY: The Department of Defense is revising 32 CFR Part 204 to better align it with Office of Management and Budget (OMB) Circular A–25, ''User Charges.'' This part provides guidelines to establish appropriate fees for authorized services supplied by Department of Defense organizations when such services provide special benefits to an identifiable recipient beyond those that accrue to the general public.

DATES: *Effective Date:* This rule is effective May 1, 2008.

FOR FURTHER INFORMATION CONTACT: Ms. Elaine Carpenter-Schmied, 703–697–0859.

SUPPLEMENTARY INFORMATION: On January 26, 2006 (71 FR 4332), the Department of Defense published a proposed rule on user charges with a comment period ending May 11, 2006. Comments included updating sited directives, spelling out acronyms, and inserting punctuation. All relevant comments were accepted. However, the revision did not include a schedule of fees and rates because DoD Components were responsible for computing user fees. With the exclusion of the fee and rate schedule proposed rule 32 CFR Part 204 no longer had an impact on the public. Upon further review and discussions between White House Services and the Government Accountability Office, it was determined fees should be based on full cost or market price and the rule should specify the principles used to compute these values. The revision was completed in October 2007.

Executive Order 12866, ''Regulatory Planning and Review''

It has been determined that 32 CFR Part 204 is a significant regulatory action. The rule has an annual effect to the economy of over $100 million.

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

It has been certified that this rule does not contain a Federal mandate that may result in the expenditure by State, local and tribal governments, in aggregate, or by the private sector, of $100 million or more in any 1 year.

Public Law 96–354, ''Regulatory Flexibility Act'' (5 U.S.C. 601)

It has been certified that 32 CFR part 204 is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities. The rule being promulgated provides guidelines to establish appropriate fees for authorized services supplied by Department of Defense organizations when such services provide special benefits to an identifiable recipient beyond those that accrue to the general public.

Public Law 96–511, ''Paperwork Reduction Act'' (44 U.S.C. Chapter 35)

It has been certified that 32 CFR part 204 does not impose any reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995.

Executive Order 13132, ''Federalism''

It has been certified that this rule does not have federalism implications, as set forth in Executive Order 13132. This rule does not have substantial direct effects on:

(1) The States;

(2) The relationship between the National Government and the States; or

(3) The distribution of power and responsibilities among the various levels of government.

List of Subjects in 32 CFR Part 204

Accounting, Armed forces, Government property.

■ Accordingly, 32 CFR part 204 is revised to read as follows:

PART 204—USER FEES

Sec.
204.1 Purpose.
204.2 Applicability.
204.3 Policy and procedures.
204.4 Responsibilities.
204.5 Fees.
204.6 Collections.
204.7 Legislative proposals.
204.8 Benefits for which no fee shall be assessed.
204.9 Schedule of fees and rates.

Authority: 31 U.S.C. 9701.

§ 204.1 Purpose.

This part implements the DoD program under Title 31, United States Code, section 9701 and OMB Circular No. A–25, ''User Charges,'' to establish appropriate fees for authorized services supplied by DoD organizations.

§ 204.2 Applicability.

This part applies to the Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff, the Combatant Commands, and the Defense Agencies (hereafter referred to collectively as ''DoD Components''). None of the provisions in this part should be construed as giving authority for the sale or lease of property, or the rendering of special services. Actions to convey such special benefits must be authorized by separate authority. This user fee policy is applicable except when other statutes or directives specifically direct other practices or procedures.

§ 204.3 Policy and procedures.

(a) *General.* It is DoD policy not to compete unfairly with available commercial facilities in providing special services or in the sale or lease of property to private parties and agencies outside the Federal Government. However, when a service (or privilege) provides special benefits to an identifiable recipient, beyond those that accrue to the general public, a fee shall be imposed to recover the full cost to the Federal Government for providing the special benefit (or the market price) except as otherwise approved by the Under Secretary of Defense (Comptroller) (USD(C)) and authorized by the Director of OMB. A special benefit will be considered to accrue, and a user fee shall be imposed, when a Government service:

(1) Enables the beneficiary to obtain more immediate or substantial gain or values (which may or may not be measurable in monetary terms) than those which accrue to the general public (*e.g.*, receiving a patent, insurance, or guarantee provision, or a license to carry on a specific activity or business or various kinds of public land use); or

(2) Provides business stability or contributes to public confidence in the business activity of the beneficiary (*e.g.*, insuring deposits in commercial banks), or

(3) Is performed at the request of or for the convenience of the recipient, and is beyond the services regularly received by other members of the same industry or group or by the general public (*e.g.*, receiving a passport, visa, airman's certificate, or a Custom's inspection after regular duty hours).

(b) *Costing.* (1) Except as provided in § 204.3(c) and § 204.8, a user fee shall be imposed to recover the full cost to the Federal Government of providing the service, resource, or good when the Government is acting in its capacity as sovereign.

(2) User fees shall be based on market prices (as defined in § 204.5(a)(4)) when the Government is not acting in its capacity as sovereign and is leasing or selling goods or resources, or is providing a service (*e.g.*, leasing space in federally owned buildings). Under these business-type conditions, user fees need not be limited to the recovery of full cost and may yield net revenues.

(3) User fees will be collected in advance of, or simultaneously with, the rendering of services unless appropriations and authority are provided in advance to allow reimbursable services.

(4) Whenever possible, fees should be set as rates rather than fixed dollar amounts in order to adjust for changes in costs to the Government or changes in market prices of the good, resource, or service provided.

(c) *Exclusions.* (1) The provisions of this part do not apply when other statutes or DoD issuances require different practices or procedures, such as for:

(i) Morale, welfare, and recreation services to military personnel and civilian employees of the Department of Defense and other services provided according to § 204.8.

(ii) Sale or disposal of surplus property under approved programs (Chapter 5 of DoD 7000.14–R.)[1]

(iii) Services furnished the general public relating to, or in furtherance of, the Armed Forces recruiting program.

(iv) Services furnished to representatives of the public information media in the interest of public understanding of the Armed Forces.

(v) Armed Forces participation in public events. Fees for such participation are governed by the provisions of DoD Instruction 5410.19.

(vi) Records made available to the public, under the Freedom of Information Act, pursuant to 32 CFR part 285. Fees for such record searches and copies of records are governed by 32 CFR part 286.

(vii) Services furnished to non-Federal audio-visual media. Fees for such services are governed by the provisions of DoD Instruction 5410.15.

(viii) Government-developed computer programs released to non-Federal customers. Fees for software packages are governed by DoD Instruction 7930.2.

(ix) Pricing of performance by DoD Working Capital Fund activities shall be according to Volume 11B of DoD 7000.14–R.

(x) Foreign Military Sales of Defense articles and services shall be according to Volume 15 of DoD 7000.14–R.

(xi) Records made available to Privacy Act requesters shall be according to 32 CFR part 310.

(2) User fees may be waived by the Head of a DoD Component when:

(i) Furnishing of their service without fee is an appropriate courtesy to a foreign government or international organization, or comparable fees are set on a reciprocal basis with a foreign country.

(ii) The Director of the OMB has approved a request for an exception. Such exceptions may be recommended when:

(A) The cost of collecting the fees would represent an unduly large part of the receipts from the activity; or

(B) Any other conditions exists that, in the opinion of the Head of the DoD Component or his designee, justifies the exception.

[1] Copies of unclassified DoD issuances may be obtained at *http://www.dtic.mil/whs/directives/.*

§ 204.4 Responsibilities.

(a) The USD(C) shall develop and monitor policies governing user fees.

(b) The Heads of the DoD Components, or designees, shall:

(1) Identify each service or activity that may properly be the subject of a user fee under this part.

(2) Determine the extent of the special benefit provided.

(3) Apply the principles specified in § 204.5(a) in determining full cost or market price.

(4) Review the user fees biennially, to include:

(i) Assurance that existing fees are adjusted to reflect unanticipated changes in costs or market values; and

(ii) A review of all other programs to determine whether fees should be assessed for Government services or the user of Government goods or services. DoD Components should discuss the results of the biennial review of user fees and any resultant proposals in the Chief Financial Officers Annual Report required by the Chief Financial Officers Act of 1990.

(5) Initiate exception actions outlined in § 204.3(c)(2). All such actions shall be coordinated with the USD(C) prior to forwarding to the OMB.

(i) Exceptions granted under § 204.3(c)(2)(i) shall be renewed every 4 years to ensure conditions warrant their continuation.

(ii) Exceptions granted under § 204.3(c)(2)(ii) shall be resubmitted for approval to the OMB every 4 years when conditions warrant their continuation.

(6) Maintain readily accessible records of:

(i) The services or activities covered by this part.

(ii) The extent of special services provided.

(iii) The exceptions to the general policy of this part.

(iv) The information used to establish fees and the specific methods used in their determination.

(v) The collections from each user fee imposed.

(7) Maintain adequate records of the information used to establish fees and provide them upon request to OMB for the evaluation of the schedules and provide data on user fees to OMB according to the requirements in Circular No. A–11.

(8) Develop legislative proposals as outlined in § 204.7 when there are statutory prohibitions or limitations on the assessment of user fees.

§ 204.5 Fees.

(a) *General*. (1) All fees shall be based on full cost to the U.S. Government or market price, whichever applies.

(2) ''Full cost'' includes all direct and indirect costs associated with providing a good, resource, or service. These costs are outlined in Volume 11A, Chapter 1, paragraph 010203 of DoD 7000.14–R.

(3) Full cost shall be determined or estimated from the best available records, and new cost accounting systems shall not be established solely for this purpose.

(4) ''Market price'' means the price for a good, resource, or service that is based on competition in open markets, and creates neither a shortage nor a surplus of the good, resource, or service.

(i) When a substantial competitive demand exists for a good, resource, or service, its market price will be determined using commercial practices, for example:

(A) By competitive bidding; or

(B) By reference to prevailing prices in competitive markets for goods, resources, or services that are the same or similar to those provided by the Government (*e.g.*, campsites or grazing lands in the general vicinity of private ones) with adjustments as appropriate that reflect demand, level of service, and quality of the good or service.

(ii) In the absence of substantial competitive demand, market price will be determined by taking into account the prevailing prices for goods, resources, or services that are the same or substantially similar to those provided by the Government, and then adjusting the supply made available and/or price of the good, resource, or service so that there will be neither a shortage nor a surplus (*e.g.*, campsites in remote areas).

(5) Fees established in advance of performance shall be based on the estimated cost of performance. Projected amounts shall be reviewed biennially or whenever significant changes in cost or value occur.

(6) Management controls (see DoD Instruction 5010.40) must be established to ensure fees are developed and adjusted, using current, accurate, and complete data, to provide reimbursement conforming to statutory requirements. These controls also must ensure compliance with cash management and debt collection policies according to Volume 5 of DoD 7000.14–R.

(b) *Information resources*. The fees for services provided by data processing activities shall be determined by using the costs accumulated pursuant to requirements in OMB Circular A–130, ''Management of Federal Information Resources.''

(c) User fees for recurring services shall be established in advance, when feasible. The benefit of charging user fees must outweigh the cost of collecting the fees charged.

(d) *Lease or sale of property*. Fees for lease or sale of property shall be based on the following:

(1) *Leases of military equipment or real estate*. (i) In cases involving the lease or rental of military equipment, when there is no commercial counterpart, the fee will be based on the procedures provided in Volume 11A, Chapter 1, paragraph 010203.I of DoD 7000.14–R. The current interest rate in OMB Circular A–94 will be used in the computation of interest on investment in assets. In determining the value, consideration may be given to the responsibility of the lessee to assume the risk of loss or damage to the property and to hold the government harmless against claims or liabilities by the lessee or third parties.

(ii) In cases involving real estate outgrants, the consideration for a lease shall be determined by appraisal of fair market rental value according to 10 U.S.C. 2667.

(2) *Sale of property*. When there is legal authority to sell property to the public, the selling price of the property and related accessorial and administrative costs shall be computed according to Volume 11A, Chapter 1 of DoD 7000.14–R.

§ 204.6 Collections.

(a) Collections of fees will be made in advance or simultaneously with the rendering of service unless appropriations and authority allow otherwise. The policies in this part, Volume 5 of DoD 7000.14–R, and DoD Instruction 5010.40, shall be used in accounting, controlling, and managing cash and debt collections.

(b) Unless a statute provides otherwise, user fee collections will be credited to the general fund of the Treasury as miscellaneous receipts, as required by 31 U.S.C. 3302.

§ 204.7 Legislative proposals.

(a) Legislative proposals that allow the DoD Component to retain collections may be appropriate when a fee is levied in order to finance a service intended to be provided on a substantially self-sustaining basis and thus is dependent upon adequate collections.

(1) The authority to use fees credited to an appropriation is generally subject to limits set in annual appropriations language. However, it may be appropriate to request exemption from annual appropriations control, if a provision of the service is dependent on demand that is irregular or unpredictable (*e.g.*, a fee to reimburse an

agency for the cost of overtime pay of inspectors for services performed after regular duty hours).

(2) Legislative proposals that permit fees to be credited to accounts shall be consistent with the full-cost recovery guidelines contained in this part. Any fees in excess of full cost recovery and any increase in fees to recover the portion of retirement costs which recoups all (funded or unfunded) accrual costs not covered by employee contributions are to be credited to the general fund of the Treasury as miscellaneous receipts.

(b) Where the retention of the collection is appropriate, the DoD Components(s) concerned may submit legislative proposals under applicable legislative procedures included in OMB Circular A–19. These procedures may be obtained from the Office of Legislative Counsel, General Counsel, 1600 Defense Pentagon, Washington, DC 20301–1600. Proposals to remove user fee restrictions or retain collections shall:

(1) Define in general terms the services for which fees will be assessed and the pricing mechanism that will be used.

(2) Specify whether fees will be collected in advance of, or simultaneously with, the provision of service unless appropriations and authority are provided in advance to allow reimbursable services.

(3) Specify where collections will be credited. Legislative proposals should not normally specify precise fees. The user fee schedule should be set by regulation to allow for the administrative updating of fees to reflect changing costs and market values.

§ 204.8 Benefits for which no fee shall be assessed.

(a) Documents and information requested by members of the Armed Forces is required by such personnel in their capacity as Service members.

(b) Documents and information requested by members of the Armed Forces who are in a casualty status, or requested by their next of kin or legal representative.

(c) The provisions of the address of record of a member or former member of the Armed Forces when the address is readily available through a directory (locator) service, and when the address is requested by a member of the Armed Forces or by a relative or a legal representative of a member of the Armed Forces, or when the address of record is requested by any source for the purpose of paying monies or forwarding property to a member or former member of the Armed Forces.

(d) Services requested by, or on behalf of, a member or former member of the Armed Forces and civilian personnel of the Department of Defense (where applicable) or, if deceased, his or her next of kin or legal representative that pertain to the provision of:

(1) Information required to obtain financial benefits regardless of the terms of separation from the Service.

(2) Document showing membership and military record in the Armed Forces if discharge or release was under honorable conditions, except as shown in paragraphs (d)(1) and (d)(4) of this section.

(3) Information relating to a decoration or award or required for memoralization purposes.

(4) Information relating to the review or change in type of discharge or correction of records.

(5) Personal documents, such as birth certificates, when such documents are required to be furnished by the member.

(6) Services furnished free according to statutes or Executive Orders.

(7) Information from or copies of medical and dental records or x-ray films of patients or former patients of military medical or dental facilities, when such information is required for further medical or dental care, and requests for such data are submitted by an accredited medical facility, physician, or dentist, or requested by the patient, his or her next of kin, or legal representative. Other requests subject to the Privacy Act shall be according to 32 CFR part 310 (see § 204.3(c)(1)(xi) of this part).

(8) Services requested by, and furnished to, a member of Congress for official use.

(9) Services requested by state, territorial, county, or municipal government, or an agency thereof, that is performing a function related to or furthering a DoD objective.

(10) Services requested by a court, when such services will serve as a substitute for personal court appearance of a military or civilian employee of the Department of Defense.

(11) Services requested by a nonprofit organization that is performing a function related to or furthering an objective of the Federal Government or is in the interest of public health and welfare, including education.

(12) Services requested by donors in connection with the conveyance or transfer of a gift to the Department of Defense.

(13) Occasional and incidental services (including requests from residents of foreign countries), not requested often, when it is determined administratively that a fee would be inappropriate for the occasional and incidental services rendered.

(14) Administrative services offered by reference or reading rooms to inspect public records, excluding copies of records or documents furnished.

(15) Services rendered in response to requests for classification review of DoD classified records, submitted under Executive Order 12065, ''National Security Information,'' and implemented by DoD 5200.1–R. Such services consist of the work performed in conducting the classification review or in granting and completing an appeal from a denial of declassification following such review.

(16) Services of a humanitarian nature performed in such emergency situations as life-saving transportation for non-Armed Forces patients, search and rescue operations, and airlift of personnel and supplies to a disaster site. This does not mean that inter- and intra-governmental agreements to recover all or part of costs shall not be negotiated. Rather, it means the recipients or beneficiary will not be assessed a ''user fee''.

§ 204.9 Schedule of fees and rates.

(a) *Schedule of fees and rates.* (1) This schedule applies to authorized services related to copying, certifying, and searching records rendered to the public by DoD Components, except when those services are excluded or excepted from charges under § 204.3(c) or the ''Benefits for Which No Fee Shall Be Assessed'' included in Volume 11A, Chapter 4, Appendix 1 of DoD 7000.14–R. All other fees will be based on full cost or market price.

FEE SCHEDULE

Service	Rate
(i) Copies	
(Standard size paper up to 8½ x 14).	$0.13 per page.
(ii) Search and Review	
(A) Managerial	$13.15 per ¼ hour; $52.60 per hour.
(B) Professional	$9.05 per ¼ hour; $36.20 per hour.
(C) Clerical	$5.20 per ¼ hour; $20.80 per hour.
(iii) Other	
(A) Microfiche	$0.08 per page.
(B) Computer and magnetic tapes.	$25.00 each.
(C) Computer diskettes.	$1.25 each.
(D) Other services (computer time, special mailing).	Actual Cost.

(2) Fees will not be charged if the total amount to process your request is $30.00 or less.

(b) Criteria for estimating cost of computerized records:

(1) Costs for processing a data request will be calculated using the full cost method as referenced in § 204.5.

(2) Itemized listing of operations required to process the job will be maintained (*i.e.*, time for central processing unit, input/output remote terminal, storage, plotters, printing, tape/disk mounting, etc.) with associated costs.

(3) Mailing costs for services (DHL, Express Mail, etc.) when request specifically specifies a means more expensive than first class mail.

Dated: April 24, 2008.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E8–9377 Filed 4–30–08; 8:45 am]

BILLING CODE 5001–06–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2007–0532–200810, FRL–8560–2]

Approval and Promulgation of Implementation Plans; Alabama Prevention of Significant Deterioration and Nonattainment New Source Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to approve revisions to the Alabama State Implementation Plan (SIP) submitted by the State of Alabama on June 16, 2006. The SIP revisions modify Alabama's Prevention of Significant Deterioration (PSD regulations in the Alabama SIP to address changes to the federal New Source Review (NSR) regulations, which were promulgated by EPA on December 31, 2002, and reconsidered with minor changes on November 7, 2003 (commonly referred to as the ''2002 NSR Reform Rules''). EPA proposed approval of these revisions on January 24, 2008; no comments were received on that proposal. The revisions include provisions for baseline emissions calculations, an actual-to-projected-actual methodology for calculating emissions changes, options for plantwide applicability limits, and recordkeeping and reporting requirements.

DATES: *Effective Date:* This rule will be effective June 2, 2008.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2007–0532. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: For information regarding the Alabama State Implementation Plan, contact Ms. Stacy Harder, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9042. Ms. Harder can also be reached via electronic mail at *harder.stacy@epa.gov.* For information regarding New Source Review, contact Ms. Gracy R. Danois, Air Permits Section, at the same address above. The telephone number is (404) 562–9119. Ms. Danois can also be reached via electronic mail at *danois.gracy@epa.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

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

I. What Action Is EPA Taking?

EPA is taking final action to approve revisions to the Alabama SIP, which includes changes to Alabama's NSR program. On June 16, 2006, the State of Alabama, through the Alabama Department of Environmental Management (ADEM) submitted revisions to the Alabama SIP. Specifically, the SIP revisions include changes to ADEM Administrative Code (AAC) Division 3 (Air Division), Chapter 14, entitled ''Air Permits.'' ADEM submitted these revisions in response to EPA's December 31, 2002, revisions to the federal NSR program. EPA is now approving these SIP revisions with the exception of the requirements found in Rule 335–3–14–.04(2)(w)1, the portion of the definition of ''significant'' that establishes a significance threshold of 100 tons for all NSR regulated pollutants for which there is not a listed significant amount. On December 3, 2007, Alabama requested this portion of the definition not be approved in to the SIP. Notably, the June 16, 2006, submittal also addressed the Clean Air Interstate Rule which EPA has already addressed in a separate action (October 1, 2007, 72 FR 55659).

On January 24, 2008 (73 FR 4133), EPA published a notice of proposed rulemaking (NPR) in the **Federal Register**, proposing to approve the Alabama SIP revisions regarding its NSR program. The January 24, 2008, NPR provides additional information about the proposed Alabama SIP revisions and the rationale for this final action. The public comment period for the proposed action ended on February 25, 2008. No comments were received on EPA's proposed action. EPA is now taking final action to approve the SIP revisions submitted by ADEM on June 16, 2006.

II. What Is the Background for This Action?

On December 31, 2002 (67 FR 80186), EPA published final rule changes to 40 Code of Federal Regulations (CFR) parts 51 and 52, regarding the Clean Air Act (CAA), PSD and NNSR programs. On November 7, 2003 (68 FR 63021), EPA published a notice of final action on its reconsideration of the 2002 rules. On June 13, 2007 (72 FR 32526), EPA took final action to revise the 2002 NSR Reform Rules to exclude the clean units and Pollution Control Project (PCP) provisions that were vacated by the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit Court) on June 24, 2005. The purpose of this action regarding the Alabama SIP is to approve the SIP submittal from the State of Alabama incorporating rule changes consistent with EPA's 2002 NSR Reform Rules.

The June 24, 2005, DC Circuit Court decision also involved a remand of the recordkeeping provisions of the 2002 NSR Reform Rules. On December 14, 2007, EPA issued a final rulemaking in response to the DC Circuit's remand establishing that ''reasonable possibility'' applies where source

emissions equal or exceed 50% of the CAA NSR significance levels for any pollutant. The rule was published in the **Federal Register** on December 21, 2007 (72 FR 72607). For further information, see, *http://www.epa.gov/nsr.*

The ''reasonable possibility'' standard identifies, for sources and reviewing authorities, the circumstances under which a major stationary source undergoing a modification that does not trigger major NSR must keep records. Alabama's SIP revisions are approvable at this time because the Alabama rules are substantially the same as the current federal rules and EPA's interpretation of the reasonable possibility standard did not result in any actual changes to the corresponding federal rule.

As is discussed in greater detail in the NPR, EPA reviewed the SIP revisions and determined that they were at least as stringent as the federal NSR program. Therefore, Alabama's revisions are consistent with the federal NSR regulations published December 31, 2002 (67 FR 80186) and November 7, 2003 (68 FR 63021), with the one exception noted earlier regarding AAC Rule 335–3–14–.04(2)(w)1 which is no longer a part of the current SIP submittal. As a result, the SIP revisions are approvable pursuant to the CAA.

The January 24, 2008, NPR and the docket for this action provide more details about the SIP revisions being approved and the rationale for EPA's final action. For additional information on EPA's 2002 NSR Reform Rules, see 67 FR 80186 (December 31, 2002), and *http://www.epa.gov/nsr.*

III. Final Action

EPA is taking final action to approve changes to Alabama's Rule 335–3–14–.04, with the exception of 335–3–14.04(2)(w)1, as submitted by ADEM on June 16, 2006, as revisions to the Alabama SIP.

IV. Statutory and Executive Order Reviews

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

This final rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (*59 FR 22951,* November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the states, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (*64 FR 43255,* August 10, 1999). This action merely approves state and local rules implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (*62 FR 19885,* April 23, 1997), because it 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. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 30, 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: April 17, 2008.

Russell L. Wright, Jr.,

Acting Regional Administrator, Region 4.

■ 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart B—Alabama

■ 2. Section 52.50(c) is amended by revising the entry for ''Section 335–3–14.04'' to read as follows:

§ 52.50 Identification of plan.

* * * * *

(c) * * *

State citation	Title/subject	State effective date	EPA approval date	Explanation
*	*	*	*	*
Chapter 335–3–14 Air Permits				
*	*	*	*	*
Section 335–3–14–.04	Air Permits Authorizing Construction in Clean Air Areas (Prevention of Significant Deterioration (PSD)).	07/11/2006	05/01/2008 [Insert citation of publication].	EPA is not approving Section 335–3–14.04(2)(w)1.
*	*	*	*	*

* * * * *

[FR Doc. E8–9481 Filed 4–30–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–HQ–OAR–2008–0314; FRL–8559–9]

Extension of Deadline for Action on Section 126 Petition From Warrick County, IN, and the Town of Newburgh, IN

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is extending by 6 months the deadline for EPA to take action on a petition submitted by Warrick County, Indiana and the Town of Newburgh, Indiana under section 126 of the Clean Air Act (CAA). The petition requests that EPA make a finding that a power plant (Cash Creek) proposed to be built in Henderson County, Kentucky will emit air pollutants that will significantly contribute to Warrick County and Newburgh, Indiana's nonattainment with the national ambient air quality standards (NAAQS) for ozone and fine particulate matter, or will significantly interfere with Warrick County and Newburgh, Indiana's ability to maintain its attainment of those standards. The petition requests that EPA establish emission limitations for the proposed power plant as a result of those findings. Under the CAA, EPA is authorized to grant a time extension for responding to the petition if EPA determines that the extension is necessary, among other things, to meet the purposes of the CAA's rulemaking requirements. By this action, EPA is making that determination.

DATES: This action is effective on April 24, 2008.

ADDRESSES: EPA has established a docket for this rulemaking under Docket ID number EPA–HQ–OAR–2008–0314. All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.*, confidential business information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the EPA Docket Center EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the EPA Docket Center is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: For general information and policy questions, contact Carla Oldham, Air Quality Planning Division, Office of Air Quality Planning and Standards, mail code C539–04, Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: 919–541–3347; fax number: 919–541–0824; e-mail address: *oldham.carla@epa.gov*. For legal questions contact Steven Silverman, U.S. EPA, Office of General Counsel, Mail Code 2344A, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, telephone (202) 564–5523, e-mail at *silverman.steven@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

This is a procedural action to extend the deadline for EPA to respond to a petition from Warrick County, Indiana and the Town of Newburgh, Indiana filed under CAA section 126. EPA received the section 126 petition on March 6, 2008. The petition requests that EPA make a finding that the Cash Creek power plant proposed to be built in Henderson County, Kentucky will emit air pollutants that will significantly contribute to Warrick County and Newburgh, Indiana's nonattainment with the NAAQS for ozone and fine particulate matter or will significantly interfere with Warrick County and Newburgh, Indiana's ability to maintain its attainment of those standards. The petition requests that EPA establish emission limitations for the proposed power plant as a result of those findings.

Section 126(b) authorizes States or political subdivisions to petition EPA to find that a major source or group of stationary sources in upwind states emits or would emit any air pollutant in violation of the prohibition of section 110(a)(2)(D), by contributing significantly to nonattainment or maintenance problems in downwind states. If EPA makes such a finding, EPA is authorized to establish Federal emissions limits for the sources which so contribute.

Under section 126(b), EPA must make the finding requested in the petition, or must deny the petition, within 60 days of its receipt. Under section 126(c), any existing sources for which EPA makes the requested finding must cease operations within 3 months of the finding, except that those sources may continue to operate if they comply with emission limitations and compliance schedules that EPA may provide to bring about compliance with the applicable requirements.

Section 126(b) further provides that EPA must allow a public hearing for the petition. EPA(s action under section 126 is also subject to the procedural requirements of CAA section 307(d). *See* section 307(d)(1)(N). One of these requirements is notice-and-comment rulemaking, under section 307(d)(3).

In addition, section 307(d)(10) provides for a time extension, under certain circumstances, for rulemaking subject to section 307(d). Specifically, section 307(d)(10) provides:

Each statutory deadline for promulgation of rules to which this subsection applies which requires promulgation less than six months after date of proposal may be extended to not more than six months after date of proposal by the Administrator upon a determination that such extension is necessary to afford the public, and the agency, adequate opportunity to carry out the purposes of the subsection.

Section 307(d)(10) applies to section 126 rulemakings because the 60-day time limit under section 126(b) necessarily limits the period after proposal to less than 6 months.

II. Final Action

A. Rule

In accordance with section 307(d)(10), EPA is determining that the 60-day period afforded by section 126(b) for responding to the petition from Warrick County, Indiana and the Town of Newburgh, Indiana is not adequate to allow the public and the Agency adequate opportunity to carry out the purposes of section 307(d). Specifically, the 60-day period is insufficient for EPA to develop an adequate proposal on whether the source identified in the section 126 petition will contribute significantly to nonattainment or maintenance problems in Warrick County or the Town of Newburgh, and, if so, to allow adequate time for public input into the promulgation of any controls to address those significant contributions.

EPA is in the process of determining what would be an appropriate schedule for action on the section 126 petition from Warrick County, Indiana and the Town of Newburgh, Indiana. This schedule must afford EPA adequate time to prepare a proposal that clearly elucidates the issues to facilitate public comment and must provide adequate time for the public to comment prior to issuing the final rule.

As a result of this extension, the deadline for EPA to act on the petition is November 5, 2008.

B. Notice-and-Comment Under the Administrative Procedures Act (APA)

This document is a final agency action, but may not be subject to the notice-and-comment requirements of the APA, 5 U.S.C. 553(b). The EPA believes that because of the limited time provided to make a determination that the deadline for action on the section 126 petition should be extended, Congress may not have intended such a determination to be subject to notice-and-comment rulemaking. However, to the extent that this determination otherwise would require notice and opportunity for public comment, there is good cause within the meaning of 5 U.S.C. 553(b)(3)(B) not to apply those requirements here. Providing for notice-and-comment would be impracticable because of the limited time provided for making this determination, and would be contrary to the public interest because it would divert Agency resources from the substantive review of the section 126 petition.

C. Effective Date Under the APA

This action is effective on April 24, 2008. Under the APA, 5 U.S.C. 553(d)(3), agency rulemaking may take effect before 30 days after the date of publication in the **Federal Register** if the agency has good cause to mandate an earlier effective date. This action—a deadline extension—must take effect immediately because its purpose is to extend by 6 months the deadline for action on the petition. It is important for this deadline extension action to be effective before the original 60-day period for action elapses. As discussed above, EPA intends to use the 6-month extension period to develop a proposal on the petition and provide time for public comment before issuing the final rule. These reasons support an immediate effective date.

III. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

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

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* Burden is defined at 5 CFR 1320(b). This action does not create new requirements and is not subject to the Paperwork Reduction Act.

C. Regulatory Flexibility Act

This final rule is not subject to the Regulatory Flexibility Act (RFA), which generally requires an agency to prepare a regulatory flexibility analysis for any rule that will have a significant economic impact on a substantial number of small entities. The RFA applies only to rules subject to notice-and-comment rulemaking requirements under the APA or any other statute. This rule is not subject to notice-and-comment requirements under the APA or any other statute because although the rule is subject to the APA, the Agency has invoked the ''good cause'' exemption under 5 U.S.C. 553(b), therefore it is not subject to the notice-and-comment requirement.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments and the private sector. Under section 202 of the UMRA, 2 U.S.C. 1532, EPA generally must prepare a written statement, including a cost-benefit analysis, for any proposed or final rules with ''Federal mandates'' that may result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year.

This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or tribal governments or the private sector. The rule imposes no enforceable duty on any State, local or tribal governments or the private sector. EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. This rule simply extends the deadline for EPA to take action on a petition.

E. Executive Order 13132: Federalism

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

This action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among various levels of government, as specified in Executive Order 13132. It imposes no regulatory burdens. Thus, the requirements of section 6 of the Executive Order do not apply to this action.

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

Executive Order 13175, entitled ''Consultation and Coordination with

Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure meaningful and timely input by Tribal officials in the development of regulatory policies that have Tribal implications. This rule does not have tribal implications, as specified in Executive Order 13175. Thus Executive Order 13175 does not apply to this rule.

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

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Executive Order had the potential to influence the regulation. This action is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks. This rule simply extends the deadline for EPA to take action on a petition and does not impose any regulatory requirements.

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

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

I. National Technology Transfer and Advancement Act

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

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

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

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

The EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. This rule simply extends the deadline for EPA to take action on a petition and does not impose any regulatory requirements.

K. Congressional Review Act

The Congressional Review Act (CRA), 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA has made such a good cause finding, including the reasons therefore, and established an effective date of April 24, 2008. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

L. Judicial Review

Section 307(b)(1) of the CAA indicates which Federal Courts of Appeal have venue for petitions of review of final actions by EPA. This section provides, in part, that petitions for review must be filed in the Court of Appeals for the District of Columbia Circuit (i) when the agency action consists of ''nationally applicable regulations promulgated, or final actions taken, by the Administrator,'' or (ii) when such action is locally or regionally applicable, if ''such action is based on a determination of nationwide scope or effect and if in taking such action the Administrator finds and publishes that such action is based on such a determination.''

Under CAA section 307(b)(1), a petition to review this action must be filed in the Court of Appeals for the District of Columbia Circuit within 60 days of May 1, 2008.

List of Subjects in 40 CFR Part 52

Environmental protection, Administrative practice and procedure, Air pollution control, Electric utilities, Intergovernmental relations, Nitrogen oxides, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide.

Dated: April 24, 2008.

Stephen L. Johnson,

Administrator.

[FR Doc. E8–9485 Filed 4–30–08; 8:45 am]

BILLING CODE 6560–50–P

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

48 CFR Part 9904

Cost Accounting Standards Board; Accounting for the Costs of Employee Stock Ownership Plans (ESOPs) Sponsored by Government Contractors

AGENCY: Cost Accounting Standards Board, Office of Federal Procurement Policy, OMB.

ACTION: Final rule.

SUMMARY: The Cost Accounting Standards Board (the Board), Office of Federal Procurement Policy, has adopted a final rule to amend Cost Accounting Standard (CAS) 412, ''Cost Accounting Standard for composition and measurement of pension cost,'' and CAS 415, ''Accounting for the cost of deferred compensation.'' These amendments address issues concerning the recognition of the costs of Employee Stock Ownership Plans (ESOPs) under Government cost-based contracts and subcontracts. These amendments provide criteria for measuring the costs of ESOPs and their assignment to cost

accounting periods. The allocation of a contractor's assigned ESOP costs to contracts and subcontracts is addressed in other Standards. The amendments also specify that accounting for the costs of ESOPs will be covered by the provisions of CAS 415, ''Accounting for the cost of deferred compensation,'' and not by any other Standard. This rulemaking is authorized pursuant to Section 26 of the Office of Federal Procurement Policy (OFPP) Act.

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

FOR FURTHER INFORMATION CONTACT: Laura Auletta, Manager, CAS Board, 725 17th Street, NW., Room 9013, Washington, DC 20503 (telephone: 202–395–3256).

SUPPLEMENTARY INFORMATION:

A. Regulatory Process

The Board's rules, regulations and standards are codified at 48 CFR chapter 99. The OFPP Act, 41 U.S.C. 422(g)(1), requires the Board, prior to the establishment of any new or revised Cost Accounting Standard, to complete a prescribed rulemaking process. The process generally consists of the following four steps:

1. Consult with interested persons concerning the advantages, disadvantages and improvements anticipated in the pricing and administration of government contracts as a result of the adoption of a proposed Standard (*e.g.*, promulgation of a Staff Discussion Paper.)
2. Promulgate an Advance Notice of Proposed Rulemaking (ANPRM).
3. Promulgate a Notice of Proposed Rulemaking (NPRM).
4. Promulgate a Final Rule.

This final rule is issued by the Board in accordance with the requirements of 41 U.S.C. 422(g)(1), and, is step four of the four-step process.

B. Background and Summary

The CAS and Federal Acquisition Regulation (FAR) have dealt with issues associated with ESOPs since ESOPs became popular in the late 1970s as a vehicle for providing incentive compensation to employees, as well as a means for corporations to finance their capital requirements. The popularity of ESOPs was greatly enhanced by their inclusion in the Employee Retirement Income Security Act of 1974 (ERISA) and by several beneficial changes to the Federal Income Tax Code in that same time period.

At first, the issues that arose were regarded as allowability matters that were to be treated in the FAR (or one of its predecessors, the Defense Acquisition Regulation or Armed Services Procurement Regulation). The views of the Board were sought primarily on an advisory basis. However, after issuance of the decision of the Armed Services Board of Contract Appeals (ASBCA) in the ''Parsons case,'' Ralph Parsons Co., ASBCA Nos. 37391, 37946, and 37947, December 20, 1990, 91–1 BCA 23648, reconsideration denied 91–2 BCA 23751, various government commenters suggested to the Board that ESOP cost measurement and period assignment matters warranted placement on the Board's agenda. These suggestions were amplified in light of the decision of the ASBCA in Ball Corp., ASBCA No. 49118, April 3, 2000, 00–1 BCA 30864. This position has been reiterated both by the Department of Defense and by some contractors.

The Board first considered issuing an Interpretation of its existing Standards, but then decided that additional research was needed. Various approaches for dealing with ESOP accounting issues were considered by the Board and other interested parties in the late 1990s. On September 15, 2000, the Board issued a Staff Discussion Paper (SDP) on this topic (65 FR 56008, Sept. 15, 2000). In response to the comments submitted on the SDP, on August 20, 2003 the Board issued an ANPRM (68 FR 50111) for the purpose of amending CAS 412 and 415 to address issues concerning the recognition of the costs of Employee Stock Ownership Plans (ESOPs) under Government cost-based contacts and subcontracts.

After considering the public comments submitted in response to the ANPRM, the Board published an NPRM on July 22, 2005 with request for comment (70 FR 42293). The Board received three sets of public comments in response to the NPRM. This final rule adopts the language in the NPRM, with minor changes to the transition provision. The final rule directs that costs of all ESOPs, regardless of type, be accounted for in accordance with CAS 415, and provides criteria in CAS 415 for measuring the costs of ESOPs and assigning those costs to cost accounting periods.

C. Public Comments

A summary of the comments received in response to the NPRM and the Board response are as follows:

1. Support Issuance of the Proposed Rule

Comment: Two commenters supported the issuance of the final rule. One commenter noted that the changes made to the NPRM in response to its comments on the ANRPM very effectively addressed its concerns. The second commenter noted that the NPRM indicated that the drafters diligently reviewed how ESOPs operated and reviewed carefully why Congress has consistently supported the creation of employer ownership through ESOPs for over thirty years. This commenter provided some recommendations for clarification and requested the Board move forward with the rulemaking process.

Response: The Board thanks the commenters for their responses.

2. Transition Provisions

Comment: One commenter opined that the proposed transition provisions at 9904.415–63 are overridden by 48 CFR 9904.412–20(b) and most existing ESOPs would not be subject to the revised rules.

Response: The Board recognizes the commenter's concern and has amended the transition provision in the final rule to specify that all ESOPs, including those considered to be pension ESOPs, are henceforth subject to CAS 415. When the transition provisions are read in conjunction with 412–20(b), the Board believes that following the receipt of a new CAS covered contract or subcontract all ESOPs shall be covered in CAS 415.

3. ''Awarded'' vs. ''Allocated''

Comment: One commenter opined that the term ''awarded'' has no meaning in the context of a qualified ESOP plan and requires clarification.

Response: As stated previously in the NPRM (70 FR 42293, dated July 22, 2005), the Board's objective in amending CAS 412 and 415 is to provide consistent cost accounting practices for the measurement and assignment of costs of ESOPs, regardless of whether or not a particular ESOP is a qualified plan under ERISA and the IRS. Accordingly, the Board believes it need not limit itself to the terms and concepts embodied in ERISA or IRS rules and regulations in defining the cost accounting practices to be used in the measurement and assignment of costs of ESOPs. For the reasons stated in the NPRM (see responses to the ANPRM, which are contained in the NPRM and annotated as Comment 3, ''Assignment of Costs Based on Award of Shares'' and Comment 5, ''Definition of an ESOP''), the Board continues to believe that it is appropriate to impose separate allocation and award criteria in order for an ESOP contribution to be measured and assigned to a particular cost accounting period. The Board also believes it has adequately distinguished

between the concepts of allocation and award in both the techniques for application at 9904.415–50(f) and the illustrations at 9904.415–60, and that no further clarification is required.

4. Interest Included in ESOP Contributions

Comment: One commenter opined that contractors should be required to separately identify the interest component of ESOP costs to promote transparency.

Response: The Board continues to believe that it is not necessary to impose a separate disclosure requirement regarding interest paid by the ESOP trust out of a contractor's ESOP contributions. The Board's reasoning, as provided in the NPRM (70 FR 42293, dated July 22, 2005), also applies here and is summarized, in relevant part, below.

The final rule recognizes the resources used by the contractor to fund the current year's award to employees, whether those shares are purchased by the ESOP in the year of award or made available for allocation by repayment of ESOP debt. In finalizing this rule, the Board believes that it is providing for the measurement of ESOP costs for contract costing purposes in a manner that reflects the CAS objective of consistency in cost accounting practices.

For financial accounting purposes, contractors are required to follow generally accepted accounting principles (GAAP). Under GAAP (specifically American Institute of Certified Public Accountants (AICPA) Statement of Position 93–6, paragraphs 6.24 thru 6.27, ''Employer's Accounting for Employee Stock Ownership Plans''), companies are required to separately identify the interest and principal of the ESOP financing, and thus the transparency noted by the commenter already exists. Therefore, there is no need for the Board to promulgate a duplicate requirement. The Board further notes that whether interest or other cost components associated with financing a leveraged ESOP are allowable costs is determined under FAR Part 31. The final rule does not, in any manner, preclude the FAR Council from drafting rules that explicitly allow or disallow interest or any other cost component associated with an ESOP. Should the FAR Council decide to explicitly disallow interest or any other cost component associated with an ESOP, CAS 405 already requires that such costs be segregated in the contractor's accounting records. In addition, CAS 405 also requires that such costs be identified and excluded from any billing, claim, or proposal applicable to a Government contract. Therefore, the Board does not believe it is necessary to require separate disclosure of any interest paid by the ESOP trust out of a contractor's ESOP contribution.

5. Clarification of Examples

Comment: One commenter opined that the following illustrations should be clarified:

a. The commenter recommended that 9904.415–60(f) should be revised to read as follows:

Contractor F has a non-leveraged ESOP. Under the contractor's plan, employees are awarded 5,000 shares of stock for the year ended December 31, 2007. The market value of the stock as of 12/31/07, as determined on 2/5/08 is $10.00 per share. On February 5, 2008, the 5,000 shares are contributed to the ESOP and allocated to the individual employee accounts.

Response: The Board does not believe a change to the illustration in the NPRM is warranted. The recommended revision would alter the content of the example and render it inconsistent with the language in the revised standard. The illustration in the NPRM is intended to demonstrate that the valuation date of the stock is the date the contribution is made in accordance with CAS 415–50(f)(1), not the date that employees are awarded the stock under the contractor's plan. As stated in the ANPRM, the Board believes that the ''contribution'' approach to ESOP cost accounting is the best measure of a contractor's cost to provide the ESOP benefit awarded to an employee. Therefore, the value of the shares transferred to an ESOP is established as of the contribution date (the date when the title to the shares is transferred to the trust), not the date when the shares are awarded to the employee. As such, the language in the NPRM remains unchanged.

b. The commenter recommended that 9904.415–60(g) should be revised to read as follows:

On February 15, 2008, the contractor contributes $780,000 in cash to the ESOP trust (ESOT) to satisfy the principal and interest payment on the ESOT loan for FY 2007. The contractor's contribution of $780,000 causes 9,000 shares of stock to be allocated in the true ESOP. One thousand (1,000) shares of stock are contributed to a true ESOP on 2/2/05, valued at $60,000 as of 12/31/07.

Response: The Board does not believe a change to the illustration in the NPRM is warranted. The introduction of the term ''true ESOP'' would be inappropriate since it is not defined or used in the standard, and the language of the standard clearly distinguishes between the ESOP and the ESOP trust (ESOT). Furthermore, the illustration makes an important distinction between shares released to the ESOT as a result of the cash payment by the contractor, the additional shares contributed to the ESOT, and the total shares actually allocated to individual employee accounts. Thus, the language in the NPRM remains unchanged.

c. The commenter recommended that 9904.415–60(h)(1) should be revised to read as follows:

Contractor H has a leveraged ESOP. Under the contractor's plan, employees are awarded 8,000 shares of stock for the year ended December 31, 2007. Only 8,000 shares of stock are allocated as of 12/31/07. $100,000 of the total payment of $500,000 made on 1/31/08 was for the FY '08, and 2,000 shares will be allocated as of 12/31/08.

Response: The Board does not believe a change to the illustration in the NPRM is warranted. The commenter's recommendation would revise the example to state that the 2,000 shares remaining in the ESOT and not awarded for 2007 will be awarded in 2008. The Board does not believe this should be added to the example because it may result in the reader incorrectly assuming that the remaining shares will always be awarded in the following year (in this case, 2008). This assumption cannot be made since there will not necessarily be an obligation to award these shares in 2008. Thus, the language in the NPRM remains unchanged.

d. The commenter recommended that 9904.415–60(h)(2) should be revised to read as follows:

At December 31, 2008, the employees are awarded 12,000 shares of stock. On January 31, 2009, Contractor H contributes $500,000 in cash to the ESOT to satisfy the principal and interest payment on the ESOT loan for 2008, resulting in the bank releasing 10,000 shares of stock. On February 10, 2009, 12,000 shares are allocated to individual employee accounts satisfying the deferred compensation obligation for 2008. If the contractor claims the contribution or an allowable cost, or claims a tax deduction, for 2007, then the shares released as a result of the contribution must be allocated for the year in which the contribution is allowed or claimed as a corporate tax deduction. In addition to the $500,000 contribution, which resulted in 10,000 shares being allocated as of 12/31/08, an additional 2,000 shares of stock were contributed to a true ESOP on 2/10/09, and allocated as of 12/31/08.

Response: The Board does not believe a change to the illustration in the NPRM is warranted. As stated in the NPRM (70 FR 42293, dated July 22, 2005), the cost accounting practices specified in CAS 415 are not dependent on tax deductibility of any contribution since two plans with identical contribution requirements should not have different cost accounting treatment solely because of differences in tax deductibility. Therefore, changing the illustration would result in inconsistency with the language in the revised standard, since such a change would base the assignment of ESOP costs for contract costing purposes on ERISA and/or IRS rules that have not been incorporated into the Standard. As such, the language in the NPRM remains unchanged.

e. The commenter recommended that 9904.415–60(i) should be revised to read as follows:

Contractor I has a leveraged ESOP. Under the contractor's plan, employees are awarded 10,000 shares for FY 2007, which ended December 31, 2007. On February 10, 2008, Contractor I contributes $700,000 in cash to satisfy the principal and interest payment for the ESOP loan for FY 2007. This contribution results in the bank releasing 10,000 shares of stock. On March 1, 2008, the ESOP allocates the 10,000 shares to individual employee accounts satisfying the 2007 obligation. The 10,000 shares of stock are allocated as of 12/31/07.

Response: The Board does not believe a change to the illustration in the NPRM is warranted. The recommended revision would eliminate the purpose of this illustration, which is intended to address instances where the shares are awarded on one date (in this example, December 31, 2007) but are not allocated to individual employee accounts until a later date (in this case, March 1, 2008). This example is intended to illustrate the assignment of ESOP contributions in accordance with 9904.415–50(f)(2) and the distinction between award and allocation. As such, the language in the NPRM remains unchanged.

D. Paperwork Reduction Act

The Paperwork Reduction Act, Public Law 96–511, does not apply to this rulemaking, because this rule imposes no paperwork burden on offerors, affected contractors and subcontractors, or members of the public which requires the approval of OMB under 44 U.S.C. 3501, *et seq.*

E. Regulatory Flexibility Act, Unfunded Mandates Reform Act, Congressional Review Act, and Executive Orders 12866 and 13132

The Board certifies that this rule will not have a significant effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because small businesses are exempt from the application of the Cost Accounting Standards. For purposes of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), as well as Executive Orders 12866 and 13132, the final rule will not significantly or uniquely affect small governments, and will not result in increased expenditures by State, local, and tribal governments, or by the private sector, of $100 million or more. The final rule is not a ''major rule'' under 5 U.S.C. Chapter 8; the rule will not have any of the effects set forth in 5 U.S.C. 804(2). Finally, the rule does not have federalism implications as described in Executive Order 13132.

List of Subjects in 48 CFR Part 9904

Accounting, Government procurement.

Paul A. Denett,

Administrator, Office of Federal Procurement Policy.

■ For the reasons set forth in this preamble, chapter 99 of title 48 of the Code of Federal Regulations is amended as set forth below:

PART 9904—COST ACCOUNTING STANDARDS

■ 1. The authority citation for part 9904 continues to read as follows:

Authority: Pub. L. 100–679, 102 Stat 4056, 41 U.S.C. 422.

■ 2. Section 9904.412–20 is revised to read as follows:

9904.412–20 Purpose.

(a) The purpose of this Standard 9904.412 is to provide guidance for determining and measuring the components of pension cost. The Standard establishes the basis on which pension costs shall be assigned to cost accounting periods. The provisions of this Cost Accounting Standard should enhance uniformity and consistency in accounting for pension costs and thereby increase the probability that those costs are properly allocated to cost objectives.

(b) This Standard does not cover the cost of Employee Stock Ownership Plans (ESOPs) that meet the definition of a pension plan. Such plans are considered a form of deferred compensation and are covered under 9904.415.

■ 3. Section 9904.415–20 is revised to read as follows:

9904.415–20 Purpose.

(a) The purpose of this Standard 9904.415 is to provide criteria for the measurement of the cost of deferred compensation and the assignment of such cost to cost accounting periods. The application of these criteria should increase the probability that the cost of deferred compensation is allocated to cost objectives in a uniform and consistent manner.

(b) This Standard is applicable to the cost of all deferred compensation except the following which are covered in other Cost Accounting Standards:

(1) The cost for compensated personal absence, and

(2) The cost for pension plans that do not meet the definition of an Employee Stock Ownership Plan (ESOP).

■ 4. Section 9904.415–30 is amended by revising paragraph (a), introductory text, adding paragraphs (a)(2) and (3), and revising paragraph (b) to read as follows:

9904.415–30 Definitions.

(a) The following are definitions of terms which are prominent in this Standard 9904.415. Other terms defined elsewhere in this Chapter 99 shall have the meanings ascribed to them in those definitions unless paragraph (b) of this section requires otherwise.

* * * * *

(2) Employee Stock Ownership Plan (ESOP) means:

(i) An employee benefit plan that is described by the Employee Retirement Income Security Act of 1974 (ERISA) and the Internal Revenue Code (IRC) of 1986 as a stock bonus plan, or combination stock bonus and money purchase pension plan, designed to invest primarily in employer stock, and

(ii) Any other deferred compensation plan designed to invest primarily in the stock of the contractor's corporation including, but not limited to, plans covered by ERISA.

(3) Fair value means the amount that a seller would reasonably expect to receive in a current arm's length transaction between a willing buyer and a willing seller, other than a forced or liquidation sale.

(b) The following modifications of terms defined elsewhere in this Chapter 99 are applicable to this Standard:

(1) Market value means the current or prevailing price of a stock or other property as indicated by market quotations.

(2) [Reserved]

■ 5. Section 9904.415–40 is revised to read as follows:

9904.415–40 Fundamental requirement.

(a) The cost of deferred compensation shall be assigned to the cost accounting period in which the contractor incurs an obligation to compensate the employee. In the event no obligation is incurred prior to payment, the cost of deferred compensation shall be the amount paid and shall be assigned to the cost accounting period in which the payment is made.

(b) Measurement of deferred compensation costs.

(1) For deferred compensation other than ESOPs, the deferred compensation cost shall be the present value of the future benefits to be paid by the contractor.

(2) For an ESOP, the deferred compensation cost shall be the amount contributed to the ESOP by the contractor.

(c) The cost of each award of deferred compensation shall be considered separately for purposes of measurement and assignment of such costs to cost accounting periods. However, if the cost of deferred compensation for the employees covered by a deferred compensation plan can be measured and assigned with reasonable accuracy on a group basis, separate computations for each employee are not required.

■ 6. Section 9904.415–50 is amended by revising paragraph (d) introductory text and (e) introductory text and adding paragraph (f) to read as follows:

9904.415–50 Techniques for application.

* * * * *

(d) The following provisions are applicable for plans, other than ESOPs, that meet the conditions of 9904.415–50(a) and the compensation is to be paid in money.

* * * * *

(e) The following provisions are applicable for plans, other than ESOPs, that meet the conditions of 9904.415–50(a) and the compensation is received by the employee in other than money. The measurements set forth in this paragraph constitute the present value of future benefits for awards made in other than money and, therefore, shall be deemed to be a reasonable measure of the amount of the future payment:

* * * * *

(f)(1) For an ESOP, the contractor's cost shall be measured by the contractor's contribution, including interest and dividends if applicable, to the ESOP. The measurement of contributions made in the form of stock of the corporation or property, shall be based on the market value of the stock or property at the time the contributions are made. If the market value is not available, then fair value of the stock or property shall be used.

(2) A contractor's contribution to an ESOP shall be assignable to a cost accounting period only to the extent that the stock, cash, or any combination thereof resulting from the contribution is awarded to employees and allocated to individual employee accounts by the tax filing date for that period, including any permissible extensions thereof. All stock or cash that is allocated to the individual employee accounts between the end of the cost accounting period and the tax filing date for that period must be assigned to the cost accounting period in which the employee is awarded the stock or cash. Any portion of the stock or cash resulting from a contractor's contribution that is not awarded to employees or allocated to individual employee accounts by the tax filing date for that period, including any permissible extensions thereof, shall be assigned to a future cost accounting period or periods when the remaining portion of stock or cash has been awarded to employees and allocated to individual employee accounts. This stock shall retain the value established when it was originally purchased by or otherwise made available to the ESOP.

■ 7. Section 9904.415–60 is amended by adding paragraphs (f), (g), (h) and (i) to read as follows:

9904.415–60 Illustrations.

* * * * *

(f) Contractor F has a non-leveraged ESOP. Under the contractor's plan, employees are awarded 5,000 shares of stock for the year ended December 31, 2007. On February 5, 2008, when the shares have a market value of $10.00 each, the 5,000 shares are contributed to the ESOP and allocated to the individual employee accounts. The total measured and assigned deferred compensation cost for FY 2007 is $50,000 (5,000 × $10 = $50,000). The market value of the contractor's stock when awarded to the employees, whether higher or lower than the $10.00 per share market value when the contractor's contribution was made to the ESOP, is irrelevant to the measurement of the contractor's ESOP costs.

(g) Contractor G has a leveraged ESOP. Under the contractor's plan, employees are awarded 10,000 shares of stock for the year ended December 31, 2007. On February 15, 2008, the contractor contributes $780,000 in cash to the ESOP trust (ESOT) to satisfy the principal and interest payment on the ESOT loan for FY 2007, resulting in the bank releasing 9,000 shares of stock, and 1,000 shares of stock valued at $60,000 to the ESOT, representing the balance of the 10,000 shares. On February 22, 2008, the ESOP allocates 10,000 shares to the individual employee accounts. The total measured and assigned deferred compensation cost for FY 2007 is $840,000—the contractor's total contribution required to satisfy the deferred compensation obligation totaling 10,000 shares.

(h)(1) Contractor H has a leveraged ESOP. Under the contractor's plan, employees are awarded 8,000 shares of stock for the year ended December 31, 2007. On January 31, 2008, the contractor contributes $500,000 in cash to the ESOT to satisfy the principal and interest payment on the ESOT loan for 2007, resulting in the bank releasing 10,000 shares of stock. On February 10, 2008, 8,000 shares are allocated to individual employee accounts, satisfying the deferred compensation obligation for 2007. The total measured deferred compensation cost for 2007 is $500,000—the contractor's contribution for the cost accounting period. However, the total assignable deferred compensation cost for 2007 is $400,000—the portion of the contribution that satisfies the 2007 deferred compensation obligation of 8,000 shares [(8,000 shares / 10,000 shares) × $500,000 = $400,000]. The remaining $100,000 of the contribution made in 2007 is assignable to future periods in which the remaining 2,000 shares of stock are awarded to employees and allocated to individual employee accounts.

(2) At December 31, 2008, the employees are awarded 12,000 shares of stock. On January 31, 2009, Contractor H contributes $500,000 in cash to the ESOT to satisfy the principal and interest payment on the ESOT loan for 2008, resulting in the bank releasing 10,000 shares of stock. On February 10, 2009, 12,000 shares are allocated to individual employee accounts satisfying the deferred compensation obligation for 2008. The total deferred compensation assignable to 2008 is $600,000, the cost of the 12,000 shares awarded to employees and allocated to individual employee accounts for 2008. The cost of the award is comprised of the contractor's contribution for the current cost accounting period (10,000 shares at $500,000) and the 2007 contribution carryover (2,000 shares at $100,000).

(i) Contractor I has a leveraged ESOP. Under the contractor's plan, employees are awarded 10,000 shares for FY 2007, which ended December 31, 2007. On

February 10, 2008, Contractor I contributes $700,000 in cash to satisfy the principal and interest payment for the ESOP loan for FY 2007. This contribution results in the bank releasing 10,000 shares of stock. On March 1, 2008, the ESOP allocates the 10,000 shares to individual employee accounts satisfying the 2007 obligation. The 10,000 shares of stock must be assigned to FY 2007 (these shares cannot be assigned to 2008).

■ 8. Section 9904.415–63 is revised to read as follows:

9904.415–63 Effective date.

(a) This Standard 9904.415 is effective as of June 2, 2008.

(b) This Standard shall be followed by each contractor on or after the start of its next cost accounting period beginning after the receipt of a contract or subcontract to which this Standard is applicable.

(c) Contractors with prior CAS-covered contracts with full coverage shall continue to follow Standard 9904.415 in effect prior to June 2, 2008 until this Standard, effective June 2, 2008, becomes applicable following receipt of a contract or subcontract to which this revised Standard applies.

(d) For contractors and subcontractors that have established advance agreements prior to June 2, 2008 regarding the recognition of the costs of existing ESOPs, the awarding agency and contractor shall comply with the provisions of such advance agreement(s) for these existing ESOPs, regardless of whether the ESOP was previously subject to CAS 412 or 415. These advance agreements may be modified, by mutual agreement, to incorporate the requirements effective on June 2, 2008.

[FR Doc. E8–9376 Filed 4–30–08; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[FWS—R2—ES—2008—0044; 40120—1113—0000–B3]

RIN 1018—AW12

Endangered and Threatened Wildlife and Plants; Listing the Potential Sonoran Desert Bald Eagle Distinct Population Segment as Threatened Under the Endangered Species Act

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), are issuing a final rule to amend the regulations for the Federal List of Endangered and Threatened Wildlife at 50 CFR 17.11 by designating bald eagles (*Haliaeetus leucocephalus*) in the Sonoran Desert area of central Arizona as threatened under the authority of the Endangered Species Act of 1973, as amended (Act). We are also reinstating and clarifying the former special rule at 50 CFR 17.41 that applied to threatened members of this species. This action revises the CFR to reflect a March 6, 2008, court order.

DATES: This action is effective May 1, 2008. However, the court order had legal effect immediately upon being filed on March 6, 2008.

FOR FURTHER INFORMATION CONTACT: Steve Spangle, Field Supervisor, U.S. Fish and Wildlife Service, Arizona Ecological Services Field Office, 2321 West Royal Palm Road, Suite 103, Phoenix, Arizona 85021; telephone 602–242–0210; facsimile 602–242–2513; *http://www.fws.gov/southwest/es/arizona/.*

SUPPLEMENTARY INFORMATION:

Background

Information about the bald eagle's life history can be found in our July 9, 2007 (72 FR 37346), final delisting rule for bald eagles in the lower 48 States.

Previous Federal Action

Information about previous Federal actions was provided in our July 9, 2007 (72 FR 37346), final delisting rule for bald eagles in the lower 48 States.

On October 6, 2004, we received a petition, dated October 6, 2004, from the Center for Biological Diversity (CBD), the Maricopa Audubon Society, and the Arizona Audubon Council requesting that the ''Southwestern desert nesting bald eagle population'' be classified as a distinct population segment (DPS), that this DPS be reclassified from a threatened species to an endangered species, and that we concurrently designate critical habitat for the DPS under the Act.

On March 27, 2006, the CBD and the Maricopa Audubon Society filed a lawsuit against the U.S. Department of the Interior and the Service for failing to make a timely finding on the petition. The parties reached a settlement and the Service agreed to complete its petition finding by August 2006. We announced our 90-day finding, required under 16 U.S.C. 1533(b)(3)(A), on August 30, 2006 (71 FR 51549), that the petition did not present substantial scientific or commercial information indicating that the petitioned action may be warranted.

On January 5, 2007, the CBD and the Maricopa Audubon Society filed a lawsuit challenging the Service's 90-day finding that the ''Sonoran Desert population'' of the bald eagle did not qualify as a DPS, and further challenging the Service's 90-day finding that the population should not be up-listed to endangered status.

On July 9, 2007 (72 FR 37346), we published the final delisting rule for bald eagles in the lower 48 States. In that final delisting rule, we stated that our findings on the status of the Sonoran Desert population of bald eagles superseded our 90-day petition finding because the final delisting rule constituted a final decision on whether the Sonoran Desert population of bald eagles qualified for listing as a DPS under the Act.

On August 17, 2007, the CBD and the Maricopa Audubon Society filed a motion for summary judgment, requesting the court to make a decision on their January 5, 2007, lawsuit. On March 5, 2008, the U.S. District Court for the District of Arizona ruled in favor of the CBD and the Maricopa Audubon Society. The court order (Center for *Biological Diversity* v. *Kempthorne,* CV 07–0038–PHX–MHM (D. Ariz)), was filed on March 6, 2008.

The court ruled for the plaintiffs and found that the Service:

(1) Finding on the status of the Sonoran Desert population of bald eagles in our July 9, 2007 (72 FR 37346), final delisting rule did not moot the plaintiff's challenge to the August 30, 2006, negative 90-day petition finding;

(2) Applied an inappropriately strict evidentiary burden on the petition at the 90-day review stage and thus arbitrarily and capriciously concluded that the petition did not present substantial information that listing the ''Desert bald eagle population'' may be warranted; and

(3) Arbitrarily and capriciously conducted the 90-day review of the petition by soliciting information and opinions from a limited outside source.

The court provided the following remedies and ordered the Service to:

(1) Conduct a status review of the Desert bald eagle population pursuant to the Act to determine whether listing that population as a DPS is warranted, and if so, whether listing that DPS as threatened or endangered pursuant to the Act is warranted;

(2) Issue a 12-month finding, pursuant to 16 U.S.C. 1533(b)(3)(B), on whether listing the Desert bald eagle population as a DPS is warranted, and if so, whether listing that DPS as threatened or endangered is warranted; and

(3) Issue the 12-month finding within nine months of the court order, pursuant to 16 U.S.C. 1533(b)(3)(B), which translates to on or before December 5, 2008.

Further, the court enjoined the Service's application of the July 9, 2007 (72 FR 37346), final delisting rule to the Sonoran Desert population of bald eagles pending the outcome of our status review and 12-month petition finding. The ''Desert bald eagle population'' referenced in the court order consists of those bald eagles in the Sonoran Desert of the southwest that reside in central Arizona and northwestern Mexico. Because these Sonoran Desert bald eagles were only listed under the Act in Arizona (and not in Mexico) at the time of the petition, the court's order enjoining our final delisting decision applies only to those bald eagles found in the Sonoran Desert region of the American Southwest. In other words, the court's order temporarily reinstated the listing of the bald eagle as a threatened species, but only with respect to the eagles that reside in the Sonoran Desert of central Arizona. The court order was effective as of March 6, 2008, the date it was filed.

In order to determine the geographic area where the bald eagle would remain listed as threatened in Arizona, we examined the CBD's letter sent to us on March 5, 2005, clarifying their petitioned October 2004 Distinct Population Segment boundary. We used the information provided by the CBD because the court found that their October 2004 90-day petition ''may be warranted'' and, therefore, the petition represents the basis for determining the geographic extent of the area affected by this final rule.

The CBD cited two documents describing vegetation communities (Brown 1973, 1994) and an Arizona Game and Fish Department (AGFD) bald eagle nest search report (Canaca *et al.* 2004). The CBD notes in the petition that information is provided to support listing a ''distinct population segment of Southwestern Desert Nesting Bald Eagle consistent with the geographical boundaries including the Sonoran Desert riparian areas of Central Arizona and northwestern Mexico.'' With regards to the Arizona portion, the petition notes that this area in central Arizona exists between 329 and 1719 meters (1080 and 5640 feet) in elevation, falling within the Upper and Lower Sonoran Life Zones and transition areas as described by Brown 1994. We used the above three references and the specific elevation text to define the geographic boundary of the petitioned DPS.

Therefore, while we had specific clarification with respect to elevational boundaries, bald eagle breeding areas, the Upper and Lower Sonoran Life Zones, and the State of Arizona, we also received ambiguous direction with respect to the boundaries of ''central Arizona'' and which transition areas outside of the Upper and Lower Sonoran Life Zones to include. Because of these ambiguities and lack of a specific map in the petition, we were left to interpret their clarification, primarily at the perimeters of the boundary.

We used all the factors provided by the CBD (i.e., bald eagle territories, elevation, life zones, and transition areas) and established a boundary that included all known bald eagle breeding areas within central Arizona. The boundary was difficult to interpret on the ground due to irregular lines or gaps in elevation from layers of electronic geographical data. Therefore, we used more identifiable and easily understood boundaries of county lines and highways that were found at the outer edges of the erratic boundaries. It is important to note that known bald eagle breeding habitat of the Sonoran Desert, as described in the petition, is not contiguous between Arizona and northwestern Mexico. The somewhat disjointed nature of bald eagle breeding habitat and its well known distribution in Arizona is likely why the petitioners specified ''central Arizona.'' Thus, the counties in the southern half of Arizona were not included in this final rule because they do not possess known bald eagle breeding areas, known suitable habitat for breeding eagles, and fall outside of the petitioner's geographic description.

We determined that the affected area covers the following eight Arizona counties: (1) Yavapai, Gila, Graham, Pinal, and Maricopa Counties in their entirety; and (2) southern Mohave County (that portion south and east of the centerline of Interstate Highway 40 and east of Arizona Highway 95), eastern LaPaz County (that portion east of the centerline of U.S. and Arizona Highways 95), and northern Yuma County (that portion east of the centerline of U.S. Highway 95 and north of the centerline of Interstate Highway 8). All bald eagles found within this area are protected as a threatened species under the Act, with a special rule under our regulations at 50 CFR 17.41. Please refer to the following map for details of the geographic area affected by this action.

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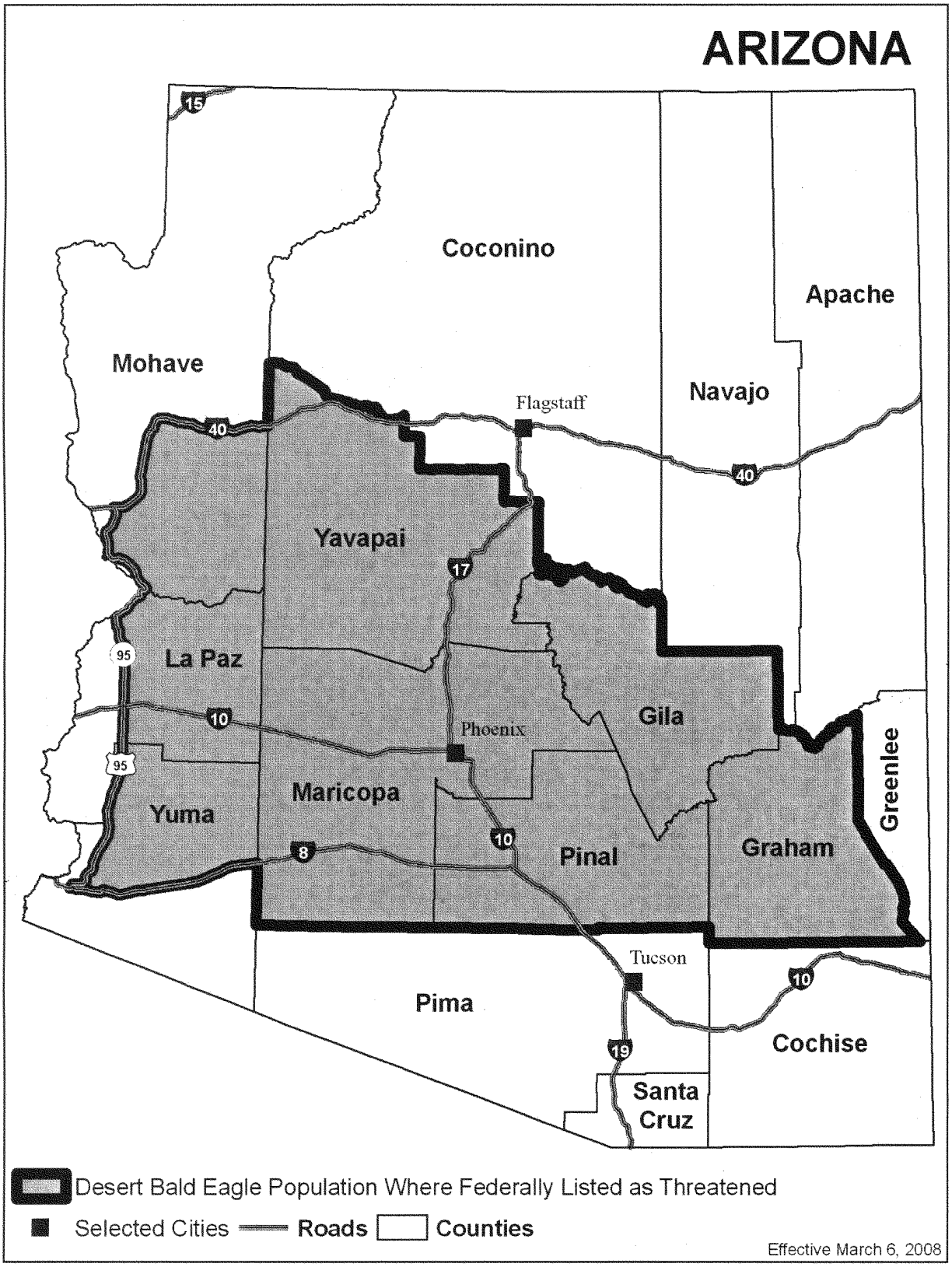

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Administrative Procedure

This rulemaking is necessary to comply with a March 6, 2008, court order. Therefore, under these circumstances, the Director has determined, pursuant to 5 U.S.C. 553(b), that prior notice and opportunity for public comment are impractical and unnecessary. The Director has further determined, pursuant to 5 U.S.C. 553(d), the agency has good cause to make this rule effective upon publication and require compliance retroactively to the date of the court order.

Effects of the Rule

Any and all bald eagles, including migrants, found within the boundaries of the Sonoran Desert area of central Arizona, as delineated by the map included as part of this rule, are hereby listed as a threatened species under the Act, with a special rule found at 50 CFR 17.41.

The provisions of the special rule at 50 CFR 17.41 that we are adding here under the Act are the same as those in the prior special rule that was removed per our July 9, 2007 (72 FR 37346), final delisting rule removing the threatened status for bald eagles in the lower 48 States. This special rule now applies only to bald eagles in the Sonoran Desert area of central Arizona, the only such population of bald eagles so listed under the Act. Under this special rule, bald eagle banding and marking permits issued under the Migratory Bird Treaty Act (MBTA) (16 U.S.C. 703–712) and its implementing regulations at 50 CFR 21.22, and also under the Bald and Golden Eagle Protection Act (BGEPA) (16 U.S.C. 668–668d) and its implementing regulations at 50 CFR part 22, will be deemed to also satisfy the requirements for a permit under the Act and its implementing regulations at 50 CFR 17.31 and 17.32. The BGEPA regulations at 50 CFR part 22 authorize permits for taking, possession, and transportation within the United States for scientific, educational, and depredation control purposes and for the religious purposes of American Indian tribes. This part also governs the transportation into or out of the United States of bald and golden eagle parts for scientific, educational, and Indian religious purposes. Under this special rule, it will not be necessary to obtain a separate permit under the Act for the same activities already authorized under the MBTA and BGEPA permits described above.

Although the petition also included Sonoran Desert bald eagles in northwestern Mexico, these bald eagles remain unlisted because bald eagles in this area were not previously listed pursuant to the Act and thus their status was unaffected by the court order limiting the effects of our July 9, 2007 (72 FR 37346), final delisting rule.

Consistent with the court's March 6, 2008 order, this rule will be in effect ''pending the outcome of the status review and 12-month finding.'' However, we will immediately remove the bald eagle in the Sonoran Desert area of central Arizona from the List of Endangered and Threatened Wildlife if the court's March 6, 2008, order is stayed or reversed in any subsequent judicial proceeding, or if, after completion of the status review, we publish a 12-month finding that listing the Sonoran Desert bald eagle is not warranted. No decision has been made as to whether the government will appeal that order.

We will publish a notice requesting public input for the status review required under the March 6, 2008, court order in the **Federal Register** in the near future. This status review will consider the population of bald eagles as described in the October 6, 2004, petition and any other relevant information received during the public comment period and will be based upon the best scientific and commercial data available, pursuant to the Act.

Under this final rule, the prohibitions and conservation measures provided by the Act, particularly sections 7, 9, and 10, apply to bald eagles in the Sonoran Desert area of central Arizona. Federal agencies are required under the court order and this final rule to consult with us under section 7 of the Act in the event that activities they authorize, fund, or carry out may affect listed bald eagles.

In addition to the conservation measures provided by the Act, the *Conservation Assessment and Strategy for Bald Eagles in Arizona* (CAS) (Driscoll *et al.* 2006) contains guidance on measures to eliminate, reduce, or minimize effects to eagles in Arizona. On January 22, 2007, the Service signed a Memorandum of Understanding with the AGFD supporting the implementation of the AGFD's CAS. The Memorandum of Understanding was also signed by the following Federal agencies: Bureau of Reclamation, Bureau of Land Management, National Park Service, Forest Service, and the Department of Defense, including the U.S. Army Corps of Engineers. The CAS provides additional valuable guidance for protecting bald eagles in Arizona, and we support using it in conjunction with our Bald Eagle National Management Guidelines to protect bald eagles in Arizona.

All bald eagles, of course, will continue to be protected under the BGEPA and MBTA. We recommend that persons use our *Bald Eagle National Management Guidelines* (Guidelines), announced in the **Federal Register** on June 5, 2007 (72 FR 31156), as guidance for minimizing the risk of violating the protections afforded to all bald eagles under these various Acts and their respective implementing regulations. The Guidelines include suggestions for protecting bald eagles and their habitat while they are nesting, feeding, and roosting. While eagles originating in the Sonoran Desert area of central Arizona would not be protected by the Act if they traveled to other parts of the United States, they would still be afforded the protections under the BGEPA and MBTA.

This rule will not affect the bald eagle's status under State laws or suspend any other legal protections provided by State law. This rule will not affect the bald eagle's Appendix II status under the Convention on International Trade of Endangered Species of Wild Fauna and Flora (CITES).

Additionally, pursuant to section 6 of the Act, we are able to grant available funds to the State of Arizona for management actions promoting the protection of bald eagles in the Sonoran Desert area of central Arizona.

Required Determinations

National Environmental Policy Act

We have determined that we do not need to prepare an Environmental Assessment, as defined in the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), Executive Order 13175, and the Department of Interior's manual at 512 DM 2, we readily acknowledge our responsibility to consult with Federally recognized Tribes on a government-to-government basis. Accordingly, we will promptly consult with the affected Tribes regarding the effects of the court's March 6, 2008, order and this final rule.

We will also consult with the affected tribes as we conduct our new status review concerning the Sonoran Desert nesting bald eagle population.

References Cited

Brown, D. 1973. The Natural Vegetative Communities of Arizona. Arizona Game and Fish Department, Phoenix, AZ.

Brown, D. (editor). 1994. Biotic Communities of the Southwestern United States and Northwestern New Mexico. The University of Utah Press, Salt Lake City, UT.

Canaca, J.S., K.V. Jacobson, and J.T. Driscoll. 2004. Arizona Bald Eagle 2003 Nest Survey, Nongame and Endangered Wildlife Program Technical Report 226. Arizona Game and Fish Department, Phoenix, AZ.

Driscoll, J.T., K.V. Jacobson, G.L. Beatty, J.S. Canaca, and J.G. Koloszar. 2006. Conservation Assessment and strategy for the bald eagle in Arizona. Nongame and Endangered Wildlife Program Technical Report 173. Arizona Game and Fish Department, Phoenix, Arizona.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Regulation Promulgation

■ Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

§ 17.11 [Amended]

■ 2. In § 17.11(h), an entry for ''Eagle, Bald'' is added under BIRDS to read as follows:

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*		*
BIRDS							
*	*	*	*	*	*		*
Eagle, bald	*Haliaeetus leucocephalus* ..	North Arizona: South to northern Mexico.	Arizona: (1) Yavapai, Gila, Graham, Pinal, and Maricopa, Counties; and (2) Southern Mohave County (that portion south and east of the center of Interstate Highway 40 and east of Arizona Highway 95), eastern LaPaz County (that portion east of the centerline of U.S. and Arizona Highways 95), and north of the centerline of Interstate Highway 8).	T	.....	NA	17.41(a).
*	*	*	*	*	*		*

■ 3. Section 17.41 is amended by adding paragraph (a) to read as follows:

§ 17.41 Special rules—birds.

(a) Bald eagles (*Haliaeetus leucocephalus*) wherever listed as threatened under § 17.11(h). All provisions of §§ 17.31 and 17.32 apply to any threatened bald eagle, with the following exceptions:

(1) The Service will consider any permit that we issue for bald eagles under § 21.22 (banding and marking permits) or part 22 of this chapter (permits for certain activities with bald or golden eagles) to satisfy all requirements of § 17.31 and the permits we issue under § 17.32.

(2) The Service will not require a second permit under § 17.32 for any activity that is covered by a permit issued under § 21.22 or part 22 of this chapter.

(3) The Service will require a permit under § 17.32 for any activity that is not covered by a permit issued under § 21.22 or part 22 of this chapter.

* * * * *

Dated: April 18, 2008.

H. Dale Hall,

Director, Fish and Wildlife Service.

[FR Doc. 08–1203 Filed 4–28–08; 4:00 pm]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 080103017–8598–03]

RIN 0648–AS01

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

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

ACTION: Final rule; notice of OMB approval of collection -of-information collection requirements.

SUMMARY: NMFS announces approval by the Office of Management and Budget (OMB) of collection-of-information requirements contained in regulations

implementing amendments to the Atlantic Large Whale Take Reduction Plan.

DATES: The information collection requirements associated with the final rule published on October 5, 2007 are effective May 1, 2008.

FOR FURTHER INFORMATION CONTACT: Diane Borggaard, NMFS, Northeast Region, 978–281–9300 Ext. 6503, *diane.borggaard@noaa.gov*; Kristy Long, NMFS, Office of Protected Resources, 301–713–2322, *kristy.long@noaa.gov*; or Barb Zoodsma, NMFS, Southeast Region, 904–321–2806, *barb.zoodsma@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Electronic Access

This **Federal Register** document is also accessible at the web site of the Office of the Federal Register: *http://www.gpoaccess.gov/fr/index.html*.

Background

On October 5, 2007, NMFS published a final rule implementing the Atlantic Large Whale Take Reduction Plan (ALWTRP) (72 FR 57104). That final rule contained collection-of-information requirements that were submitted to, but not yet approved by, the Office of Management and Budget. Because OMB had not yet approved the collection-of-information requirements by the publication date of that final rule, NMFS noted in that final rule that it would publish a subsequent **Federal Register** notice upon OMB's issuance of a control number.

On December 7, 2007, OMB approved the collection-of-information requirements contained in the October 5, 2007 final rule. NMFS announces that the collection-of-information requirements are approved under Control Number 0648–0364, with an expiration date of February 28, 2009.

Dated: April 25, 2008.

Samuel D. Rauch III,

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

[FR Doc. 08–1202 Filed 4–28–08; 4:00 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 080428611–8612–01]

RIN 0648–AW60

Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; 2008 Management Measures and a Temporary Rule

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

ACTION: Final rule; and a temporary rule for emergency action; request for comments.

SUMMARY: NMFS establishes fishery management measures for the 2008 ocean salmon fisheries off Washington, Oregon, California and the 2009 salmon seasons opening earlier than May 1, 2009. The temporary rule for emergency action (emergency rule), under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), implements the 2008 annual management measures for the west coast ocean salmon fisheries for the area from Cape Falcon, OR, to the Oregon/California Border from June 22 to August 31, 2008. The emergency rule is required because Sacramento River fall Chinook (SRFC) are projected to not meet their conservation objective of 122,000 to 180,000 natural and hatchery adult spawners established in the Pacific Coast Salmon Fishery Management Plan (Salmon FMP). Specific fishery management measures vary by fishery and by area. The measures establish fishing areas, seasons, quotas, legal gear, recreational fishing days and catch limits, possession and landing restrictions, and minimum lengths for salmon taken in the U.S. exclusive economic zone (EEZ) (3–200 nm) off Washington, Oregon, and California. The management measures are intended to prevent overfishing and to apportion the ocean harvest equitably among treaty Indian, non-treaty commercial, and recreational fisheries. The measures are also intended to allow a portion of the salmon runs to escape the ocean fisheries in order to provide for spawning escapement and to provide for inside fisheries (fisheries occurring in state internal waters).

DATES: Final rule is effective from 0001 hours Pacific Daylight Time, May 1, 2008, until the effective date of the 2009 management measures, as published in the **Federal Register**. Temporary rule is effective from 0001 hours Pacific Daylight Time June 22, 2008, to 1159 hours Pacific Daylight Time August 31, 2008 or the attainment of the specific quota as listed below in section two of this rule. Comments must be received by May 16, 2008.

ADDRESSES: You may submit comments, identified by 0648–AW60, by any one of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal eRulemaking Portal *http://www.regulations.gov.*
- *Fax:* 206–526–6736. *Attn:* Sarah McAvinchey, or 562–980–4047 *Attn:* Eric Chavez.
- *Mail:* D. Robert Lohn, Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way, NE., Seattle, WA 98115–0070 or to Rod McInnis, Regional Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213.

Instructions: All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. NMFS will accept anonymous comments. Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Copies of the documents cited in this document are available from Dr. Donald O. McIsaac, Executive Director, Pacific Fishery Management Council, 7700 NE., Ambassador Place, Suite 200, Portland, OR 97220–1384, and are posted on its Web site (*http://www.pcouncil.org*).

Send comments regarding the reporting burden estimate or any other aspect of the collection-of-information requirements in these management measures, including suggestions for reducing the burden, to one of the NMFS addresses listed above and to David Rostker, Office of Management and Budget (OMB), by e-mail at *David_Rostker@omb.eop.gov*, or by fax at (202) 395–7285.

FOR FURTHER INFORMATION CONTACT: Sarah McAvinchey at 206–526–4323, or Eric Chavez at 562–980–4064.

SUPPLEMENTARY INFORMATION:

Background

The ocean salmon fisheries in the EEZ off Washington, Oregon, and California

are managed under a ''framework'' fishery management plan entitled the Pacific Coast Salmon Fishery Management Plan (Salmon FMP). Regulations at 50 CFR part 660, subpart H, provide the mechanism for making preseason and inseason adjustments to the management measures, within limits set by the Salmon FMP, by notification in the **Federal Register**.

These management measures for the 2008 and pre-May 2009 ocean salmon fisheries were recommended by the Pacific Fishery Management Council (Council) at its April 7 to 11, 2008, meeting.

Schedule Used to Establish 2008 Management Measures

The Council announced its annual preseason management process for the 2008 ocean salmon fisheries in the **Federal Register** on January 2, 2008 (73 FR 169), and on their Web site at (*http://www.pcouncil.org*). This notice announced the availability of Council documents as well as the dates and locations of Council meetings and public hearings comprising the Council's complete schedule of events for determining the annual proposed and final modifications to ocean salmon fishery management measures. The agendas for the March and April Council meetings were published in the **Federal Register** prior to the actual meetings.

In accordance with the Salmon FMP, the Council's Salmon Technical Team (STT) and staff economist prepared a series of reports for the Council, its advisors, and the public. The first of the reports was prepared in February when the scientific information necessary for crafting management measures for the 2008 and pre-May 2009 ocean salmon fishery first became available. The first report, ''Review of 2007 Ocean Salmon Fisheries'', summarizes biological and socio-economic data for the 2007 ocean salmon fisheries and assesses how well the Council's 2007 management objectives were met. The second report, ''Preseason Report I Stock Abundance Analysis for 2008 Ocean Salmon Fisheries'' (PRE I), provides the 2008 salmon stock abundance projections and analyzes the impacts on the stocks and Council management goals if the 2007 regulations and regulatory procedures were applied to the projected 2008 stock abundances. The completion of PRE I is the initial step in evaluating the full suite of preseason options.

The Council met in Sacramento, CA from March 10 to 14, 2008, to develop 2008 management options for proposal to the public. The Council proposed three options for commercial and recreational fisheries management for analysis and public comment. These options consisted of various combinations of management measures designed to protect weak stocks of coho and Chinook salmon and to provide for ocean harvests of more abundant stocks. After the March Council meeting, the Council's STT and staff economist prepared a third report, ''Preseason Report II Analysis of Proposed Regulatory Options for 2008 Ocean Salmon Fisheries,'' which analyzes the effects of the proposed 2008 management options. This report was made available to the Council, its advisors, and the public.

Public hearings, sponsored by the Council, to receive testimony on the proposed options were held on March 31, 2008, in Westport, WA and Coos Bay, OR; and April 1, 2008, in Eureka, CA. The States of Washington, Oregon, and California sponsored meetings in various forums that also collected public testimony, which was then presented to the Council by each state's Council representative. The Council also received public testimony at both the March and April meetings and received written comments at the Council office.

The Council met from April 7 to 11, 2008, in Seatac, WA, to adopt its final 2008 recommendations. Following the April Council meeting, the Council's STT and staff economist prepared a fourth report, ''Preseason Report III Analysis of Council-Adopted Management Measures for 2008 Ocean Salmon Fisheries,'' which analyzes the environmental and socio-economic effects of the Council's final recommendations. This report was also made available to the Council, its advisors, and the public. After the Council took final action on the annual ocean salmon specifications in April, it published the recommended management measures in its newsletter and also posted them on the Council Web site (*http://www.pcouncil.org*).

Resource Status

At the start of the preseason planning process for the 2008 management season, NMFS provided a letter to the Council, dated February 26, 2008, summarizing its Endangered Species Act (ESA) consultation standards for listed species as required by the Salmon FMP. The Council's recommended management measures comply with NMFS ESA consultation standards and guidance for those listed salmon species which may be affected by Council fisheries. In most cases, the recommended measures are more restrictive than NMFS's ESA requirements.

NMFS provided guidance to the Council and a new biological opinion regarding the effects of the 2008 fisheries on Lower Columbia River (LCR) coho and LCR Chinook salmon. This will be the third year that NMFS has consulted on LCR coho. Since the listing of LCR coho in August 2005, the states of Oregon and Washington have been working with NMFS to develop and evaluate a management plan for LCR coho that can be used as the basis for their long-term management. The states have focused on use of a harvest matrix similar to the one used for Oregon Coast coho. Under the matrix the harvest allowed in a given year depends on indicators of marine survival and brood year escapement. Generally speaking, NMFS supports use of management planning tools that allow harvest rates to vary depending on the year-specific circumstances. Although there has been progress in the development and review of the matrix, there is still work to be done before NMFS can reasonably conclude that the proposed harvest matrix provides the necessary long-term protection for the species.

In the meantime, NMFS needed to provide guidance for the 2008 fisheries. In 2008, brood year and marine survival indicators were generally lower than they were in 2007. Given the circumstances the matrix would have allowed for a total exploitation rate of 11.7 percent. However, uncertainties related to selection of a particular long-term management strategy are such that it is still prudent to take a conservative approach to management until those questions can be resolved. Based on the above described circumstances, NMFS guidance to the Council was that ocean salmon fisheries, and fisheries in the mainstem Columbia River be managed subject to a total exploitation rate limit on LCR coho of 8 percent. As a consequence of this guidance the Council proposed to limit Council area fisheries to an exploitation rate of 6 percent recognizing that this provided for some fishing opportunity in the Columbia River. The resulting coho quota for the area north of Cape Falcon in 2008 is 44,350 compared to quotas of 178,000, 117,500 and 195,000 in the last three years.

NMFS reinitiated consultation on an earlier biological opinion related to the effects on LCR Chinook. From 2002–2006 Council fisheries were managed subject to a total exploitation rate limit of 49 percent for the ''tule'' component of the listed evolutionarily significant unit (ESU). Since then, NMFS has been

engaged in ongoing review of LCR tule Chinook in particular. In 2007, the exploitation rate limit has been reduced to 42%. In 2008, the allowable exploitation rate limit was reduced further to 41%. The reduction in exploitation rate is intended to address the needs of the ESU and the weaker populations in the ESU. NMFS intends to continue its review of harvest and seeks to implement changes that are consistent with the evolving information, the expected evolution of the hatchery programs, and the long term goal of recovery articulated in the Lower Columbia Salmon Recovery Plan. NMFS expects that further reductions in the harvest on naturally-spawning fish may be required. Based on the guidance provided, the Council proposed to limit Council fisheries such that the total exploitation rate from all fisheries was 35.8 percent and thus well below the limit. The Chinook catch quota for the area north of Cape Falcon in 2008 is 77,500, compared to quotas of 67,500, 107,000 and 135,000 in the last three years. Because fisheries are so restricted this year NMFS ESA requirements for all other listed salmonids including Snake River fall Chinook, Puget Sound Chinook, and California Coastal Chinook will be met.

Emergency Rule

The Council's final recommendation for the ocean salmon fishing seasons that commence May 1st deviates from the Salmon FMP specifically with regard to meeting the Sacramento River fall Chinook (SRFC) conservation objective of 122,000–180,000 natural and hatchery adult spawners. Under the circumstances, implementation of an Emergency Action under Magnuson-Stevens Act authority at section 305(c)(2)(B) is necessary to modify the conservation objective in the Salmon FMP in order to implement the Council's proposal. The Temporary Rule for Emergency Action applies to the area between Cape Falcon, Oregon, and the Oregon/California border.

The conservation objective for SRFC in the Salmon FMP requires a return of 122,000–180,000 natural and hatchery adult spawners each year. The preseason forecast for SRFC for 2008 is at a record low, with a projected escapement of 59,100 hatchery and natural fish absent any further fishing south of Cape Falcon, OR. Under the Salmon FMP, a ''conservation alert'' is triggered when a stock is projected to fall below its conservation objective. Under such circumstances the Council is required to close salmon fisheries within Council jurisdiction that impact the stock.

Because of differences in stock composition and in how salmon fisheries are managed, the Council splits its management decisions geographically into North of Cape Falcon, OR (managed mostly by quotas), and South of Cape Falcon (managed mostly by seasons and trip limits). Cape Falcon is near the Columbia River in Oregon. Because annual management measures must meet the Salmon FMP conservation objectives of all the key stocks, fishing seasons are usually limited by the necessity of meeting the requirements for the least abundant stock. South of Cape Falcon, the dramatically low abundance of Sacramento River fall Chinook was the primary constraint for fisheries in Oregon and California.

When defining the area of impact NMFS considers the distribution of the stock, the magnitude of harvest impacts at the margin of that distribution and the relation of that distribution to existing fishery management boundaries. In 2006, when Klamath River fall Chinook were projected to be below their conservation objective, the area of impact was determined to be from Cape Falcon, Oregon, to Point Sur, California. This was designated as the impact area based on estimates indicating that the vast majority of harvest impacts, in this case 99%, occurred in the area. In 2008, there is a similar conservation concern for Sacramento River fall Chinook. Using the same rationale for SRFC, the area of impact that would be closed pursuant to the Salmon FMP would include the area from Cape Falcon, Oregon, to the U.S./Mexico Border where the vast majority of harvest impacts on SRFC occur. In this case, NMFS estimated that 99% of harvest mortality occurs in the area South of Cape Falcon, Oregon. Given the circumstances, any fishing in the impact area would have to be implemented through an emergency rule that modifies the Salmon FMP.

The process for setting this year's management measures was controversial given the proposed reductions in fishing opportunities and potential extensive closures. At both the March and April Council meetings, and the coastwide public hearings, there was substantial public participation and comments from the various fishing sectors and related industries regarding the proposed 2008 management measures. The majority of the comments expressed great concern that elimination of the ocean fisheries that impact SRFC, which typically comprises the majority of the catch in California and Oregon, would cause severe economic hardship to coastal communities in California and Oregon. Those testifying also spoke at length regarding concerns for the demise of the infrastructure that supports the fishing industry, as well as other related businesses, and thus the long-term consequences of a fishery closure or severe restrictions in 2008. The Council, in order to address the conservation concerns for SRFC, recommended closing the commercial salmon fishery South of Cape Falcon Oregon. They also recommended no recreational fishery off California. In order to protect SRFC and mitigate to some extent the adverse economic and social consequences of this year's restricted fishing season the Council recommended an emergency rule to implement only a small recreational fishery for hatchery marked coho in Oregon with a 9,000 fish quota, from Cape Falcon, OR, to the California/Oregon border from June 22 through August 31, 2008.

For NMFS, the key issue in considering whether to approve the emergency rule was whether the proposed fishery would jeopardize the capacity of the fishery to produce maximum sustainable yield (MSY) on a continuing basis. NMFS used available information provided by the Council's advisory bodies to assess the potential risk to SRFC. The method developed by the STT for modeling impacts to SRFC was reviewed favorably by the Council's Scientific and Statistical Committee. Using this model, the projected mortality of SRFC is 55 fish. Furthermore, not all of these fish would be expected to return to the Sacramento River this year. Some of the fish would not mature and would remain in the ocean in 2008. Others would be expected to die of natural causes. The estimate of escapement absent fishing is 59,100; the proposed fishery would reduce the escapement by a few tens of fish. Given the magnitude of the fishery and the available information on anticipated impacts to SRFC, NMFS concluded that the marginal decrease in escapement that will result from the limited fishery in the SRFC impact area proposed for 2008 does not jeopardize the capacity of the stock to produce MSY on a continuing basis. NMFS further concluded that the limited fishery in the SRFC impact area does not increase the conservation concerns for SRFC while mitigating, to the degree possible, some adverse effects to the fishing community. The vote of the Council reflects their concurrence with NMFS' conclusion. The Temporary Rule for Emergency Action to approve the 2008 annual management measures for the west coast ocean salmon fisheries

would cover the area from Cape Falcon, Oregon, to the Oregon/California Border where the limited recreational marked hatchery coho fishery will occur.

Management Measures for 2008 Fisheries

The Council-recommended ocean harvest levels and management measures for 2008 fisheries are designed to apportion the burden of protecting the weak stocks identified and discussed in PRE I equitably among ocean fisheries and to allow maximum harvest of natural and hatchery runs surplus to inside fishery and spawning needs. NMFS finds the Council's recommendations responsive to the goals of the Salmon FMP, the requirements of the resource, and the socio-economic factors affecting resource users. The recommendations are consistent with the requirements of the Magnuson-Stevens Fishery Conservation and Management Act and U.S. obligations to Indian tribes with federally recognized fishing rights, and U.S. international obligations regarding Pacific salmon. Accordingly, NMFS has adopted them.

North of Cape Falcon the 2008 management measures have a higher Chinook quota and a substantially lower coho quota relative to the 2008 season. The total allowable catch for 2008 is 77,500 Chinook and 44,350 marked hatchery coho; these fisheries are restricted to protect threatened Columbia River wild fall Chinook, threatened Lower Columbia natural coho, threatened Oregon Coastal Natural coho, and Hood Canal natural coho. Washington coastal and Puget Sound Chinook generally migrate to the far north and are not greatly affected by ocean harvests from Cape Falcon, OR, to the U.S.-Canada border. Nevertheless, ocean fisheries in combination with fisheries inside Puget Sound were restricted in order to meet ESA related conservation objectives for Puget Sound Chinook. North of Cape Alava, WA, the Council recommends a provision prohibiting retention of chum salmon during August and September to protect ESA listed Hood Canal summer chum. The Council has recommended such a prohibition for the last seven years.

South of Cape Falcon, OR, the commercial salmon fishery is closed in 2008 because of the projected failure of the Sacramento River Fall Chinook to reach their conservation objective, even with no fishing on the stock. For the same reason, the only recreational fishery that will occur South of Cape Falcon is a small selective fishery off Oregon with a 9,000-fish quota of marked hatchery coho. This is the fifth year the selective fishery includes the southern coastal area of Oregon. The Council's recommendations are below the 8-percent exploitation rate permitted under ESA limitations for Oregon Coast Natural (OCN) coho stocks, with an expected 6.9-percent OCN coho exploitation rate. The expected ocean exploitation rate for Rogue/Klamath coho is 1.0 percent, and is also below its exploitation rate limit of 13.0 percent.

Treaty Indian Fisheries for 2008

The treaty-Indian commercial troll fishery quota is 37,500 Chinook in ocean management areas and Washington State Statistical Area 4B combined. This quota is slightly higher than the 35,000-Chinook quota in 2007. The fisheries include a Chinook-directed fishery in May and June (under a quota of 20,000 Chinook) and an all-salmon season beginning July 1 with a 17,500 Chinook sub-quota. The coho quota for the treaty-Indian troll fishery in ocean management areas, including Washington State Statistical Area 4B for the July-September period is 20,000 coho, a decrease from the 38,500-coho quota in 2007.

Management Measures for 2009 Fisheries

The timing of the March and April Council meetings makes it impracticable for the Council to recommend fishing seasons that begin before May 1 of the same year. Therefore, the 2009 fishing seasons opening earlier than May 1 are also established in this action. The Council recommended, and NMFS concurs, that the commercial season off Oregon from Cape Falcon to Humbug Mountain, from Humbug Mountain to the Oregon/California border and the recreational season off Oregon from Cape Falcon to the Oregon/California border will open in 2009 as indicated in the Season Description section. At the March 2009 meeting, the Council may consider inseason recommendations to adjust the commercial season prior to May 1 in the areas off Oregon.

Inseason Actions

The following sections set out the management regime for the salmon fishery. Open seasons and days are described in sections 1, 2, and 3 of the 2008 management measures. Inseason closures in the commercial and recreational fisheries are announced on the NMFS hotline and through the U.S. Coast Guard Notice to Mariners as described in section 6. Other inseason adjustments to management measures are also announced on the hotline and through the Notice to Mariners. Inseason actions will also be published in the **Federal Register** as soon as practicable.

The following are the management measures recommended by the Council and approved and implemented here for 2008 and, as specified, for 2009.

Section 1. Commercial Management Measures for 2008 Ocean Salmon Fisheries

Note: This section contains restrictions in parts A, B, and C that must be followed for lawful participation in the fishery. Each fishing area identified in part A specifies the fishing area by geographic boundaries from north to south, the open seasons for the area, the salmon species allowed to be caught during the seasons, and any other special restrictions effective in the area. Part B specifies minimum size limits. Part C specifies special requirements, definitions, restrictions and exceptions.

A. Season Description

North of Cape Falcon, OR U.S./Canada Border to Cape Falcon

May 3 through earlier of June 30 or 11,700 Chinook quota. Saturday through Tuesday with a landing and possession limit of 50 Chinook per vessel for each open period north of Leadbetter Point or 50 Chinook south of Leadbetter Point (c.1). All salmon except coho (c.7). Cape Flattery, Mandatory Yelloweye Rockfish Conservation Area, and Columbia Control Zones closed (c.5). See gear restrictions and definitions (c.2, C.3). Oregon State regulations require that fishers south of Cape Falcon, OR intending to fish within this area notify the Oregon Department of Fish and Wildlife (ODFW) before transiting the Cape Falcon, OR line (45°46′00″ N. lat.) at the following number: 541–867–0300 Ext. 271. Vessels must land and deliver their fish within 24 hours of any closure of this fishery. Under state law, vessels must report their catch on a state fish receiving ticket. Vessels fishing or in possession of salmon while fishing north of Leadbetter Point must land and deliver their fish within the area and north of Leadbetter Point. Vessels fishing or in possession of salmon while fishing south of Leadbetter Point must land and deliver their fish within the area and south of Leadbetter Point, except that Oregon permitted vessels may also land their fish in Garibaldi, Oregon. Oregon State regulations require that all fishers landing salmon into Oregon from any fishery between Leadbetter Point, Washington and Cape Falcon, Oregon must notify ODFW within one hour of delivery or prior to transport away from the port of landing by calling 541–867–0300 Ext. 271. Notification shall include vessel name and number, number of salmon by

species, port of landing and location of delivery, and estimated time of delivery. Inseason actions may modify harvest guidelines in later fisheries to achieve or prevent exceeding the overall allowable troll harvest impacts (c.8).

July 1 through earlier of September 16 or 8,300 preseason Chinook guideline (c.8) or a 4,000-marked coho quota (C.8.d). Open July 1–2, then Saturday through Tuesday thereafter. Landing and possession limit of 35 Chinook and 25 coho per vessel per open period north of Leadbetter Point or 35 Chinook and 25 coho south of Leadbetter Point (c.1). All Salmon except no chum retention north of Cape Alava, Washington in August and September (c.7). All coho must have a healed adipose fin clip (C.8.d). Gear restricted to plugs six inches (15.24 cm) or longer. See gear restrictions and definitions (c.2, C.3). Cape Flattery, Mandatory Yelloweye Rockfish Conservation Area, and Columbia Control Zones closed (c.5). Oregon State regulations require that fishers south of Cape Falcon, OR intending to fish within this area notify Oregon Department of Fish and Wildlife before transiting the Cape Falcon, OR line (45°46′00″ N. lat.) at the following number: 541–867–0300 Ext. 271. Vessels must land and deliver their fish within 24 hours of any closure of this fishery. Under state law, vessels must report their catch on a state fish receiving ticket. Vessels fishing or in possession of salmon while fishing north of Leadbetter Point must land and deliver their fish within the area and north of Leadbetter Point. Vessels fishing or in possession of salmon while fishing south of Leadbetter Point must land and deliver their fish within the area and south of Leadbetter Point, except that Oregon permitted vessels may also land their fish in Garibaldi, Oregon. Oregon State regulations require that all fishers landing salmon into Oregon from any fishery between Leadbetter Point, Washington and Cape Falcon, Oregon must notify ODFW within one hour of delivery or prior to transport away from the port of landing by calling 541–867–0300 Ext. 271. Notification shall include vessel name and number, number of salmon by species, port of landing and location of delivery, and estimated time of delivery. Inseason actions may modify harvest guidelines in later fisheries to achieve or prevent exceeding the overall allowable troll harvest impacts (c.8).

South of Cape Falcon, OR Cape Falcon to Humbug Mountain

Closed in 2008. In 2009, the season will open March 15 for all salmon except coho. This opening could be modified following Council review at its March 2009 meeting.

Humbug Mountain to Oregon/California Border

Closed in 2008. In 2009, the season will open March 15 for all salmon except coho. This opening could be modified following Council review at its March 2009 meeting.

Oregon/California Border to U.S./Mexico Border Closed.

B. Minimum Size (Inches) (See C.1)

Area (when open)	Chinook		Coho		Pink
	Total length	Head-off	Total length	Head-off	
North of Cape Falcon, OR	28.0	21.5	16.0	12.0	None
Cape Falcon to OR-CA Border	28.0	21.5	16.0	12.0	
OR-CA Border to US-Mexico Border	.....	.....	.....	.....	

Metric equivalents: 28.0 in = 71.1 cm, 27.0 in = 68.6 cm, 26.0 in = 66.0 cm, 21.5 in = 54.6 cm, 19.5 in = 49.5 cm, 16.0 in = 40.6 cm, and 12.0 in = 30.5 cm.

C. Special Requirements, Definitions, Restrictions, or Exceptions

C.1. Compliance with Minimum Size or Other Special Restrictions

All salmon on board a vessel must meet the minimum size, landing/possession limit, or other special requirements for the area being fished and the area in which they are landed if the area is open. Salmon may be landed in an area that has been closed more than 96 hours only if they meet the minimum size, landing/possession limit, or other special requirements for the area in which they were caught. Salmon may be landed in an area that has been closed less than 96 hours only if they meet the minimum size, landing/possession limit, or other special requirements for the areas in which they were caught and landed.

States may require fish landing/receiving tickets to be kept on board the vessel for 90 days after landing to account for all previous salmon landings.

C.2. Gear Restrictions: Salmon May Be Taken Only by Hook and Line Using Barbless Hooks

a. Single point, single shank, barbless hooks are required in all fisheries.

b. Cape Falcon, Oregon, to the OR/CA border: No more than 4 spreads are allowed per line.

c. OR/CA border to U.S./Mexico border: No more than 6 lines are allowed per vessel, and barbless circle hooks are required when fishing with bait by any means other than trolling.

C.3. Gear Definitions

Trolling defined: Fishing from a boat or floating device that is making way by means of a source of power, other than drifting by means of the prevailing water current or weather conditions.

Troll fishing gear defined: One or more lines that drag hooks behind a moving fishing vessel. In that portion of the fishery management area (FMA) off Oregon and Washington, the line or lines must be affixed to the vessel and must not be intentionally disengaged from the vessel at any time during the fishing operation.

Spread defined: A single leader connected to an individual lure or bait.

Circle hook defined: A hook with a generally circular shape and a point which turns inward, pointing directly to the shank at a 90° angle.

C.4. Transit Through Closed Areas with Salmon on Board

It is unlawful for a vessel to have troll or recreational gear in the water while transiting any area closed to fishing for a certain species of salmon, while possessing that species of salmon; however, fishing for species other than salmon is not prohibited if the area is open for such species, and no salmon are in possession.

C.5. Control Zone Definitions

a. Cape Flattery Control Zone—The area from Cape Flattery (48°23′00″ N. lat.) to the northern boundary of the U.S. EEZ; and the area from Cape Flattery south to Cape Alava (48°10′00″ N. lat.) and east of 125°05′00″ W. long.

b. Mandatory Yelloweye Rockfish Conservation Area—The area in Washington Marine Catch Area 3 from 48°00.00′ N. lat.; 125°14.00′ W. long. to

48°02.00′ N. lat.; 125°14.00′ W. long. to 48°02.00′ N. lat.; 125°16.50′ W. long. to 48°00.00′ N. lat.; 125°16.50′ W. long. and connecting back to 48°00.00′ N. lat.; 125°14.00′ W. long.

c. Columbia Control Zone—An area at the Columbia River mouth, bounded on the west by a line running northeast/southwest between the red lighted Buoy #4 (46°13′35″ N. lat., 124°06′50″ W. long.) and the green lighted Buoy #7 (46°15′09″ N. lat., 124°06′16″ W. long.); on the east, by the Buoy #10 line which bears north/south at 357° true from the south jetty at 46°14′00″ N. lat., 124°03′07″ W. long. to its intersection with the north jetty; on the north, by a line running northeast/southwest between the green lighted Buoy #7 to the tip of the north jetty (46°15′48″ N. lat., 124°05′20″ W. long.), and then along the north jetty to the point of intersection with the Buoy #10 line; and, on the south, by a line running northeast/southwest between the red lighted Buoy #4 and tip of the south jetty (46°14′03″ N. lat., 124°04′05″ W. long.), and then along the south jetty to the point of intersection with the Buoy #10 line.

d. Bandon High Spot Control Zone—The area west of a line between 43°07′00″ N. lat.; 124°37′00″ W. long. and 42°40′30″ N. lat; 124° 52′0″ W. long. extending to the western edge of the exclusive economic zone (EEZ).

e. Klamath Control Zone—The ocean area at the Klamath River mouth bounded on the north by 41°38′48″ N. lat. (approximately six nautical miles north of the Klamath River mouth); on the west, by 124°23′00″ W. long. (approximately 12 nautical miles off shore); and on the south, by 41°26′48″ N. lat. (approximately six nautical miles south of the Klamath River mouth).

C.6. Notification When Unsafe Conditions Prevent Compliance With Regulations

If prevented by unsafe weather conditions or mechanical problems from meeting special management area landing restrictions, vessels must notify the U.S. Coast Guard and receive acknowledgment of such notification prior to leaving the area. This notification shall include the name of the vessel, port where delivery will be made, approximate amount of salmon (by species) on board, and the estimated time of arrival.

C.7. Incidental Halibut Harvest

During authorized periods, the operator of a vessel that has been issued an incidental halibut harvest license may retain Pacific halibut caught incidentally in Area 2A while trolling for salmon. Halibut retained must be no less than 32 inches (81.28 cm) in total length, measured from the tip of the lower jaw with the mouth closed to the extreme end of the middle of the tail, and must be landed with the head on. License applications for incidental harvest must be obtained from the International Pacific Halibut Commission (phone: 206–634–1838). Applicants must apply prior to April 1 of each year. Incidental harvest is authorized only during May and June troll seasons and after June 30 if quota remains and if announced on the NMFS hotline (phone: 800–662–9825). ODFW and Washington Department of Fish and Wildlife (WDFW) will monitor landings. If the landings are projected to exceed the 37,707 pound preseason allocation or the total Area 2A non-Indian commercial halibut allocation, NMFS will take inseason action to close the incidental halibut fishery.

Beginning May 1, license holders may land no more than one Pacific halibut per each two Chinook, except one Pacific halibut may be landed without meeting the ratio requirement, and no more than 35 halibut may be landed per open period. Pacific halibut retained must be no less than 32 inches in total length (with head on).

A ''C-shaped'' yelloweye rockfish conservation area (YRCA) is an area to be voluntarily avoided for salmon trolling. NMFS and the Council request salmon trollers voluntarily avoid this area in order to protect yelloweye rockfish. The area is defined in the Pacific Council Halibut Catch Sharing Plan in the North Coast subarea (Washington marine area 3), with the following coordinates in the order listed:

48°18′ N. lat.; 125°18′ W. long.;
48°18′ N. lat.; 124°59′ W. long.;
48°11′ N. lat.; 124°59′ W. long.;
48°11′ N. lat.; 125°11′ W. long.;
48°04′ N. lat.; 125°11′ W. long.;
48°04′ N. lat.; 124°59′ W. long.;
48°00′ N. lat.; 124°59′ W. long.;
48°00′ N. lat.; 125°18′ W. long.;

and connecting back to 48°18′ N. lat.; 125°18′ W. long.

C.8. Inseason Management

In addition to standard inseason actions or modifications already noted under the season description, the following inseason guidance is provided to NMFS:

a. Chinook remaining from the May through June non-Indian commercial troll harvest guideline north of Cape Falcon may be transferred to the July through September harvest guideline on a fishery impact equivalent basis.

b. NMFS may transfer fish between the recreational and commercial fisheries north of Cape Falcon if there is agreement among the areas' representatives on the Salmon Advisory Subpanel (SAS).

c. At the March 2009 meeting, the Council will consider inseason recommendations for special regulations for any experimental fisheries (proposals must meet Council protocol and be received in November 2008).

d. If retention of unmarked coho is permitted in the area from the U.S./Canada border to Cape Falcon, Oregon, by inseason action, the allowable coho quota will be adjusted to ensure preseason projected mortality of critical stocks is not exceeded.

C.9. Consistent with Council Management Objectives

a. The State of Oregon may establish additional late-season fisheries in state waters. Check state regulations for details.

b. The State of California may establish limited fisheries in selected state waters.

C.10. For the purposes of California Department of Fish and Game (CDFG) Code, section 8232.5, the definition of the Klamath Management Zone (KMZ) for the ocean salmon season shall be that area from Humbug Mt., Oregon, to Horse Mt., California.

Section 2. Recreational Management Measures for 2008 Ocean Salmon Fisheries

Note: This section contains restrictions in parts A, B, and C that must be followed for lawful participation in the fishery. Each fishing area identified in part A specifies the fishing area by geographic boundaries from north to south, the open seasons for the area, the salmon species allowed to be caught during the seasons, and any other special restrictions effective in the area. Part B specifies minimum size limits. Part C specifies special requirements, definitions, restrictions and exceptions.

A. Season Description

North of Cape Falcon, OR U.S./Canada Border to Leadbetter Point

June 1 through earlier of June 28 or a quota of 8,200 Chinook (c.5). Tuesday through Saturday north of the Queets River (Neah Bay and La Push Subareas) and Sunday through Thursday south of the Queets River (Westport subarea). Chinook only, one fish per day. Chinook 24-inch (60.96 cm) total length minimum size limit (B). See gear restrictions (c.2). Inseason management may be used to sustain season length and keep harvest within the overall

Chinook recreational TAC for north of Cape Falcon (c.5).

Leadbetter Point to Cape Falcon (Columbia River Subarea)

June 1 through earlier of June 28 or a subarea guideline of 5,300 Chinook (c.5). Seven days per week. Chinook only, one fish per day. Chinook 24-inch (60.96 cm) total length minimum size limit (B). See gear restrictions (c.2). Inseason management may be used to sustain season length and keep harvest within the overall Chinook recreational TAC for north of Cape Falcon (c.5).

U.S./Canada Border to Cape Alava (Neah Bay)

July 1 through earlier of September 13 or 2,060 marked coho subarea quota with a subarea guideline of 950 Chinook (c.5). Tuesday through Saturday. All salmon two fish per day, no more than one of which can be a Chinook and no chum retention August 1 through Sept. 13. Chinook 24-inch total length minimum size limit (B). All retained coho must be marked with a healed adipose fin clip. See gear restrictions (c.2). Closed east of a true north-south line running through Sail Rock in July. Beginning August 1, Chinook non-retention east of the Bonilla-Tatoosh line (C.4.a) during Council managed ocean fishery. Inseason management may be used to sustain season length and keep harvest within the overall Chinook recreational TAC for north of Cape Falcon (C.5).

Cape Alava to Queets River (La Push Subarea)

July 1 through earlier of September 13 or 540 marked coho subarea quota with a subarea guideline of 350 Chinook (C5). September 20 through earlier of October 5 or 50 marked coho quota or 100 Chinook quota (C5): In the area north of 47°50′00″ N. lat. and south of 48°00′00″ N. lat. (C.6). Tuesday through Saturday through September 13. All salmon, two fish per day, no more than one of which can be a Chinook. Chinook 24-inch (60.96 cm) total length minimum size limit (B). All retained coho must be marked with a healed adipose fin clip. See gear restrictions (C.2). Inseason management may be used to sustain season length and keep harvest within the overall Chinook recreational TAC for north of Cape Falcon (C.5).

Queets River to Leadbetter Point (Westport Subarea)

June 29 through earlier of September 13 or 7,520 marked coho subarea quota with a subarea guideline of 5,100 Chinook (C.5). Sunday through Thursday. All salmon, two fish per day, no more than one of which can be a Chinook. Chinook 24-inch total length minimum size limit (B). All retained coho must be marked with a healed adipose fin clip. See gear restrictions and definitions (C.2, C.3). Grays Harbor Control Zone closed beginning August 1 (C.4.b). Inseason management may be used to sustain season length and keep harvest within the overall Chinook recreational TAC for north of Cape Falcon (C.5).

Leadbetter Point to Cape Falcon (Columbia River Subarea)

June 29 through earlier of September 30 or 10,180 marked coho subarea quota with any remainder of the 5,300 Chinook subarea guideline from the June Chinook directed fishery (C.5). Sunday through Thursday. All salmon, two fish per day, no more than one of which can be a Chinook. Chinook 24-inch (60.96 cm) total length minimum size limit (B). All retained coho must be marked with a healed adipose fin clip. See gear restrictions and definitions (C.2, C.3). Columbia Control Zone closed (C.4.c). Inseason management may be used to sustain season length and keep harvest within the overall Chinook recreational TAC for north of Cape Falcon (C.5).

South of Cape Falcon, OR Cape Falcon to the Oregon/California Border

June 22 through earlier of August 31 or a landed catch of 9,000 marked coho (C.6). Seven days per week. All salmon except Chinook, two fish per day (C.1). All retained coho must be marked with a healed adipose fin clip. Fishing in the Stonewall Bank groundfish conservation area restricted to trolling only on days the all depth recreational halibut fishery is open (see 70 FR 20304, June 24, 2005, and call the halibut fishing hotline 1–800–662–9825 for additional dates) (C.3, C.4.d). Open days may be adjusted inseason to utilize the available quota (C.5).

In 2009, the season between Cape Falcon and Humbug Mt. will open March 15 for all salmon except coho, two fish per day (C.1). Chinook minimum size limit of 24 inches (60.96 cm) total length (B).

Oregon/California Border to U.S./Mexico Border

Closed.

B. Minimum Size (Total Length in Inches) (See C.1)

Area (when open)	Chinook	Coho	Pink
North of Cape Falcon, OR	24.0	16.0	None
Cape Falcon to OR-CA Border	24.0	16.0	None
OR-CA Border to Horse Mountain	.....	16.0	.....
Horse Mt. to U.S.-Mexico Border	.....	.....	.....

Metric equivalents: 26.0 in = 66.0 cm, 24.0 in = 61.0 cm, 20.0 in = 50.8 cm, 16.0 in = 40.6 cm.

C. Special Requirements, Definitions, Restrictions, or Exceptions

C.1. Compliance With Minimum Size and Other Special Restrictions

All salmon on board a vessel must meet the minimum size or other special requirements for the area being fished and the area in which they are landed if that area is open. Salmon may be landed in an area that is closed only if they meet the minimum size or other special requirements for the area in which they were caught.

Ocean Boat Limits: Off the coast of Washington, Oregon, and California, each fisher aboard a vessel may continue to use angling gear until the combined daily limits of salmon for all licensed and juvenile anglers aboard has been attained (additional state restrictions may apply).

C.2. Gear Restrictions: Salmon May be Taken Only by Hook and Line Using Barbless Hooks

All persons fishing for salmon, and all persons fishing from a boat with salmon on board, must meet the gear restrictions listed below for specific areas or seasons.

a. *U.S./Canada Border to Point Conception, California:* No more than one rod may be used per angler; and no more than two single point, single shank barbless hooks are required for all fishing gear. [Note: ODFW regulations in the state-water fishery off Tillamook Bay may allow the use of barbed hooks to be consistent with inside regulations.]

b. *Cape Falcon, Oregon, to Point Conception, California:* Anglers must

use no more than two single point, single shank, barbless hooks.

c. *Horse Mt., California, to Point Conception, California:* Single point, single shank, barbless circle hooks (below) are required when fishing with bait by any means other than trolling, and no more than two such hooks shall be used. When angling with two hooks, the distance between the hooks must not exceed five inches when measured from the top of the eye of the top hook to the inner base of the curve of the lower hook, and both hooks must be permanently tied in place (hard tied). Circle hooks are not required when artificial lures are used without bait.

C.3. Gear Definitions

a. *Recreational fishing gear defined:* Angling tackle consisting of a line with no more than one artificial lure or natural bait attached. Off Oregon and Washington, the line must be attached to a rod and reel held by hand or closely attended; the rod and reel must be held by hand while playing a hooked fish. No person may use more than one rod and line while fishing off Oregon or Washington. Off California, the line must be attached to a rod and reel held by hand or closely attended. Weights directly attached to a line may not exceed four pounds (1.8 kg). While fishing off California north of Point Conception, no person fishing for salmon, and no person fishing from a boat with salmon on board, may use more than one rod and line. Fishing includes any activity which can reasonably be expected to result in the catching, taking, or harvesting of fish.

b. *Trolling defined:* Angling from a boat or floating device that is making way by means of a source of power, other than drifting by means of the prevailing water current or weather conditions.

c. *Circle hook defined:* A hook with a generally circular shape and a point which turns inward, pointing directly to the shank at a 90° angle.

C.4. Control Zone Definitions

a. The Bonilla-Tatoosh Line: A line running from the western end of Cape Flattery to Tatoosh Island Lighthouse (48°23′30″ N. lat., 124°44′12″ W. long.) to the buoy adjacent to Duntze Rock (48°28′00″ N. lat., 124°45′00″ W. long.), then in a straight line to Bonilla Point (48°35′30″ N. lat., 124°43′00″ W. long.) on Vancouver Island, British Columbia.

b. Grays Harbor Control Zone—The area defined by a line drawn from the Westport Lighthouse (46°53′18″ N. lat., 124°07′01″ W. long.) to Buoy #2 (46°52′42″ N. lat., 124°12′42″ W. long.) to Buoy #3 (46°55′00″ N. lat., 124°14′48″ W. long.) to the Grays Harbor north jetty (46°36′00″ N. lat., 124°10′51″ W. long.).

c. Columbia Control Zone: An area at the Columbia River mouth, bounded on the west by a line running northeast/southwest between the red lighted Buoy #4 (46°13′35″ N. lat., 124°06′50″ W. long.) and the green lighted Buoy #7 (46°15′09″ N. lat., 124°06′16″ W. long.); on the east, by the Buoy #10 line which bears north/south at 357° true from the south jetty at 46°14′00″ N. lat., 124°03′07″ W. long. to its intersection with the north jetty; on the north, by a line running northeast/southwest between the green lighted Buoy #7 to the tip of the north jetty (46°15′48″ N. lat., 124°05′20″ W. long. and then along the north jetty to the point of intersection with the Buoy #10 line; and on the south, by a line running northeast/southwest between the red lighted Buoy #4 and tip of the south jetty (46°14′03″ N. lat., 124°04′05″ W. long.), and then along the south jetty to the point of intersection with the Buoy #10 line.

d. Stonewall Bank Groundfish Conservation Area: The area defined by the following coordinates in the order listed:

44°37.46′ N. lat.; 124°24.92′ W. long.;
44°37.46′ N. lat.; 124°23.63′ W. long.;
44°28.71′ N. lat.; 124°21.80′ W. long.;
44°28.71′ N. lat.; 124°24.10′ W. long.;
44°31.42′ N. lat.; 124°25.47′ W. long.;

and connecting back to 44°37.46′ N. lat.; 124°24.92′ W. long.

e. Klamath Control Zone: The ocean area at the Klamath River mouth bounded on the north by 41°38′48″ N. lat. (approximately six nautical miles north of the Klamath River mouth); on the west, by 124°23′00″ W. long. (approximately 12 nautical miles off shore); and, on the south, by 41°26′48″ N. lat. (approximately 6 nautical miles south of the Klamath River mouth).

C.5. Inseason Management

Regulatory modifications may become necessary inseason to meet preseason management objectives such as quotas, harvest guidelines, and season duration. In addition to standard inseason actions or modifications already noted under the season description, the following inseason guidance is provided by NMFS:

a. Actions could include modifications to bag limits, or days open to fishing, and extensions or reductions in areas open to fishing.

b. Coho may be transferred inseason among recreational subareas north of Cape Falcon on an impact neutral basis to help meet the recreational season duration objectives (for each subarea) after conferring with representatives of the affected ports and the Council's SAS recreational representatives north of Cape Falcon.

c. Chinook and coho may be transferred between the recreational and commercial fisheries north of Cape Falcon on an impact neutral basis if there is agreement among the representatives of the Salmon Advisory Subpanel (SAS).

d. If retention of unmarked coho is permitted in the area from the U.S./Canada border to Cape Falcon, Oregon, by inseason action, the allowable coho quota will be adjusted to ensure preseason projected mortality of critical stocks is not exceeded.

C.6. Additional Seasons in State Territorial Waters

Consistent with Council management objectives, the States of Washington, Oregon, and California may establish limited seasons in state waters. Oregon State-water fisheries are limited to Chinook salmon. Check state regulations for details.

Section 3. Treaty Indian Management Measures for 2008 Ocean Salmon Fisheries

Note: This section contains restrictions in parts A, B, and C which must be followed for lawful participation in the fishery.

A. Season Descriptions

U.S./Canada Border to Cape Falcon

May 1 through the earlier of June 30 or 20,000 Chinook quota. All salmon except coho. If the Chinook quota for the May-June fishery is not fully utilized, the excess fish cannot be transferred into the later all-salmon season. If the Chinook quota is exceeded, the excess will be deducted from the later all-salmon season. See size limit (B) and other restrictions (C).

July 1 through the earlier of September 15, or 17,500 preseason Chinook quota, or 20,000 coho quota.

All Salmon. See size limit (B) and other restrictions (C).

B. Minimum Size (Inches)

Area (when open)	Chinook		Coho		Pink
	Total length	Head-off	Total length	Head-off	
North of Cape Falcon, OR	24.0	18.0	16.0	12.0	None.

Metric equivalents: 24.0 in = 61.0 cm, 18.0 in = 45.7 cm, 16.0 in = 40.6 cm, and 12.0 in = 30.5 cm.

C. Special Requirements, Restrictions, and Exceptions

C.1. Tribe and Area Boundaries

All boundaries may be changed to include such other areas as may hereafter be authorized by a Federal court for that tribe's treaty fishery.

S'KLALLAM—Washington State Statistical Area 4B (All).

MAKAH—Washington State Statistical Area 4B and that portion of the FMA north of 48°02′15″ N. lat. (Norwegian Memorial) and east of 125°44′00″ W. long.

QUILEUTE—That portion of the FMA between 48°07′36″ N. lat. (Sand Pt.) and 47°31′42″ N. lat. (Queets River) and east of 125°44′00″ W. long.

HOH—That portion of the FMA between 47°54′18″ N. lat. (Quillayute River) and 47°21′00″ N. lat. (Quinault River) and east of 125°44′00″ W. long.

QUINAULT—That portion of the FMA between 47°40′06″ N. lat. (Destruction Island) and 46°53′18″ N. lat. (Point Chehalis) and east of 125°44′00″ W. long.

C.2. Gear Restrictions

a. Single point, single shank, barbless hooks are required in all fisheries.

b. No more than eight fixed lines per boat.

c. No more than four hand held lines per person in the Makah area fishery (Washington State Statistical Area 4B and that portion of the FMA north of 48°02′15″ N. lat. (Norwegian Memorial) and east of 125°44′00″ W. long.)

C.3. Quotas

a. The quotas include troll catches by the S'Klallam and Makah tribes in Washington State Statistical Area 4B from May 1 through September 15.

b. The Quileute Tribe will continue a ceremonial and subsistence fishery during the time frame of September 15 through October 15 in the same manner as in 2004, 2005, 2006, and 2007. Fish taken during this fishery are to be counted against treaty troll quotas established for the 2008 season (estimated harvest during the October ceremonial and subsistence fishery: 100 Chinook; 200 coho).

C.4. Area Closures

a. The area within a six nautical mile radius of the mouths of the Queets River (47°31′42″ N. lat.) and the Hoh River (47°45′12″ N. lat.) will be closed to commercial fishing.

b. A closure within two nautical miles of the mouth of the Quinault River (47°21′00″ N. lat.) may be enacted by the Quinault Nation and/or the State of Washington and will not adversely affect the Secretary of Commerce's management regime.

Section 4. Halibut Retention

Under the authority of the Northern Pacific Halibut Act, NMFS promulgated regulations governing the Pacific halibut fishery which appear at 50 CFR part 300, subpart E. On March 7, 2008, NMFS published a final rule (73 FR 12280) to implement the International Pacific Halibut Commission's (IPHC) recommendations, to announce fishery regulations for U.S. waters off Alaska and fishery regulations for treaty commercial and ceremonial and subsistence fisheries, some regulations for non-treaty commercial fisheries for U.S. waters off the West Coast, and approval of and implementation of the Area 2A Pacific halibut Catch Sharing Plan and the Area 2A management measures for 2008. The regulations and management measures provide that vessels participating in the salmon troll fishery in Area 2A (all waters off the States of Washington, Oregon, and California), which have obtained the appropriate IPHC license, may retain halibut caught incidentally during authorized periods in conformance with provisions published with the annual salmon management measures. A salmon troller may participate in the halibut incidental catch fishery during the salmon troll season or in the directed commercial fishery targeting halibut, but not both.

The following measures have been approved by the IPHC, and implemented by NMFS. During authorized periods, the operator of a vessel that has been issued an incidental halibut harvest license may retain Pacific halibut caught incidentally in Area 2A while trolling for salmon. Halibut retained must be no less than 32 inches (81.28 cm) in total length, measured from the tip of the lower jaw with the mouth closed to the extreme end of the middle of the tail, and must be landed with the head on. License applications for incidental harvest must be obtained from the International Pacific Halibut Commission (phone: 206–634–1838). Applicants must apply prior to April 1 of each year. Incidental harvest is authorized only during May and June troll seasons and after June 30 if quota remains and if announced on the NMFS hotline (phone: 800–662–9825). ODFW and WDFW will monitor landings. If the landings are projected to exceed the 37,707 pound preseason allocation or the total Area 2A non-Indian commercial halibut allocation, NMFS will take inseason action to close the incidental halibut fishery.

Beginning May 1, license holders may land no more than one Pacific halibut per each two Chinook, except one Pacific halibut may be landed without meeting the ratio requirement, and no more than 35 halibut may be landed per open period. Pacific halibut retained must be no less than 32 inches in total length (with head on).

NMFS and the Council request that salmon trollers voluntarily avoid a ''C-shaped'' YRCA (North Coast Recreational YRCA) in order to protect yelloweye rockfish. The area is defined in the Pacific Council Halibut Catch Sharing Plan in the North Coast subarea (WA marine area 3)(See section 1.C.7. for the coordinates).

Section 5. Geographical Landmarks

Wherever the words ''nautical miles off shore'' are used in this document, the distance is measured from the baseline from which the territorial sea is measured.

Geographical landmarks referenced in this document are at the following locations:

Cape Flattery, WA—48°23′00″ N. lat.
Cape Alava, WA—48°10′00″ N. lat.
Queets River, WA—47°31′42″ N. lat.
Leadbetter Point, WA—46°38′10″ N. lat.
Cape Falcon, OR—45°46′00″ N. lat.
Florence South Jetty, OR—44°00′54″ N. lat.
Humbug Mountain, OR—42°40′30″ N. lat.
Oregon-California Border—42°00′00″ N. lat.
Humboldt South Jetty, CA—40°45′53″ N. lat.
Horse Mountain, CA—40°05′00″ N. lat.
Point Arena, CA—38°57′30″ N. lat.
Point Reyes, CA—37°59′44″ N. lat.
Point San Pedro, CA—37°35′40″ N. lat.
Pigeon Point, CA—37°11′00″ N. lat.

Point Sur, CA—36°18′00″ N. lat.

Point Conception, CA—34°27′00″ N. lat.

Section 6. Inseason Notice Procedures

Actual notice of inseason management actions will be provided by a telephone hotline administered by the Northwest Region, NMFS, 206–526–6667 or 800–662–9825, and by U.S. Coast Guard Notice to Mariners broadcasts. These broadcasts are announced on Channel 16 VHF–FM and 2182 KHz at frequent intervals. The announcements designate the channel or frequency over which the Notice to Mariners will be immediately broadcast. Inseason actions will also be filed with the **Federal Register** as soon as practicable. Since provisions of these management measures may be altered by inseason actions, fishermen should monitor either the telephone hotline or Coast Guard broadcasts for current information for the area in which they are fishing.

Classification

This rule is necessary for conservation and management and is consistent with the Magnuson-Stevens Act.

The emergency rule temporarily modifying the conservation objective for Sacramento River fall Chinook is consistent with the agency's policy on use of emergency actions under the Magnuson-Stevens Act published at 62 FR 44422 (Thursday, August 21, 1997). The emergency, in this case, is a consequence of a predicted run size that is less than the lower end of the 122,000–180,000 spawner escapement range. The run size forecast was not available until February of 2008 and was thus unforeseen. These emergency circumstances present serious conservation and management problems. The emergency regulations provide the opportunity to address the conservation problem consistent with the requirement to manage, on a continuing basis, for maximum sustained yield, and still provide some limited harvest opportunity. Without use of emergency regulations, the Pacific Coast Salmon Fishery Management Plan (Salmon FMP) would require closure of all salmon fishing south of Cape Falcon, Oregon, causing severe social and economic hardship in the coastal communities. The limited mark-selective recreational coho fishery off Oregon that will require the emergency regulations to implement will result in a marginal decrease in the SRFC escapement while alleviating some adverse effects to the fishing community.

This notification of annual management measures is exempt from review under Executive Order 12866.

The Assistant Administrator has determined that the measures described in the preamble that deviate from the framework FMP and its implementing regulations are necessary to respond to an emergency situation and are consistent with the Magnuson-Stevens Act and other applicable law. The measures falling under emergency authority of section 305(C) of the Magnuson-Stevens Act (emergency rule) involve an ocean impact of approximately 55 Sacramento River fall Chinook in the SRFC impact area to allow a mark-selective recreational fishery for hatchery coho to proceed off of Oregon. Because SRFC are not projected to meet the conservation objective established in the FMP, it is necessary to amend those portions of the framework FMP and its implementing regulations by emergency action pursuant to 16 U.S.C. 1855(C).

The provisions of 50 CFR 660.411 state that if, for good cause, an action must be filed without affording a prior opportunity for public comment, the measures will become effective; however, public comments on the action will be received for a period of 15 days after the date of publication in the **Federal Register**. NMFS will receive public comments on this action until May 16, 2008. These regulations are being promulgated under the authority of 16 U.S.C. 1855(C) and (d).

The Assistant Administrator for Fisheries, NOAA (AA) finds good cause under 5 U.S.C. 553(b)(B), to waive the requirement for prior notice and opportunity for public comment, as such procedures are impracticable and contrary to the public interest.

The annual salmon management cycle begins May 1 and continues through April 30 of the following year. May 1 was chosen because the pre-May harvests constitute a relatively small portion of the annual catch. The time-frame of the preseason process for determining the annual modifications to ocean salmon fishery management measures depends on when the pertinent biological data are available. Salmon stocks are managed to meet annual spawning escapement goals or specific exploitation rates. Achieving either of these objectives requires designing management measures that are appropriate for the ocean abundance predicted for that year. These pre-season abundance forecasts, which are derived from the previous year's observed spawning escapement, vary substantially from year to year, and are not available until January and February because spawning escapement continues through the fall.

The preseason planning and public review process associated with developing Council recommendations is initiated in February as soon as the forecast information becomes available. The public planning process requires coordination of management actions of four states, numerous Indian tribes, and the Federal Government, all of which have management authority over the stocks. This complex process includes the affected user groups, as well as the general public. The process is compressed into a 2-month period which culminates at the April Council meeting at which the Council adopts a recommendation that is forwarded to NMFS for review, approval and implementation of fishing regulations effective on May 1.

Providing opportunity for prior notice and public comments on the Council's recommended measures through a proposed and final rulemaking process would require 30 to 60 days in addition to the two-month period required for development of the regulations. Delaying implementation of annual fishing regulations, which are based on the current stock abundance projections, for an additional 60 days, would require that fishing regulations for May and June be set in the previous year, without knowledge of current stock status. Although this is currently done for fisheries opening prior to May, relatively little harvest occurs during that period (e.g. in 2006 less than 10 percent of commercial and recreational harvest occurred prior to May 1). Allowing the much more substantial harvest levels normally associated with the May and June seasons to be regulated in a similar way would impair NMFS ability to protect weak stocks and Endangered Species Act (ESA) listed stocks, and provide harvest opportunity where appropriate. For example, 58,000 Chinook were caught off California during May and June of 2007. If fishing were allowed in 2008 under last year's regulations a similar number of Chinook could be caught. Under the recommended 2008 regulations, this May and June fisheries will be closed. Conversely, north of Cape Falcon the recreational fishing was closed in May and June of 2007. Under the recommended 2008 regulations, the recreational fishery is open in June with a quota of 13,500. Managing fisheries in May and June of 2008 under 2007 regulations would limit harvest opportunity that could otherwise be available. The choice of May 1 as the beginning of the regulatory season balances the need to gather and analyze

the data needed to meet the management objectives of the Salmon FMP and the requirements to provide adequate public notice and comment on the regulations implemented by NMFS.

Overall, the annual population dynamics of the various salmon stocks require managers to vary the season structure of the various West Coast area fisheries to both protect weaker stocks and give fishers access to stronger salmon stocks, particularly hatchery produced fish. Failure to implement these measures immediately could compromise the status of certain stocks, or result in foregone opportunity to harvest stocks whose abundance has increased relative to the previous year thereby undermining the purpose of this agency action. Based upon the above-described need to have these measures effective on May 1 and the fact that there is limited time available to implement these new measures after the final Council meeting in April and before the commencement of the ocean salmon fishing year on May 1, NMFS has concluded it is impracticable and contrary to the public interest to provide an opportunity for prior notice and public comment under 5 U.S.C. 553(b)(B).

The AA also finds that good cause exists under 5 U.S.C. 553(d)(3), to waive the 30-day delay in effectiveness of this final rule. As previously discussed, data are not available until February and management measures not finalized until early April. These measures are essential to conserve threatened and endangered ocean salmon stocks, and to provide for harvest of more abundant stocks. If these measures are not in place on May 1, the previous year's management measures will continue to apply. Failure to implement these measures immediately could compromise the status of certain stocks, including Sacramento River fall Chinook, and negatively impact international, state, and tribal salmon fisheries, thereby undermining the purposes of this agency action.

To enhance notification of the fishing industry of these new measures, NMFS is announcing the new measures over the telephone hotline used for inseason management actions and is also posting the regulations on both of its West Coast regional Web sites (*http://www.nwr.noaa.gov* and *http://swr.nmfs.noaa.gov*). NMFS is also advising the States of Washington, Oregon, and California on the new management measures. These states announce the seasons for applicable state and Federal fisheries through their own public notification systems.

This action contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA), and which have been approved by the Office of Management and Budget (OMB) under control number 0648–0433. The public reporting burden for providing notifications if landing area restrictions cannot be met, or to obtain shelter in Brookings, OR, is estimated to average 15 minutes per response. This estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and by e-mail to *David_Rostker@omb.eop.gov*, or fax to 202–395–7285.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

NMFS has current ESA biological opinions that cover fishing under these regulations on all listed salmon species, except Lower Columbia River (LCR) coho and LCR Chinook. NMFS reiterated their ESA related consultation standards in their annual Guidance letter to the Council dated February 26, 2008. Some of NMFS's past biological opinions have found no jeopardy, and others have found jeopardy, but provided reasonable and prudent alternatives to avoid jeopardy. The management measures for 2008 are consistent with the biological opinions that found no jeopardy, and with the reasonable and prudent alternatives in the jeopardy biological opinions. NMFS also consulted this year on the effects of the 2008 annual regulations on LCR coho and LCR Chinook. NMFS concluded that the proposed 2008 fisheries are not likely to jeopardize the continued existence of LCR coho and LCR Chinook. The Council's recommended management measures therefore comply with NMFS's consultation standards and guidance for all listed salmon species which may be affected by Council fisheries. In most cases, the recommended measures result in impacts that are more restrictive than NMFS's ESA requirements.

Southern resident killer whales were listed as endangered effective February 16, 2006. NMFS consulted on the effects of the 2006 and 2007 fisheries on killer whales and concluded that the fisheries were not likely to jeopardize the continued existence of the species. NMFS is again consulting regarding the effects on the 2008 fisheries on killer whales through a separate biological opinion. NMFS expects to complete the consultation prior to May 1, 2008. While the consultation may not be completed prior to approval of this action, NMFS has determined that the anticipated fisheries will not make any irreversible or irretrievable commitment of resources with respect to the agency action which has the effect of foreclosing the formulation or implementation of any reasonable and prudent alternative measures. In the event that the review suggests that further constraints in the 2008 fisheries are necessary, appropriate corrections can be made by NMFS through inseason action.

This final rule was developed after meaningful consultation and collaboration with the affected tribes. The tribal representative on the Council made the motion for the regulations that apply to the tribal vessels.

Authority: 16 U.S.C. 773–773k; 1801 *et seq.*

Dated: April 29, 2008.

Samuel D. Rauch,

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

[FR Doc. E8–9687 Filed 4–30–08; 8:45 am]

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Proposed Rules

Federal Register
Vol. 73, No. 85
Thursday, May 1, 2008

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.

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 712 and 741

RIN 3133–AD20

Credit Union Service Organizations

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed rule.

SUMMARY: NCUA proposes to change its credit union service organization (CUSO) rule by adding two new categories of permissible CUSO activities: Credit card loan origination and payroll processing services. The proposal would also add new examples of permissible CUSO activities within existing categories and would expand the scope of two categories of services to include persons eligible for credit union membership. The proposal would impose new regulatory limits on the ability of credit unions to recapitalize their CUSOs in certain circumstances. While the CUSO rule generally only applies to federal credit unions (FCUs), the proposal would revise and extend to all federally insured credit unions the provisions ensuring that credit union regulators have access to books and records and that CUSOs are operated as separate legal entities. The proposal would also clarify that CUSOs may buy and sell participations in loans they are authorized to originate under the current rule. Finally, NCUA proposes to delete as unnecessary the section in the current rule concerning amendment requests. These amendments will clarify the rule while enhancing CUSO operations and addressing safety and soundness concerns.

DATES: Comments must be received on or before June 30, 2008.

ADDRESSES: You may submit comments by any of the following methods (Please send comments by one method only):

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *NCUA Web Site: http://www.ncua.gov/RegulationsOpinionsLaws/proposed_regs/proposed_regs.html.* Follow the instructions for submitting comments.
- *E-mail:* Address to *regcomments@ncua.gov.* Include ''[Your name] Comments on Proposed Rule 712, CUSO Amendments'' in the e-mail subject line.
- *Fax:* (703) 518–6319. Use the subject line described above for e-mail.
- *Mail:* Address to Mary Rupp, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428.
- *Hand Delivery/Courier:* Same as mail address.

FOR FURTHER INFORMATION CONTACT: Ross P. Kendall, Staff Attorney, Office of General Counsel, at the above address or telephone (703) 518–6540.

SUPPLEMENTARY INFORMATION:

A. Background

FCUs have the authority to lend up to 1% of their paid-in and unimpaired capital and surplus and to invest an equivalent amount in credit union organizations. 12 U.S.C. 1757(5)(D), (7)(I). NCUA regulates this FCU lending and investing authority in the CUSO rule. 12 CFR Part 712. The CUSO rule permits an FCU to invest in or lend to a CUSO only if the CUSO primarily serves credit unions, its membership, or the membership of credit unions contracting with the CUSO. 12 CFR 712.3(b).

NCUA's policy is to review its regulations periodically to ''update, clarify and simplify existing regulations and eliminate redundant and unnecessary provisions.'' Interpretive Ruling and Policy Statement (IRPS) 87–2, Developing and Reviewing Government Regulations. NCUA notifies the public about the review, which is conducted on a rolling basis so that a third of its regulations are reviewed each year. These proposed changes are, in part, a result of NCUA's 2007 review under IRPS 87–2, which covered the middle third of the regulations, including part 712. The proposed changes are intended to update and clarify the regulation.

B. Proposed Changes

Expanding the Scope of Certain Services To Include Persons Within the Field of Membership

In October 2006, Congress enacted the Financial Services Regulatory Relief Act of 2006 (Reg Relief Act), which amended section107(12) of the FCU Act to permit FCUs to provide certain financial services to persons within their fields of membership. The Reg Relief Act also amended the FCU Act to extend the general lending maturity limit for FCUs from 12 years to 15 years. Public Law 109–351, sections 502–503, 120 Stat. 1966 (2006). On October 19, 2006, the NCUA Board issued an interim final rule to implement these provisions. 71 FR 62875 (October 27, 2006). The Board made the interim rule permanent effective March 26, 2007. 72 FR 7927 (February 22, 2007).

Legislative history of the Reg Relief Act indicates that Congress intended to allow FCUs ''to sell negotiable checks, money orders, and other similar transfer instruments, including international and domestic electronic fund transfers, to anyone eligible for membership, regardless of their membership status.'' S. Rpt. 109–256, p. 5; H. Rpt. 109–356 Part 1, p. 63. The Board believes the enactment of that law warrants a parallel expansion in the CUSO rule, since an FCU may elect to provide some or all of these types of services through the vehicle of a CUSO.

The current CUSO rule provides that CUSOs must ''primarily'' serve credit unions or their members. 12 CFR 712.3(b). The rule is founded on language in the FCU Act permitting FCUs to lend to service organizations established primarily to serve the needs of credit unions and whose business relates to the daily operation of credit unions. 12 U.S.C. 1757(5)(D). A similar constraint is contained in the investment authority: CUSOs must provide services ''associated with the routine operations of credit unions.'' 12 U.S.C. 1757(7)(I). Insofar as the Reg Relief Act has expanded the scope of FCU operations by authorizing certain money transfer services to be provided to persons eligible for membership, the Board believes it prudent to make a similar adjustment to the ''primarily serves'' governor applicable to CUSOs. Services covered in the Reg Relief Act correspond to the checking and

currency services and the electronic transaction services categories in the CUSO rule. Accordingly, the Board proposes to amend 712.3(b) to specify that FCUs may lend to or invest in CUSOs providing services under these two categories so long as the CUSO primarily provides them to persons within the FCU's field of membership, or to persons eligible for membership in credit unions with which the CUSO has contracts.

Credit Card Loan Origination

The Board is proposing to permit CUSOs to originate and hold credit card loans as a principal on its own behalf or on behalf of credit unions. As far as lending, the current CUSO rule permits CUSOs to engage in consumer mortgage lending, business lending and student lending. Generally, NCUA has permitted CUSOs to engage in loan origination where a degree of expertise is required to be successful, such as business, student and real estate lending, and that expertise may not be attainable by many individual credit unions. *See, e.g.*, 63 FR 10743, 10752 (March 5, 1998). NCUA believes credit card origination also requires a degree of specialization and expertise to succeed and the proposal will permit credit unions to collaborate and pool resources and expertise through the vehicle of a CUSO. Accordingly, the Board believes credit card origination should be an approved CUSO activity.

Credit unions administering their own credit card programs encounter substantial risks and burdens. Thin margins and competitive pricing characterize the credit card business at the prime end of the market and a small number of banks with nationwide operations dominate the business. Permitting FCUs to use a CUSO to manage their card programs will help credit unions to manage that risk.

CUSOs are already engaged in providing various types of card processing and related services. The expansion is also consistent with an underlying principle of the CUSO rule, which is to foster and support the development of expertise in a particular line of business to a degree that is often unattainable at the individual credit union level. The amendment would combine the scale, expertise, and back office operational support required to be successful in the credit card business.

Many credit unions have found it difficult to manage their credit card business successfully and have elected to sell that business to other financial institutions. In many cases, credit unions that have sold their business to another institution but retained an affinity association with the cards find that service levels and consumer support are not as good as the credit union had expected. In addition, in some cases the financial institution cross-markets other products and services to the cardholders and sometimes succeeds in drawing other business away from the credit union. Even if the acquiring institution allows a credit union to remain associated with the card, its earnings on the card business will be significantly reduced. The Board believes this amendment will provide an alternative for credit unions interested in selling their credit card business.

The CUSO rule, implementing a statutory limitation, prohibits a CUSO from acquiring control, directly or indirectly, of a depository financial institution so an FCU seeking to establish a CUSO for credit card origination cannot fund its operation by receiving deposits. 12 U.S.C. 1757(7)(I); 12 CFR 712.6. In addition, the Board notes that NCUA's loan participation rule would not support the sale to FCUs of participation interests in a credit card portfolio, which consists of open-end, revolving credit.

Applicability of Select CUSO Rule Provisions to Federally Insured Credit Unions

Currently, the CUSO rule only applies to FCUs but the Board is proposing to have two particular provisions addressing safety and soundness considerations apply to federally insured, state chartered credit unions (FISCUs), namely, the provision requiring a CUSO's agreement to permit NCUA to have access to its books and records and the provision requiring investing FCUs to take steps to ensure the CUSO maintains corporate separateness. 12 CFR 712.3(d)(3), 712.4. While NCUA has the authority under the FCU Act to impose regulatory requirements on FISCUs, 12 U.S.C. 1781–1790d, it works cooperatively with state supervisory authorities in exercising this authority and generally only regulates where there are safety and soundness concerns.

The Board proposes to amend subpart B of part 741 of its rules to add a new section specifying that FISCUs must adhere to the requirements in § 712.3(d)(3) and § 712.4. The proposed amendment would specify that a CUSO is any entity in which a credit union has an ownership interest or to which a credit union has extended a loan and that is engaged primarily in providing products or services to credit unions or credit union members. This provision follows the approach taken by NCUA in defining a CUSO for FCU investment and loan purposes. As discussed above, based on changes made by the Reg Relief Act, the Board is proposing to expand the CUSO definition to include, in the case of check cashing and money transfer services, entities that primarily serve individuals eligible for credit union membership. The Board proposes to incorporate this concept into this section of the rule as well by specifying that CUSOs that provide these types of services fall within the scope of the rule if the services are provided primarily to credit unions or individuals who are eligible for membership in credit unions having a loan, investment or contract with the CUSO.

Some state laws may authorize FISCUs to lend to or invest in entities that are not primarily engaged in serving credit unions, credit union members, or persons eligible for membership, and the rule would not apply in these cases. The Board anticipates that entities that are not primarily engaged in serving credit unions or their members will not present the types of safety and soundness and systemic risks about which it is most concerned. Comment is solicited on possible other approaches to describing the scope of the rule. In addition, the Board proposes to revise the last sentence in § 712.1, which currently states that Part 712 has no applicability to FISCUs or their subsidiaries that do not have FCU investments or loans.

FISCUs are exposed to significant potential safety and soundness and reputation risks based on their relationship with their CUSOs. Although NCUA has the right to examine books and records belonging to a FISCU, it does not enjoy a similar right concerning access to the books and records of the CUSO. Without that access, NCUA cannot thoroughly and accurately evaluate CUSO risks to FISCUs and, ultimately, the risk to the National Credit Union Share Insurance Fund. The Board notes, in this respect, that not all states impose the same type of relatively strict investment limits in the FCU Act, which limit FCU investment in all CUSOs to one percent of unimpaired capital and surplus. 12 U.S.C. 1757(7)(I). Similarly, not all states limit the types of activities in which a CUSO may engage. Further, without some assurance that the FISCU is insulated from claims that might be asserted against its CUSO, there is risk that the FISCU could lose more than the value of its investment in its CUSO.

NCUA experience with several FISCUs that own CUSOs presenting significant exposure to potential loss supports this amendment. There are

CUSOs, for example, that have used extensive leveraging from non-credit union sources to fund commercial loans. In turn, credit unions often buy participations in these loans, sometimes without having conducted an adequate due diligence themselves. Other CUSOs are engaging in loan origination despite being thinly capitalized, presenting risk to the credit union that losses or affirmative liability sustained by the CUSO will pass to them. If the CUSO should become bankrupt or insolvent, losses to those credit unions holding participation interests in loans the CUSO originated and serviced could also result. In other cases, CUSOs may be used by the credit union to develop an undue concentration of loans in a particular business segment or geographic area. This presents reputation risk to the credit union, especially if significant defaults arise and foreclosures become necessary. CUSOs may also engage directly in lines of business that present risks, such as a trust business or mortgage or commercial loan origination.

The Board understands and acknowledges that the degree of risk to a FISCU depends on several factors, including the nature of the services its CUSO provides and the relative extent of the CUSO's involvement in the credit union's overall business. For example, the Board is substantially more concerned about a CUSO that originates mortgage and business loans than one that provides backroom management or operational support. CUSOs engaging in widespread sale of participation interests and providing loan servicing on behalf of a significant number of credit unions present potential systemic risks that the Board believes warrant direct monitoring. NCUA solicits the views of commenters about ways to isolate and address this type of risk without unduly burdening the industry or unnecessarily covering all CUSO relationships. For example, it may make sense to identify types of business or degrees of market penetration as conditions for applicability of the rule.

The Board is aware a FISCU may be required to maintain an investment in an entity to receive services at optimal terms and rates, but in which the credit union's share of the overall business of that entity is relatively minor. In such cases, the credit union may not have enough influence or involvement with the entity to be able to require its consent to access to books and records by NCUA. The Board solicits input from the public about ways to address this circumstance, such as by creating a minimum investment threshold for applicability of the rule.

Finally, the Board is aware some states may already have rules or requirements governing corporate separateness between FISCUs and their CUSOs. The Board solicits input from the public about whether the rule ought to include a provision, similar to that which exists in NCUA's member business lending rule, by which states could demonstrate that compliance with an existing state rule adequately addresses the liability concerns present in this context. Also, the proposed amendment states expressly that it does not preempt any applicable state law or regulation that currently authorizes a state credit union regulatory authority (SSA) to review a CUSO's books and records or to conduct an examination of the CUSO.

Reciprocity. As the discussion above documents, the right of access to books and records of CUSOs is an important tool in assuring safety and soundness. The Board understands, however, that not every SSA enjoys a right of access to books and records of CUSOs in which FISCUs chartered by that state have an investment or other relationship. There may also be cases in which a FISCU has only a contractual relationship with a CUSO but does not have either a loan to or an investment in the CUSO, which may be owned exclusively by one or more FCUs.

To address this circumstance, the Board proposes to change § 712.3(d)(3) to require the credit union's agreement with the CUSO to permit access not only to NCUA but also to any SSA having supervisory responsibility over any FISCU that has a loan, an investment, or a contractual agreement for products or services with the CUSO. This will assure that an SSA with responsibility for a credit union has the opportunity to review and evaluate the risk to which its institutions may be exposed. Even though NCUA enjoys a cooperative relationship with all SSAs and typically shares relevant information with them, the Board recognizes there may be circumstances in which access to books and records is useful or necessary for the SSA. At the same time, the Board does not anticipate that extending the rule in this way will result in an inordinate number of requests for access by SSAs to CUSO books and records.

Transition Period for Compliance. The Board acknowledges that it will take some time for FISCUs to develop and enter agreements with their CUSOs and to obtain legal opinions addressing corporate separateness issues. The Board also recognizes that FCUs with loans to or investments in CUSOs will be required under this proposal to make changes in the agreements they currently have with their CUSOs. The Board proposes to establish a compliance date for each of these changes that is not earlier than six months following the date of publication of the final rule in the **Federal Register**. Accordingly, the proposed rule changes reflect this compliance date.

Recapitalization of Insolvent CUSOs

Under certain circumstances, an FCU may consider re-capitalizing a CUSO that has become insolvent because it determines the investment is prudent, even though some portion of the amount invested in the recapitalization effort may have no book value for the FCU.

The Board believes the risks inherent in this situation warrant an amendment to the CUSO rule that would apply in cases in which an FCU is already less than adequately capitalized or where the recapitalization of the CUSO would render the FCU less than adequately capitalized under NCUA's prompt corrective action (PCA) rules. 12 CFR Part 702. In either case, an FCU contemplating such an investment would be required to obtain approval in advance from the appropriate NCUA regional director if the investment would result in an aggregate cash outlay, measured on a cumulative basis (regardless of how the investment is valued for accounting purposes) in an amount in excess of one percent of the credit union's paid in and unimpaired capital and surplus.

This amendment would minimize the likelihood, which is possible under the current rule, that an FCU may be investing, on an aggregate basis, more than one percent of its capital in a CUSO. The amendment would also prevent an FCU from continuing to invest in an entity that has become a lost cause. NCUA has had specific experience with credit unions that have elected to invest additional funds with CUSOs that have experienced losses. That decision calls for business judgment and is, in most cases, within the discretion of the board of directors. Where, however, the proposed investment would change the credit union's PCA rating to less than adequate, or where the credit union is already in a less than adequately capitalized condition, the Board believes prior notice to and approval from NCUA is appropriate.

Amendment Requests

The current rule has a section outlining a process by which the NCUA Board can consider approval for a CUSO activity not currently preapproved. 12

CFR 712.7. This section provides that NCUA will consider a request to be a petition to amend the rule and indicates the agency will solicit public comment or otherwise act on the request within sixty days. This provision, which dates to 1986, was brought over intact from the prior version of the rule when NCUA conducted a wholesale review and revision of the rule in 1998. 63 FR 10743, 10754 (March 5, 1998). Although NCUA staff receive numerous inquiries about whether a particular CUSO activity is already within one of the preapproved categories, NCUA has received only one formal request to amend the rule, which the Board rejected. In addition, since the 1998 amendment of the CUSO rule, NCUA adopted a change to its rule and policy on promulgation of regulations to include a general provision on the procedures by which members of the public may petition the NCUA Board for the issuance, amendment or repeal of any rule. 12 CFR 791.8(c); Interpretive Ruling and Policy Statement 87–2 as amended by Interpretive Ruling and Policy Statement 03–2. Accordingly, the Board believes the amendment provisions described in § 712.7 of the CUSO rule are redundant and should be deleted.

Payroll Processing

The Board proposes to amend the CUSO rule to authorize CUSOs to provide payroll processing services directly to credit union members. NCUA's Office of General Counsel has concluded that an FCU may provide its members with payroll processing services as an exercise of its incidental powers and that a CUSO may assist the FCU in its provision of that service. OGC Op. 05–1204 (February 15, 2006). Until now, however, NCUA has not permitted a CUSO to provide this service directly to members, based in part on the agency's longstanding view that clerical and managerial services authorized for CUSOs may only be performed on behalf of the FCU. Some public comments filed in response to the annual regulatory review proposed that NCUA authorize CUSOs to provide this service directly to members.

As with the credit card discussion above, the Board believes this is a logical extension of the CUSO rule. Some CUSOs currently provide support to credit unions offering payroll services to their members by providing data processing support, which is already a preapproved CUSO activity. Payroll services are essentially the electronic movement of money through accounts. It is a very common ancillary service for business members and a key part of the business services package of services. Allowing CUSOs to offer this service directly to credit union members would be a better and much simpler model to implement and is a natural extension of the current pre-approved services.

Additional Examples of Permissible Activities Within Approved Categories

The CUSO rule sets out broad categories of permissible CUSO activities that are related to the routine daily operation of credit unions. 12 U.S.C. 1757(I); 12 CFR 712.5. Most of the broad categories have examples of specific activities that are permissible within the category. The specific activities are provided as illustrations of activities permissible under the particular category, and are not intended as an exclusive or exhaustive list. 12 CFR 712.5.

From time to time, NCUA receives requests from FCUs and other interested parties to review and evaluate whether a particular activity falls within one or more of the approved categories. These determinations are usually made in legal opinion letters issued by NCUA's Office of General Counsel directly in response to the request. Although the opinion letters are posted on the agency website and are available for public review, the Board believes it is appropriate to amend the CUSO rule to include these examples in the rule, so that the agency's position has maximum exposure.

In the recent past, NCUA has determined that a CUSO may provide for all aspects of a real estate settlement for mortgage loans the credit union grants to its members. Examples of permissible services include: arranging the title search; reviewing the title work; providing title insurance as an agent for the underwriter; and handling the settlement of the mortgage loan. The Office of General Counsel concluded these activities, although not specifically listed in the rule, fall within the preapproved categories of insurance brokerage services and loan support services and relate to the routine daily operations of credit unions. Accordingly, the Board proposes to amend the rule to include real estate settlement services as an example under each of these preapproved categories.

NCUA's Office of General Counsel has also recently concluded the following activities are permissible examples of services that CUSOs may provide under one or more preapproved categories:

➢ Employee leasing services and support, permissible under professional and management services, § 712.5(b);

➢ Purchase and servicing of non-performing loans, permissible under loan support services, § 712.5(j);

➢ Business counseling and related services for credit union business members, permissible under professional and management services and financial counseling services, § 712.5(b), (f);

➢ Referral and processing of loan applications for members turned down by the credit union, permissible under loan support services, § 712.5(j).

Accordingly, the Board proposes to amend the rule to include each of these services as representative examples of permissible services under the noted preapproved category.

Loan Participations

Part 712 specifically authorizes CUSOs to engage in consumer mortgage loan origination, member business loan origination, and student loan origination. 12 CFR 712.5(c), (d), (n). CUSOs are also recognized in NCUA's loan participations rule as a ''credit union organization'' authorized to engage in the purchase and sale of loan participations. 12 CFR 701.22(a)(4). The CUSO rule does not, however, specify that a CUSO may engage in the purchase or sale of participation interests in loans they are authorized to make. The Board is aware CUSOs are currently engaged in this practice and believes it is permissible. The Board proposes to conform the CUSO rule with the loan participation rule by clarifying the authority to originate a loan includes the authority to buy or sell a participation interest in that type of loan. As noted above, however, the NCUA's loan participation rule would not support the sale to FCUs of participation interests in a credit card portfolio, which consists of open-end, revolving credit.

Request for Comments

Although the Board is not proposing additional, specific regulatory changes to the CUSO rule at this time, the Board solicits comment on the issue of consolidated opinion audits for CUSOs that are majority owned by a single FCU. The CUSO rule currently requires an FCU to obtain a written commitment from any CUSO in which it has made an investment or to which it has made a loan that the CUSO will secure an annual opinion audit of its financial statements, performed in accordance with generally accepted auditing standards by a licensed, certified public accountant. 12 CFR 712.3(d)(2). In 2005, the Board amended this rule to allow an FCU owning 100% of a CUSO to comply with the audit requirement by

conducting a consolidated audit in which the CUSO's financial data is included in the consolidated statement of financial condition. 70 FR 55227 (September 21, 2005). At that time, the Board considered and rejected the idea of permitting consolidated audits where the CUSO is majority owned, rather than wholly owned, by an FCU. Several commenters urged the Board to reconsider this approach, citing in support of their view the fact that consolidated audits for majority owned subsidiaries are permissible under generally accepted accounting principles. The Board's determination was based principally on concern for potential minority investors in a CUSO that is majority owned by one FCU, who might not be able to review a separate opinion audit before making an investment. The Board solicits comment from the public on whether to revise this rule to permit a majority owner to obtain only a consolidated audit and, if so, how the interests of minority investors can be protected.

The Board believes these proposed changes are consistent with its ongoing efforts to reduce regulatory burden while assuring that credit unions operate in a safe and sound manner. The Board welcomes comment on all aspects of the proposal.

Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) requires NCUA to prepare an analysis to describe any significant economic impact any proposed regulation may have on a substantial number of small entities. NCUA considers credit unions having less than ten million dollars in assets to be small for purposes of RFA. Interpretive Ruling and Policy Statement (IRPS) 87–2 as amended by IRPS 03–2. The proposed changes to the CUSO rule impose minimal compliance obligations by requiring credit unions to comply with certain one-time regulatory requirements concerning agreements with CUSOs and maintenance of separate corporate identities. Of the 3,599 credit unions (FCUs and FISCUs) with assets of less than ten million dollars that filed a form 5300 call report with NCUA as of December 31, 2007, only 195 reported any interest in a CUSO. Since approximately only 5.5% of credit unions meeting the small credit union definition reported having any interest in CUSOs of any type, NCUA has determined and certifies that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small credit unions. Accordingly, the NCUA has determined that an RFA analysis is not required.

Paperwork Reduction Act

NCUA recognizes that the proposal to require FISCUs to comply with certain provisions of the CUSO rule constitutes an information collection within the meaning of the Paperwork Reduction Act (PRA). 44 U.S.C. 3507(d). The aspects of the proposed amendments that raise PRA issues include the requirement that a FISCU obtain a written agreement with its CUSO providing NCUA and the relevant SSA with access to the CUSO's books and records and the requirement that it take steps to assure that it maintains a corporate identity separate from its CUSO.

NCUA estimates it will take an average of two hours for a credit union to implement an agreement with its CUSO regarding access to information, and an additional two hours to obtain a written legal opinion. All FISCUs with an investment in or loan to a CUSO will need to comply with these requirements as an initial matter; however, thereafter, the rule's impact will only be on those FISCUs that enter into a new arrangement with a CUSO. According to NCUA records, of the 3,065 FISCUs that filed a form 5300 call report with NCUA as of December 31, 2007, 1,044 reported at least one interest in a CUSO. These FISCUs reported a total CUSO count of 2,219. At year-end 2006, there were 3,173 FISCUs, of which 1,050 reported at least one interest in a CUSO. These FISCUs reported a total CUSO count of 2,183. For year-end 2005, there were 3,302 FISCUs, of which 1,017 reported at least one CUSO investment. These FISCUs reported a total CUSO count of 2,035. The three-year average suggests that, despite declining numbers of credit unions (due mainly to merger and consolidation activity), FISCUs make approximately 92 new investments in CUSOs each year. Using these estimates, information collection obligations imposed by the rule, on an annual basis, are analyzed below:

Initial Compliance by All FISCUs

a. Written agreement relating to access to information.

Total FISCU investment interests reported in CUSOs, 12/31/2007: 2,219.

Frequency of response: One-time.

Initial hour burden: 2.

2 hours × 2,219 = 4,438.

b. Written legal opinion.

Number of respondents: 2,219.

Frequency of response: One-time.

Initial hour burden: 2.

2 hours × 2,219 = 4,438.

Annual Compliance Obligations

a. Written agreement relating to corporate separateness and access to information.

Average number of new FISCU investment interests reported in CUSOs: 92.

Frequency of response: annually.

Annual hour burden: 2.

2 hours × 92 = 184.

b. Written legal opinion.

Number of respondents, i.e., requiring new or updated opinion per year: 92.

Frequency of response: annually.

Annual hour burden: 2.

2 hours × 92 = 184.

Two other aspects of the proposal raise PRA issues. FCUs with an investment in or loan to a CUSO will need to revise the current agreement they have with their CUSO to provide for access to books and records by any SSA, if the CUSO also has a loan or investment from a FISCU or provides any contractual services to a FISCU. According to NCUA records, of the 5,036 FCUs that filed a form 5300 call report with NCUA as of December 31, 2007, 1,112 reported at least one interest in a CUSO; a total of 2,190 CUSO interests was reported. For purposes of this analysis, NCUA estimates that this requirement will affect one-half of all CUSOs owned by FCUs. Using these estimates, information collection obligations imposed by this aspect of the rule, on an annual basis, are analyzed below:

Changing the Written Agreement Relating to Access to Information

One-half of total FCU investment interests reported in CUSOs, 12/31/2007: 1,095.

Frequency of response: One-time.

Initial hour burden: 1.

1 hour × 1,095 = 1,095.

The third aspect of the proposed changes that involves PRA consideration is the requirement pertaining to recapitalizing CUSOs that have become insolvent. The proposed rule would require certain credit unions to seek and obtain prior approval from NCUA before making an investment to recapitalize an insolvent CUSO. According to NCUA's records, as of December 31, 2007, there were only 36 FCUs that were less than adequately capitalized (i.e., net worth of under 6%). According to year-end 2007 call report data, none of these FCUs currently has any interest in any CUSOs. As of December 31, 2007, there were no FCUs at or near the less than adequately capitalized threshold reporting an investment in an insolvent CUSO.

NCUA estimates it would take an FCU approximately two hours to complete a request for NCUA's prior approval for an investment to recapitalize an insolvent CUSO.

Obtaining NCUA Prior Approval

Total FCUs less than adequately Capitalized, 12/31/2007: 36.

Frequency of response: One-time.

Initial hour burden: 2.

2 hours × 36 = 72.

In accordance with the requirements of the PRA, NCUA intends to obtain a modification of its current OMB Control Number, 3133–0149, to support these proposed changes. Simultaneous with its publication of this proposed amendment to Part 712, NCUA is submitting a copy of the proposed rule to the Office of Management and Budget (OMB) along with an application for a modification of the OMB Control Number.

The PRA and OMB regulations require that the public be provided an opportunity to comment on the paperwork requirements, including an agency's estimate of the burden of the paperwork requirements. The NCUA Board invites comment on: (1) Whether the paperwork requirements are necessary; (2) the accuracy of NCUA's estimates on the burden of the paperwork requirements; (3) ways to enhance the quality, utility, and clarity of the paperwork requirements; and (4) ways to minimize the burden of the paperwork requirements.

Comments should be sent to: OMB Reports Management Branch, New Executive Office Building, Room 10202, Washington, DC 20503; Attention: Mark Menchik, Desk Officer for NCUA. Please send NCUA a copy of any comments submitted to OMB.

Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. In adherence to fundamental federalism principles, NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order. The bulk of this proposed rule, if adopted, will apply only to federally-chartered credit unions. The proposal also calls for the application of certain aspects of the CUSO rule to state chartered, federally-insured credit unions. By law, these institutions are already subject to numerous provisions of NCUA's rules, based on the agency's role as the insurer of member share accounts and the significant interest NCUA has in the safety and soundness of their operations. In any event, the proposed rule will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. NCUA has determined that this proposal does not constitute a policy that has federalism implications for purposes of the executive order.

The Treasury and General Government Appropriations Act, 1999—Assessment of Federal Regulations and Policies on Families

The NCUA has determined that this proposed rule will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, 1999, Public Law 105–277, 112 Stat. 2681 (1998).

Agency Regulatory Goal

NCUA's goal is to promulgate clear and understandable regulations that impose minimal regulatory burden. We request your comments on whether the proposed rule is understandable and minimally intrusive if implemented as proposed.

List of Subjects in 12 CFR Part 712

Administrative practices and procedure, Credit, Credit unions, Investments, Reporting and record keeping requirements.

By the National Credit Union Administration Board on April 17, 2008.

Mary F. Rupp,

Secretary of the Board.

Accordingly, NCUA proposes to amend 12 CFR parts 712 and 741 as follows:

PART 712—CREDIT UNION SERVICE ORGANIZATIONS (CUSOs)

1. The authority citation for part 712 continues to read as follows:

Authority: 12 U.S.C. 1756, 1757(5)(D), and (7)(I), 1766, 1782, 1784, 1785 and 1786.

2. Amend § 712.1 by revising the last sentence to read as follows:

§ 712.1 What does this part cover?

* * * Sections 712.3(d)(3) and 712.4 of this part apply to state-chartered credit unions and their subsidiaries, as provided in § 741.222 of this chapter.

3. Amend § 712.2 by adding a new paragraph (d)(3) to read as follows:

§ 712.2 How much can an FCU invest in or loan to CUSOs, and what parties may participate?

* * * * *

(d) * * *

(3) *Special rule in the case of less than adequately capitalized FCUs.* This rule applies in the case of either an FCU that is currently less than adequately capitalized, as determined under part 702, or where the making of an investment in a CUSO would render the FCU less than adequately capitalized under part 702. Before making an investment in a CUSO, the FCU must obtain prior written approval from the appropriate NCUA regional office if the making of the investment would result in an aggregate cash outlay, measured on a cumulative basis (regardless of how the investment is valued for accounting purposes) in an amount in excess of one percent of the credit union's paid in and unimpaired capital and surplus.

* * * * *

§ 712.3 [Amended]

4. Amend § 712.3 as follows:

a. Amend paragraph (b) by deleting the period at the end of the sentence and adding the phrase ''; *provided, however*, that with respect to services provided under paragraph (a) and (g) of § 712.5, this requirement is met if the CUSO primarily provides such services to persons who are eligible for membership in the FCU or are eligible for membership in credit unions contracting with the CUSO.'' in its place.

b. Revise paragraph (d)(3) to read as follows:

§ 712.3 What are the characteristics of and what requirements apply to CUSOs?

* * * * *

(d) * * *

(3)(i) Provide NCUA, its representatives, and the state credit union regulatory authority having jurisdiction over any federally insured, state-chartered credit union with an outstanding loan to, investment in or contractual agreement for products or services with the CUSO with complete access to any books and records of the CUSO and the ability to review CUSO internal controls, as deemed necessary by NCUA or the state credit union regulatory authority in carrying out their respective responsibilities under the Act and the relevant state credit union statute.

(ii) The effective date for compliance with this section is [INSERT DATE THAT IS 180 DAYS FOLLOWING PUBLICATION OF THE FINAL RULE IN THE **Federal Register**].

5. Amend § 712.5 as follows:

a. Add a new paragraph (b)(11);

b. Amend paragraph (c) by deleting the semicolon at the end of the sentence and replacing it with the phrase: '',

including the authority to buy and sell participation interests in such loans;''

c. Amend paragraph (d) by deleting the semicolon at the end of the sentence and replacing it with the phrase: '', including the authority to buy and sell participation interests in such loans;''

d. Redesignate paragraphs (e) through (r) as paragraphs (g) through (t), respectively, and add new paragraphs (e) and (f).

e. Under the newly redesignated paragraphs (h), (j) and (l) add new paragraphs (h)(7), (j)(4), and (l)(4) through (l)(6);

f. Amend the newly redesignated paragraph (p) by deleting the semicolon at the end of the sentence and replacing it with the phrase: '', including the authority to buy and sell participation interests in such loans;''

The revisions read as follows:

§ 712.5 What activities and services are preapproved for CUSOs?

* * * * *

(b) * * *

(11) Employee leasing services

* * * * *

(e) Credit card loan origination;

(f) Payroll processing services;

* * * * *

(h) * * *

(7) Business counseling and consultant services;

* * * * *

(j) * * *

(4) Real estate settlement services;

* * * * *

(l) * * *

(4) Real estate settlement services;

(5) Purchase and servicing of non-performing loans; and

(6) Referral and processing of loan applications for members whose loan applications have been turned down by the credit union;

§ 712.7 [Removed and Reserved]

6. Remove and reserve § 712.7.

PART 741—REQUIREMENTS FOR INSURANCE

1. The authority citation for part 741 continues to read as follows:

Authority: 12 U.S.C. 1757, 1766, 1781–1790, and 1790d.

2. Add a new § 741.222 to read as follows:

§ 741.222 Credit Union Service Organizations.

(a) Any credit union that is insured pursuant to Title II of the Act must adhere to the requirements in § 712.3(d)(3) and § 712.4 of this chapter concerning agreements between credit unions and their credit union service organizations (CUSOs) and the requirement to maintain separate corporate identities. For purposes of this section, a CUSO is any entity in which a credit union has an ownership interest or to which a credit union has extended a loan and that is engaged primarily in providing products or services to credit unions or credit union members, or, in the case of checking and currency services, including check cashing services, sale of negotiable checks, money orders, and electronic transaction services, including international and domestic electronic fund transfers, to persons eligible for membership in any credit union having a loan, investment or contract with the entity.

(b) This section shall have no preemptive effect with respect to the laws or rules of any state providing for access to CUSO books and records or CUSO examination by credit union regulatory authorities.

(c) The effective date for compliance with this section is [INSERT DATE THAT IS 180 DAYS FOLLOWING PUBLICATION OF THE FINAL RULE IN THE **FEDERAL REGISTER**].

[FR Doc. E8–9457 Filed 4–30–08; 8:45 am]

BILLING CODE 7535–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0492; Directorate Identifier 2008–CE–023–AD]

RIN 2120–AA64

Airworthiness Directives; Hawker Beechcraft Corporation Model 390 Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Hawker Beechcraft Corporation (HBC) Model 390 airplanes. This proposed AD would require you to remove the current preformed packing, elbow fitting, and jam nut from the left and right hydraulic pump pressure output port and replace with new parts. This proposed AD would also require you to install a hydraulic pump case drain check valve. This proposed AD results from nine occurrences of hydraulic fluid leaking from the engine hydraulic pump output fitting as a result of an improperly installed elbow connecting the output port to the pulse dampener hose. We are proposing this AD to prevent hydraulic fluid leaks from the left and right hydraulic fluid pump and to prevent the flow of hydraulic fluid into the engine compartment. The loss of hydraulic fluid can result in loss of airplane hydraulic system pressure and the consequent loss of hydraulic system functions including gear extension/retraction, spoiler functions, and anti-skid braking system actuation. The inability of the hydraulic installation to isolate flow of hydraulic fluid could result in a hazardous amount of flammable fluid in the corresponding engine compartment. These conditions, if not corrected, could result in loss of system functions and/or fire in the engine compartment.

DATES: We must receive comments on this proposed AD by June 30, 2008.

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

- *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 proposed AD, contact Hawker Beechcraft Corporation, 9709 East Central, Wichita, Kansas 67201; telephone: (316) 676–5034; fax: (316) 676–6614.

FOR FURTHER INFORMATION CONTACT: Anthony Flores, Aerospace Engineer, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone: (316) 946–4174; fax: (316) 946–4107.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments regarding this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include the docket number, ''FAA–2008–0492; Directorate Identifier 2008–CE–023–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of

the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

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

Discussion

We have received information of nine occurrences of hydraulic fluid leaking from the engine hydraulic pump output fitting on HBC Model 390 airplanes. During installation of the elbow fitting, the preformed packing was installed on the fitting threads, which caused the fitting threads to damage the preformed packing when the fitting was tightened. The loss of hydraulic fluid can result in loss of airplane hydraulic system pressure and the consequent loss of hydraulic system functions including gear extension/retraction, spoiler functions, and anti-skid braking system actuation.

The current hydraulic system installation lacks the means of shutting off the flow of hydraulic fluid between the left and right engine hydraulic pump case drain return lines. The installation of check valves would allow flow from the hydraulic pump case drain to the reservoir and prevent flow back through the hydraulic pump case drain lines. This installation would reduce the volume of hydraulic fluid loss into the engine compartment in the event of a leak in the left or right engine hydraulic system. The inability of the hydraulic installation to isolate flow of hydraulic fluid could result in a hazardous amount of flammable fluid in the corresponding engine compartment.

These conditions, if not corrected, could result in loss of system functions and/or fire in the engine compartment.

Relevant Service Information

We have reviewed Hawker Beechcraft Mandatory Service Bulletin SB 29–3869, dated January 2008; and Hawker Beechcraft Mandatory Service Bulletin SB 29–3851, dated January 2008.

The service information describes procedures for:

- Removing the current preformed packing, elbow fitting, and jam nut from the left and right hydraulic pump pressure output port and replacing with new parts; and
- Installing a hydraulic pump case drain check valve.

FAA's Determination and Requirements of the Proposed AD

We are proposing this AD because we evaluated all information and determined the unsafe condition described previously is likely to exist or develop on other products of the same type design. This proposed AD would require you to remove the current preformed packing, elbow fitting, and jam nut from the left and right hydraulic pump pressure output port and replace with new parts. This proposed AD would also require you to install a hydraulic pump case drain check valve.

Costs of Compliance

We estimate that this proposed AD would affect 182 airplanes in the U.S. registry.

We estimate the following costs to do the proposed modifications:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
Hydraulic pressure output fitting assembly: 8 work-hours × $80 per hour = $640	$100	$740	$134,680
Hydraulic Pump Case Drain Check Valve: 16 work-hours × $80 per hour = $1,280	4,353	5,633	1,025,206

HBC will provide warranty credit as specified in Hawker Beechcraft Mandatory Service Bulletin SB 29–3869, dated January 2008; and Hawker Beechcraft Mandatory Service Bulletin SB 29–3851, dated January 2008.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

Examining the AD Docket

You may examine the AD docket that contains the proposed AD, the regulatory evaluation, any comments received, and other information on the Internet at *http://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 Docket Office (telephone (800) 647–5527) is located at the street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Hawker Beechcraft Corporation: Docket No. FAA–2008–0492; Directorate Identifier 2008–CE–023–AD.

Comments Due Date

(a) We must receive comments on this airworthiness directive (AD) action by June 30, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Model 390 airplanes, serial numbers RB–4 through RB–224, that are certificated in any category.

Unsafe Condition

(d) This AD results from nine occurrences of hydraulic fluid leaking from the engine hydraulic pump output fitting as a result of an improperly installed elbow connecting the output port to the pulse dampener hose. We are issuing this AD to prevent hydraulic fluid leaking from the left and right hydraulic fluid pump and to prevent the flow of hydraulic fluid into the engine compartment. The loss of hydraulic fluid can result in loss of airplane hydraulic system pressure and the consequent loss of hydraulic system functions including gear extension/retraction, spoiler functions, and anti-skid braking system actuation. The inability of the hydraulic installation to isolate flow of hydraulic fluid could result in a hazardous amount of flammable fluid in the corresponding engine compartment. These conditions, if not corrected, could result in loss of system functions and/or fire in the engine compartment.

Compliance

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

Actions	Compliance	Procedures
(1) Remove current preformed packing (part number (P/N) MS28778–6), elbow fitting (P/N MS21908J6), and jam nut (P/N AN924–6J) from the left and right hydraulic pump pressure output port and install new preformed packing (P/N MS28778–6), union (P/N MS21902J6), and swivel fitting (P/N NAS1762J0606) in the left and right hydraulic pressure pump output port.	Within the next 200 hours time-in-service (TIS) after the effective date of this AD or within the next 6 months after the effective date of this AD, whichever occurs first.	Follow Hawker Beechcraft Mandatory Service Bulletin SB 29–3869, dated January 2008.
(2) Install hydraulic pump case drain check valve Kit No. 390–5803–0001.	Within the next 200 hours TIS after the effective date of this AD or within the next 6 months after the effective date of this AD, whichever occurs first.	Hawker Beechcraft Mandatory Service Bulletin SB 29–3851, dated January 2008.

Alternative Methods of Compliance (AMOCs)

(f) The Manager, Wichita Aircraft Certification Office (ACO), 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: Anthony Flores, Aerospace Engineer, Wichita ACO, 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone: (316) 946–4174; fax: (316) 946–4107. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

Related Information

(g) To get copies of the service information referenced in this AD, contact Hawker Beechcraft Corporation, 9709 East Central, Wichita, Kansas 67201; telephone: (316) 676–5034; fax: (316) 676–6614. To view the AD docket, go to U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, or on the Internet at *http://www.regulations.gov.*

Issued in Kansas City, Missouri, on April 24, 2008.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–9566 Filed 4–30–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0178; Directorate Identifier 2007–NM–366–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model DHC–8–400 Series Airplanes

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

ACTION: Supplemental notice of proposed rulemaking (NPRM); reopening of comment period.

SUMMARY: We are revising an earlier NPRM for the products listed above. This action revises the earlier NPRM by expanding the scope. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

Bombardier Aerospace has completed a system safety review of the aircraft fuel system against fuel tank safety standards * * *.

[A]ssessment showed that supplemental maintenance tasks [inspections of various fuel system components such as shields, harnesses, sleeves, and sealant] are required to prevent potential ignition sources inside the fuel system, which could result in a 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 May 21, 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–2008–0178; Directorate Identifier 2007–NM–366–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

We proposed to amend 14 CFR part 39 with an earlier NPRM for the specified products, which was published in the **Federal Register** on February 19, 2008 (73 FR 9053). That earlier NPRM proposed to require actions intended to address the unsafe condition for the products listed above.

Since that earlier NPRM was issued, we have determined that the initial compliance times for doing the tasks specified in paragraph (f)(1) of the earlier NPRM must be reduced. That earlier NPRM resulted from Canadian Airworthiness Directive CF–2007–33, dated December 17, 2007 (referred to after this as ''the MCAI'').

The MCAI does not provide an initial compliance time for doing the tasks. In the earlier NPRM, we proposed an initial compliance time that started from the effective date of the AD; or the date of issuance of the original Canadian standard airworthiness certificate or the date of issuance of the original Canadian export certificate of airworthiness; whichever occurs later. Although unstated in the MCAI, we have determined that the intent of the MCAI is for the initial compliance time to start from the initial delivery date of the airplane in order to address the identified unsafe condition in a timely manner. We have also revised the initial compliance times for clarity by providing a threshold and grace period for the tasks. We have revised paragraphs (f)(1)(i) and (f)(1)(ii) of this supplemental NPRM accordingly. You may obtain further information by examining the MCAI in the AD docket.

FAA's Determination and Requirements of This Proposed AD

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

Certain changes described above expand the scope of the earlier NPRM. As a result, we have determined that it is necessary to reopen the comment period to provide additional opportunity for the public to comment on this proposed AD.

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 38 products of U.S. registry. We also estimate that it would take about 1 work-hour per product to comply with the basic requirements of this proposed AD. The average labor rate is $80 per work-hour. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $3,040, or $80 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 de Havilland, Inc.): Docket No. FAA–2008–0178; Directorate Identifier 2007–NM–366–AD.

Effective Date

(a) We must receive comments by May 21, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Bombardier Model DHC–8–400, DHC–8–401, and DHC–8–402 airplanes, certificated in any category, all serial numbers.

Note 1: This AD requires revisions to certain operator maintenance documents to include new inspections. Compliance with these inspections is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by these inspections, the operator may not be able to accomplish the inspections described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (g) of this AD. The request should include a description of changes to the required inspections that will ensure the continued operational safety of the airplane.

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 aircraft fuel system against fuel tank standards introduced in Chapter 525 of the Airworthiness Manual through Notice of Proposed Amendment (NPA) 2002–043. The identified non-compliances were then assessed using Transport Canada Policy Letter No. 525–001, to determine if mandatory corrective action is required.

The assessment showed that supplemental maintenance tasks [inspections of various fuel system components such as shields, harnesses, sleeves, and sealant] are required to prevent potential ignition sources inside the fuel system, which could result in a fuel tank explosion. Revision has been made to Part 2 ''Airworthiness Limitation Items'' of the DHC–8–400 Maintenance Requirements Manual to introduce the required maintenance tasks.

The corrective action is revising the Airworthiness Limitations Section of the Instructions for Continued Airworthiness to incorporate new limitations for fuel tank systems.

Actions and Compliance

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

(1) Within 60 days after the effective date of this AD, or before December 16, 2008, whichever occurs first, revise the ALS of the Instructions for Continued Airworthiness to incorporate the inspection requirements of Bombardier Temporary Revision ALI–69, dated February 9, 2007, to Section 4, ''Fuel System Limitations,'' of Part 2, ''Airworthiness Limitations Items,'' of the Bombardier Dash 8 Q400 Maintenance Requirements Manual, Product Support Manual (PSM) 1–84–7 (''the TR to the MRM''). For all fuel system limitations tasks contained in the TR to the MRM, the initial compliance times start at the later of the ''Threshold'' and ''Grace Period'' times specified in Table 1 of this AD, and the repetitive inspections must be accomplished thereafter at the interval specified in the TR to the MRM, except as provided by paragraphs (f)(2) and (g)(1) of this AD.

TABLE 1.—INITIAL COMPLIANCE TIMES FOR LIMITATION TASKS

Description	Compliance time (whichever occurs later)	
	Threshold	Grace period
Tasks with 18,000 flight hours/108 month inspection intervals.	Before the accumulation of 18,000 total flight hours, or within 108 months since new, whichever occurs first.	Within 6,000 flight hours or 36 months after the effective date of this AD, whichever occurs first.

Note 2: The actions required by paragraph (f)(1) of this AD may be done by inserting a copy of Bombardier TR ALI–69 into the Airworthiness Limitations section of the Dash 8 Q400 MRM 1–84–7. When this TR has been included in general revisions of the MRM, the general revisions may be inserted in the PSM, provided the relevant information in the general revision is identical to that in Bombardier TR ALI–69.

(2) After accomplishing the actions specified in paragraph (f)(1) of this AD, no alternative inspections or inspection intervals may be used unless the inspections or inspection intervals are part of a later revision of Bombardier Dash 8 Q400 MRM, PSM 1–84–7, Revision 4, dated October 30, 2003, that is approved by the Manager, New York Aircraft Certification Office (ACO), FAA, or Transport Canada Civil Aviation (TCCA) (or its delegated agent); or unless the inspections or inspection intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (g)(1) of this AD.

FAA AD Differences

Note 3: 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 ACO, 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–2007–33, dated December 17, 2007; and Bombardier Temporary Revision ALI–69, dated February 9, 2007, to Section 4, ''Fuel System Limitations,'' of Part 2, ''Airworthiness Limitations Items'' of the Bombardier Dash 8 Q400 MRM PSM 1–84–7.

Issued in Renton, Washington, on April 24, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–9577 Filed 4–30–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0493; Directorate Identifier 2008–CE–028–AD]

RIN 2120–AA64

Airworthiness Directives; Pilatus Aircraft Ltd. PC–6 Series Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for 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:

This Airworthiness Directive (AD) is prompted due to a potential problem with the tail landing gear locking mechanism of PC–6 series aircraft.

Investigation, carried out after an incident report, determined that both screws of the tail-wheel locking mechanism had ruptured, rendering the mechanism inoperative.

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 June 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.

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: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; fax: (816) 329–4090.

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–2008–0493; Directorate Identifier 2008–CE–028–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 Community, has issued AD No. 2008–0070, dated April 15, 2008 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

This Airworthiness Directive (AD) is prompted due to a potential problem with the tail landing gear locking mechanism of PC–6 series aircraft.

Investigation, carried out after an incident report, determined that both screws of the tail-wheel locking mechanism had ruptured, rendering the mechanism inoperative.

In order to address this situation, the present AD requires you replace the two bolts of the tail-wheel locking mechanism with new ones, having higher shear strength, and install a warning placard on the tail-wheel mudguard.

The actions specified by this AD are intended to prevent, on take-off or landing runs, possible hazards associated with loss of directional control.

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

Relevant Service Information

Pilatus Aircraft Ltd. has issued Pilatus PC–6 Service Bulletin 32–001, dated August 8, 2006. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of the Proposed AD

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

Differences Between This Proposed AD and the MCAI or Service Information

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

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

Costs of Compliance

We estimate that this proposed AD will affect 50 products of U.S. registry. We also estimate that it would take about 3 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $80 per work-hour. Required parts would cost about $120 per product.

Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $18,000, or $360 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:

Pilatus Aircraft Ltd.: Docket No. FAA–2008–0493; Directorate Identifier 2008–CE–028–AD.

Comments Due Date

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

Affected ADs

(b) None.

Applicability

(c) This AD applies to Models PC–6, PC–6–H1, PC–6–H2, PC–6/350, PC–6/350–H1, PC–6/350–H2, PC–6/A, PC–6/A–H1, PC–6/A–H2, PC–6/B–H2, PC–6/B1–H2, PC–6/B2–H2, PC–6/B2–H4, PC–6/C–H2, and PC–6/C1–H2 airplanes, all serial numbers, certificated in any category.

Note 1: These airplanes may also be identified as Fairchild Republic Company PC–6 airplanes, Fairchild Heli Porter PC–6 airplanes, or Fairchild-Hiller Corporation PC–6 airplanes.

Subject

(d) Air Transport Association of America (ATA) Code 32: Landing Gear.

Reason

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

This Airworthiness Directive (AD) is prompted due to a potential problem with the tail landing gear locking mechanism of PC–6 series aircraft.

Investigation, carried out after an incident report, determined that both screws of the tail-wheel locking mechanism had ruptured, rendering the mechanism inoperative.

In order to address this situation, the present AD requires you replace the two bolts of the tail-wheel locking mechanism with new ones, having higher shear strength, and install a warning placard on the tail-wheel mudguard.

The actions specified by this AD are intended to prevent, on take-off or landing runs, possible hazards associated with loss of directional control.

Actions and Compliance

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

(1) Within the next 100 hours time-in-service after the effective date of this AD or within the next 12 months after the effective date of this AD, whichever occurs first:

(i) Replace the screws and nuts that attach the locking plate to the locking lever of the tail-wheel locking mechanism with steel screws and nuts following Pilatus Aircraft Ltd. Pilatus PC–6 Service Bulletin, 32–001, dated August 8, 2006.

(ii) Install the placard on the tail-wheel mudguard following Pilatus Aircraft Ltd. Pilatus PC–6 Service Bulletin, 32–001, dated August 8, 2006.

(2) As of the effective date of this AD do not install on any of the affected airplanes locking lever assemblies part number (P/N) 6403.0094.00 or P/N 114.45.06.077 or tail landing gear assemblies P/N 6403.0067.xx or P/N 114.45.06.050 unless they have been modified following the Accomplishment Instructions of Pilatus Aircraft Ltd. Pilatus PC–6 Service Bulletin, 32–001, dated August 8, 2006.

Note 2: The letter ''x'' in P/N 6403.0067.xx stands for a numeral varying from 0 to 9.

FAA AD Differences

Note 3: 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: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; 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. 2008–0070, dated April 15, 2008; and Pilatus Aircraft Ltd. Pilatus PC–6 Service Bulletin 32–001, dated August 8, 2006, for related information.

Issued in Kansas City, Missouri, on April 24, 2008.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–9589 Filed 4–30–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0179; Directorate Identifier 2007–NM–367–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model DHC–8–102, DHC–8–103, DHC–8–106, DHC–201, DHC–8–202, DHC–8–301, DHC–8–311, and DHC–8–315 Airplanes

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

ACTION: Supplemental notice of proposed rulemaking (NPRM); reopening of comment period.

SUMMARY: We are revising an earlier NPRM for the products listed above. This action revises the earlier NPRM by expanding the scope. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

> Bombardier Aerospace has completed a system safety review of the aircraft fuel system against fuel tank safety standards * * *.
>
> [A]ssessment showed that supplemental maintenance tasks [inspections of fuel tank bonding jumpers, wiring harnesses, and drain valve components, among other items and actions; and applicable corrective actions] are required to prevent potential ignition sources inside the fuel system, which could result in a 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 May 21, 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–2008–0179; Directorate Identifier 2007–NM–367–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

We proposed to amend 14 CFR part 39 with an earlier NPRM for the specified products, which was published in the **Federal Register** on February 19, 2008 (73 FR 9055). That earlier NPRM proposed to require actions intended to address the unsafe condition for the products listed above.

Since that earlier NPRM was issued, we have determined that for certain airplanes the initial compliance times for doing the tasks specified in paragraph (f)(1) of the earlier NPRM must be reduced. That earlier NPRM resulted from Canadian Airworthiness Directive CF–2007–32, dated December 17, 2007 (referred to after this as ''the MCAI'').

The MCAI does not provide an initial compliance time for doing the tasks for certain airplanes. For those airplanes, in the earlier NPRM we proposed an initial compliance time that started from the effective date of the AD; or the date of issuance of the original Canadian standard airworthiness certificate or the date of issuance of the original Canadian export certificate of airworthiness; whichever occurs later. Although unstated in the MCAI, we have determined that the intent of the MCAI is for the initial compliance time to start from the initial delivery date of the airplane in order to address the identified unsafe condition in a timely manner. We have also revised the initial compliance times for clarity by providing a threshold and grace period for each task. We have revised this supplemental NPRM by adding Table 2 to specify the initial compliance times for each task. You may obtain further information by examining the MCAI in the AD docket.

FAA's Determination and Requirements of This Proposed AD

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

Certain changes described above expand the scope of the earlier NPRM. As a result, we have determined that it is necessary to reopen the comment period to provide additional opportunity for the public to comment on this proposed AD.

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 122 products of U.S. registry. We also estimate that it would take about 1 work-hour per product to comply with the basic requirements of this proposed AD. The average labor rate is $80 per work-hour. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $9,760, or $80 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 de Havilland, Inc.): Docket No. FAA–2008–0179; Directorate Identifier 2007–NM–367–AD.

Effective Date

(a) We must receive comments by May 21, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Bombardier Model DHC–8–102, DHC–8–103, DHC–8–106, DHC–201, DHC–8–202, DHC–8–301, DHC–8–311, and DHC–8–315 airplanes, certificated in any category, all serial numbers.

Note 1: This AD requires revisions to certain operator maintenance documents to include new inspections. Compliance with these inspections is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by these inspections, the operator may not be able to accomplish the inspections described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (g) of this AD. The request should include a description of changes to the required inspections that will ensure the continued operational safety of the airplane.

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 aircraft fuel system against fuel tank standards introduced in Chapter 525 of the Airworthiness Manual through Notice of Proposed Amendment (NPA) 2002–043. The identified non-compliances were then assessed using Transport Canada Policy Letter No. 525–001, to determine if mandatory corrective action is required.

The assessment showed that supplemental maintenance tasks [inspections of fuel tank bonding jumpers, wiring harnesses, and drain valve components, among other items and actions; and applicable corrective actions] are required to prevent potential ignition sources inside the fuel system, which could result in a fuel tank explosion. Revisions have been made to Part 2 ''Airworthiness Limitations List'' of the DHC–8 Maintenance Program Manuals to introduce the required maintenance tasks.

The corrective action is revising the Airworthiness Limitations Section of the Instructions for Continued Airworthiness to incorporate new limitations for fuel tank systems.

Actions and Compliance

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

(1) Within 60 days after the effective date of this AD, or before December 16, 2008, whichever occurs first, revise the Airworthiness Limitations Section (ALS) of the Instructions for Continued Airworthiness to incorporate the fuel system limitations tasks identified in the de Havilland temporary revisions (TRs) to Part 2 ''Airworthiness Limitations List'' of the Dash 8 Series Maintenance Program Manuals (''the MPMs''). The TRs are listed in Table 1 of this AD. For the tasks identified in the TRs, the initial compliance times start at the later of the applicable ''Threshold'' and ''Grace Period'' times specified in Table 2 of this AD, and the repetitive limitation tasks must be accomplished thereafter at the interval specified in the TRs to the MPM, except as provided by paragraphs (f)(2), (f)(3), (f)(4), and (g)(1) of this AD.

TABLE 1.—TEMPORARY REVISIONS

Model	de Havilland TR	MPM
DHC–8–102, DHC–8–103, and DHC–8–106 airplanes.	AWL–110, dated August 31, 2007	Dash 8 Series 100 MPM, Product Support Manual (PSM) 1–8–7, Part 2, ''Airworthiness Limitations List''.
DHC–8–201, and DHC–8–202 airplanes.	AWL 2–43, dated August 31, 2007	Dash 8 Series 200 MPM, PSM 1–82–7, Part 2, ''Airworthiness Limitations List''.
DHC–8–301, DHC–8–311, and DHC–8–315 airplanes.	AWL 3–109, dated August 31, 2007.	Dash 8 Series 300 MPM, PSM 1–83–7, Part 2, ''Airworthiness Limitations List''.

TABLE 2.—INITIAL INSPECTIONS

Description	Compliance time (whichever occurs later)	
	Threshold	Grace period
Tasks with 6,000 flight hours/36 month intervals	Before the accumulation of 6,000 total flight hours, or within 36 months since new, whichever occurs first.	Within 2,000 flight hours or 12 months after the effective date of this AD, whichever occurs first.
Tasks with 18,000 flight hours/108 month intervals.	Before the accumulation of 18,000 total flight hours, or within 108 months since new, whichever occurs first.	Within 6,000 flight hours or 36 months after the effective date of this AD, whichever occurs first.
Tasks with 72,000 flight hours/36 year intervals	Before the accumulation of 72,000 total flight hours, or within 36 years since new, whichever occurs first.	Within 600 flight hours or 3 months after the effective date of this AD, whichever occurs first.

Note 2: The actions required by paragraph (f)(1) of this AD may be done by inserting a copy of the applicable TR listed in Table 1 of this AD into the Airworthiness Limitations section of the applicable MPM listed in Table 1 of this AD. When the applicable TR has been included in general revisions of the applicable MPM, the general revisions may be inserted in the MPM, provided the relevant information in the general revision is identical to that in the applicable TR.

(2) For those tasks with 6,000 flight hours/36 month limitation task intervals: For airplanes that have accumulated 4,000 total flight hours or more, or 24 months or more since new, as of the effective date of this AD, do the initial limitation tasks within 2,000 flight hours or 12 months after the effective date of this AD, whichever occurs first. Thereafter, repeat the limitation tasks at intervals not to exceed 6,000 flight hours or 36 months, whichever occurs first.

(3) For those tasks with 18,000 flight hours/108 month limitation task intervals: For airplanes that have accumulated 12,000 total flight hours or more, or 72 months or more since new, as of the effective date of this AD, do the initial limitation tasks within 6,000 flight hours or 36 months after the effective date of this AD, whichever occurs first. Thereafter, repeat the limitation tasks at intervals not to exceed 18,000 flight hours or 108 months, whichever occurs first.

(4) After accomplishing the actions specified in paragraphs (f)(1), (f)(2), and (f)(3) of this AD, no alternative inspections/limitation tasks or inspection/limitation task intervals may be used unless the inspections/limitation tasks or inspection/limitation task intervals are part of a later revision of Part 2 ''Airworthiness Limitations List'' of the applicable de Havilland Dash 8 Series MPM listed in Table 3 of this AD, that is approved by the Manager, New York Aircraft Certification Office (ACO), FAA, or the Transport Canada Civil Aviation (TCCA) (or its delegated agent); or unless inspections/limitation tasks or inspection/limitation task intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (g)(1) of this AD.

TABLE 3.—MAINTENANCE PROGRAM MANUALS

Model	MPM
DHC–8–102, DHC–8–103, and DHC–8–106 airplanes.	Dash 8 Series 100 MPM, PSM 1–8–7, Part 2, ''Airworthiness Limitations List,'' Revision 17, dated April 19, 2005.
DHC–8–201, and DHC–8–202 airplanes	Dash 8 Series 200 MPM, PSM 1–82–7, Part 2, ''Airworthiness Limitations List,'' Revision 5, dated August 15, 2001.
DHC–8–301, DHC–8–311, and DHC–8–315 airplanes.	Dash 8 Series 300 MPM, PSM 1–83–7, Part 2, ''Airworthiness Limitations List,'' Revision 16, dated August 15, 2001.

FAA AD Differences

Note 3: 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 ACO, 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–2007–32, dated December 17, 2007, and the temporary revisions listed in Table 1 of this AD.

Issued in Renton, Washington, on April 24, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–9575 Filed 4–30–08; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2008–0183; FRL–8561–1]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Section 110(a)(1) 8-Hour Ozone Maintenance Plan and 2002 Base-Year Inventory for the Warren County Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania. The Pennsylvania Department of Environmental Protection (PADEP) submitted a SIP revision consisting of a maintenance plan that provides for continued attainment of the 8-hour ozone national ambient air quality standard (NAAQS) for at least 10 years after the April 30, 2004 designations, as well as, a 2002 base-year inventory for the Warren County Area. EPA is proposing approval of the maintenance plan and the 2002 base-year inventory in accordance with the requirements of the Clean Air Act (CAA).

DATES: Written comments must be received on or before June 2, 2008.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2008–0183 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–2008–0183, Cristina Fernandez, 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–2008–0183. 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 Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Gregory Becoat, (215) 814–2036, or by e-mail at *becoat.gregory@epa.gov.*

SUPPLEMENTARY INFORMATION: On December 17, 2007, PADEP formally submitted for approval, under section 110(a)(1) of the CAA, a SIP revision for the 8-hour ozone maintenance plan and the 2002 base-year inventory for the Warren County Area.

I. Background

Section 110(a)(1) of the CAA requires that states submit to EPA plans to maintain the NAAQS promulgated by EPA. EPA interprets this provision to require that areas that were maintenance areas for the 1-hour ozone NAAQS, but attainment for the 8-hour ozone NAAQS, submit a plan to demonstrate the continued maintenance of the 8-hour ozone NAAQS.

On May 20, 2005, EPA issued guidance that applies to areas that are designated unclassifiable/attainment for the 8-hour ozone standard. The purpose of this guidance is to address the maintenance requirements in section 110(a)(1) of the CAA, and to assist the states in the development of a SIP. The components from EPA's guidance include: (1) An attainment emissions inventory, which is based on actual ''typical summer day'' emissions of volatile organic compounds (VOCs) and nitrogen oxides (NO_X) for a 10-year maintenance period, from a base-year chosen by the state; (2) a maintenance demonstration, which demonstrates how the area will remain in compliance with the 8-hour ozone standard for a period of 10 years following the effective date of designation unclassifiable/attainment (June 15, 2004); (3) an ambient air monitoring network, which will be in continuous operation in accordance with 40 CFR Part 58 to verify maintenance of the 8-hour ozone standard; (4) a contingency plan, that will ensure that in the event of a violation of the 8-hour ozone NAAQS, measures will be implemented as promptly as possible; (5) a verification of continued attainment, indicating how the state intends on tracking the progress of the maintenance plan.

II. Summary of SIP Revision

The Commonwealth of Pennsylvania has requested approval of its 8-hour ozone maintenance plan and 2002 base-year inventory for the Warren County Area. The PADEP 8-hour ozone maintenance plan addresses the five components of EPA's May 20, 2005 guidance, which pertains to the maintenance requirements in section 110(a)(1) of the CAA.

Attainment Emission Inventory: An attainment emissions inventory includes emissions during the time period associated with the monitoring data showing attainment. PADEP has provided an emissions inventory for VOCs and NO_X, using 2002 as the base-year from which to project emissions. The 2002 inventory is consistent with EPA guidance, is based on actual ''typical summer day'' emissions of VOCs and NO_X, and consists of a list of sources and their associated emissions. PADEP prepared comprehensive VOCs

and NO_X emissions inventories for the Warren County Area. In the maintenance plan, PADEP included information on the man-made sources of ozone precursors, VOCs and NO_X (e.g., ''stationary sources,'' ''stationary area sources,'' ''highway vehicles,'' and ''nonroad sources'').

Pennsylvania projected emissions for beyond 10 years from the effective date of the April 30, 2004 designations for the 8-hour ozone standard. PADEP has developed an emissions inventory for ozone precursors for the year 2002, 2009, and 2018. Tables 1 and 2 show the VOCs and NO_X emissions reduction summary for 2002, 2009, and 2018.

TABLE 1.—VOC EMISSIONS SUMMARY: 2002, 2009 AND 2018

[Tons per summer day]

Major source category	2002	2009	2018
Stationary Point Sources	1.56	0.92	1.10
Stationary Area Sources	2.71	2.47	2.55
Highway Vehicles	2.62	1.23	0.70
Nonroad Sources	2.62	2.02	1.29
Total	9.51	6.64	5.64

TABLE 2.—NO_X EMISSIONS SUMMARY: 2002, 2009 AND 2018

[Tons per summer day]

Major source category	2002	2009	2018
Stationary Point Sources	3.56	4.01	4.18
Stationary Area Sources	0.35	0.37	0.38
Highway Vehicles	4.04	1.95	0.76
Nonroad Sources	1.12	0.91	0.61
Total	9.07	7.24	5.93

EPA believes Pennsylvania has demonstrated that the VOCs and NO_X emissions in the Warren County Area will improve due to permanent and enforceable reductions in emissions resulting from implementation of the SIP, federal measures, and other state-adopted measures.

Maintenance demonstration: As Table 1 and 2 indicate, the Warren County Attainment Area plan shows maintenance of the 8-hour ozone NAAQS by demonstrating that future emissions of VOCs and NO_X remain at or below the 2002 base-year emissions levels through the year 2018.

Based upon the comparison of the projected emissions and the 2002 base-year inventory emissions, along federal and state measures, EPA concludes that PADEP successfully demonstrates that the 8-hour ozone standard will be maintained in the Warren County Area. Further details of Warren County Attainment Area's 8-hour ozone maintenance demonstration can be found in a Technical Support Document (TSD) prepared for this rulemaking.

Ambient Air Quality Monitoring: With regard to the ambient air monitoring component of the maintenance plan, Pennsylvania commits to continue operating its current air quality monitoring stations in accordance with 40 CFR Part 58, to verify the attainment status of the area, with no reductions in the number of sites from those in the existing network unless pre-approved by EPA.

Contingency Plan: Section 110(a)(1) of the CAA requires that the state develop a contingency plan which will ensure that any violation of a NAAQS is promptly corrected. The purpose of the contingency plan is to adopt measures, outlined in the maintenance plan, in order to assure continued attainment in the event of a violation of the 8-hour ozone NAAQS. The maintenance plan should identify the events that would ''trigger'' the adoption and implementation of a contingency measure(s), the contingency measure(s) that would be adopted and implemented, and the schedule indicating the time frame by which the state would adopt and implement the measure(s).

Since the Warren County Area does not have a monitor, contingency measures will be considered if for two consecutive years the fourth highest 8-hour ozone concentrations at the design monitor for the Erie Area are above 84 parts per billion (ppb). If this trigger point occurs, PADEP will evaluate whether additional local emission control measures should be implemented in Warren County in order to prevent a violation of the air quality standard. PADEP will analyze the conditions leading to the excessive ozone levels and evaluate what measures might be most effective in correcting the excessive ozone levels. PADEP will also analyze the potential emissions effect of federal, state, and local measures that have been adopted but not yet implemented at the time the excessive ozone levels occurred. PADEP will then begin the process of implementing the contingency measures outlined in their maintenance plan.

Verification of continued attainment: PADEP will track the attainment status of the 8-hour ozone NAAQS for Warren County by reviewing air quality at the design monitor for the Erie Area and emissions data during the maintenance period. An annual evaluation of vehicle miles traveled and emissions reported from stationary sources will be performed and compared to the assumptions about the factors used in the maintenance plan. PADEP will also evaluate the periodic (every three years) emission inventories prepared under EPA's Consolidated Emission Reporting Regulation (40 CFR 51, Subpart A) for any unanticipated increases. Based on these evaluations, PADEP will consider whether any further emission control measures should be implemented.

III. Proposed Action

EPA is proposing to approve the maintenance plan and the 2002 base-year inventory for the Warren County Area, submitted on December 17, 2007, as revisions to the Pennsylvania SIP. EPA is proposing to approve the

maintenance plan and 2002 base-year inventory for the Warren County Area because it meets the requirements of section 110(a)(1) of the CAA. 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 the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule to approve the maintenance plan and the 2002 base-year inventory for the Warren County Area in the Commonwealth of Pennsylvania does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: April 24, 2008.

William T. Wisniewski,

Acting Regional Administrator, Region III.

[FR Doc. E8–9613 Filed 4–30–08; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 418

[CMS–1548–P]

RIN 0938–AP14

Medicare Program; Proposed Hospice Wage Index for Fiscal Year 2009

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Proposed rule.

SUMMARY: This proposed rule proposes the hospice wage index for fiscal year 2009. This proposed rule also proposes to phase-out the Medicare hospice budget neutrality adjustment factor and clarify two wage index issues, pertaining to the definition of rural and urban areas and to multi-campus hospital facilities.

DATES: To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on June 27, 2008.

ADDRESSES: In commenting, please refer to file code CMS–1548–P. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

You may submit comments in one of four ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on this regulation to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' and enter the filecode to find the document accepting comments.

2. *By regular mail.* You may mail written comments (one original and two copies) to the following address only: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–1548–P, P.O. Box 8012, Baltimore, MD 21244–1850.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments (one original and two copies) to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–1548–P, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

4. *By hand or courier.* If you prefer, you may deliver (by hand or courier) your written comments (one original and two copies) before the close of the comment period to either of the following addresses:

a. Room 445–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

(Because access to the interior of the HHH Building is not readily available to persons without Federal Government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for persons wishing to retain a proof of filing by stamping in and retaining an extra copy of the comments being filed.)

b. 7500 Security Boulevard, Baltimore, MD 21244–1850.

If you intend to deliver your comments to the Baltimore address, please call telephone number (410) 786–9994 in advance to schedule your arrival with one of our staff members.

Comments mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and received after the comment period.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Randy Throndset (410) 786–0131 or Katie Lucas (410) 786–7723.

SUPPLEMENTARY INFORMATION:

Submitting Comments: We welcome comments from the public on all issues set forth in this rule to assist us in fully considering issues and developing policies. You can assist us by

referencing the file code CMS–1548–P and the specific ''issue identifier'' that precedes the section on which you choose to comment.

Inspection of Public Comments: All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following Web site as soon as possible after they have been received: *http://www.regulations.gov.* Follow the search instructions on that Web site to view public comments.

Comments received timely will also be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, at the headquarters of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, phone 1–800–743–3951.

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Part 418—Hospice Care

I. Background

A. General

1. Hospice Care

Hospice care is an approach to treatment that recognizes that the impending death of an individual warrants a change in the focus from curative care to palliative care for relief of pain and for symptom management. The goal of hospice care is to help terminally ill individuals continue life with minimal disruption to normal activities while remaining primarily in the home environment. A hospice uses an interdisciplinary approach to deliver medical, nursing, social, psychological, emotional, and spiritual services through use of a broad spectrum of professional and other caregivers, with the goal of making the individual as physically and emotionally comfortable as possible. Counseling services and inpatient respite services are available to the family of the hospice patient. Hospice programs consider both the patient and the family as a unit of care.

Section 1861(dd) of the Social Security Act (the Act) provides for coverage of hospice care for terminally ill Medicare beneficiaries who elect to receive care from a participating hospice. Section 1814(i) of the Act provides payment for Medicare participating hospices.

2. Medicare Payment for Hospice Care

Our regulations at 42 CFR part 418 establish eligibility requirements, payment standards and procedures, define covered services, and delineate the conditions a hospice must meet to be approved for participation in the Medicare program. Part 418 subpart G provides for payment in one of four prospectively-determined rate categories (routine home care, continuous home care, inpatient respite care, and general inpatient care) to hospices based on each day a qualified Medicare beneficiary is under a hospice election.

B. Hospice Wage Index

Our regulations at § 418.306(c) require each hospice's labor market to be established using the most current hospital wage data available, including any changes by OMB to the Metropolitan Statistical Areas (MSAs) definitions. OMB revised the MSA definitions beginning in 2003 with new designations called the Core Based Statistical Areas (CBSAs). For the purposes of the hospice benefit, the term ''MSA-based'' refers to wage index values and designations based on the previous MSA designations before 2003. Conversely, the term ''CBSA-based'' refers to wage index values and designations based on the OMB revised MSA designations in 2003, which now include CBSAs. In the August 11, 2004 IPPS final rule (69 FR 48916, 49026), revised labor market area definitions were adopted at § 412.64(b), which were effective October 1, 2004 for acute care hospitals. CMS also revised the labor market areas for hospices using the new OMB standards that included CBSAs. In the FY 2006 hospice wage index final rule (70 FR 45130), we implemented a 1-year transition policy using a 50/50 blend of the CBSA-based wage index values and the Metropolitan Statistical Area (MSA)-based wage index values for FY 2006. The one-year transition policy ended on September 30, 2006. For FY 2007 and FY 2008 we used wage index values based on CBSA designations.

The hospice wage index is used to adjust payment rates for hospice agencies under the Medicare program to reflect local differences in area wage levels. The original hospice wage index was based on the 1981 Bureau of Labor Statistics hospital data and had not been updated since 1983. In 1994, because of disparity in wages from one geographical location to another, a committee was formulated to negotiate a wage index methodology that could be accepted by the industry and the government. This committee, functioning under a process established by the Negotiated Rulemaking Act of 1990, was comprised of national hospice associations; rural, urban, large and small hospices; multi-site hospices; consumer groups; and a government representative. On April 13, 1995, the Hospice Wage Index Negotiated Rulemaking Committee signed an agreement for the methodology to be used for updating the hospice wage index.

In the August 8, 1997 **Federal Register** (62 FR 42860), we published a final rule implementing a new methodology for calculating the hospice wage index based on the recommendations of the negotiated rulemaking committee. The committee statement was included in the appendix of that final rule (62 FR 42883). The hospice wage index is updated annually. Our most recent annual update notice published in the **Federal Register** (72 FR 50214) on August 31, 2007 set forth updates to the hospice wage index for FY 2008. On October 1, 2007, we published a correction notice in the **Federal Register** (72 FR 55672) to correct technical errors that appeared in the August 31, 2007 final rule.

1. Raw Wage Index Values (Pre-Floor, Pre-Reclassified Hospital Wage Index)

As described in the August 8, 1997 hospice wage index final rule (62 FR 42860), the pre-floor and pre-reclassified hospital wage index is used as the raw wage index for the hospice benefit. These raw wage index values are then subject to either a budget neutrality adjustment or application of the hospice floor to compute the hospice wage index used to determine payments to hospices.

Pre-floor, pre-reclassified hospital wage index values of 0.8 or greater are adjusted by the BNAF. Pre-floor, pre-reclassified hospital wage index values below 0.8 are adjusted by the greater of: (1) The hospice BNAF; or (2) the hospice floor (which is a 15 percent increase) subject to a maximum wage index value of 0.8. For example, if County A has a pre-floor, pre-reclassified hospital wage index (raw wage index) value of 0.4000, we would perform the following calculations using the budget neutrality factor (which for this example is 1.060988) and the hospice floor to determine County A's hospice wage index:

Pre-floor, pre-reclassified hospital wage index value below 0.8 multiplied by the BNAF: ($0.4000 \times 1.060988 = 0.4244$)

Pre-floor, pre-reclassified hospital wage index value below 0.8 multiplied by the hospice floor: ($0.4000 \times 1.15 = 0.4600$)

Based on these calculations, County A's hospice wage index would be 0.4600.

As decided upon by the Hospice Wage Index Negotiated Rulemaking Committee, budget neutrality means that, in a given year, estimated aggregate payments for Medicare hospice services using the updated hospice values will equal estimated payments that would have been made for these services if the 1983 hospice wage index values had remained in effect, after adjusting the payment rates for inflation.

The BNAF has been computed and applied annually to the labor portion of the hospice payment. Currently, the labor portion of the payment rates is as follows: for Routine Home Care, 68.71 percent; for Continuous Home Care, 68.71 percent; for General Inpatient Care, 64.01 percent; and for Respite Care, 54.13 percent. The non-labor portion is equal to 100 percent minus the labor portion for each level of care. Therefore the non-labor portion of the payment rates is as follows: for Routine Home Care, 31.29 percent; for Continuous Home Care, 31.29 percent; for General Inpatient Care, 35.99 percent; and for Respite Care, 45.87 percent.

2. Changes to Core-Based Statistical Area (CBSA) Designations

The annual update to the hospice wage index is published in the **Federal Register** and is based on the most current available hospital wage data, as well as any changes by the Office of Management and Budget (OMB) to the definitions of MSAs, which now include CBSA designations. The August 4, 2005 final rule (70 FR 45130) set forth the adoption of the changes discussed in the OMB Bulletin No. 03–04 (June 6, 2003), which announced revised definitions for Micropolitan Statistical Areas and the creation of MSAs and Combined Statistical Areas. In adopting the OMB CBSA geographic designations, we provided for a 1-year transition with a blended hospice wage index for all hospices for FY 2006. For FY 2006, the hospice wage index for each provider consisted of a blend of 50 percent of the FY 2006 MSA-based hospice wage index and 50 percent of the FY 2006 CBSA-based hospice wage index. Fiscal years 2007 and 2008 used the full CBSA-based hospice wage index values as discussed in their respective notices or rules (71 FR 52080 and 72 FR 50214).

3. Definition of Rural and Urban Areas

Each hospice's labor market is determined based on definitions of MSAs issued by OMB. In general, an urban area is defined as an MSA or New England County Metropolitan Area (NECMA) as defined by OMB. Under § 412.64(b)(1)(ii)(C), a rural area is defined as any area outside of the urban area. The urban and rural area geographic classifications are defined in § 412.64(b)(1)(ii)(A) through (C), and have been used for the Medicare hospice benefit since implementation.

4. Areas Without Hospital Wage Data

When adopting OMB's new labor market designations in FY 2006, we identified some geographic areas where there were no hospitals, and thus, no hospital wage index data on which to base the calculation of the hospice wage index. Beginning in FY 2006, we adopted a policy to use the FY 2005 pre-floor, pre-reclassified hospital wage index value for rural areas when no hospital wage data were available. We also adopted the policy that for urban labor markets without a hospital from which a hospital wage index data could be derived, all of the CBSAs within the State would be used to calculate a statewide urban average pre-floor, pre-reclassified hospital wage index value to use as a reasonable proxy for these areas. Consequently, in the FY 2006 final rule, the FY 2007 update notice, and the FY 2008 final rule, we applied the average pre-floor, pre-reclassified hospital wage index data from all urban areas in that state to urban areas without a hospital. The only affected CBSA is 25980, Hinesville-Fort Stewart, Georgia.

Under the CBSA labor market areas, there are no hospitals in rural locations in Massachusetts and Puerto Rico. Since there was no rural proxy for more recent rural data within those areas, in the FY 2006 hospice wage index proposed rule (70 FR 22394, 22398), we proposed applying the FY 2005 pre-floor, pre-reclassified hospital wage index value to rural areas where no hospital wage data were available. In the FY 2006 final rule and in the FY 2007 update notice, we applied the FY 2005 pre-floor, pre-reclassified hospital wage index data for areas lacking hospital wage data in both FY 2006 and FY 2007 for rural Massachusetts and rural Puerto Rico.

In the FY 2008 final rule (72 FR 50214, 50217) we considered alternatives to our methodology to update the pre-floor, pre-reclassified hospital wage index for rural areas without hospital wage data. We indicated that we believed that the best imputed proxy for rural areas, would: (1) Use pre-floor, pre-reclassified hospital data; (2) use the most local data available to impute a rural pre-floor, pre-reclassified hospital wage index; (3) be easy to evaluate; and, (4) be easy to update from year-to-year.

Therefore, in FY 2008, in cases where there was a rural area without rural hospital wage data, we used the average pre-floor, pre-reclassified hospital wage index data from all contiguous CBSAs to represent a reasonable proxy for the rural area. This approach does not use rural data, however, the approach uses pre-floor, pre-reclassified hospital wage data, is easy to evaluate, is easy to update from year-to-year, and uses the most local data available. In the FY 2008 rule (72 FR at 50217), we noted that in determining an imputed rural pre-floor, pre-reclassified hospital wage index, we interpret the term ''contiguous'' to mean sharing a border. For example, in the case of Massachusetts, the entire rural area consists of Dukes and Nantucket counties. We determined that the borders of Dukes and Nantucket counties are contiguous with Barnstable and Bristol counties. Under the adopted methodology, the pre-floor, pre-reclassified hospital wage index values for the counties of Barnstable (CBSA 12700, Barnstable Town, MA) and Bristol (CBSA 39300, Providence-New Bedford-Fall River, RI–MA) would be

averaged resulting in an imputed pre-floor, pre-reclassified rural hospital wage index for FY 2008. We noted in the FY 2008 final hospice wage index rule that while we believe that this policy could be readily applied to other rural areas that lack hospital wage data (possibly due to hospitals converting to a different provider type, such as a Critical Access Hospital, that does not submit the appropriate wage data), if a similar situation arose in the future, we would re-examine this policy.

We also noted that we do not believe that this policy would be appropriate for Puerto Rico, as there are sufficient economic differences between hospitals in the United States and those in Puerto Rico, including the payment of hospitals in Puerto Rico using blended Federal/Commonwealth-specific rates. Therefore we believe that a separate and distinct policy for Puerto Rico is necessary. Any alternative methodology for imputing a pre-floor, pre-reclassified hospital wage index for rural Puerto Rico would need to take into account the economic differences between hospitals in the United States and those in Puerto Rico. Our policy of imputing a rural pre-floor, pre-reclassified hospital wage index based on the pre-floor, pre-reclassified hospital wage index(es) of CBSAs contiguous to the rural area in question does not recognize the unique circumstances of Puerto Rico. While we have not yet identified an alternative methodology for imputing a pre-floor, pre-reclassified hospital wage index for rural Puerto Rico, we will continue to evaluate the feasibility of using existing hospital wage data and, possibly, wage data from other sources. For FY 2008, we used the most recent pre-floor, pre-reclassified hospital wage index available for Puerto Rico, which is 0.4047.

5. CBSA Nomenclature Changes

The Office of Management and Budget (OMB) regularly publishes a bulletin that updates the titles of certain CBSAs. In the FY 2008 Final Rule (72 FR 50218) we noted that the FY 2008 rule and all subsequent hospice wage index rules and notices would incorporate CBSA changes from the most recent OMB bulletins. The OMB bulletins may be accessed at *http://www.whitehouse.gov/omb/bulletins/index.html.*

6. Hospice Payment Rates

Section 4441(a) of the Balanced Budget Act of 1997 (BBA) amended section 1814(i)(1)(C)(ii) of the Act to establish updates to hospice rates for FYs 1998 through 2002. Hospice rates were to be updated by a factor equal to the market basket index, minus 1 percentage point. However, neither the BBA nor subsequent legislation specified alteration to the market basket adjustment to be used to compute payment for fiscal years beyond 2002. Payment rates for FYs since 2002 have been updated according to section 1814(i)(1)(C)(ii)(VII) of the Act, which states that the update to the payment rates for subsequent fiscal years will be the market basket percentage for the fiscal year. It has been longstanding practice to use the inpatient hospital market basket as a proxy for a hospice market basket.

Historically, the rate update has been published through a separate administrative instruction issued annually in July to provide adequate time to implement system change requirements. Providers determine their payments by applying the hospice wage index in this notice to the labor portion of the published hospice rates.

II. Provisions of the Proposed Rule

A. Clarification of New England Deemed Counties

We are taking the opportunity to address the change in the designation of ''New England deemed counties,'' which are listed in § 412.64(b)(1)(ii)(B). These counties were deemed to be parts of urban areas under section 601(g) of the Social Security Amendments of 1983, yet the OMB designates these counties as rural. In the FY 2008 Inpatient Prospective Payment System (IPPS) final rule, IPPS adopted the OMB designation for the pre-floor, pre-reclassified hospital wage index. The counties include Litchfield County, Connecticut; York County, Maine; Sagadahoc County, Maine; Merrimack County, New Hampshire; and Newport County, Rhode Island. Of these five ''New England deemed counties,'' three (York County, Sagadahoc County, and Newport County) are also included in metropolitan statistical areas defined by OMB and are considered urban under the current IPPS labor market area definitions in § 412.64(b)(1)(ii)(A).

The remaining two, Litchfield County and Merrimack County, are geographically located in areas that are considered rural under the current IPPS labor market area definitions. However, they have been previously deemed urban under the IPPS in certain circumstances as discussed below. In the FY 2008 IPPS final rule with comment period (72 FR 47130, August 22, 2007), § 412.64(b)(1)(ii)(B) was revised such that the two ''New England deemed counties'' that are still considered rural by OMB (Litchfield County, CT and Merrimack County, NH) are no longer considered urban effective for discharges occurring on or after October 1, 2007. Therefore, these two counties are considered rural in accordance with § 412.64(b)(1)(ii)(C). However, for purposes of payment under the IPPS, acute care hospitals located within those areas are treated as being reclassified to their deemed urban area effective for discharges occurring on or after October 1, 2007 (see 72 FR 47337 through 47338). We also noted in this discussion that this policy change was limited to the ''New England deemed counties'' IPPS hospitals only, and that any change to non-IPPS provider wage indexes would be addressed in the respective payment system rules. The hospice program does not provide for such geographic reclassification as the IPPS does, and we are taking this opportunity to clarify treatment of ''New England deemed counties'' under the hospice program in this proposed rule.

As discussed, our regulations at § 418.306(c) require each hospice's labor market to be established using the most current hospital wage data available. The original hospice wage index was based on the 1981 Bureau of Labor Statistics hospital data. In 1994, a committee functioning under a process established by the Negotiated Rulemaking Act of 1990, was formed to negotiate a hospice wage index methodology that could be accepted by the industry and the government. The revised hospice wage index was based on the recommendations of the Negotiated Rulemaking Advisory Committee. This committee was established to provide advice and make recommendations to the Secretary on the hospice wage index used to adjust payment rates for hospices under the Medicare program, to reflect local differences in area wage levels. The Committee recommended that the revised hospice wage index be based on the most current available data for each fiscal year, which would be used to construct a pre-floor, pre-reclassified hospital wage index under the prospective payment system before adjustments were made to take into account the geographic reclassification of hospitals in accordance with sections 1886(d)(8)(B) and (d)(10) of the Act, as well as each hospice's labor market area as established by OMB. The reason the unadjusted hospital wage data were recommended was to avoid further reductions in certain rural statewide wage index values that would result from reclassification. The recommendations are codified in

§ 418.306(c) of our regulations; however, there is no reference to § 412.64.

In other words, while § 412.64 is not explicitly noted, the hospice program has used the urban definition in § 412.64(b)(1)(ii)(A) and (B), and the rural definition as any area outside of an urban area in § 412.64(b)(1)(ii)(C). Historical changes to the labor market area/geographic classifications and annual updates to the hospice wage index values have been made effective October 1 each year. When we established the hospice wage index values effective October 1, 2007 through September 30, 2008, we considered the ''New England deemed counties'' (including Litchfield County, CT and Merrimack County, NH) as urban for FY 2008 in accordance with the definitions of urban and rural areas in the FY 2008 hospice final rule (72 FR 50216). Therefore, Litchfield County was listed as one of the constituent counties of urban CBSA 25540 (Hartford-West Hartford-East Hartford, CT), and Merrimack County was listed as one of the constituent counties of urban CBSA 31700 (Manchester-Nashua, NH) (72 FR 50236 and 50239, respectively). As noted above, the terms ''rural'' and ''urban'' areas are defined in IPPS according to the definitions of those terms in § 412.64(b)(1)(ii)(A) through (C). Litchfield county, CT and Merrimack county, NH are considered rural areas for hospital IPPS purposes in accordance with § 412.64. Under this proposal, effective October 1, 2008, Litchfield county, CT would no longer be considered part of urban CBSA 25540 (Hartford-West Hartford-East Hartford, CT), and Merrimack County, NH would no longer be considered part of urban CBSA 31700 (Manchester-Nashua, NH). Rather, these counties would be considered to be rural areas within their respective states under the hospice payment system. This proposed policy is consistent with our policy of not taking into account IPPS geographic reclassifications in determining payments under the hospice wage index. We propose to amend § 418.306(c) to cross-reference to the definitions of urban and rural in the IPPS regulations in 42 CFR part 412 subpart D.

B. Wage Data for Multi-Campus Hospitals

In the 2007 IPPS final rule, we changed in the way that we treat multi-campus hospital wage data in the creation of the pre-floor, pre-reclassified hospital wage index. The IPPS wage data used to determine the proposed FY 2009 hospice wage index values now apportion the wage data for multi-campus hospitals located in different labor market areas (CBSAs) to the CBSAs where the campuses are located (see 72 FR 47317 through 47320). Historically, the hospice wage index is derived from the pre-floor, pre-reclassified hospital wage index. Consequently, for this proposed rule we propose to continue to use the most recent available pre-floor, pre-reclassified hospital wage index in computing the hospice wage index. The pre-floor, pre-reclassified hospital wage index values for the following CBSAs are affected by this change in how wage data from multi-campus hospitals are used in the computation of the pre-floor, pre-reclassified hospital wage index: Boston-Quincy, MA (CBSA 14484), Providence-New Bedford-Falls River, RI–MA (CBSA 39300), Chicago-Naperville-Joliet, IL (CBSA 16974) and Lake-County-Kenosha County, IL–WI (CBSA 29404).

C. FY 2009 Hospice Wage Index With Phase-Out of the Budget Neutrality Adjustment Factor (BNAF)

[If you choose to comment on issues in this section, please include the caption, ''FY 2009 Hospice Wage Index with Phase-out of the Budget Neutrality Adjustment Factor (BNAF)'' at the beginning of your comments.]

1. Background

The hospice final rule published in the **Federal Register** on December 16, 1983 (48 FR 56008) provided for adjustment to hospice payment rates to reflect differences in area wage levels. We apply the appropriate hospice wage index value to the labor portion of the hospice payment rates based on the geographic area where hospice care was furnished. As noted earlier, each hospice's labor market area is based on definitions of Metropolitan Statistical Areas (MSAs) issued by the OMB. For FY 2009, we propose to again use a pre-floor, pre-reclassified hospital wage index based solely on the CBSA designations.

As noted above, our hospice payment rules utilize the wage adjustment factors used by the Secretary for purposes of section 1886(d)(3)(E) of the Act for hospital wage adjustments. We are proposing again to use the pre-floor and pre-reclassified hospital wage index data to adjust the labor portion of the hospice payment rates based on the geographic area where the beneficiary receives hospice care. We believe the use of the pre-floor, pre-reclassified hospital wage index data results in the appropriate adjustment to the labor portion of the costs. For the FY 2009 update to hospice payment rates, we propose to continue to use the most recent pre-floor, pre-reclassified hospital wage index available at the time of publication.

2. Areas Without Hospital Wage Data

In adopting the CBSA designations, we identified some geographic areas where there are no hospitals, and thus no hospital wage data on which to base the calculation of the hospice wage index. These areas were described in section I.B.4 of this proposed rule. Beginning in FY 2006, we adopted a policy that, for urban labor markets without an urban hospital from which a pre-floor, pre-reclassified hospital wage index can be derived, all of the urban CBSA pre-floor, pre-reclassified hospital wage index values within the State would be used to calculate a statewide urban average pre-floor, pre-reclassified hospital wage index to use as a reasonable proxy for these areas. Currently, the only CBSA that would be affected by this policy is CBSA 25980, Hinesville, Georgia. We propose to continue this policy for FY 2009.

Currently, the only rural areas where there are no hospitals from which to calculate a pre-floor, pre-reclassified hospital wage index are Massachusetts and Puerto Rico. In August 2007 (72 FR 50217) we adopted the following methodology for imputing rural pre-floor, pre-reclassified hospital wage index values for areas where no hospital wage data are available as an acceptable proxy. We imputed an average pre-floor, pre-reclassified hospital wage index value by averaging the pre-floor, pre-reclassified hospital wage index values from contiguous CBSAs as a reasonable proxy for rural areas with no hospital wage data from which to calculate a pre-floor, pre-reclassified hospital wage index. In determining an imputed rural pre-floor, pre-reclassified hospital wage index, we define ''contiguous'' as sharing a border. For Massachusetts, rural Massachusetts currently consists of Dukes and Nantucket Counties. We determined that the borders of Dukes and Nantucket counties are ''contiguous'' with Barnstable and Bristol counties. We are again proposing to apply this methodology for imputing a rural pre-floor, pre-reclassified hospital wage index for those rural areas without rural hospital wage data in FY 2009.

However, as we noted in our final rule at 72 FR 50218, we do not believe that this policy is appropriate for Puerto Rico. We noted that there are sufficient economic differences between the hospitals in the United States and those in Puerto Rico, including the fact that hospitals in Puerto Rico are paid on

blended Federal/Commonwealth-specific rates, to make a separate distinct policy for Puerto Rico necessary. For FY 2009, we again propose to continue to use the most recent pre-floor, pre-reclassified hospital wage index value available for Puerto Rico, which is 0.4047. This pre-floor, pre-reclassified hospital wage index value is then adjusted upward by the hospice floor in the computing of the proposed FY 2009 hospice wage index.

3. Phase-Out of the Budget Neutrality Adjustment Factor (BNAF)

As noted in section 1.B of this proposed rule, the current hospice wage index methodology was developed through a negotiated rule making process and implemented in 1997. The rule making committee sought to address the inaccuracies in the original Bureau of Labor Statistics (BLS)-based hospice wage index, account better for disparities from one geographic location to another, and develop a wage index that would be as accurate, reliable and equitable as possible. The resulting hospice wage index reflects a special adjustment (a BNAF) to ensure payments in the aggregate are budget neutral to payments using the original 1983 hospice wage index. The adjustment, still in place today, results in providers currently receiving about 4 percent more in payments than they would receive if the adjustment factor were not applied. The rationale for maintaining this adjustment is outdated given the time that has elapsed since it was put into place and the growth that is occurring in the hospice benefit. In this section, we propose to phase-out this adjustment over 3 years, reducing it by 25 percent in FY 2009, by an additional 50 percent for a total of 75 percent in FY 2010, and eliminating it completely in FY 2011. We also provide our rationale for the phase-out.

As discussed in section I.B of this proposed rule, the original hospice wage index was based on the 1981 Bureau of Labor Statistics (BLS) hospital data and had not been updated since 1983. During earlier attempts to update the hospice wage index, the hospice industry raised concerns over the adverse financial impact of a new wage index on individual hospices and a possible overall reduction in Medicare payments. Thus, the result was that in the absence of agreement on a new wage index, we continued to use a wage index that was clearly obsolete for geographically adjusting Medicare hospice payments (see ''Medicare Program; Notice Containing the Statement Drafted by the Committee Established to Negotiate the Wage Index to be Used to Adjust Hospice Payment Rates Under Medicare,'' November 29, 1995, 60 FR 61264).

Changing to a new but more accurate wage index would result in some areas gaining as their wage index value would increase, but in other areas seeing declines in payments as their wage index value dropped. In 1994 we noted that a majority of hospices would have their wage index reduced with the new wage index based on using the pre-floor, pre-reclassified hospital wage index. These reductions would have occurred for two key reasons: (1) Hospices were located in areas where the original hospice wage index was artificially high due to flaws in the 1981 BLS data, and (2) hospices were located in areas where wages had gone down relative to other geographic areas (see ''Hospice Services Under Medicare Program: Intent to Form Negotiated Rulemaking Committee,'' October 14, 1994, 59 FR 52130).

Because of the negative impact to certain areas that was expected with the change to a new wage index, a committee was formulated in 1994, under the process established by the Negotiated Rulemaking Act of 1990 (Pub. L. 101–648). The Committee was established to negotiate the hospice wage index methodology rather than to go through the usual rulemaking process. On September 4, 1996, we published a proposed rule (61 FR 46579) in which we proposed a methodology to update the hospice wage index used to adjust Medicare hospice payment rates.

In formulating the provisions of that proposed rule, the Committee considered criteria in evaluating the available data sources. The need for fundamental equity of the wage index; data that reflected actual work performed by hospice personnel; compatibility with wage indexes used by CMS for other Medicare providers; and availability of the data for timely implementation were considered.

The Committee agreed that the hospice wage index be derived from the 1993 hospital cost report data and that these data, prior to reclassification, would form the basis for the FY 1997 hospice wage index. That is the pre-floor, pre-reclassified hospital wage index would not be adjusted to take into account the geographic reclassification of hospitals in accordance with sections 1886(d)(8)(B) and 1886(d)(10) of the Act. The methodology is codified in § 418.306(c). The hospice wage index for subsequent years would be based on pre-floor, pre-reclassified hospital wage index data for a subsequent year.

The Committee was also concerned that while some hospices would see increases, use of the pre-floor, pre-reclassified hospital wage index as the wage index for hospices would result in a net reduction in aggregate Medicare payments for hospices. As noted above, a majority of hospices would have had their wage index lowered by using the new wage index because the prior hospice wage indices were based on outdated data which were artificially high due to flaws in the 1981 BLS data, and because some hospices were located in areas where wages had gone down relative to other geographic areas. The reduction in overall Medicare payments if a new wage index were adopted was noted in the November 29, 1995 final rule (60 FR 61264). Therefore, the Committee also decided that, each year in updating the hospice wage index, aggregate Medicare payments to hospices would remain budget neutral to payments as if the 1983 wage index had been used.

As decided upon by the Hospice Wage Index Negotiated Rulemaking Committee, budget neutrality means that, in a given year, estimated aggregate payments for Medicare hospice services using the updated hospice values will equal estimated payments that would have been made for these services if the 1983 hospice wage index values had remained in effect, after adjusting the payment rates for inflations. Being budget neutral does not take into account annual market basket updates to hospice payment rates. Therefore, although payments to individual hospice programs may change each year, the total payments each year to hospices would not be affected by using the updated hospice wage index because total payments would be budget neutral as if the 1983 wage index had been used. To implement this provision a BNAF would be computed and applied annually.

The BNAF is calculated by computing estimated payments using the most recent completed year of hospice claims data. The units (days or hours) from those claims are multiplied by the updated hospice payment rates to calculate estimated payments. The updated hospice wage index values are then applied to the labor portion of the payments. For this proposed rule, that means estimating payments for FY 2009 using FY 2006 hospice claims data, and applying the estimated updated FY 2009 hospice payment rates (updating the FY 2008 rates by the estimated FY 2009 market basket update). The proposed FY 2009 hospice wage index values are then applied to the labor portion only. The procedure is repeated using the

same claims data and payment rates, but using the 1983 BLS-based wage index instead of the updated pre-floor, pre-reclassified hospital wage index. The total payments are then compared, and the adjustment required to make total payments equal is computed; that adjustment factor is the BNAF. In 1998, the BNAF increased all wage index values by just over 2 percent.

All pre-floor, pre-reclassified hospital wage index values of 0.8 or greater would be adjusted by the BNAF. Also, all pre-floor, pre-reclassified hospital wage index values below 0.8 would receive the greater of the following: (1) A 15-percent increase subject to a maximum hospice wage index value of 0.8; or (2) an adjustment by the BNAF. All hospice wage index values of 0.8 or greater would be adjusted by the BNAF. The BNAF would be calculated and applied annually.

While the Committee sought to adopt a wage index methodology that would be as accurate, reliable, and equitable as possible, the Committee also decided to incorporate a BNAF into the calculation of the hospice wage index that would otherwise apply in order to mitigate adverse financial impacts some hospices would experience through a decrease in their wage index value by transitioning to a pre-floor, pre-reclassified hospital wage index.

In the August 8, 1997 final rule (62 FR 42860), we indicated that the annual updates of the hospice wage index values would be made in accordance with the methodology agreed to by the rulemaking committee. We also noted that in the event that if we decide to change this methodology by which the hospice wage index is computed, it would be reflected in a proposed rule published in the **Federal Register**. In this proposed rule, we now propose to change this methodology.

In FY 1998, the BNAF was 1.020768; in FY 2008 it was 1.066671. In other words, any pre-floor, pre-reclassified hospital wage index value greater than 0.8 was increased by over 2 percent in FY 1998 and increased by almost 7 percent in FY 2008. In FY 2008, this adjustment resulted in hospice providers receiving about 4 percent more in payments than they would have received if the BNAF had not been applied.

The negotiating committee also recommended that the transition to the new hospice wage index occur over 3 years, from FY 1998 to FY 2001. The intent of both the three year transition and the budget neutrality adjustment was to mitigate the negative financial impact to many hospices resulting from the wage index change. Additionally, the committee sought to ensure that access to hospice care was not jeopardized as a result of the wage index change.

We believe that the rationale for maintaining this adjustment is outdated for several reasons.

First, the original purpose of the BNAF was to prevent reductions in payments to the majority of hospices whose wage index was based on the original hospice wage index which was artificially high due to flaws in the 1981 BLS data. While incorporating a BNAF into hospice wage indices could be rationalized in 1997 as a way to smooth the transition from an old wage index to a new one, since hospices have had plenty of time to adjust to the new wage index, it is difficult to justify maintaining in perpetuity a BNAF which was in part compensating for artificially high data to begin with.

Second, the new wage index adopted in 1997 resulted in increases in wage index values for hospices in certain areas. The BNAF applies to hospices in all areas. Thus, hospices in areas that would have had increases without the BNAF received an artificial boost in the wage index for the past 11 years. We believe that continuation of this excess payment can no longer be justified.

Third, an adjustment factor that is based on 24-year old wage index values is contrary to our goal of using a hospice wage index that is as accurate, reliable and equitable as possible in accounting for geographic variation in wages. We believe that those goals can be better achieved by using the pre-floor, pre-reclassified hospital wage index, without an outdated BNAF, consistent with other providers. For instance, Medicare payments to home health agencies, that utilize a similar labor mix, are adjusted by the pre-floor, pre-reclassified hospital wage index, without any budget neutrality adjustment. We believe that using the unadjusted pre-floor, pre-reclassified hospital wage index provides a good measure of area wage differences for both these home-based reimbursement systems.

Fourth, in the 13 years since concerns about the impact of switching from an old to a new wage index were voiced, the hospice industry and hospice payments have grown substantially. Hospice expenditures in 2006 were $9.2 billion, compared to about $2.2 billion in 1998, a growth rate of almost 20 percent per year. Aggregate hospice expenditures are increasing at a rate of about $1 billion per year. MedPAC projects that expenditures will continue to grow at a rate of 9 percent per year through 2015, outpacing the growth rate of projected expenditures for hospitals, skilled nursing facilities, and physician and home health services. We believe that this growth in Medicare spending for hospice indicates that the original rationale of the BNAF, to cushion the impact of using the new wage index, is no longer justified. These spending growth figures also indicate that any negative financial impact to the hospice industry as a result of eliminating the BNAF is no longer present, and thus the need for a transitional adjustment has passed.

Fifth, 13 years ago the industry also voiced concerns about the negative financial impact on individual hospices that could occur by adopting a new wage index. In August 1994 there were 1,602 hospices; currently there are 2,986 hospices. Clearly any negative financial impact from adopting a new wage index in 1997 is no longer present, or we would not have seen an 86 percent increase in the number of hospices since 1994. The number of Medicare-certified hospices has continued to increase, with a 26 percent increase in the number of hospice providers from 2001 to 2005. This ongoing growth in the industry also suggests that phasing out the BNAF would not have a negative impact on access to care.

Therefore for these reasons, we believe that continuing to apply a BNAF for the purpose of mitigating any adverse financial impact on hospices or negative impact on access to care is no longer necessary. We are proposing to phase out the BNAF over a 3-year period, reducing the BNAF by 25 percent in FY 2009, by 75 percent in FY 2010, and eliminating it in FY 2011. We believe that the proposed 3-year phase-out period will reduce any adverse financial impact that the industry might experience if we eliminated the BNAF in a single year. However, depending on the comments received, updated data, and subsequent analysis, for the final rule we may determine that a different percentage reduction in the BNAF (for any of the years) or a different phase-out timeframe would be more appropriate. Specifically, it may be determined that a more aggressive phase-out alternative (e.g. a 50 percent reduction in the BNAF in FY 2009, a 75 percent reduction in the BNAF in FY 2010, and elimination of the BNAF in FY 2011) is more appropriate. Consequently, we will continue to look at reduction percentages and timeframe alternatives for the phase-out of the BNAF and, for the final rule, will implement what is determined to be the most appropriate option based on the above information. We propose to maintain the hospice floor, which offers protection to

hospices with pre-floor, pre-reclassified hospital wage index values less than 0.8.

We believe that we should have addressed this issue in previous years. We believe that using the BNAF has resulted in Medicare spending for hospice services in excess of what spending should have been in the absence of such an adjustment. However, we are not proposing to reduce Medicare payments to hospices for prior years. We are only proposing to remove the application of the BNAF on a prospective basis, beginning on October 1, 2008.

Section II.C.3.a below discusses the effects of phasing out the BNAF over three years using the data from the published FY 2008 hospice wage index; by basing the analysis on this data, our simulations hold claims data, the wage index values, and payment rates constant, with the only change being the reduction in the BNAF. Section II.C.3.b discusses the effects of reducing the BNAF for FY 2009 using the proposed FY 2009 hospice wage index.

a. Effects of Phasing-Out the BNAF Using the Published FY 2008 Hospice Wage Index

For this proposed rule, we will use the FY 2008 hospice wage index (72 FR 50214, published August 31, 2007) to illustrate the effects of phasing out the BNAF over 3 years. This analysis and discussion is for illustrative purposes only and does not affect any of the hospice wage index values for FY 2008.

The BNAF that was calculated and applied to the 2007 pre-floor, pre-reclassified hospital wage index values was 6.6671 percent. We propose reducing the BNAF by 25 percent for FY 2009, by 75 percent for FY 2010, and eliminating it altogether for FY 2011 and beyond. A 25 percent reduction in the BNAF can be accomplished by blending 75 percent of the FY 2008 hospice wage index that applied the full 6.6671 percent BNAF with 25 percent of the FY 2008 hospice wage index that used no BNAF. This is mathematically equivalent to taking 75 percent of the full BNAF value, or multiplying 0.066671 by 0.75, which equals 0.050003, or 5.0003 percent. The BNAF of 5.0003 percent reflects a 25 percent reduction in the BNAF. The 25 percent reduction in the BNAF of 5.0003 percent would be applied to the pre-floor, pre-reclassified hospital wage index values of 0.8 or greater used in the published FY 2008 hospice wage index.

The hospice floor calculation would still apply to any pre-floor, pre-reclassified hospital wage index values less then 0.8. Currently, the floor calculation has 4 steps. Pre-floor, pre-reclassified hospital wage index values that are less than 0.8 are first multiplied by 1.15; second, the minimum of 0.8 or the pre-floor, pre-reclassified hospital wage index value times 1.15 is chosen as the preliminary hospice wage index value. Third, the pre-floor, pre-reclassified hospital wage index value is multiplied by BNAF. Finally, the greater result of either step 2 or step 3 is chosen as the final hospice wage index value. We propose to leave the hospice floor unchanged, noting that steps 3 and 4 will become unnecessary once the BNAF is eliminated.

For the simulations of the BNAF phase-out for FY 2010 and FY 2011, we used the same pre-floor, pre-reclassified hospital wage index values and claims data as the example above, and simply changed the value of the BNAF to reflect either a 75 percent reduction for FY 2010 or a 100 percent reduction for FY 2011. In both cases we started with the full BNAF of 6.6671 percent. We changed the calculation to take 25 percent of the full BNAF to reflect a 75 percent reduction for FY 2010, or eliminated the BNAF altogether to reflect a 100 percent reduction for FY 2011. For FY 2010, the reduced BNAF or the hospice floor was then applied to the 2008 pre-floor, pre-reclassified hospital wage index as described previously. For FY 2011 and subsequent years, the pre-floor, pre-reclassified hospital wage index values would be unadjusted unless they are less than 0.8, in which case the hospice floor calculation would be applied.

For our simulations, the calculations of the BNAF are as follows:

- A 75 percent reduction to the BNAF in FY 2010 would be $0.066671 \times 0.25 = 0.016668$ or 1.6668 percent
- A 100 percent reduction or elimination of the BNAF in FY 2011 would be $0.066671 \times 0.0 = 0.0$ or 0 percent

We examined the effects of phasing out the BNAF versus using the full BNAF of 6.6671 percent on the FY 2008 hospice wage index. The FY 2009 BNAF reduction of 25 percent resulted in approximately a 1.55 to 1.57 percent reduction in the hospice wage index value. The FY 2010 BNAF reduction of 75 percent would result in an estimated additional 3.12 to 3.13 percent reduction from the FY 2009 hospice wage index values. The elimination of the BNAF in FY 2011 would result in an estimated final reduction of the FY 2011 hospice wage index values of approximately 1.55 to 1.57 percent compared to FY 2010 hospice wage index values.

Those CBSAs whose pre-floor, pre-reclassified hospital wage index values had the hospice floor calculation applied prior to the BNAF reduction would not be affected by this proposed phase-out of the BNAF. These CBSAs, which typically include rural areas, are protected by the hospice floor calculation. Additionally, those CBSAs whose hospice wage index values were previously 0.8 or greater after the BNAF was applied, but which would have values less than 0.8 after the reduced BNAF was applied would see a smaller reduction in their hospice wage index values since the hospice floor calculation would apply. We have estimated the number of CBSAs that would have their pre-floor, pre-reclassified hospital wage index value eligible for the floor calculation after applying the 25, 75, and 100 percent reductions in the BNAF. Three CBSAs would be affected by the 25 percent reduction, 12 would be affected by the 75 percent reduction, and 22 would be affected by the 100 percent reduction. Because of the protection given by the hospice floor calculation, these CBSAs would see smaller percentage decreases in their hospice wage index values than those CBSAs that are not eligible for the floor calculation. This will benefit those hospices with lower hospice wage index values, which are typically in rural areas.

Finally, the hospice wage index values only apply to the labor portion of the payment rates; the labor portion was described in Section I.B.1 of this proposed rule. Therefore the estimated reduction in payments due to this proposed phase-out of the BNAF would be less than the percentage reductions to the hospice wage index values that would result from reducing or eliminating the BNAF. In addition, the effects of the proposed phase-out of the BNAF could also be mitigated by a hospital market basket update in payments, which in FY 2008 was a 3.3 percent increase in payment rates. We will not have the final market basket update for FY 2009 until the summer, but the current estimate of the hospital market basket update is expected to be around 3.0 percent. This update will be communicated through an administrative instruction and not through rulemaking. The estimated effects on payment described in column 5 of Table 1 in section IV.B of this proposed rule include the projected effect of an estimated 3.0 percent hospital market basket update. CMS may implement updates to the payment rates in future rulemaking.

b. Effects of Phasing-Out the BNAF Using the Updated Pre-floor, Pre-reclassified Hospital Wage Index Data (FY 2009 Proposal)

For FY 2009, we propose updating the hospice wage index using the 2008 pre-floor, pre-reclassified hospital wage index and the most complete claims data available (FY 2006 claims). Using these data, we computed a full BNAF of 6.5357 percent. For the first year of the BNAF phase-out (FY 2009), the BNAF would be reduced by 25 percent, or $0.065357 \times 0.75 = 0.049018$, to 4.9018 percent. This would decrease hospice wage index values by approximately 1.53 to 1.54 percent from wage index values with the full BNAF applied. As noted in the previous discussion on the effects of the BNAF reduction in the published FY 2008 hospice wage index, those CBSAs which already have pre-floor, pre-reclassified hospital wage index values that have the hospice floor applied prior to implementing a proposed BNAF reduction would be completely unaffected by this proposed BNAF reduction. Those CBSAs which previously had hospice wage index values above 0.8 after applying the full BNAF, but which now are below 0.8 with the 25 percent reduction in the BNAF would be less affected by the BNAF reduction than those CBSAs which are 0.8 or above after applying the BNAF, as they are protected by the hospice floor calculation. Additionally, as mentioned in section I.B.1 of this proposed rule, the final hospice wage index is only applied to the labor portion of the payment rates, so the actual effect on estimated payment would be less than the anticipated 1.53 to 1.54 percent reduction in the hospice wage index value. Furthermore, that effect may be mitigated by a market basket update. As noted earlier, the market basket update will not be available until the summer, but estimates of the update are at about 3.0 percent.

Column 3 of Table 1 (section IV of this proposed rule) shows the impact of using the most recent wage index data (the 2008 pre-floor, pre-reclassified hospital wage index not including any reclassification under section 1886(d)(8)(B) of the Act) compared to the 2007 pre-floor, pre-reclassified hospital wage index data which was used to derive the FY 2008 hospice wage index. Column 4 of Table 1 in Section IV of this proposed rule shows the impact of incorporating the 25 percent reduction in the BNAF in the proposed FY 2009 hospice wage index along with using the most recent wage index data (2008 pre-floor, pre-reclassified hospital wage index). Finally, column 5 of Table 1 shows the combined effects of using the updated pre-floor, pre-reclassified hospital wage index, the 25 percent reduced BNAF, and an estimated market basket update of 3.0 percent. The proposed FY 2009 rural and urban hospice wage indexes can be found in Addenda A and B of this proposed rule. The pre-floor, pre-reclassified hospital wage index values were adjusted by the 25 percent reduced BNAF or by the hospice floor.

D. Summary of the Provisions of the Proposed Rule

- We propose to clarify that the hospice benefit will follow the definition of ''urban'' specified in § 412.64(b)(1)(ii)(A) and (B), and the rural definition as any area outside of an urban area in § 412.64(b)(1)(ii)(C). The regulatory text of § 418.306(c) will be amended to reference § 412.64(b)(1)(ii)(A) through (C). This affects two New England ''deemed'' counties that meet the OMB definition of rural, but were previously counted as urban; these two counties would now be considered rural. See section II.A of this proposed rule for details.
- As a basis for the hospice wage index, we propose to continue to use the pre-floor, pre-reclassified hospital wage index, which includes a change to how wage data from multi-campus hospitals are apportioned. See section II.B of this proposed rule for more details.
- We propose to continue to use a pre-floor, pre-reclassified hospital wage index based solely on the CBSA designations, using the most recent pre-floor and pre-reclassified hospital wage index available at the time of publication. See section II.C.1 of this proposed rule for details.
- We propose to continue the policy that for urban labor markets without an urban hospital from which a pre-floor, pre-reclassified hospital wage index could be derived, all of the urban CBSA pre-floor, pre-reclassified hospital wage index values within the State would be used to calculate a statewide urban average pre-floor, pre-reclassified hospital wage index to use as a reasonable proxy for these areas. See section II.C.2 of this proposed rule for details.
- We propose to continue the policy that we impute an average pre-floor, pre-reclassified rural hospital wage index value by averaging the pre-floor, pre-reclassified hospital wage index values from contiguous CBSAs as a reasonable proxy for rural areas with no hospital wage data from which to calculate a pre-floor, pre-reclassified hospital wage index. See section II.C.2 f of this proposed rule or details.
- We propose to continue to utilize the most recent pre-floor, pre-reclassified hospital wage index value available for Puerto Rico. See section II.C.2 of this proposed rule for details.
- We propose to phase-out the hospice BNAF over 3 years, reducing it by 25 percent for FY 2009, by 75 percent for FY 2010, and eliminating it completely for FY 2011. See sections II.C.3.a and II.C.3.b of this proposed rule for details. As stated in section II.C.3, based on comments received, updated data, and subsequent analysis, for the final rule we may determine that a different percentage reduction in the BNAF (for any of the years) or a different phase-out timeframe would be more appropriate. Specifically, it may be determined that a more aggressive alternative (e.g., a 50 percent reduction in the BNAF in FY 2009, a 75 percent reduction in the BNAF in FY 2010, and elimination of the BNAF in FY 2011) is more appropriate. Consequently, we will continue to look at reduction percentages and time period alternatives for the phase-out of the BNAF and, for the final rule, will implement what is determined to be the most appropriate option based on the above information.
- We propose to continue to maintain the hospice floor calculation. See section II.C.3 of this proposed rule for details.

Addendum A reflects the proposed FY 2009 hospice wage index values for urban areas designations. Addendum B reflects the proposed FY 2009 hospice wage index values for rural areas designations.

III. Collection of Information Requirements

This document does not impose any information collection and recordkeeping requirements. Consequently, it does not need to be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 35).

IV. Regulatory Impact Analysis

A. Overall Impact

We have examined the impacts of this rule as required by Executive Order 12866 (September 1993, Regulatory Planning and Review), the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96–354), section 1102(b) of the Social Security Act, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), Executive Order 13132 on Federalism, and the Congressional Review Act (5 U.S.C. 804(2)). We

estimated the impact on hospices, as a result of the changes to the proposed FY 2009 hospice wage index and of reducing the BNAF by 25 percent. As discussed previously, the methodology for computing the hospice wage index was determined through a negotiated rulemaking committee and implemented in the August 8, 1997 final rule (62 FR 42860). This rule proposes updates to the hospice wage index in accordance with our regulation but proposes to revise the Negotiated Rulemaking Committee methodology of including a BNAF.

Executive Order 12866 (as amended by Executive Order 13258, which merely reassigns responsibility of duties) directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits including potential economic, environmental, public health and safety effects, distributive impacts, and equity. A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more in any 1 year). We have determined that this proposed rule is an economically significant rule under this Executive Order.

Column 4 of Table 1 shows the combined effects of the proposed 25 percent reduction in the BNAF and of the updated wage data, comparing estimated payments for FY 2009 to estimated payments for FY 2008. We estimate that the total hospice payments for FY 2009 will decrease by $100 million as a result of the application of the 25 percent reduction in the BNAF and the updated wage data. This estimate does not take into account any market basket update, which is currently forecast to be about 3.0 percent. The final market basket update will not be available until some time later this year and will be communicated through an administrative instruction. The estimated effect of a 3.0 percent forecasted market basket update on payments to hospices is approximately $280 million. If we were to take into account an estimated 3.0 percent market basket update, in addition to the 25 percent reduction in the BNAF and the updated wage data, it is estimated that hospice payments would increase by approximately $180 million ($280 million − $100 million = $180 million). The percent change in payments to hospices due to the combined effects of the 25 percent reduction in the BNAF, the updated wage data, and the estimated market basket update of 3.0 percent is reflected in column 5 of the impact table (Table 1).

The RFA requires agencies to analyze options for regulatory relief of small businesses, if a rule has a significant impact on a substantial number of small entities. The great majority of hospices and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of less than $6.5 million to $31.5 million in any one year (for details, see the Small Business Administration's regulation at 65 FR 69432, that sets forth size standards for health care industries). As indicated in Table 1 below, there are 2,986 hospices as of February 2008. Approximately 52.7 percent of Medicare certified hospices are identified as voluntary, government, or other agencies and, therefore, are considered small entities. Most of these and most of the remainder are also small hospice entities because their revenues fall below the SBA size thresholds. We note that the hospice wage index methodology was previously guided by consensus, through a negotiated rulemaking committee that included representatives of national hospice associations, rural, urban, large and small hospices, multi-site hospices, and consumer groups. Based on all of the options considered, the committee agreed on the methodology described in the committee statement, and after notice and comment, it was adopted into regulation in the August 8, 1997 final rule. In developing the process for updating the hospice wage index in the 1997 final rule, we considered the impact of this methodology on small hospice entities and attempted to mitigate any potential negative effects. Small hospice entities are more likely to be in rural areas, which are less affected by the BNAF reduction than entities in urban areas. Generally, hospices in rural areas are protected by the hospice floor, which mitigates the effect of the BNAF reduction. The effects of this rule on hospices, as illustrated in Table 1, are small. Overall, Medicare payments to all hospices will decrease by an estimated 1.1 percent, reflecting the combined effects of the 25 percent reduction in the BNAF and the updated wage data. Within the hospice subgroups, Medicare payments will decrease by no more than 1.6 percent. Furthermore, when including the estimated market basket update of 3.0 percent into these figures, the combined effects of Medicare payment changes to all hospices will result in an increase of approximately 1.9 percent. Overall average hospice revenue effects will be slightly less than these estimates since according the National Hospice and Palliative Care Organization, about 16 percent of hospice caseload is non-Medicare. Longstanding HHS practice in interpreting the RFA is to consider effects economically ''significant'' only if they reach a threshold of 3 to 5 percent or more. Accordingly, we have determined that this proposed rule does not create a significant economic impact on a substantial number of small entities.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside a CBSA and has fewer than 100 beds. We have determined that this proposed rule will not have a significant impact on the operations of a substantial number of small rural hospitals.

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) also requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of about $130 million or more (the threshold in the statute, updated for inflation through 2008). This proposed rule is not anticipated to have an effect on State, local, or tribal governments or on the private sector of $130 million or more.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. We have reviewed this proposed rule under the threshold criteria of Executive Order 13132, Federalism, and have determined that it will not have an impact on the rights, roles, and responsibilities of State, local, or tribal governments.

B. Anticipated Effects

This section discusses the impact of the projected effects of the proposed provisions of this rule, including the estimated effects of a projected 3.0 percent market basket update that will be communicated separately through an administrative instruction. The proposed provisions include continuing to use the CBSA-based pre-floor, pre-reclassified hospital wage index (to include the clarification of New England ''deemed'' counties and a change in the way that multi-campus hospital wage

data are treated in the creation of the pre-floor, pre-reclassified hospital wage index), continuing the use the same policies for treatment of areas (rural and urban) without hospital wage data, and reducing the BNAF by 25 percent for the first year of a 3-year BNAF phase-out. The proposed FY 2009 hospice wage index is based upon the 2008 pre-floor, pre-reclassified hospital wage index and the most complete claims data available (FY 2006) with a 25 percent reduction in the BNAF.

For the purposes of our impacts, our baseline is estimated FY 2008 payments using the 2007 pre-floor, pre-reclassified hospital wage index. Our first comparison (column 3, Table 1) compares our baseline to estimated FY 2009 payments (holding payment rates constant) using the updated wage data (2008 pre-floor, pre-reclassified hospital wage index). Consequently, the estimated effects illustrated in column 3 of Table 1 are for the updated wage data only. The effects of using the updated pre-floor, pre-reclassified hospital wage index data combined with the 25 percent reduction in the BNAF are illustrated in column 4 of Table 1.

Even though the market basket update is not part of this proposed rule, we have included a comparison of the combined effects of the 25 percent BNAF reduction, the updated pre-floor, pre-reclassified hospital wage index, and an estimated 3.0 percent market basket increase for FY 2009 (Table 1, column 5). Presenting this data gives the hospice industry a more complete picture of the effects of the proposed changes in this rule and the market basket update. Certain events may limit the scope or accuracy of our impact analysis, because such an analysis is susceptible to forecasting errors due to other changes in the forecasted impact time period. The nature of the Medicare program is such that the changes may interact, and the complexity of the interaction of these changes could make it difficult to predict accurately the full scope of the impact upon hospices.

TABLE 1.—ANTICIPATED IMPACT ON MEDICARE HOSPICE PAYMENTS OF REDUCING THE BNAF, UPDATING THE PRE-FLOOR, PRE-RECLASSIFIED HOSPITAL WAGE INDEX DATA, AND APPLYING AN ESTIMATED 3.0 PERCENT MARKET BASKET UPDATE FOR THE PROPOSED FY 2009 HOSPICE WAGE INDEX, COMPARED TO THE PUBLISHED FINAL FY 2008 HOSPICE WAGE INDEX

	Number of hospices*	Number of routine home care days in thousands	Percent change in payments due to the effects of the updated wage data (FY 2009 Proposed Wage Index)	Percent change in payments due to the combined effects of the 25% reduction in the BNAF and the updated wage data (FY 2009 Proposed Wage Index)	Percent change in payments due to the combined effects of the 25% reduction in the BNAF, the updated wage data (FY 2009 Proposed Wage Index), and estimated market basket update (3.0%)
	(1)	(2)	(3)	(4)	(5)
ALL HOSPICES	2,986	61,351	−0.1	−1.1	1.9
URBAN HOSPICES	1,996	52,642	−0.1	−1.1	1.8
RURAL HOSPICES	990	8,709	−0.1	−0.9	2.1
BY REGION—URBAN:					
NEW ENGLAND	113	1,787	0.3	−0.8	2.2
MIDDLE ATLANTIC	201	5,250	−0.5	−1.6	1.4
SOUTH ATLANTIC	288	11,388	−0.1	−1.1	1.8
EAST NORTH CENTRAL	296	7,638	−0.3	−1.4	1.6
EAST SOUTH CENTRAL	160	4,365	−0.4	−1.3	1.7
WEST NORTH CENTRAL	152	3,413	0.0	−1.0	1.9
WEST SOUTH CENTRAL	339	7,131	−0.2	−1.2	1.7
MOUNTAIN	183	4,543	0.0	−1.1	1.9
PACIFIC	230	6,330	0.8	−0.4	2.6
PUERTO RICO	34	797	−1.1	−1.1	1.9
BY REGION—RURAL:					
NEW ENGLAND	26	147	−0.4	−1.4	1.5
MIDDLE ATLANTIC	43	408	0.3	−0.7	2.3
SOUTH ATLANTIC	125	1,759	0.0	−0.9	2.0
EAST NORTH CENTRAL	140	1,148	0.0	−1.0	1.9
EAST SOUTH CENTRAL	145	2,017	−0.4	−1.1	1.8
WEST NORTH CENTRAL	189	945	−0.3	−1.3	1.7
WEST SOUTH CENTRAL	165	1,325	−0.6	−0.8	2.2
MOUNTAIN	104	580	0.4	−0.6	2.4
PACIFIC	52	372	1.5	0.4	3.4
PUERTO RICO	1	7	0.0	0.0	3.0
ROUTINE HOME CARE DAYS:					
0–3499 DAYS (small)	631	1,060	0.0	−0.9	2.0
3500–19,999 DAYS (medium)	1,445	14,385	−0.1	−1.1	1.9
20,000+ DAYS (large)	910	45,906	−0.1	−1.1	1.9
TYPE OF OWNERSHIP:					
VOLUNTARY	1,194	27,185	−0.2	−1.2	1.8
PROPRIETARY	1,412	30,017	0.0	−1.0	1.9
GOVERNMENT	192	986	0.1	−0.8	2.2
OTHER	188	3,163	0.0	−1.0	2.0
HOSPICE BASE:					
FREESTANDING	1,807	45,473	−0.1	−1.1	1.8
HOME HEALTH AGENCY	597	8,908	0.0	−1.0	2.0
HOSPITAL	567	6,756	0.0	−1.1	1.9

TABLE 1.—ANTICIPATED IMPACT ON MEDICARE HOSPICE PAYMENTS OF REDUCING THE BNAF, UPDATING THE PRE-FLOOR, PRE-RECLASSIFIED HOSPITAL WAGE INDEX DATA, AND APPLYING AN ESTIMATED 3.0 PERCENT MARKET BASKET UPDATE FOR THE PROPOSED FY 2009 HOSPICE WAGE INDEX, COMPARED TO THE PUBLISHED FINAL FY 2008 HOSPICE WAGE INDEX—Continued

	Number of hospices* (1)	Number of routine home care days in thousands (2)	Percent change in payments due to the effects of the updated wage data (FY 2009 Proposed Wage Index) (3)	Percent change in payments due to the combined effects of the 25% reduction in the BNAF and the updated wage data (FY 2009 Proposed Wage Index) (4)	Percent change in payments due to the combined effects of the 25% reduction in the BNAF, the updated wage data (FY 2009 Proposed Wage Index), and estimated market basket update (3.0%) (5)
SKILLED NURSING FACILITY	15	213	−0.6	−1.7	1.2

BNAF = Budget Neutrality Adjustment Factor.
* As of February 2008.

Table 1 shows the results of our analysis. In column 1, we indicate the number of hospices included in our analysis as of February 2008. In column 2, we indicate the number of routine home care days that were included in our analysis, although the analysis was performed on all types of hospice care. Column 3 shows the percentage change in estimated Medicare payments from FY 2008 to FY 2009 due to the effects of the updated wage data only. Column 4 shows the percentage change in estimated hospice payments from FY 2008 to FY 2009 due to the combined effects of using the 2008 pre-floor, pre-reclassified hospital wage index and reducing the BNAF by 25 percent. Column 5 shows the percentage change in estimated hospice payments from FY 2008 to FY 2009 due to the combined effects of using updated wage data, a 25 percent BNAF reduction, and a 3.0 percent estimated market basket update.

Table 1 also categorizes hospices by various geographic and provider characteristics. The first row of data displays the aggregate result of the impact for all Medicare-certified hospices. The second and third rows of the table categorize hospices according to their geographic location (urban and rural). Our analysis indicated that there are 1,996 hospices located in urban areas and 990 hospices located in rural areas. The next two row groupings in the table indicate the number of hospices by census region, also broken down by urban and rural hospices. The next grouping shows the impact on hospices based on the size of the hospice's program. We determined that the majority of hospice payments are made at the routine home care rate. Therefore, we based the size of each individual hospice's program on the number of routine home care days provided in FY 2006. The next grouping shows the impact on hospices by type of ownership. The final grouping shows the impact on hospices defined by whether they are provider-based or freestanding.

As indicated in Table 1 below, there are 2,986 hospices. Approximately 52.7 percent of Medicare-certified hospices are identified as voluntary, government, or other agencies and, therefore, are considered small entities. Because the National Hospice and Palliative Care Organization estimates that approximately 83.7 percent of hospice patients are Medicare beneficiaries, we have not considered other sources of revenue in this analysis. As noted earlier, those CBSAs which had the hospice floor applied prior to our proposal to reduce the BNAF are unaffected by this proposed change in methodology. Those CBSAs that were not previously less than 0.8 after applying the full BNAF but which now are less than 0.8 after applying the reduced BNAF will see less of a reduction in payments as the floor protects their hospice wage index value.

As stated previously, the following discussions are limited to demonstrating trends rather than projected dollars. We used the pre-floor, pre-reclassified hospital wage indexes as well as the most complete claims data available (FY 2006) in developing the impact analysis. The FY 2009 payment rates will be adjusted to reflect the full hospital market basket, as required by section 1814(i)(1)(C)(ii)(VII) of the Act. As previously noted, we publish these rates through administrative instructions rather than in a proposed rule. The FY 2008 update was 3.3 percent, and the FY 2009 update will not be available until the summer. Currently the FY 2009 update is estimated to be 3.0 percent; however this figure is subject to change. Since the inclusion of the effect of a market basket increase provides a more complete picture of estimated hospice payments for FY 2009, the last column of Table 1 shows the combined impacts of the 25 percent BNAF reduction, the updated wage index, and a projected 3.0 percent market basket update factor.

As discussed in the FY 2006 final rule (70 FR 45129), hospice agencies may use multiple hospice wage index values to compute their payments based on potentially different geographic locations. Before January 1, 2008, the location of the beneficiary was used to determine the CBSA for routine and continuous home care and the location of the hospice agency was used to determine the CBSA for respite and general inpatient care. Beginning January 1, 2008, the hospice wage index utilized is based on the location of the site of service. As the location of the beneficiary's home and the location of the facility may vary, there will still be variability in geographic location for an individual hospice. We anticipate that the location of the various sites will usually correspond with the geographic location of the hospice, and thus we will continue to use the location of the hospice for our analyses of the impact of the proposed changes to the hospice wage index in this rule. For this analysis, we use payments to the hospice in the aggregate based on the location of the hospice.

The impact of hospice wage index changes has been analyzed according to the type of hospice, geographic location, type of ownership, hospice base, and size. Our analysis shows that most hospices are in urban areas and provide the vast majority of routine home care days. Most hospices are medium-sized

followed by large hospices. Hospices are almost equal in numbers by ownership with 1,574 designated as non-profit and 1,412 as proprietary. The vast majority of hospices are freestanding.

1. Hospice Size

Under the Medicare hospice benefit, hospices can provide four different levels of care days. The majority of the days provided by a hospice are routine home care (RHC) days representing about 97 percent of the services provided by a hospice. Therefore, the number of RHC days can be used as a proxy for the size of the hospice, that is, the more days of care provided, the larger the hospice. As discussed in the August 4, 2005 final rule, we currently use three size designations to present the impact analyses. The three categories are: (1) Small agencies having 0 to 3,499 RHC days; (2) medium agencies having 3,500 to 19,999 RHC days; and (3) large agencies having 20,000 or more RHC days. The proposed FY 2009 wage index values without the BNAF reduction are anticipated to have virtually no impact on small hospice providers, with a slight decrease of 0.1 percent anticipated for medium and large hospices (column 3); the proposed FY 2009 wage index values with the 25 percent BNAF reduction and the updated wage data are anticipated to decrease estimated payments by 0.9 percent to small hospices and by 1.1 percent to medium and large hospices (column 4); and finally, the proposed FY 2009 wage index values with the 25 percent BNAF reduction, the updated wage data, and the estimated 3.0 percent market basket update are projected to increase estimated payments by 2.0 percent for small hospices and by 1.9 percent for medium and large hospices (column 5).

2. Geographic Location

Column 3 of Table 1 shows that FY 2009 wage index values without the BNAF reduction will result in little change in estimated payments with rural and urban hospices anticipated to experience a slight decrease of 0.1 percent. For urban hospices, the greatest increase of 0.8 percent is anticipated to be experienced by the Pacific regions, followed by an increase for New England of 0.3 percent and no change for the West North Central and Mountain regions. The remaining urban regions are anticipated to experience a decrease ranging from 0.1 percent in the South Atlantic region 1.1 percent is for Puerto Rico.

Column 3 shows that for rural hospices, Puerto Rico, the South Atlantic, and the East North Central regions are anticipated to experience no change. Four regions are anticipated to experience a decrease ranging from 0.3 percent for the West North Central region to 0.6 percent for West South Central region. The remaining regions are anticipated to experience an increase ranging from 0.3 percent for the Middle Atlantic region to 1.5 percent for the Pacific region.

Column 4 shows the combined effect of the 25 percent BNAF reduction and the updated pre-floor, pre-reclassified hospital wage index values on estimated payments, as compared to the published FY 2008 payments. Overall urban hospices are anticipated to experience a 1.1 percent decrease in payments, while rural hospices expect a 0.9 percent decrease. The estimated percent decrease in payment for urban hospices ranged from 0.4 percent for Pacific hospices to 1.6 percent for Middle Atlantic hospices.

The estimated percent decrease in payment for rural hospices ranged from 0.6 percent for Mountain hospices to 1.4 percent for New England hospices. Rural Puerto Rico's estimated payments were unaffected, and the Pacific region saw a 0.4 percent increase in estimated payments.

Column 5 shows the combined effects of the proposed FY 2009 wage index values with the 25 percent BNAF reduction, the updated wage data, and the estimated 3.0 percent market basket update on estimated payments as compared to the published FY 2008 payments. Overall, urban hospices are anticipated to experience a 1.8 percent increase in payments while rural hospices should experience a 2.1 percent increase in payments. Urban hospices are anticipated to see an increase in estimated payments ranging from 1.4 percent for the Middle Atlantic region to 2.6 percent for the Pacific region. Rural hospices are estimated to see an increase in estimated payments ranging from 1.5 percent for the New England region to 3.4 percent for the Pacific region.

3. Type of Ownership

Column 3 demonstrates the effect of the updated pre-floor, pre-reclassified hospital wage index on FY 2009 estimated payments versus FY 2008 estimated payments. We anticipate that using the updated pre-floor, pre-reclassified hospital wage index data will have no effect on proprietary hospices. While we estimate a slight decrease in estimated payments for voluntary (non-profit) hospices (0.2 percent), other hospices are expected to experience no effect and government hospices are expected to experience a slight increase in payments (0.1 percent).

Column 4 demonstrates the combined effects of using updated pre-floor, pre-reclassified hospital wage index data and of incorporating a 25 percent BNAF reduction. Estimated payments to proprietary hospices are anticipated to decrease by 1.0 percent, while voluntary (non-profit), other, and government hospices are anticipated to experience decreases of 1.2 percent, 1.0 percent, and 0.8 percent, respectively.

Column 5 shows the combined effects of the updated pre-floor, pre-reclassified hospital wage index values with the 25 percent BNAF reduction, the updated wage data, and the estimated 3.0 percent market basket update on estimated payments, comparing FY 2009 to FY 2008. Estimated FY 2009 payments are anticipated to increase for all hospices, regardless of ownership type. Estimated payments are forecast to increase from 1.8 percent for voluntary hospices to 2.2 percent for government hospices.

4. Hospice Base

Column 3 demonstrates the effect of using the updated pre-floor, pre-reclassified hospital wage index values, comparing estimated payments for FY 2009 to FY 2008. Estimated payments are anticipated to decrease by 0.1 percent for freestanding facilities and by 0.6 percent for skilled nursing facilities. Home health and hospital based facilities are anticipated to experience no change in estimated payments.

Column 4 shows the combined effects of reducing the BNAF by 25 percent and updating the pre-floor, pre-reclassified hospital wage index values, comparing FY 2009 to FY 2008 estimated payments. Skilled nursing facility based hospices are estimated to see a 1.7 percent decline, while hospital based hospices and freestanding hospices are each anticipated to experience a 1.1 percent decrease in payments. Home health agency based hospices are expected to experience a 1.0 percent decrease.

Column 5 shows the combined effects of the 25 percent BNAF reduction, the updated pre-floor, pre-reclassified hospital wage index, and the estimated 3.0 percent market basket update on estimated payments, comparing FY 2009 to FY 2008. Estimated increases in payments range from 1.2 percent for skilled nursing facility based hospices to 2.0 percent for home health agency based hospices.

We note that the President's budget includes a proposal for a zero percent payment update for hospices in FY 2009. The impacts outlined in Column 5 of Table 1 in this proposed rule,

which include the effects of a 3.0 percent market basket update, would need to change in the final rule to reflect any legislation that the Congress might enact which would affect the market basket update.

C. Accounting Statement

As required by OMB Circular A–4 (available at *http://www.whitehouse.gov/omb/circulars/a004/a-4.pdf*), in Table 2 below, we have prepared an accounting statement showing the classification of the expenditures associated with the proposed provisions of this rule. This table provides our best estimate of the decrease in Medicare payments under the hospice benefit as a result of the changes presented in this proposed rule on data for 2,086 hospices in our database. All expenditures are classified as transfers to Medicare providers (that is, hospices).

TABLE 2.—ACCOUNTING STATEMENT: CLASSIFICATION OF ESTIMATED EXPENDITURES, FROM FY 2008 TO FY 2009 [IN MILLIONS]

Category	Transfers
Annualized Monetized Transfers.	$–100*.
From Whom to Whom	Federal Government to Hospices.

*The $100 million reduction in transfers includes the 25 percent reduction in the BNAF and the updated wage data. It does not include the market basket update, which is currently forecast to be about 3.0%.

In accordance with the provisions of Executive Order 12866, this regulation was reviewed by the Office of Management and Budget.

List of Subjects in 42 CFR Part 418

Health facilities, Health professions, Medicare, and Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Centers for Medicare and Medicare Services proposes to amend 42 CFR chapter IV as set forth below:

PART 418—HOSPICE CARE

1. The authority citation for part 418 continues to read as follows:

Authority: Secs 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

Subpart G—Payment for Hospice Care

2. Section § 418.306 is amended by revising paragraph (c) to read as follows:

§ 418.306 Determination of payment rates.

* * * * *

(c) Each hospice's labor market is determined based on definitions of Metropolitan Statistical Areas (MSAs) issued by OMB. CMS will issue annually, in the **Federal Register**, a hospice wage index based on the most current available CMS hospital wage data, including changes to the definition of MSAs. The urban and rural area geographic classifications are defined in § 412.64(b)(1)(ii)(A) through (C) of this chapter. The payment rates established by CMS are adjusted by the intermediary to reflect local differences in wages according to the revised wage data.

* * * * *

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Note: The following addendums will not appear in the Code of Federal Regulations.

Dated: March 14, 2008.

Kerry Weems,

Acting Administrator, Centers for Medicare & Medicaid Services.

Approved: April 7, 2008.

Michael O. Leavitt,

Secretary.

ADDENDUM A.—PROPOSED HOSPICE WAGE INDEX FOR URBAN AREAS BY CBSA—FY 2009

CBSA code	Urban area (constituent counties) [2]	Wage index [1]
10180	Abilene, TX	0.8347
	Callahan County, TX.	
	Jones County, TX.	
	Taylor County, TX.	
10380	Aguadilla-Isabela-San Sebastián, PR	0.3965
	Aguada Municipio, PR.	
	Aguadilla Municipio, PR.	
	Añasco Municipio, PR.	
	Isabela Municipio, PR.	
	Lares Municipio, PR.	
	Moca Municipio, PR.	
	Rincón Municipio, PR.	
	San Sebastián Municipio, PR.	
10420	Akron, OH	0.9225
	Portage County, OH.	
	Summit County, OH.	
10500	Albany, GA	0.8931
	Baker County, GA.	
	Dougherty County, GA.	
	Lee County, GA.	
	Terrell County, GA.	
	Worth County, GA.	
10580	Albany-Schenectady-Troy, NY	0.9009
	Albany County, NY.	
	Rensselaer County, NY.	
	Saratoga County, NY.	
	Schenectady County, NY.	

ADDENDUM A.—PROPOSED HOSPICE WAGE INDEX FOR URBAN AREAS BY CBSA—FY 2009—Continued

CBSA code	Urban area (constituent counties) [2]	Wage index [1]
	Schoharie County, NY.	
10740	Albuquerque, NM	1.0022
	Bernalillo County, NM.	
	Sandoval County, NM.	
	Torrance County, NM.	
	Valencia County, NM.	
10780	Alexandria, LA	0.8370
	Grant Parish, LA.	
	Rapides Parish, LA.	
10900	Allentown-Bethlehem-Easton, PA-NJ	1.0349
	Warren County, NJ.	
	Carbon County, PA.	
	Lehigh County, PA.	
	Northampton County, PA.	
11020	Altoona, PA	0.9040
	Blair County, PA.	
11100	Amarillo, TX	0.9563
	Armstrong County, TX.	
	Carson County, TX.	
	Potter County, TX.	
	Randall County, TX.	
11180	Ames, IA	1.0538
	Story County, IA.	
11260	Anchorage, AK	1.2497
	Anchorage Municipality, AK.	
	Matanuska-Susitna Borough, AK.	
11300	Anderson, IN	0.9260
	Madison County, IN.	
11340	Anderson, SC	0.9531
	Anderson County, SC.	
11460	Ann Arbor, MI	1.1056
	Washtenaw County, MI.	
11500	Anniston-Oxford, AL	0.8315
	Calhoun County, AL.	
11540	Appleton, WI	1.0068
	Calumet County, WI.	
	Outagamie County, WI.	
11700	Asheville, NC	0.9635
	Buncombe County, NC.	
	Haywood County, NC.	
	Henderson County, NC.	
	Madison County, NC.	
12020	Athens-Clarke County, GA	1.1033
	Clarke County, GA.	
	Madison County, GA.	
	Oconee County, GA.	
	Oglethorpe County, GA.	
12060	Atlanta-Sandy Springs-Marietta, GA	1.0310
	Barrow County, GA.	
	Bartow County, GA.	
	Butts County, GA.	
	Carroll County, GA.	
	Cherokee County, GA.	
	Clayton County, GA.	
	Cobb County, GA.	
	Coweta County, GA.	
	Dawson County, GA.	
	DeKalb County, GA.	
	Douglas County, GA.	
	Fayette County, GA.	
	Forsyth County, GA.	
	Fulton County, GA.	
	Gwinnett County, GA.	
	Haralson County, GA.	
	Heard County, GA.	
	Henry County, GA.	
	Jasper County, GA.	
	Lamar County, GA.	
	Meriwether County, GA.	
	Newton County, GA.	
	Paulding County, GA.	

ADDENDUM A.—PROPOSED HOSPICE WAGE INDEX FOR URBAN AREAS BY CBSA—FY 2009—Continued

CBSA code	Urban area (constituent counties) [2]	Wage index [1]
	Pickens County, GA.	
	Pike County, GA.	
	Rockdale County, GA.	
	Spalding County, GA.	
	Walton County, GA.	
12100	Atlantic City, NJ	1.2796
	Atlantic County, NJ.	
12220	Auburn-Opelika, AL	0.8487
	Lee County, AL.	
12260	Augusta-Richmond County, GA-SC	1.0118
	Burke County, GA.	
	Columbia County, GA.	
	McDuffie County, GA.	
	Richmond County, GA.	
	Aiken County, SC.	
	Edgefield County, SC.	
12420	Austin-Round Rock, TX	1.0012
	Bastrop County, TX.	
	Caldwell County, TX.	
	Hays County, TX.	
	Travis County, TX.	
	Williamson County, TX.	
12540	Bakersfield, CA	1.1593
	Kern County, CA.	
12580	Baltimore-Towson, MD	1.0631
	Anne Arundel County, MD.	
	Baltimore County, MD.	
	Carroll County, MD.	
	Harford County, MD.	
	Howard County, MD.	
	Queen Anne's County, MD.	
	Baltimore City, MD.	
12620	Bangor, ME	1.0467
	Penobscot County, ME.	
12700	Barnstable Town, MA	1.3221
	Barnstable County, MA.	
12940	Baton Rouge, LA	0.8428
	Ascension Parish, LA.	
	East Baton Rouge Parish, LA.	
	East Feliciana Parish, LA.	
	Iberville Parish, LA.	
	Livingston Parish, LA.	
	Pointe Coupee Parish, LA.	
	St. Helena Parish, LA.	
	West Baton Rouge Parish, LA.	
	West Feliciana Parish, LA.	
12980	Battle Creek, MI	1.0678
	Calhoun County, MI.	
13020	Bay City, MI	0.9333
	Bay County, MI.	
13140	Beaumont-Port Arthur, TX	0.8949
	Hardin County, TX.	
	Jefferson County, TX.	
	Orange County, TX.	
13380	Bellingham, WA	1.2036
	Whatcom County, WA.	
13460	Bend, OR	1.1478
	Deschutes County, OR.	
13644	Bethesda-Frederick-Gaithersburg, MD	1.1026
	Frederick County, MD.	
	Montgomery County, MD.	
13740	Billings, MT	0.9091
	Carbon County, MT.	
	Yellowstone County, MT.	
13780	Binghamton, NY	0.9388
	Broome County, NY.	
	Tioga County, NY.	
13820	Birmingham-Hoover, AL	0.9334
	Bibb County, AL.	
	Blount County, AL.	
	Chilton County, AL.	

ADDENDUM A.—PROPOSED HOSPICE WAGE INDEX FOR URBAN AREAS BY CBSA—FY 2009—Continued

CBSA code	Urban area (constituent counties) [2]	Wage index [1]
	Jefferson County, AL.	
	St. Clair County, AL.	
	Shelby County, AL.	
	Walker County, AL.	
13900	Bismarck, ND	0.8000
	Burleigh County, ND.	
	Morton County, ND.	
13980	Blacksburg-Christiansburg-Radford, VA	0.8594
	Giles County, VA.	
	Montgomery County, VA.	
	Pulaski County, VA.	
	Radford City, VA.	
14020	Bloomington, IN	0.9352
	Greene County, IN.	
	Monroe County, IN.	
	Owen County, IN.	
14060	Bloomington-Normal, IL	0.9782
	McLean County, IL.	
14260	Boise City-Nampa, ID	0.9929
	Ada County, ID.	
	Boise County, ID.	
	Canyon County, ID.	
	Gem County, ID.	
	Owyhee County, ID.	
14484	Boston-Quincy, MA	1.2370
	Norfolk County, MA.	
	Plymouth County, MA.	
	Suffolk County, MA.	
14500	Boulder, CO	1.0937
	Boulder County, CO.	
14540	Bowling Green, KY	0.8559
	Edmonson County, KY.	
	Warren County, KY.	
14740	Bremerton-Silverdale, WA	1.1438
	Kitsap County, WA.	
14860	Bridgeport-Stamford-Norwalk, CT	1.3359
	Fairfield County, CT.	
15180	Brownsville-Harlingen, TX	0.9351
	Cameron County, TX.	
15260	Brunswick, GA	0.9939
	Brantley County, GA.	
	Glynn County, GA.	
	McIntosh County, GA.	
15380	Buffalo-Niagara Falls, NY	1.0037
	Erie County, NY.	
	Niagara County, NY.	
15500	Burlington, NC	0.9176
	Alamance County, NC.	
15540	Burlington-South Burlington, VT	1.0134
	Chittenden County, VT.	
	Franklin County, VT.	
	Grand Isle County, VT.	
15764	Cambridge-Newton-Framingham, MA	1.1765
	Middlesex County, MA.	
15804	Camden, NJ	1.0921
	Burlington County, NJ.	
	Camden County, NJ.	
	Gloucester County, NJ.	
15940	Canton-Massillon, OH	0.9373
	Carroll County, OH.	
	Stark County, OH.	
15980	Cape Coral-Fort Myers, FL	0.9857
	Lee County, FL.	
16180	Carson City, NV	1.0493
	Carson City, NV.	
16220	Casper, WY	0.9845
	Natrona County, WY.	
16300	Cedar Rapids, IA	0.9286
	Benton County, IA.	
	Jones County, IA.	
	Linn County, IA.	

ADDENDUM A.—PROPOSED HOSPICE WAGE INDEX FOR URBAN AREAS BY CBSA—FY 2009—Continued

CBSA code	Urban area (constituent counties) [2]	Wage index [1]
16580	Champaign-Urbana, IL	0.9852
	Champaign County, IL.	
	Ford County, IL.	
	Piatt County, IL.	
16620	Charleston, WV	0.8695
	Boone County, WV.	
	Clay County, WV.	
	Kanawha County, WV.	
	Lincoln County, WV.	
	Putnam County, WV.	
16700	Charleston-North Charleston, SC	0.9571
	Berkeley County, SC.	
	Charleston County, SC.	
	Dorchester County, SC.	
16740	Charlotte-Gastonia-Concord, NC-SC	0.9987
	Anson County, NC.	
	Cabarrus County, NC.	
	Gaston County, NC.	
	Mecklenburg County, NC.	
	Union County, NC.	
	York County, SC.	
16820	Charlottesville, VA	0.9732
	Albemarle County, VA.	
	Fluvanna County, VA.	
	Greene County, VA.	
	Nelson County, VA.	
	Charlottesville City, VA.	
16860	Chattanooga, TN-GA	0.9435
	Catoosa County, GA.	
	Dade County, GA.	
	Walker County, GA.	
	Hamilton County, TN.	
	Marion County, TN.	
	Sequatchie County, TN.	
16940	Cheyenne, WY	0.9764
	Laramie County, WY.	
16974	Chicago-Naperville-Joliet, IL	1.1240
	Cook County, IL.	
	DeKalb County, IL.	
	DuPage County, IL.	
	Grundy County, IL.	
	Kane County, IL.	
	Kendall County, IL.	
	McHenry County, IL.	
	Will County, IL.	
17020	Chico, CA	1.1843
	Butte County, CA.	
17140	Cincinnati-Middletown, OH-KY-IN	1.0264
	Dearborn County, IN.	
	Franklin County, IN.	
	Ohio County, IN.	
	Boone County, KY.	
	Bracken County, KY.	
	Campbell County, KY.	
	Gallatin County, KY.	
	Grant County, KY.	
	Kenton County, KY.	
	Pendleton County, KY.	
	Brown County, OH.	
	Butler County, OH.	
	Clermont County, OH.	
	Hamilton County, OH.	
	Warren County, OH.	
17300	Clarksville, TN-KY	0.8655
	Christian County, KY.	
	Trigg County, KY.	
	Montgomery County, TN.	
	Stewart County, TN.	
17420	Cleveland, TN	0.8447
	Bradley County, TN.	
	Polk County, TN.	

ADDENDUM A.—PROPOSED HOSPICE WAGE INDEX FOR URBAN AREAS BY CBSA—FY 2009—Continued

CBSA code	Urban area (constituent counties) [2]	Wage index [1]
17460	Cleveland-Elyria-Mentor, OH	0.9797
	Cuyahoga County, OH.	
	Geauga County, OH.	
	Lake County, OH.	
	Lorain County, OH.	
	Medina County, OH.	
17660	Coeur d'Alene, ID	0.9999
	Kootenai County, ID.	
17780	College Station-Bryan, TX	0.9817
	Brazos County, TX.	
	Burleson County, TX.	
	Robertson County, TX.	
17820	Colorado Springs, CO	1.0195
	El Paso County, CO.	
	Teller County, CO.	
17860	Columbia, MO	0.9082
	Boone County, MO.	
	Howard County, MO.	
17900	Columbia, SC	0.9231
	Calhoun County, SC.	
	Fairfield County, SC.	
	Kershaw County, SC.	
	Lexington County, SC.	
	Richland County, SC.	
	Saluda County, SC.	
17980	Columbus, GA-AL	0.9157
	Russell County, AL.	
	Chattahoochee County, GA.	
	Harris County, GA.	
	Marion County, GA.	
	Muscogee County, GA.	
18020	Columbus, IN	1.0004
	Bartholomew County, IN.	
18140	Columbus, OH	1.0579
	Delaware County, OH.	
	Fairfield County, OH.	
	Franklin County, OH.	
	Licking County, OH.	
	Madison County, OH.	
	Morrow County, OH.	
	Pickaway County, OH.	
	Union County, OH.	
18580	Corpus Christi, TX	0.9009
	Aransas County, TX.	
	Nueces County, TX.	
	San Patricio County, TX.	
18700	Corvallis, OR	1.1496
	Benton County, OR.	
19060	Cumberland, MD-WV	0.8701
	Allegany County, MD.	
	Mineral County, WV.	
19124	Dallas-Plano-Irving, TX	1.0401
	Collin County, TX.	
	Dallas County, TX.	
	Delta County, TX.	
	Denton County, TX.	
	Ellis County, TX.	
	Hunt County, TX.	
	Kaufman County, TX.	
	Rockwall County, TX.	
19140	Dalton, GA	0.9189
	Murray County, GA.	
	Whitfield County, GA.	
19180	Danville, IL	0.9396
	Vermilion County, IL.	
19260	Danville, VA	0.8644
	Pittsylvania County, VA.	
	Danville City, VA.	
19340	Davenport-Moline-Rock Island, IA-IL	0.9263
	Henry County, IL.	
	Mercer County, IL.	

ADDENDUM A.—PROPOSED HOSPICE WAGE INDEX FOR URBAN AREAS BY CBSA—FY 2009—Continued

CBSA code	Urban area (constituent counties) [2]	Wage index [1]
	Rock Island County, IL.	
	Scott County, IA.	
19380	Dayton, OH	0.9640
	Greene County, OH.	
	Miami County, OH.	
	Montgomery County, OH.	
	Preble County, OH.	
19460	Decatur, AL	0.8272
	Lawrence County, AL.	
	Morgan County, AL.	
19500	Decatur, IL	0.8470
	Macon County, IL.	
19660	Deltona-Daytona Beach-Ormond Beach, FL	0.9474
	Volusia County, FL.	
19740	Denver-Aurora, CO	1.1243
	Adams County, CO.	
	Arapahoe County, CO.	
	Broomfield County, CO.	
	Clear Creek County, CO.	
	Denver County, CO.	
	Douglas County, CO.	
	Elbert County, CO.	
	Gilpin County, CO.	
	Jefferson County, CO.	
	Park County, CO.	
19780	Des Moines-West Des Moines, IA	0.9678
	Dallas County, IA.	
	Guthrie County, IA.	
	Madison County, IA.	
	Polk County, IA.	
	Warren County, IA.	
19804	Detroit-Livonia-Dearborn, MI	1.0489
	Wayne County, MI.	
20020	Dothan, AL	0.8000
	Geneva County, AL.	
	Henry County, AL.	
	Houston County, AL.	
20100	Dover, DE	1.0594
	Kent County, DE.	
20220	Dubuque, IA	0.9502
	Dubuque County, IA.	
20260	Duluth, MN-WI	1.0464
	Carlton County, MN.	
	St. Louis County, MN.	
	Douglas County, WI.	
20500	Durham, NC	1.0297
	Chatham County, NC.	
	Durham County, NC.	
	Orange County, NC.	
	Person County, NC.	
20740	Eau Claire, WI	0.9939
	Chippewa County, WI.	
	Eau Claire County, WI.	
20764	Edison, NJ	1.1729
	Middlesex County, NJ.	
	Monmouth County, NJ.	
	Ocean County, NJ.	
	Somerset County, NJ.	
20940	El Centro, CA	0.9351
	Imperial County, CA.	
21060	Elizabethtown, KY	0.9138
	Hardin County, KY.	
	Larue County, KY.	
21140	Elkhart-Goshen, IN	1.0082
	Elkhart County, IN.	
21300	Elmira, NY	0.8669
	Chemung County, NY.	
21340	El Paso, TX	0.9430
	El Paso County, TX.	
21500	Erie, PA	0.8911
	Erie County, PA.	

ADDENDUM A.—PROPOSED HOSPICE WAGE INDEX FOR URBAN AREAS BY CBSA—FY 2009—Continued

CBSA code	Urban area (constituent counties) [2]	Wage index [1]
21660	Eugene-Springfield, OR	1.1468
	Lane County, OR.	
21780	Evansville, IN-KY	0.9087
	Gibson County, IN.	
	Posey County, IN.	
	Vanderburgh County, IN.	
	Warrick County, IN.	
	Henderson County, KY.	
	Webster County, KY.	
21820	Fairbanks, AK	1.1592
	Fairbanks North Star Borough, AK.	
21940	Fajardo, PR	0.5031
	Ceiba Municipio, PR.	
	Fajardo Municipio, PR.	
	Luquillo Municipio, PR.	
22020	Fargo, ND-MN	0.8436
	Cass County, ND.	
	Clay County, MN.	
22140	Farmington, NM	1.0057
	San Juan County, NM.	
22180	Fayetteville, NC	0.9827
	Cumberland County, NC.	
	Hoke County, NC.	
22220	Fayetteville-Springdale-Rogers, AR-MO	0.9171
	Benton County, AR.	
	Madison County, AR.	
	Washington County, AR.	
	McDonald County, MO.	
22380	Flagstaff, AZ	1.2260
	Coconino County, AZ.	
22420	Flint, MI	1.1770
	Genesee County, MI.	
22500	Florence, SC	0.8653
	Darlington County, SC.	
	Florence County, SC.	
22520	Florence-Muscle Shoals, AL	0.8056
	Colbert County, AL.	
	Lauderdale County, AL.	
22540	Fond du Lac, WI	1.0141
	Fond du Lac County, WI.	
22660	Fort Collins-Loveland, CO	1.0382
	Larimer County, CO.	
22744	Fort Lauderdale-Pompano Beach-Deerfield Beach, FL	1.0730
	Broward County, FL.	
22900	Fort Smith, AR-OK	0.8322
	Crawford County, AR.	
	Franklin County, AR.	
	Sebastian County, AR.	
	Le Flore County, OK.	
	Sequoyah County, OK.	
23020	Fort Walton Beach-Crestview-Destin, FL	0.9172
	Okaloosa County, FL.	
23060	Fort Wayne, IN	0.9739
	Allen County, IN.	
	Wells County, IN.	
	Whitley County, IN.	
23104	Fort Worth-Arlington, TX	1.0168
	Johnson County, TX.	
	Parker County, TX.	
	Tarrant County, TX.	
	Wise County, TX.	
23420	Fresno, CA	1.1532
	Fresno County, CA.	
23460	Gadsden, AL	0.8559
	Etowah County, AL.	
23540	Gainesville, FL	0.9647
	Alachua County, FL.	
	Gilchrist County, FL.	
23580	Gainesville, GA	0.9668
	Hall County, GA.	
23844	Gary, IN	0.9676

ADDENDUM A.—PROPOSED HOSPICE WAGE INDEX FOR URBAN AREAS BY CBSA—FY 2009—Continued

CBSA code	Urban area (constituent counties) [2]	Wage index [1]
	Jasper County, IN.	
	Lake County, IN.	
	Newton County, IN.	
	Porter County, IN.	
24020	Glens Falls, NY	0.8661
	Warren County, NY.	
	Washington County, NY.	
24140	Goldsboro, NC	0.9743
	Wayne County, NC.	
24220	Grand Forks, ND-MN	0.8267
	Polk County, MN.	
	Grand Forks County, ND.	
24300	Grand Junction, CO	1.0348
	Mesa County, CO.	
24340	Grand Rapids-Wyoming, MI	0.9772
	Barry County, MI.	
	Ionia County, MI.	
	Kent County, MI.	
	Newaygo County, MI.	
24500	Great Falls, MT	0.9100
	Cascade County, MT.	
24540	Greeley, CO	1.0131
	Weld County, CO.	
24580	Green Bay, WI	1.0204
	Brown County, WI.	
	Kewaunee County, WI.	
	Oconto County, WI.	
24660	Greensboro-High Point, NC	0.9452
	Guilford County, NC.	
	Randolph County, NC.	
	Rockingham County, NC.	
24780	Greenville, NC	0.9863
	Greene County, NC.	
	Pitt County, NC.	
24860	Greenville, SC	1.0343
	Greenville County, SC.	
	Laurens County, SC.	
	Pickens County, SC.	
25020	Guayama, PR	0.3524
	Arroyo Municipio, PR.	
	Guayama Municipio, PR.	
	Patillas Municipio, PR.	
25060	Gulfport-Biloxi, MS	0.9203
	Hancock County, MS.	
	Harrison County, MS.	
	Stone County, MS.	
25180	Hagerstown-Martinsburg, MD-WV	0.9455
	Washington County, MD.	
	Berkeley County, WV.	
	Morgan County, WV.	
25260	Hanford-Corcoran, CA	1.1014
	Kings County, CA.	
25420	Harrisburg-Carlisle, PA	0.9735
	Cumberland County, PA.	
	Dauphin County, PA.	
	Perry County, PA.	
25500	Harrisonburg, VA	0.9302
	Rockingham County, VA.	
	Harrisonburg City, VA.	
25540	Hartford-West Hartford-East Hartford, CT	1.1496
	Hartford County, CT.	
	Middlesex County, CT.	
	Tolland County, CT.	
25620	Hattiesburg, MS	0.8000
	Forrest County, MS.	
	Lamar County, MS.	
	Perry County, MS.	
25860	Hickory-Lenoir-Morganton, NC	0.9471
	Alexander County, NC.	
	Burke County, NC.	
	Caldwell County, NC.	

ADDENDUM A.—PROPOSED HOSPICE WAGE INDEX FOR URBAN AREAS BY CBSA—FY 2009—Continued

CBSA code	Urban area (constituent counties) [2]	Wage index [1]
	Catawba County, NC.	
25980	Hinesville-Fort Stewart, GA [3]	0.9637
	Liberty County, GA.	
	Long County, GA.	
26100	Holland-Grand Haven, MI	0.9447
	Ottawa County, MI.	
26180	Honolulu, HI	1.2122
	Honolulu County, HI.	
26300	Hot Springs, AR	0.9556
	Garland County, AR.	
26380	Houma-Bayou Cane-Thibodaux, LA	0.8279
	Lafourche Parish, LA.	
	Terrebonne Parish, LA.	
26420	Houston-Sugar Land-Baytown, TX	1.0426
	Austin County, TX.	
	Brazoria County, TX.	
	Chambers County, TX.	
	Fort Bend County, TX.	
	Galveston County, TX.	
	Harris County, TX.	
	Liberty County, TX.	
	Montgomery County, TX.	
	San Jacinto County, TX.	
	Waller County, TX.	
26580	Huntington-Ashland, WV-KY-OH	0.9484
	Boyd County, KY.	
	Greenup County, KY.	
	Lawrence County, OH.	
	Cabell County, WV.	
	Wayne County, WV.	
26620	Huntsville, AL	0.9594
	Limestone County, AL.	
	Madison County, AL.	
26820	Idaho Falls, ID	0.9718
	Bonneville County, ID.	
	Jefferson County, ID.	
26900	Indianapolis-Carmel, IN	1.0327
	Boone County, IN.	
	Brown County, IN.	
	Hamilton County, IN.	
	Hancock County, IN.	
	Hendricks County, IN.	
	Johnson County, IN.	
	Marion County, IN.	
	Morgan County, IN.	
	Putnam County, IN.	
	Shelby County, IN.	
26980	Iowa City, IA	1.0037
	Johnson County, IA.	
	Washington County, IA.	
27060	Ithaca, NY	1.0102
	Tompkins County, NY.	
27100	Jackson, MI	0.9786
	Jackson County, MI.	
27140	Jackson, MS	0.8404
	Copiah County, MS.	
	Hinds County, MS.	
	Madison County, MS.	
	Rankin County, MS.	
	Simpson County, MS.	
27180	Jackson, TN	0.9101
	Chester County, TN.	
	Madison County, TN.	
27260	Jacksonville, FL	0.9463
	Baker County, FL.	
	Clay County, FL.	
	Duval County, FL.	
	Nassau County, FL.	
	St. Johns County, FL.	
27340	Jacksonville, NC	0.8475
	Onslow County, NC.	

ADDENDUM A.—PROPOSED HOSPICE WAGE INDEX FOR URBAN AREAS BY CBSA—FY 2009—Continued

CBSA code	Urban area (constituent counties) [2]	Wage index [1]
27500	Janesville, WI	1.0178
	Rock County, WI.	
27620	Jefferson City, MO	0.8894
	Callaway County, MO.	
	Cole County, MO.	
	Moniteau County, MO.	
	Osage County, MO.	
27740	Johnson City, TN	0.8053
	Carter County, TN.	
	Unicoi County, TN.	
	Washington County, TN.	
27780	Johnstown, PA	0.8000
	Cambria County, PA.	
27860	Jonesboro, AR	0.8172
	Craighead County, AR.	
	Poinsett County, AR.	
27900	Joplin, MO	0.9390
	Jasper County, MO.	
	Newton County, MO.	
28020	Kalamazoo-Portage, MI	1.0944
	Kalamazoo County, MI.	
	Van Buren County, MI.	
28100	Kankakee-Bradley, IL	1.0740
	Kankakee County, IL.	
28140	Kansas City, MO-KS	0.9970
	Franklin County, KS.	
	Johnson County, KS.	
	Leavenworth County, KS.	
	Linn County, KS.	
	Miami County, KS.	
	Wyandotte County, KS.	
	Bates County, MO.	
	Caldwell County, MO.	
	Cass County, MO.	
	Clay County, MO.	
	Clinton County, MO.	
	Jackson County, MO.	
	Lafayette County, MO.	
	Platte County, MO.	
	Ray County, MO.	
28420	Kennewick-Richland-Pasco, WA	1.0569
	Benton County, WA.	
	Franklin County, WA.	
28660	Killeen-Temple-Fort Hood, TX	0.8653
	Bell County, TX.	
	Coryell County, TX.	
	Lampasas County, TX.	
28700	Kingsport-Bristol-Bristol, TN-VA	0.8033
	Hawkins County, TN.	
	Sullivan County, TN.	
	Bristol City, VA.	
	Scott County, VA.	
	Washington County, VA.	
28740	Kingston, NY	1.0024
	Ulster County, NY.	
28940	Knoxville, TN	0.8430
	Anderson County, TN.	
	Blount County, TN.	
	Knox County, TN.	
	Loudon County, TN.	
	Union County, TN.	
29020	Kokomo, IN	1.0061
	Howard County, IN.	
	Tipton County, IN.	
29100	La Crosse, WI-MN	1.0160
	Houston County, MN.	
	La Crosse County, WI.	
29140	Lafayette, IN	0.9304
	Benton County, IN.	
	Carroll County, IN.	
	Tippecanoe County, IN.	

ADDENDUM A.—PROPOSED HOSPICE WAGE INDEX FOR URBAN AREAS BY CBSA—FY 2009—Continued

CBSA code	Urban area (constituent counties) [2]	Wage index [1]
29180	Lafayette, LA	0.8651
	Lafayette Parish, LA.	
	St. Martin Parish, LA.	
29340	Lake Charles, LA	0.8158
	Calcasieu Parish, LA.	
	Cameron Parish, LA.	
29404	Lake County-Kenosha County, IL-WI	1.1123
	Lake County, IL.	
	Kenosha County, WI.	
29420	Lake Havasu City - Kingman, AZ	0.9790
	Mohave County, AZ.	
29460	Lakeland, FL	0.9086
	Polk County, FL.	
29540	Lancaster, PA	0.9706
	Lancaster County, PA.	
29620	Lansing-East Lansing, MI	1.0615
	Clinton County, MI.	
	Eaton County, MI.	
	Ingham County, MI.	
29700	Laredo, TX	0.8490
	Webb County, TX.	
29740	Las Cruces, NM	0.9101
	Dona Ana County, NM.	
29820	Las Vegas-Paradise, NV	1.2377
	Clark County, NV.	
29940	Lawrence, KS	0.8630
	Douglas County, KS.	
30020	Lawton, OK	0.8418
	Comanche County, OK.	
30140	Lebanon, PA	0.8594
	Lebanon County, PA.	
30300	Lewiston, ID-WA	0.9917
	Nez Perce County, ID.	
	Asotin County, WA.	
30340	Lewiston-Auburn, ME	0.9644
	Androscoggin County, ME.	
30460	Lexington-Fayette, KY	0.9642
	Bourbon County, KY.	
	Clark County, KY.	
	Fayette County, KY.	
	Jessamine County, KY.	
	Scott County, KY.	
	Woodford County, KY.	
30620	Lima, OH	0.9886
	Allen County, OH.	
30700	Lincoln, NE	1.0544
	Lancaster County, NE.	
	Seward County, NE.	
30780	Little Rock-North Little Rock, AR	0.9297
	Faulkner County, AR.	
	Grant County, AR.	
	Lonoke County, AR.	
	Perry County, AR.	
	Pulaski County, AR.	
	Saline County, AR.	
30860	Logan, UT-ID	0.9633
	Franklin County, ID.	
	Cache County, UT.	
30980	Longview, TX	0.9144
	Gregg County, TX.	
	Rusk County, TX.	
	Upshur County, TX.	
31020	Longview, WA	1.1358
	Cowlitz County, WA.	
31084	Los Angeles-Long Beach-Glendale, CA	1.2348
	Los Angeles County, CA.	
31140	Louisville, KY-IN	0.9509
	Clark County, IN.	
	Floyd County, IN.	
	Harrison County, IN.	
	Washington County, IN.	

ADDENDUM A.—PROPOSED HOSPICE WAGE INDEX FOR URBAN AREAS BY CBSA—FY 2009—Continued

CBSA code	Urban area (constituent counties) [2]	Wage index [1]
	Bullitt County, KY.	
	Henry County, KY.	
	Jefferson County, KY.	
	Meade County, KY.	
	Nelson County, KY.	
	Oldham County, KY.	
	Shelby County, KY.	
	Spencer County, KY.	
	Trimble County, KY.	
31180	Lubbock, TX	0.9105
	Crosby County, TX.	
	Lubbock County, TX.	
31340	Lynchburg, VA	0.9160
	Amherst County, VA.	
	Appomattox County, VA.	
	Bedford County, VA.	
	Campbell County, VA.	
	Bedford City, VA.	
	Lynchburg City, VA.	
31420	Macon, GA	1.0009
	Bibb County, GA.	
	Crawford County, GA.	
	Jones County, GA.	
	Monroe County, GA.	
	Twiggs County, GA.	
31460	Madera, CA	0.8465
	Madera County, CA.	
31540	Madison, WI	1.1471
	Columbia County, WI.	
	Dane County, WI.	
	Iowa County, WI.	
31700	Manchester-Nashua, NH	1.0777
	Hillsborough County, NH.	
31900	Mansfield, OH	0.9725
	Richland County, OH.	
32420	Mayaguez, PR	0.4268
	Hormigueros Municipio, PR.	
	Mayaguez Municipio, PR.	
32580	McAllen-Edinburg-Pharr, TX	0.9570
	Hidalgo County, TX.	
32780	Medford, OR	1.0824
	Jackson County, OR.	
32820	Memphis, TN-MS-AR	0.9703
	Crittenden County, AR.	
	DeSoto County, MS.	
	Marshall County, MS.	
	Tate County, MS.	
	Tunica County, MS.	
	Fayette County, TN.	
	Shelby County, TN.	
	Tipton County, TN.	
32900	Merced, CA	1.2714
	Merced County, CA.	
33124	Miami-Miami Beach-Kendall, FL	1.0492
	Miami-Dade County, FL.	
33140	Michigan City-La Porte, IN	0.9351
	LaPorte County, IN.	
33260	Midland, TX	1.0508
	Midland County, TX.	
33340	Milwaukee-Waukesha-West Allis, WI	1.0715
	Milwaukee County, WI.	
	Ozaukee County, WI.	
	Washington County, WI.	
	Waukesha County, WI.	
33460	Minneapolis-St. Paul-Bloomington, MN-WI	1.1637
	Anoka County, MN.	
	Carver County, MN.	
	Chisago County, MN.	
	Dakota County, MN.	
	Hennepin County, MN.	
	Isanti County, MN.	

ADDENDUM A.—PROPOSED HOSPICE WAGE INDEX FOR URBAN AREAS BY CBSA—FY 2009—Continued

CBSA code	Urban area (constituent counties) [2]	Wage index [1]
	Ramsey County, MN.	
	Scott County, MN.	
	Sherburne County, MN.	
	Washington County, MN.	
	Wright County, MN.	
	Pierce County, WI.	
	St. Croix County, WI.	
33540	Missoula, MT	0.9392
	Missoula County, MT.	
33660	Mobile, AL	0.8427
	Mobile County, AL.	
33700	Modesto, CA	1.2548
	Stanislaus County, CA.	
33740	Monroe, LA	0.8216
	Ouachita Parish, LA.	
	Union Parish, LA.	
33780	Monroe, MI	0.9875
	Monroe County, MI.	
33860	Montgomery, AL	0.8484
	Autauga County, AL.	
	Elmore County, AL.	
	Lowndes County, AL.	
	Montgomery County, AL.	
34060	Morgantown, WV	0.8729
	Monongalia County, WV.	
	Preston County, WV.	
34100	Morristown, TN	0.8000
	Grainger County, TN.	
	Hamblen County, TN.	
	Jefferson County, TN.	
34580	Mount Vernon-Anacortes, WA	1.1045
	Skagit County, WA.	
34620	Muncie, IN	0.8617
	Delaware County, IN.	
34740	Muskegon-Norton Shores, MI	1.0318
	Muskegon County, MI.	
34820	Myrtle Beach-Conway-North Myrtle Beach, SC	0.9057
	Horry County, SC.	
34900	Napa, CA	1.5186
	Napa County, CA.	
34940	Naples-Marco Island, FL	0.9952
	Collier County, FL.	
34980	Nashville-Davidson—Murfreesboro, TN	1.0164
	Cannon County, TN.	
	Cheatham County, TN.	
	Davidson County, TN.	
	Dickson County, TN.	
	Hickman County, TN.	
	Macon County, TN.	
	Robertson County, TN.	
	Rutherford County, TN.	
	Smith County, TN.	
	Sumner County, TN.	
	Trousdale County, TN.	
	Williamson County, TN.	
	Wilson County, TN.	
35004	Nassau-Suffolk, NY	1.3260
	Nassau County, NY.	
	Suffolk County, NY.	
35084	Newark-Union, NJ-PA	1.2443
	Essex County, NJ.	
	Hunterdon County, NJ.	
	Morris County, NJ.	
	Sussex County, NJ.	
	Union County, NJ.	
	Pike County, PA.	
35300	New Haven-Milford, CT	1.2453
	New Haven County, CT.	
35380	New Orleans-Metairie-Kenner, LA	0.9333
	Jefferson Parish, LA.	
	Orleans Parish, LA.	

ADDENDUM A.—PROPOSED HOSPICE WAGE INDEX FOR URBAN AREAS BY CBSA—FY 2009—Continued

CBSA code	Urban area (constituent counties) [2]	Wage index [1]
	Plaquemines Parish, LA.	
	St. Bernard Parish, LA.	
	St. Charles Parish, LA.	
	St. John the Baptist Parish, LA.	
	St. Tammany Parish, LA.	
35644	New York-Wayne-White Plains, NY-NJ	1.3758
	Bergen County, NJ.	
	Hudson County, NJ.	
	Passaic County, NJ.	
	Bronx County, NY.	
	Kings County, NY.	
	New York County, NY.	
	Putnam County, NY.	
	Queens County, NY.	
	Richmond County, NY.	
	Rockland County, NY.	
	Westchester County, NY.	
35660	Niles-Benton Harbor, MI	0.9589
	Berrien County, MI.	
35980	Norwich-New London, CT	1.1992
	New London County, CT.	
36084	Oakland-Fremont-Hayward, CA	1.6454
	Alameda County, CA.	
	Contra Costa County, CA.	
36100	Ocala, FL	0.9050
	Marion County, FL.	
36140	Ocean City, NJ	1.1527
	Cape May County, NJ.	
36220	Odessa, TX	1.0534
	Ector County, TX.	
36260	Ogden-Clearfield, UT	0.9441
	Davis County, UT.	
	Morgan County, UT.	
	Weber County, UT.	
36420	Oklahoma City, OK	0.9247
	Canadian County, OK.	
	Cleveland County, OK.	
	Grady County, OK.	
	Lincoln County, OK.	
	Logan County, OK.	
	McClain County, OK.	
	Oklahoma County, OK.	
36500	Olympia, WA	1.2076
	Thurston County, WA.	
36540	Omaha-Council Bluffs, NE-IA	1.0030
	Harrison County, IA.	
	Mills County, IA.	
	Pottawattamie County, IA.	
	Cass County, NE.	
	Douglas County, NE.	
	Sarpy County, NE.	
	Saunders County, NE.	
	Washington County, NE.	
36740	Orlando, FL	0.9678
	Lake County, FL.	
	Orange County, FL.	
	Osceola County, FL.	
	Seminole County, FL.	
36780	Oshkosh-Neenah, WI	1.0019
	Winnebago County, WI.	
36980	Owensboro, KY	0.9076
	Daviess County, KY.	
	Hancock County, KY.	
	McLean County, KY.	
37100	Oxnard-Thousand Oaks-Ventura, CA	1.2433
	Ventura County, CA.	
37340	Palm Bay-Melbourne-Titusville, FL	0.9782
	Brevard County, FL.	
37380	Palm Coast, FL	0.9383
	Flagler County, FL.	
37460	Panama City-Lynn Haven, FL	0.8720

ADDENDUM A.—PROPOSED HOSPICE WAGE INDEX FOR URBAN AREAS BY CBSA—FY 2009—Continued

CBSA code	Urban area (constituent counties) [2]	Wage index [1]
	Bay County, FL.	
37620	Parkersburg-Marietta, WV-OH	0.8502
	Washington County, OH.	
	Pleasants County, WV.	
	Wirt County, WV.	
	Wood County, WV.	
37700	Pascagoula, MS	0.9071
	George County, MS.	
	Jackson County, MS.	
37764	Peabody, MA	1.1172
	Essex County, MA.	
37860	Pensacola-Ferry Pass-Brent, FL	0.8687
	Escambia County, FL.	
	Santa Rosa County, FL.	
37900	Peoria, IL	0.9755
	Marshall County, IL.	
	Peoria County, IL.	
	Stark County, IL.	
	Tazewell County, IL.	
	Woodford County, IL.	
37964	Philadelphia, PA	1.1461
	Bucks County, PA.	
	Chester County, PA.	
	Delaware County, PA.	
	Montgomery County, PA.	
	Philadelphia County, PA.	
38060	Phoenix-Mesa-Scottsdale, AZ	1.0767
	Maricopa County, AZ.	
	Pinal County, AZ.	
38220	Pine Bluff, AR	0.8223
	Cleveland County, AR.	
	Jefferson County, AR.	
	Lincoln County, AR.	
38300	Pittsburgh, PA	0.8943
	Allegheny County, PA.	
	Armstrong County, PA.	
	Beaver County, PA.	
	Butler County, PA.	
	Fayette County, PA.	
	Washington County, PA.	
	Westmoreland County, PA.	
38340	Pittsfield, MA	1.0586
	Berkshire County, MA.	
38540	Pocatello, ID	0.9929
	Bannock County, ID.	
	Power County, ID.	
38660	Ponce, PR	0.5118
	Juana Díaz Municipio, PR.	
	Ponce Municipio, PR.	
	Villalba Municipio, PR.	
38860	Portland-South Portland-Biddeford, ME	1.0534
	Cumberland County, ME.	
	Sagadahoc County, ME.	
	York County, ME.	
38900	Portland-Vancouver-Beaverton, OR-WA	1.2062
	Clackamas County, OR.	
	Columbia County, OR.	
	Multnomah County, OR.	
	Washington County, OR.	
	Yamhill County, OR.	
	Clark County, WA.	
	Skamania County, WA.	
38940	Port St. Lucie—Fort Pierce, FL	1.0507
	Martin County, FL.	
	St. Lucie County, FL.	
39100	Poughkeepsie-Newburgh-Middletown, NY	1.1520
	Dutchess County, NY.	
	Orange County, NY.	
39140	Prescott, AZ	1.0511
	Yavapai County, AZ.	
39300	Providence-New Bedford-Fall River, RI-MA	1.1092

ADDENDUM A.—PROPOSED HOSPICE WAGE INDEX FOR URBAN AREAS BY CBSA—FY 2009—Continued

CBSA code	Urban area (constituent counties) [2]	Wage index [1]
	Bristol County, MA.	
	Bristol County, RI.	
	Kent County, RI.	
	Newport County, RI.	
	Providence County, RI.	
	Washington County, RI.	
39340	Provo-Orem, UT	1.0025
	Juab County, UT.	
	Utah County, UT.	
39380	Pueblo, CO	0.9285
	Pueblo County, CO.	
39460	Punta Gorda, FL	0.9708
	Charlotte County, FL.	
39540	Racine, WI	0.9964
	Racine County, WI.	
39580	Raleigh-Cary, NC	1.0321
	Franklin County, NC.	
	Johnston County, NC.	
	Wake County, NC.	
39660	Rapid City, SD	0.9243
	Meade County, SD.	
	Pennington County, SD.	
39740	Reading, PA	0.9815
	Berks County, PA.	
39820	Redding, CA	1.4205
	Shasta County, CA.	
39900	Reno-Sparks, NV	1.1240
	Storey County, NV.	
	Washoe County, NV.	
40060	Richmond, VA	0.9887
	Amelia County, VA.	
	Caroline County, VA.	
	Charles City County, VA.	
	Chesterfield County, VA.	
	Cumberland County, VA.	
	Dinwiddie County, VA.	
	Goochland County, VA.	
	Hanover County, VA.	
	Henrico County, VA.	
	King and Queen County, VA.	
	King William County, VA.	
	Louisa County, VA.	
	New Kent County, VA.	
	Powhatan County, VA.	
	Prince George County, VA.	
	Sussex County, VA.	
	Colonial Heights City, VA.	
	Hopewell City, VA.	
	Petersburg City, VA.	
	Richmond City, VA.	
40140	Riverside-San Bernardino-Ontario, CA	1.1644
	Riverside County, CA.	
	San Bernardino County, CA.	
40220	Roanoke, VA	0.9117
	Botetourt County, VA.	
	Craig County, VA.	
	Franklin County, VA.	
	Roanoke County, VA.	
	Roanoke City, VA.	
	Salem City, VA.	
40340	Rochester, MN	1.1282
	Dodge County, MN.	
	Olmsted County, MN.	
	Wabasha County, MN.	
40380	Rochester, NY	0.9292
	Livingston County, NY.	
	Monroe County, NY.	
	Ontario County, NY.	
	Orleans County, NY.	
	Wayne County, NY.	
40420	Rockford, IL	1.0295

ADDENDUM A.—PROPOSED HOSPICE WAGE INDEX FOR URBAN AREAS BY CBSA—FY 2009—Continued

CBSA code	Urban area (constituent counties) [2]	Wage index [1]
	Boone County, IL.	
	Winnebago County, IL.	
40484	Rockingham County-Strafford County, NH	1.0607
	Rockingham County, NH.	
	Strafford County, NH.	
40580	Rocky Mount, NC	0.9442
	Edgecombe County, NC.	
	Nash County, NC.	
40660	Rome, GA	0.9485
	Floyd County, GA.	
40900	Sacramento—Arden-Arcade—Roseville, CA	1.4167
	El Dorado County, CA.	
	Placer County, CA.	
	Sacramento County, CA.	
	Yolo County, CA.	
40980	Saginaw-Saginaw Township North, MI	0.9244
	Saginaw County, MI.	
41060	St. Cloud, MN	1.1066
	Benton County, MN.	
	Stearns County, MN.	
41100	St. George, UT	0.9817
	Washington County, UT.	
41140	St. Joseph, MO-KS	0.9191
	Doniphan County, KS.	
	Andrew County, MO.	
	Buchanan County, MO.	
	DeKalb County, MO.	
41180	St. Louis, MO-IL	0.9466
	Bond County, IL.	
	Calhoun County, IL.	
	Clinton County, IL.	
	Jersey County, IL.	
	Macoupin County, IL.	
	Madison County, IL.	
	Monroe County, IL.	
	St. Clair County, IL.	
	Crawford County, MO.	
	Franklin County, MO.	
	Jefferson County, MO.	
	Lincoln County, MO.	
	St. Charles County, MO.	
	St. Louis County, MO.	
	Warren County, MO.	
	Washington County, MO.	
	St. Louis City, MO.	
41420	Salem, OR	1.1090
	Marion County, OR.	
	Polk County, OR.	
41500	Salinas, CA	1.5499
	Monterey County, CA.	
41540	Salisbury, MD	0.9435
	Somerset County, MD.	
	Wicomico County, MD.	
41620	Salt Lake City, UT	0.9860
	Salt Lake County, UT.	
	Summit County, UT.	
	Tooele County, UT.	
41660	San Angelo, TX	0.9000
	Irion County, TX.	
	Tom Green County, TX.	
41700	San Antonio, TX	0.9267
	Atascosa County, TX.	
	Bandera County, TX.	
	Bexar County, TX.	
	Comal County, TX.	
	Guadalupe County, TX.	
	Kendall County, TX.	
	Medina County, TX.	
	Wilson County, TX.	
41740	San Diego-Carlsbad-San Marcos, CA	1.2055
	San Diego County, CA.	

ADDENDUM A.—PROPOSED HOSPICE WAGE INDEX FOR URBAN AREAS BY CBSA—FY 2009—Continued

CBSA code	Urban area (constituent counties) [2]	Wage index [1]
41780	Sandusky, OH	0.9254
	Erie County, OH.	
41884	San Francisco-San Mateo-Redwood City, CA	1.5940
	Marin County, CA.	
	San Francisco County, CA.	
	San Mateo County, CA.	
41900	San Germán-Cabo Rojo, PR	0.5438
	Cabo Rojo Municipio, PR.	
	Lajas Municipio, PR.	
	Sabana Grande Municipio, PR.	
	San Germán Municipio, PR.	
41940	San Jose-Sunnyvale-Santa Clara, CA	1.6506
	San Benito County, CA.	
	Santa Clara County, CA.	
41980	San Juan-Caguas-Guaynabo, PR	0.5207
	Aguas Buenas Municipio, PR.	
	Aibonito Municipio, PR.	
	Arecibo Municipio, PR.	
	Barceloneta Municipio, PR.	
	Barranquitas Municipio, PR.	
	Bayamón Municipio, PR.	
	Caguas Municipio, PR.	
	Camuy Municipio, PR.	
	Canóvanas Municipio, PR.	
	Carolina Municipio, PR.	
	Cataño Municipio, PR.	
	Cayey Municipio, PR.	
	Ciales Municipio, PR.	
	Cidra Municipio, PR.	
	Comerío Municipio, PR.	
	Corozal Municipio, PR.	
	Dorado Municipio, PR.	
	Florida Municipio, PR.	
	Guaynabo Municipio, PR.	
	Gurabo Municipio, PR.	
	Hatillo Municipio, PR.	
	Humacao Municipio, PR.	
	Juncos Municipio, PR.	
	Las Piedras Municipio, PR.	
	Loíza Municipio, PR.	
	Manatí Municipio, PR.	
	Maunabo Municipio, PR.	
	Morovis Municipio, PR.	
	Naguabo Municipio, PR.	
	Naranjito Municipio, PR.	
	Orocovis Municipio, PR.	
	Quebradillas Municipio, PR.	
	Río Grande Municipio, PR.	
	San Juan Municipio, PR.	
	San Lorenzo Municipio, PR.	
	Toa Alta Municipio, PR.	
	Toa Baja Municipio, PR.	
	Trujillo Alto Municipio, PR.	
	Vega Alta Municipio, PR.	
	Vega Baja Municipio, PR.	
	Yabucoa Municipio, PR.	
42020	San Luis Obispo-Paso Robles, CA	1.3100
	San Luis Obispo County, CA.	
42044	Santa Ana-Anaheim-Irvine, CA	1.2343
	Orange County, CA.	
42060	Santa Barbara-Santa Maria-Goleta, CA	1.2288
	Santa Barbara County, CA.	
42100	Santa Cruz-Watsonville, CA	1.6912
	Santa Cruz County, CA.	
42140	Santa Fe, NM	1.1260
	Santa Fe County, NM.	
42220	Santa Rosa-Petaluma, CA	1.5416
	Sonoma County, CA.	
42260	Sarasota-Bradenton-Venice, FL	1.0420
	Manatee County, FL.	
	Sarasota County, FL.	

ADDENDUM A.—PROPOSED HOSPICE WAGE INDEX FOR URBAN AREAS BY CBSA—FY 2009—Continued

CBSA code	Urban area (constituent counties) [2]	Wage index [1]
42340	Savannah, GA	0.9579
	Bryan County, GA.	
	Chatham County, GA.	
	Effingham County, GA.	
42540	Scranton—Wilkes-Barre, PA	0.8872
	Lackawanna County, PA.	
	Luzerne County, PA.	
	Wyoming County, PA.	
42644	Seattle-Bellevue-Everett, WA	1.2139
	King County, WA.	
	Snohomish County, WA.	
42680	Sebastian-Vero Beach, FL	0.9873
	Indian River County, FL.	
43100	Sheboygan, WI	0.9415
	Sheboygan County, WI.	
43300	Sherman-Denison, TX	0.8728
	Grayson County, TX.	
43340	Shreveport-Bossier City, LA	0.8891
	Bossier Parish, LA.	
	Caddo Parish, LA.	
	De Soto Parish, LA.	
43580	Sioux City, IA-NE-SD	0.9704
	Woodbury County, IA.	
	Dakota County, NE.	
	Dixon County, NE.	
	Union County, SD.	
43620	Sioux Falls, SD	1.0032
	Lincoln County, SD.	
	McCook County, SD.	
	Minnehaha County, SD.	
	Turner County, SD.	
43780	South Bend-Mishawaka, IN-MI	1.0088
	St. Joseph County, IN.	
	Cass County, MI.	
43900	Spartanburg, SC	0.9884
	Spartanburg County, SC.	
44060	Spokane, WA	1.0967
	Spokane County, WA.	
44100	Springfield, IL	0.9382
	Menard County, IL.	
	Sangamon County, IL.	
44140	Springfield, MA	1.0874
	Franklin County, MA.	
	Hampden County, MA.	
	Hampshire County, MA.	
44180	Springfield, MO	0.9121
	Christian County, MO.	
	Dallas County, MO.	
	Greene County, MO.	
	Polk County, MO.	
	Webster County, MO.	
44220	Springfield, OH	0.9120
	Clark County, OH.	
44300	State College, PA	0.9198
	Centre County, PA.	
44700	Stockton, CA	1.2436
	San Joaquin County, CA.	
44940	Sumter, SC	0.9021
	Sumter County, SC.	
45060	Syracuse, NY	1.0396
	Madison County, NY.	
	Onondaga County, NY.	
	Oswego County, NY.	
45104	Tacoma, WA	1.1597
	Pierce County, WA.	
45220	Tallahassee, FL	0.9467
	Gadsden County, FL.	
	Jefferson County, FL.	
	Leon County, FL.	
	Wakulla County, FL.	
45300	Tampa-St. Petersburg-Clearwater, FL	0.9462

ADDENDUM A.—PROPOSED HOSPICE WAGE INDEX FOR URBAN AREAS BY CBSA—FY 2009—Continued

CBSA code	Urban area (constituent counties) [2]	Wage index [1]
	Hernando County, FL.	
	Hillsborough County, FL.	
	Pasco County, FL.	
	Pinellas County, FL.	
45460	Terre Haute, IN	0.9237
	Clay County, IN.	
	Sullivan County, IN.	
	Vermillion County, IN.	
	Vigo County, IN.	
45500	Texarkana, TX-Texarkana, AR	0.8151
	Miller County, AR.	
	Bowie County, TX.	
45780	Toledo, OH	0.9893
	Fulton County, OH.	
	Lucas County, OH.	
	Ottawa County, OH.	
	Wood County, OH.	
45820	Topeka, KS	0.8957
	Jackson County, KS.	
	Jefferson County, KS.	
	Osage County, KS.	
	Shawnee County, KS.	
	Wabaunsee County, KS.	
45940	Trenton-Ewing, NJ	1.1223
	Mercer County, NJ.	
46060	Tucson, AZ	0.9698
	Pima County, AZ.	
46140	Tulsa, OK	0.8749
	Creek County, OK.	
	Okmulgee County, OK.	
	Osage County, OK.	
	Pawnee County, OK.	
	Rogers County, OK.	
	Tulsa County, OK.	
	Wagoner County, OK.	
46220	Tuscaloosa, AL	0.8710
	Greene County, AL.	
	Hale County, AL.	
	Tuscaloosa County, AL.	
46340	Tyler, TX	0.9561
	Smith County, TX.	
46540	Utica-Rome, NY	0.8902
	Herkimer County, NY.	
	Oneida County, NY.	
46660	Valdosta, GA	0.8495
	Brooks County, GA.	
	Echols County, GA.	
	Lanier County, GA.	
	Lowndes County, GA.	
46700	Vallejo-Fairfield, CA	1.5385
	Solano County, CA.	
47020	Victoria, TX	0.8709
	Calhoun County, TX.	
	Goliad County, TX.	
	Victoria County, TX.	
47220	Vineland-Millville-Bridgeton, NJ	1.0630
	Cumberland County, NJ.	
47260	Virginia Beach-Norfolk-Newport News, VA-NC	0.9250
	Currituck County, NC.	
	Gloucester County, VA.	
	Isle of Wight County, VA.	
	James City County, VA.	
	Mathews County, VA.	
	Surry County, VA.	
	York County, VA.	
	Chesapeake City, VA.	
	Hampton City, VA.	
	Newport News City, VA.	
	Norfolk City, VA.	
	Poquoson City, VA.	
	Portsmouth City, VA.	

ADDENDUM A.—PROPOSED HOSPICE WAGE INDEX FOR URBAN AREAS BY CBSA—FY 2009—Continued

CBSA code	Urban area (constituent counties) [2]	Wage index [1]
	Suffolk City, VA.	
	Virginia Beach City, VA.	
	Williamsburg City, VA.	
47300	Visalia-Porterville, CA	1.0586
	Tulare County, CA.	
47380	Waco, TX	0.8936
	McLennan County, TX.	
47580	Warner Robins, GA	0.9575
	Houston County, GA.	
47644	Warren-Troy-Farmington Hills, MI	1.0491
	Lapeer County, MI.	
	Livingston County, MI.	
	Macomb County, MI.	
	Oakland County, MI.	
	St. Clair County, MI.	
47894	Washington-Arlington-Alexandria, DC-VA-MD-WV	1.1387
	District of Columbia, DC.	
	Calvert County, MD.	
	Charles County, MD.	
	Prince George's County, MD.	
	Arlington County, VA.	
	Clarke County, VA.	
	Fairfax County, VA.	
	Fauquier County, VA.	
	Loudoun County, VA.	
	Prince William County, VA.	
	Spotsylvania County, VA.	
	Stafford County, VA.	
	Warren County, VA.	
	Alexandria City, VA.	
	Fairfax City, VA.	
	Falls Church City, VA.	
	Fredericksburg City, VA.	
	Manassas City, VA.	
	Manassas Park City, VA.	
	Jefferson County, WV.	
47940	Waterloo-Cedar Falls, IA	0.8937
	Black Hawk County, IA.	
	Bremer County, IA.	
	Grundy County, IA.	
48140	Wausau, WI	1.0153
	Marathon County, WI.	
48260	Weirton-Steubenville, WV-OH	0.8312
	Jefferson County, OH.	
	Brooke County, WV.	
	Hancock County, WV.	
48300	Wenatchee, WA	1.2031
	Chelan County, WA.	
	Douglas County, WA.	
48424	West Palm Beach-Boca Raton-Boynton Beach, FL	1.0205
	Palm Beach County, FL.	
48540	Wheeling, WV-OH	0.8000
	Belmont County, OH.	
	Marshall County, WV.	
	Ohio County, WV.	
48620	Wichita, KS	0.9506
	Butler County, KS.	
	Harvey County, KS.	
	Sedgwick County, KS.	
	Sumner County, KS.	
48660	Wichita Falls, TX	0.8308
	Archer County, TX.	
	Clay County, TX.	
	Wichita County, TX.	
48700	Williamsport, PA	0.8437
	Lycoming County, PA.	
48864	Wilmington, DE-MD-NJ	1.1355
	New Castle County, DE.	
	Cecil County, MD.	
	Salem County, NJ.	
48900	Wilmington, NC	0.9871

ADDENDUM A.—PROPOSED HOSPICE WAGE INDEX FOR URBAN AREAS BY CBSA—FY 2009—Continued

CBSA code	Urban area (constituent counties) [2]	Wage index [1]
	Brunswick County, NC.	
	New Hanover County, NC.	
	Pender County, NC.	
49020	Winchester, VA-WV	1.0399
	Frederick County, VA.	
	Winchester City, VA.	
	Hampshire County, WV.	
49180	Winston-Salem, NC	0.9565
	Davie County, NC.	
	Forsyth County, NC.	
	Stokes County, NC.	
	Yadkin County, NC.	
49340	Worcester, MA	1.1840
	Worcester County, MA.	
49420	Yakima, WA	1.0770
	Yakima County, WA.	
49500	Yauco, PR	0.3777
	Guánica Municipio, PR.	
	Guayanilla Municipio, PR.	
	Peñuelas Municipio, PR.	
	Yauco Municipio, PR.	
49620	York-Hanover, PA	0.9818
	York County, PA.	
49660	Youngstown-Warren-Boardman, OH-PA	0.9443
	Mahoning County, OH.	
	Trumbull County, OH.	
	Mercer County, PA.	
49700	Yuba City, CA	1.1283
	Sutter County, CA.	
	Yuba County, CA.	
49740	Yuma, AZ	0.9953
	Yuma County, AZ.	

[1] Wage index values are based on FY 2004 hospital cost report data before reclassification. These data form the basis for the pre-floor, pre-reclassified hospital wage index. The budget neutrality adjustment or the hospice floor is then applied to the pre-floor, pre-reclassified hospital wage index to derive the hospice wage index. Wage index values greater than or equal to 0.8 are subject to a budget neutrality adjustment. The hospice floor calculation is as follows: Wage index values below 0.8 are adjusted to be the greater of either the a) the 25 percent reduced budget neutrality adjustment OR b) the minimum of the pre-floor, pre-reclassified hospital wage index value x 1.15, or 0.8000. For the proposed FY 2009 hospice wage index, the budget neutrality adjustment was reduced by 25 percent.

[2] This column lists each CBSA area name and each county or county equivalent, in the CBSA area. Counties not listed in this Table are considered to be rural areas. Wage index values for these areas are found in Addendum B.

[3] Because there are no hospitals in this CBSA, the wage index value is calculated by taking the average of all other urban CBSAs in Georgia.

ADDENDUM B.—PROPOSED HOSPICE WAGE INDEX FOR RURAL AREAS BY CBSA—FY 2009

CBSA code	Non-urban area	Wage index
1	Alabama	0.8000
2	Alaska	1.2703
3	Arizona	0.8895
4	Arkansas	0.8000
5	California	1.2612
6	Colorado	1.0180
7	Connecticut	1.1664
8	Delaware	1.0204
10	Florida	0.8880
11	Georgia	0.8034
12	Hawaii	1.1132
13	Idaho	0.8308
14	Illinois	0.8744
15	Indiana	0.8996
16	Iowa	0.8986
17	Kansas	0.8372
18	Kentucky	0.8175
19	Louisiana	0.8000
20	Maine	0.8891
21	Maryland	0.9477
22	Massachusetts [1]	1.2157

ADDENDUM B.—PROPOSED HOSPICE WAGE INDEX FOR RURAL AREAS BY CBSA—FY 2009—Continued

CBSA code	Non-urban area	Wage index
23	Michigan	0.9392
24	Minnesota	0.9524
25	Mississippi	0.8077
26	Missouri	0.8319
27	Montana	0.8790
28	Nebraska	0.9283
29	Nevada	0.9726
30	New Hampshire	1.0983
31	New Jersey [2]	.....
32	New Mexico	0.9378
33	New York	0.8673
34	North Carolina	0.9025
35	North Dakota	0.8000
36	Ohio	0.9141
37	Oklahoma	0.8000
38	Oregon	1.0392
39	Pennsylvania	0.8796
40	Puerto Rico [3]	0.4654
41	Rhode Island [2]	.....
42	South Carolina	0.9080
43	South Dakota	0.8968

ADDENDUM B.—PROPOSED HOSPICE WAGE INDEX FOR RURAL AREAS BY CBSA—FY 2009—Continued

CBSA code	Non-urban area	Wage index
44	Tennessee	0.8102
45	Texas	0.8359
46	Utah	0.8514
47	Vermont	1.0405
48	Virgin Islands	0.7855
49	Virginia	0.8283
50	Washington	1.0762
51	West Virginia	0.8000
52	Wisconsin	1.0141
53	Wyoming	0.9742
65	Guam	1.0082

[1] There are no hospitals in the rural areas of Massachusetts, so the wage index value used is the average of the contiguous counties.

[2] There are no rural areas in this state.

[3] Wage index values are obtained using the methodology described in this proposed rule.

[FR Doc. 08–1198 Filed 4–28–08; 4:00 pm]

BILLING CODE 4120–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket No. FEMA–B–7736 & D–7820]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Proposed rule; correction.

SUMMARY: On September 26, 2007, FEMA published in the **Federal Register** a proposed rule that contained an erroneous table. This notice provides corrections to that table, to be used in lieu of the information published at 72 FR 54624. The table provided here represents the flooding source, location of referenced elevation, effective and modified elevation, and communities affected for the Town of Franklin and the Unincorporated Areas of Macon County, North Carolina. Specifically, it addresses flooding sources ''Cartoogechaye Creek,'' ''Jones Creek,'' ''Poplar Cove Creek,'' ''Rabbit Creek,'' and ''Rocky Branch.''

DATES: Comments are to be submitted on or before June 2, 2008.

ADDRESSES: You may submit comments, identified by Docket No. FEMA–B–7736 &D–7820, to William R. Blanton, Jr., Chief, Engineering Management Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472 (202) 646–3151, or (e-mail) *bill.blanton@dhs.gov*.

FOR FURTHER INFORMATION CONTACT: William R. Blanton, Jr., Chief, Engineering Management Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472 (202) 646–3151 or.(e-mail) *bill.blanton@dhs.gov*.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) publishes proposed determinations of Base (1% annual-chance) Flood Elevations (BFEs) and modified BFEs for communities participating in the National Flood Insurance Program (NFIP), in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

Correction

In the proposed rule published at 72 FR 54624, in the September 26, 2007 issue of the **Federal Register**, FEMA published a table under the authority of 44 CFR 67.4. The table, entitled ''Macon County, North Carolina, and Incorporated Areas,'' addressed flooding sources ''Cartoogechaye Creek,'' ''Jones Creek,'' ''Poplar Cove Creek,'' ''Rabbit Creek,'' and ''Rocky Branch.'' That table contained inaccurate information as to the location of referenced elevation, effective and modified elevation in feet, or communities affected for these flooding sources.

In this notice of correction, FEMA is publishing a new table to address these errors. The table below should be used in lieu of that previously published.

Flooding source(s)	Location of referenced elevation**	+Elevation in feet (NAVD)		Communities affected
		Effective	Modified	
Macon County, North Carolina and Incorporated Areas				
Cartoogechaye Creek.	The confluence with Little Tennessee River	None	+2,024	Macon County (Unincorporated Areas), Town of Franklin.
	At the confluence of Jones Creek and Poplar Cove Creek	None	+2,178	
Jones Creek	At the confluence with Poplar Cove Creek and Cartoogechaye Creek.	None	+2,178	Macon County (Unincorporated Areas).
	At the confluence of Allison Creek	None	+2,232	
Poplar Cove Creek.	At the confluence with Cartoogechaye Creek and Jones Creek.	None	+2,178	Macon County (Unincorporated Areas).
	Approximately 380 feet upstream of Smith Hill Road (State Road 1306).	None	+2,264	
Rabbit Creek	The confluence with Little Tennessee River	None	+2,000	Macon County (Unincorporated Areas), Town of Franklin.
	At the confluence of Corbin Creek and Berry Creek	None	+2,220	
Rocky Branch	The confluence with Little Tennessee River	None	+1,977	Macon County (Unincorporated Areas).
	Approximately 0.7 mile upstream of Nettie Riverbend Road (State Road 1337).	None	+1,996	

Franklin (Town)

Maps available for inspection at the Franklin Town Hall, 188 West Main Street, Franklin, North Carolina.

Send comments to The Honorable Joe Collins, Mayor of the Town of Franklin, 188 West Main Street, Franklin, North Carolina 28734.

Macon County (Unincorporated Areas)

Maps available for inspection at the Macon County Planning Department, Human Services Building, 5 West Main Street, Franklin, North Carolina.

Send comments to Mr. Jack Horton, Macon County Manager, Courthouse Annex, 5 West Main Street, Franklin, North Carolina 28734.

Dated: April 18, 2008.

David I. Maurstad,

Federal Insurance Administrator of the National Flood Insurance Program, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. E8–9271 Filed 4–30–08; 8:45 am]

BILLING CODE 9110–12–P

Notices

Federal Register

Vol. 73, No. 85

Thursday, May 1, 2008

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–2008–0025]

Notice of Decision To Issue Permits for the Importation of Blueberries from Guatemala into the Continental United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public of our decision to begin issuing permits for the importation into the continental United States of blueberries from Guatemala. Based on the findings of a pest risk analysis, which we made available to the public for review and comment through a previous notice, we believe that the application of one or more designated phytosanitary measures will be sufficient to mitigate the risks of introducing or disseminating plant pests or noxious weeds via the importation of blueberries from Guatemala.

DATES: *Effective Date:* May 1, 2008.

FOR FURTHER INFORMATION CONTACT: Mr. Tony Román, Import Specialist, Commodity Import Analysis and Operation Staff, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1231; (301) 734–8758.

SUPPLEMENTARY INFORMATION:

Background

Under the regulations in ''Subpart—Fruits and Vegetables'' (7 CFR 319.56 through 319.56–47, referred to below as the regulations), the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture prohibits or restricts the importation of fruits and vegetables into the United States from certain parts of the world to prevent plant pests from being introduced into and spread within the United States.

Section 319.56–4 of the regulations contains a performance-based process for approving the importation of commodities that, based on the findings of a pest risk analysis, can be safely imported subject to one or more of the designated phytosanitary measures listed in paragraph (b) of that section. Under that process, APHIS publishes a notice in the **Federal Register** announcing the availability of the pest risk analysis that evaluates the risks associated with the importation of a particular fruit or vegetable. Following the close of the 60-day comment period, APHIS may begin issuing permits for importation of the fruit or vegetable subject to the identified designated measures if: (1) No comments were received on the pest risk analysis; (2) the comments on the pest risk analysis revealed that no changes to the pest risk analysis were necessary; or (3) changes to the pest risk analysis were made in response to public comments, but the changes did not affect the overall conclusions of the analysis and the Administrator's determination of risk.

In accordance with that process, we published a notice [1] in the **Federal Register** on February 7, 2008 (73 FR 7248–7249, Docket No. APHIS–2008–0025), in which we announced the availability, for review and comment, of a pest risk analysis that evaluates the risks associated with the importation into the continental United States of blueberries from Guatemala. We solicited comments on the notice for 60 days ending on April 7, 2008. We received five comments by that date, from a private citizen, a domestic blueberry industry association, a representative of the Guatemalan government, a Guatemalan exporters' association, and a Guatemalan blueberry grower.

One commenter claimed that the risk assessment that APHIS conducted could not provide an accurate evaluation of the risk of pest introduction because blueberries are not currently grown in Guatemala. Therefore, APHIS is only speculating on which pests could be introduced through this trade, and this does not provide a sufficient basis on which to allow the importation of blueberries from Guatemala.

As noted in the pest risk assessment, the first step in identifying quarantine pests that are likely to follow the pathway is to establish a comprehensive list of potential quarantine pests known to occur in the country or region from which the commodity is to be exported. The comprehensive pest list (table 5 in the pest risk assessment) lists all pests of *Vaccinium* spp. in Central America and South America for which we found evidence and the quarantine status of the pests with respect to the United States. While the amount of fruit produced and potentially imported into the United States from Guatemala does factor into our overall assessment of risk in terms of the likelihood of introduction of quarantine pests, it does not factor into identifying those quarantine pests that are likely to follow the pathway of imported fresh blueberry fruit.

One commenter requested that all phytosanitary measures under consideration be harmonized between Guatemala and the United States. The commenter claimed that the phytosanitary restrictions imposed on U.S. exports by other countries are often more stringent than what the United States imposes on imports from other countries, and asserted that the phytosanitary regulations need to be equal between the two countries.

Guatemala and the United States are both parties to the International Plant Protection Convention. As such, both countries have agreed to institute only phytosanitary measures that are technically justified, consistent with the pest risk involved, and represent the least restrictive measures available. Given that the conditions in the blueberry growing areas of Guatemala and the United States differ in many important respects—e.g., the Mediterranean fruit fly and South American fruit fly are present in Guatemala but not in the United States—it would not be appropriate or technically justifiable to apply the same phytosanitary measures to blueberries from the two countries.

One commenter suggested that fumigation with methyl bromide at the port of arrival would be a good option, logistically and cost-wise, for exporters shipping small volumes of fruit to the continental United States from

[1] To view the notice, the pest risk analysis, and the comment we received, go to *http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2008-0025.*

Guatemala and suggested that APHIS allow its use as an alternative to the cold treatment.

The risk management document that we made available with our February 2008 notice only considered the use of cold treatment as a mitigation measure. We will, however, examine the evidence for the effectiveness of fumigation with methyl bromide as a means of removing the pests of concern from the pathway and would authorize its use for the treatment of blueberries from Guatemala if the evidence supports that action.

After considering the comments discussed above, we have determined that no changes to the pest risk analysis are necessary. Therefore, in accordance with the regulations in § 319.56–4(c)(2)(ii), we are announcing our decision to begin issuing permits for the importation into the continental United States of blueberries from Guatemala subject to the following conditions:

- The fruit must be cold treated for Mediterranean fruit fly and South American fruit fly using treatment schedule T107–a–1 in accordance with 7 CFR part 305.
- Each shipment of fruit must be accompanied by a phytosanitary certificate issued by the national plant protection organization of Guatemala.
- Each shipment is subject to inspection upon arrival in the United States.
- The fruit must be a commercial consignment as defined in 7 CFR 319.56–2.

These conditions will be listed in the fruits and vegetables manual (available at *http://www.aphis.usda.gov/import_export/plants/manuals/ports/downloads/fv.pdf*). In addition to these specific measures, the blueberries will be subject to the general requirements listed in § 319.56–3 that are applicable to the importation of all fruits and vegetables.

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

Done in Washington, DC, this 28th day of April 2008.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E8–9579 Filed 4–30–08; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 2008–0010]

Exemption for Retail Store Operations

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice of Adjusted Dollar Limitations.

SUMMARY: The Food Safety and Inspection Service (FSIS) is announcing new dollar limitations on the amount of meat, meat food products, poultry, and poultry products that a retail store can sell to hotels, restaurants, and similar institutions without disqualifying itself for exemption from Federal inspection requirements. By reason of FSIS' regulations, for calendar year 2008 the dollar limitation is increased for meat and meat food products from $55,100 to $56,900 and for poultry products from $44,400 to $46,700. FSIS is changing the dollar limitations from calendar year 2007 based on price changes for these products evidenced by the Consumer Price Index.

DATES: *Effective Date:* This notice is effective May 1, 2008.

FOR FURTHER INFORMATION: Contact John O'Connell, Policy Issuances Division, Office of Policy and Program Development, FSIS, U.S. Department of Agriculture, Room 3532 South Building, 1400 Independence Avenue, SW., Washington, DC 20250–3700; telephone (202) 720–0345, fax (202) 690–0486.

SUPPLEMENTARY INFORMATION:

Background

The Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) and the Poultry Products Inspection Act (21 U.S.C. 451 *et seq.*) provide a comprehensive statutory framework to ensure that meat, meat food products, poultry, and poultry products prepared for commerce are wholesome, not adulterated, and are properly labeled and packaged. 21 U.S.C. 661(c)(2) and 454(c)(2) also provide that the statutory provisions requiring inspection of the preparation or processing of meat, meat food, poultry, and poultry products do not apply to the types of operations traditionally and usually conducted at retail stores and restaurants when those operations are conducted at any retail store or restaurant or similar retail-type establishment for sale in normal retail quantities. FSIS' regulations §§ 303.1(d) and 381.10(d) further address the conditions under which requirements for inspection do not apply to retail operations involving the preparation or processing of meat, meat food, poultry, and poultry products.

Sales to Hotels, Restaurants, and Similar Institutions

Under these regulations, sales to hotels, restaurants, and similar institutions (other than household consumers) disqualify a store for exemption if the product sales exceed either of two maximum limits: 25 percent of the dollar value of total product sales or the calendar year dollar limitation set by the Administrator. The dollar limitation is adjusted automatically during the first quarter of the year if the Consumer Price Index (CPI), published by the Bureau of Labor Statistics, indicates an increase or decrease of more than $500 in the price of the same volume of product for the previous year. FSIS publishes a notice of the adjusted dollar limitations in the **Federal Register**. (See 9 CFR 303.1(d)(2)(iii)(*b*) and 381.10(d)(2)(iii)(*b*).)

The CPI for 2007 revealed an average annual price increase for meat and meat food products of 3.3 percent and for poultry products of 5.1 percent. When rounded off to the nearest $100, the price increase for meat and meat food products is $1,800, and the price increase for poultry products is $2,300. Because the price of meat and meat food products has increased by more than $500, and because the price of poultry products has increased by more than $500, FSIS is increasing the dollar limitation on sales to hotels, restaurants, and similar institutions from $55,100 to $56,900 for meat and meat food products and from $44,400 to $46,700 for poultry products for calendar year 2008, in accordance with §§ 303.1(d)(2)(iii)(*b*) and 381.10 (d)(2)(iii)(*b*) of the regulations.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to ensure that the public and in particular minorities, women, and persons with disabilities, are aware of this notice, FSIS will announce it on-line through the FSIS Web page located at *http://www.fsis.usda.gov/regulations/2008_Notices_Index/index.asp.*

FSIS also will make copies of this **Federal Register** publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The Update is

communicated via Listserv, a free e-mail subscription service consisting of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals who have requested to be included. The Update also is available on the FSIS Web page. Through Listserv and the Web page, FSIS is able to provide information to a much broader, more diverse audience.

In addition, FSIS offers an e-mail subscription service which provides automatic and customized access to selected food safety news and information. This service is available at *http://www.fsis.usda.gov/news_and_events/email_subscription./* Options range from recalls to export information to regulations, directives and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

Done at Washington, DC, on: April 28, 2008.

Alfred V. Almanza,

Administrator.

[FR Doc. E8–9585 Filed 4–30–08; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Georgia Transmission Corporation: Notice of Availability of an Environmental Assessment

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of Availability of an Environmental Assessment (EA) for Public Review.

SUMMARY: The Rural Utilities Service (RUS), an Agency delivering the United States Department of Agriculture (USDA) Rural Development Utilities Programs, hereinafter referred to as Rural Development and/or the Agency, has prepared an Environmental Assessment (EA) related to possible financial assistance to Georgia Transmission Corporation (GTC) for the construction of approximately 38.7-miles of 500 kilovolt (kV) transmission line that would connect Georgia Power Company's existing Thomson Primary 500/230/115/46 kV Substation to Georgia Power Company's existing Warthen 500 kV Switching Station. GTC is requesting Rural Development provide financial assistance for the proposed project located in McDuffie, Warthen, Glascock and Washington Counties, Georgia.

DATES: Written comments on this notice must be received on or before June 2, 2008.

ADDRESSES: To obtain copies of the EA, or for further information, contact: Stephanie Strength, Environmental Protection Specialist, USDA, Rural Development Utilities Programs, 1400 Independence Avenue, SW., Stop 1571, Washington, DC 20250–1571, phone (202) 720–0468, e-mail *stephanie.strength@wdc.usda.gov* or Gayle Houston, Environmental and Regulatory Coordinator, GTC, 2100 East Exchange Place, Tucker, Georgia 30084–5336, phone (770) 270–7748, e-mail *gayle.houston@gatrans.com.* A copy of the EA may be viewed online at the Agency's Web site: *http://www.usda.gov/rus/water/ees/ea.htm* and at the following locations:

Jefferson Electric Membership Cooperative, Highway 17 North, Wrens, GA 30833, (706) 547–2167.

Washington Electric Membership Corporation, 238 Harris Street, Sandersville, GA 31082, (478) 552–5552.

Glascock County Public Library, 738 Railroad Avenue, Gibson, GA 30810, Phone: 706–598–9837.

Harlem Library, 375 North Louisville Street, Harlem, GA 30814, Phone: 706–556–9795.

Hancock County Library, 403 East Broad Street, Sparta, GA 31087, Phone: 706–444–5389.

Rosa M. Tarbutton Memorial Library, 314 South Harris Street, Sandersville, GA 31082, Phone: 478–552–6324.

Thomson McDuffie County Library, 338 Main Street, Thomson, GA 30824, Phone: 706–595–1341.

Warren County Library, 101 Warren Street, Warrenton, GA 30828, Phone: 706–465–2656.

SUPPLEMENTARY INFORMATION: GTC proposes to construct a 38.7-mile, 500 kV Transmission Line on a 150-foot right-of-way with structures 80 to 150-feet out-of-ground to distribute power to the Augusta, Georgia area. The preferred route is the alternative with the least impact to the environment and communities in the area. The preferred route begins at the existing Thomson 500/230/115/46 kV Substation located at the intersection of Randall-Davis Road and Davis Road in Thomson, GA and follows an existing 46 kV Transmission Line southwest for approximately one mile. The route then turns in a westerly direction for 36 miles, crossing the Little Ogeechee River. The route turns northwest and terminates at the existing Warthen Switching Station located at 1600 Mills Lindsay School Road, Warthen, Georgia.

The EA concludes that the proposed Thomson-Warthen 500 kV Transmission Line would not have a significant impact on the human, cultural or natural environment.

Rural Development has reviewed and accepted the document as its EA of the proposed project. The EA is available for public review at addresses provided above in this Notice. Written questions and comments should be sent to USDA Rural Development at the mailing or e-mail addresses provided above in this Notice. Rural Development should receive comments on the EA in writing by June 2, 2008 to ensure that they are considered in its environmental impact determination.

Should USDA Rural Development determine, based on the EA of the proposed project, that the impacts of the construction and operation of the project would not have a significant environmental impact, it will prepare a Finding of No Significant Impact (FONSI). Public notification of a FONSI would be published in the **Federal Register** and in newspapers with circulation in the project area.

Any final action by Rural Development related to the proposed project will be subject to, and contingent upon, compliance with all relevant Federal, state and local environmental laws and regulations, and completion of the environmental review requirements in Rural Development's Environmental Policies and Procedures (7 CFR Part 1794).

Dated: April 22, 2008.

Mark S. Plank,

Director, Engineering and Environmental Staff, USDA/Rural Development/Utilities Programs.

[FR Doc. E8–9580 Filed 4–30–08; 8:45 am]

BILLING CODE 3410–15–P

COMMISSION ON CIVIL RIGHTS

Sunshine Act Notice

AGENCY: United States Commission on Civil Rights.

ACTION: Notice of meeting.

DATE AND TIME: Friday, May 9, 9:30 a.m.

PLACE: U.S. Commission on Civil Rights, 624 Ninth Street, NW., Rm. 540, Washington, DC 20425.

Meeting Agenda

I. Approval of Agenda
II. Approval of Minutes
- March 7, 2008 Meeting

III. Announcements
IV. Staff Director's Report
V. Management and Operations
- Status of FY 2009 Budget

Submission
VI. Program Planning
- Proposed Change to 2008 Briefing Schedule
- 2010 Program Planning Proposals
- Briefing Report on Voter Fraud and Voter Intimidation
- Briefing Report on Racial Categorization in the Census
- Briefing Report on the Educational Effectiveness of Historically Black Colleges and Universities

VII. State Advisory Committee Issues
- Florida SAC
- Kentucky SAC
- Wyoming SAC
- Appointment to Texas SAC

VIII. Future Agenda Items
IX. Adjourn

FOR FURTHER INFORMATION CONTACT: Lenore Ostrowsky, Acting Chief, Public Affairs Unit (202) 376–8582.

Dated: April 29, 2008.

David Blackwood,

General Counsel.

[FR Doc. 08–1207 Filed 4–29–08; 1:57pm]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Industry and Security Bureau

Materials Technical Advisory Committee; Notice of Partially Closed Meeting

The Materials Technical Advisory Committee will meet on May 15, 2008, 10 a.m., Herbert C. Hoover Building, Room 3884, 14th Street between Constitution & Pennsylvania Avenues, NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to materials and related technology.

Agenda

Public Session

1. Opening Remarks and Introduction.
2. Report of Composite Working Group and Chemical Equipment Subgroup.
   a. CWG General Technology Note white paper.
   b. Wassenaar non-paper on 1C010.
3. Report of Eric McClafferty on response received from the chemical processing equipment representatives regarding the ECCN review process.
4. Update on webinars, export training modules on BIS webpage.
5. Public comments from teleconference and physical attendees.
6. Any other business.

Closed Session

7. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 sections 10(a)(1) and 10(a)(3).

The open session will be accessible via teleconference to 20 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at *Yspringer@bis.doc.gov* no later than May 8, 2008.

A limited number of seats will be available during the public session of the meeting. Reservations are not accepted. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the materials should be forwarded prior to the meeting to Ms. Springer via e-mail.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on April 25, 2008, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended, that the portion of the meeting dealing with matters the premature disclosure of which would likely frustrate the implementation of a proposed agency action as described in 5 U.S.C. 552b(c)(9)(B) shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 sections 10(a)(1) and 10(a)(3). The remaining portions of the meeting will be open to the public.

For more information, call Yvette Springer at (202) 482–2813.

Dated: April 28, 2008.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. E8–9587 Filed 4–30–08; 8:45 am]

BILLING CODE 3510–JT–P

DEPARTMENT OF COMMERCE

International Trade Administration

Rice University, et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, as amended by Pub. L. 106–36; 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in Room 2104, U.S. Department of Commerce, 14th and Constitution Ave, NW., Washington, DC.

Comments: None received. *Decision:* Approved. We know of no instruments of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, that was being manufactured in the United States at the time of its order.

Docket Number: 08–008. *Applicant:* Rice University, Houston, TX 77005. *Instrument:* Low Temperature Microscopy Scanning Probe. *Manufacturer:* Nano Magnetics Instruments, Ltd., Turkey. *Intended Use:* See notice at 73 FR 18258, April 3, 2008. *Reasons:* This instrument can supply 300mK scanning Hall probe microscopy with 50 NM special resolution, which is essential to the intended use.

Docket Number: 08–009. *Applicant:* University of Michigan, Department of Materials Science and Engineering, 2300 Hayward St., Ann Arbor, MI 48109–2136. *Instrument:* Heating Microscope Optical Dilatometer. *Manufacturer:* Expert System Solutions, Italy. *Intended Use:* See notice at 73 FR 18258, April 3, 2008. *Reasons:* This instrument can be used for sintering shrinkage up to 1600 degrees centigrade, thermal expansion down to room temperature and cristobalite transformation at 215 degrees centigrade. An essential feature of the equipment is that it performs a non-contact optical measurement.

April 24, 2008.

Faye Robinson,

Director, Statutory Import Programs Staff, Import Administration.

[FR Doc. E8–9445 Filed 4–30–08; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

University of Southern California; Notice of Decision on Application for Duty-Free Entry of Electron Microscope

This is a decision pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in Room 2104, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 08–007. *Applicant:* University of Southern California, Los Angeles, CA 90089–9045. *Instrument:* Transmission Electron Microscope, Model JEM–2100. *Manufacturer:* Jeol,

Inc., Japan. *Intended Use:* See notice at 73 FR 18258, April 3, 2008.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as these instruments are intended to be used, was being manufactured in the United States at the time the instruments were ordered. *Reasons:* The foreign instrument is an electron microscope and is intended for research or scientific educational uses requiring an electron microscope. We know of no electron microscope, or any other instrument suited to these purposes, which was being manufactured in the United States at the time of order of each instrument.

Dated: April 24, 2008.

Faye Robinson,

Director, Statutory Import Programs Staff, Import Administration.

[FR Doc. E8–9447 Filed 4–30–08; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

A–570–831

Fresh Garlic from the People's Republic of China: Preliminary Results of the 12th New Shipper Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (''Department'') is conducting new shipper reviews (''NSRs'') of the antidumping duty order on fresh garlic from the People's Republic of China (''PRC'') that cover the period of review (''POR'') of November 1, 2006 through April 30, 2007. *See Antidumping Duty Order: Fresh Garlic From the People's Republic of China*, 59 FR 59209 (November 16, 1994) (''*Order*''). On June 29, 2007, the Department initiated semi–annual new shipper reviews for Shandong Chenhe International Trading Co., Ltd. (''Chenhe''), Qingdao Tiantaixing Foods Co., Ltd. (''QTF''), Hebei Golden Bird Trading Co., Ltd. (''Golden Bird''), Jining Yongjia Trade Co., Ltd. (''Yongjia'') and Shenzhen Greening Trading Co., Ltd. (''Greening''). *See Fresh Garlic from the People's Republic of China: Initiation of Antidumping Duty New Shipper Reviews*, 72 FR 38057 (July 12, 2007) (''*Initiation of NSRs*'').

We preliminarily determine that Golden Bird, Greening, QTF and Yongjia have made sales in the United States at less than normal value (''NV''). We also preliminarily determine that Chenhe has not made sales in the United States at less than NV. If these preliminary results are adopted in our final results of review, we will instruct U.S. Customs and Border Protection (''CBP'') to assess antidumping duties on entries of subject merchandise during the POR for which the importer–specific assessment rates are above *de minimis*.

EFFECTIVE DATE: May 1, 2008.

FOR FURTHER INFORMATION CONTACT: Julia Hancock and Paul Walker, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–1394 and (202) 482–0413, respectively.

SUPPLEMENTARY INFORMATION:

Case History

General Background

On May 17, May 21 and May 28, 2007, the Department received requests for new shipper reviews from Chenhe, QTF, Golden Bird, Yongjia, and Greening, respectively. On June 12, 2007, the Department requested additional information from QTF, Golden Bird, and QTF, respectively regarding their new shipper review submissions. On June 13, 2007, Petitioners[1] submitted comments regarding Chenhe's, QTF's, Golden Bird's, and Yongjia's new shipper submissions.

On June 14, 2007, QTF, Golden Bird, and Yongjia submitted additional information regarding their new shipper review submissions. Additionally, on June 19 and June 21, 2007, QTF, Golden Bird, Yongjia, and Chenhe submitted letters regarding Petitioners' June 13, 2007 comments. On June 29, 2007, the Department initiated semi–annual new shipper reviews of QTF, Golden Bird, Yongjia, Chenhe, and Greening. *See Initiation of NSRs*, 72 FR 38057.

On July 2, 2007, after initiating the reviews, the Department issued antidumping duty questionnaires to the five companies participating in the new shipper reviews. The Department subsequently issued supplemental questionnaires and received responses from all companies under review between September 2007 and March 2008.

Extension of Preliminary Results

On November 16, 2007, the Department extended the preliminary results of these new shipper reviews to March 25, 2008. *See Fresh Garlic from the People's Republic of China: Extension of Time Limits for the Preliminary Results of the New Shipper Reviews*, 72 FR 64579 (November 16, 2007). Additionally, on March 6, 2008, the Department extended the preliminary results a second time to April 24, 2008. *See Fresh Garlic from the People's Republic of China: Extension of Time Limits for the Preliminary Results of the New Shipper Reviews*, 73 FR 12079 (March 6, 2008).

Expansion of the POR

On April 23, 2008, we issued a memorandum extending the end of the POR from April 30, 2007 to May 17, 2007, to capture entries of two of the new shippers' merchandise into the United States market. See Memorandum to the File from Julia Hancock, Senior Analyst, through Catherine Bertrand, Program Manager, Office 9: Expansion of the Period of Review in the New Shipper Reviews of Fresh Garlic from the People's Republic of China, (April 23, 2008).

Surrogate Country and Surrogate Values

On August 23, 2007, the Department sent interested parties a letter requesting comments on the surrogate country and information pertaining to valuing factors of production.

On October 31, 2007, QTF, Yongjia, and Golden Bird submitted comments on the surrogate country and information pertaining to valuing factors of production. Additionally, on November 26, 2007, the Department extended the deadline to submit information pertaining to valuing factors of production to December 17, 2007.

On December 17, 2007, Petitioners submitted information pertaining to valuing factors of production. On December 17 and December 27, 2007, Chenhe submitted information and rebuttal comments pertaining to valuing factors of production. No other party has submitted surrogate values or surrogate country comments on the record of this proceeding.

Scope of the Order

The products covered by this *Order* are all grades of garlic, whole or separated into constituent cloves, whether or not peeled, fresh, chilled, frozen, provisionally preserved, or packed in water or other neutral substance, but not prepared or preserved by the addition of other ingredients or heat processing. The differences between grades are based on color, size, sheathing, and level of

[1] The Fresh Garlic Producers Association and its individual members: Christopher Ranch LLC, the Garlic Company, Valley Garlic and Vessey and Company, (collectively known as ''Petitioners'').

decay. The scope of this order does not include the following: (a) garlic that has been mechanically harvested and that is primarily, but not exclusively, destined for non–fresh use; or (b) garlic that has been specially prepared and cultivated prior to planting and then harvested and otherwise prepared for use as seed. The subject merchandise is used principally as a food product and for seasoning. The subject garlic is currently classifiable under subheadings 0703.20.0010, 0703.20.0020, 0703.20.0090, 0710.80.7060, 0710.80.9750, 0711.90.6000, and 2005.90.9700 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this order is dispositive. In order to be excluded from the *Order*, garlic entered under the HTSUS subheadings listed above that is (1) mechanically harvested and primarily, but not exclusively, destined for non–fresh use or (2) specially prepared and cultivated prior to planting and then harvested and otherwise prepared for use as seed must be accompanied by declarations to CBP to that effect.

Verification

Following the publication of these preliminary results, we intend to verify, as provided in section 782(i)(3) of the Tariff Act of 1930, as amended, (''the Act''), sales and cost information submitted by respondents, as appropriate. At verification, we will use standard verification procedures, including on–site inspection of the manufacturer's facilities, the examination of relevant sales and financial records, and the selection of original source documentation containing relevant information. We will prepare verification reports outlining our verification results and place these reports on file in the Central Records Unit, room 1117 of the main Commerce building.

Bona Fide **Analysis**

Consistent with the Department's practice, we investigated the *bona fide* nature of the sale made by each new shipper, Chenhe, Greening, Golden Bird, QTF, and Yongjia, respectively for these reviews. In evaluating whether or not a single sale in a new shipper review is commercially reasonable, and therefore *bona fide*, the Department considers, *inter alia*, such factors as: (1) the timing of the sale; (2) the price and quantity; (3) the expenses arising from the transaction; (4) whether the goods were resold at a profit; and (5) whether the transaction was made on an arm's–length basis. *See Tianjin Tiancheng Pharmaceutical Co., Ltd. v. United States*, 366 F. Supp. 2d 1246, 1250 (CIT 2005). Accordingly, the Department considers a number of factors in its *bona fides* analysis, ''all of which may speak to the commercial realities surrounding an alleged sale of subject merchandise.'' *See Hebei New Donghua Amino Acid Co., Ltd. v. United States*, 374 F. Supp. 2d 1333, 1342 (CIT 2005) (citing *Fresh Garlic From the People's Republic of China: Final Results of Antidumping Administrative Review and Rescission of New Shipper Review*, 67 FR 11283 (March 13, 2002) and accompanying Issues and Decision Memorandum).

We preliminarily find that the new shipper sales made by Chenhe, Greening, Golden Bird, QTF, and Yongjia, respectively, were made on a *bona fide* basis. Specifically, we found that: (1) the price and quantity of each new shipper sale was within the range of the prices and quantities of other entries of subject merchandise from the PRC into the United States during the POR; (2) the new shipper and its customer did not incur any extraordinary expenses arising from the transaction; (3) each new shipper sale was made between unaffiliated parties at arm's length; (4) there is no record evidence that indicates that each new shipper sale was not made based on commercial principles; (5) the sale was resold at a profit; and (6) the timing of each new shipper sale is not an indicator of a sale made on a non–*bona fide* basis.[2] Based on our investigation into the bona fide nature of each new shipper sale, the questionnaire responses submitted by each new shipper, as well as each new shipper's eligibility for a separate rate (*see* Separate Rates Determination section below) and the Department's determination that each new shipper was not affiliated with any exporter or producer that had previously shipped subject merchandise to the United States, we preliminarily determine that each new shipper has met the requirements to qualify as a new shipper during the POR. Therefore, for purposes of these preliminary results, we are treating each new shipper's sale of subject merchandise to the United States as an appropriate transaction for these reviews.

Non–Market Economy Country Status

In every case conducted by the Department involving the PRC, the PRC has been treated as a non–market economy (''NME'') country. In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. *See Brake Rotors From the People's Republic of China: Final Results and Partial Rescission of the 2004/2005 Administrative Review and Notice of Rescission of 2004/2005 New Shipper Review*, 71 FR 66304 (November 14, 2006). None of the parties to this proceeding has contested such treatment. Accordingly, we calculated NV in accordance with section 773(c) of the Act, which applies to NME countries.

Separate Rates Determination

A designation of a country as an NME remains in effect until it is revoked by the Department. *See* section 771(18)(C) of the Act. Accordingly, there is a rebuttable presumption that all companies within the PRC are subject to government control and, thus, should be assessed a single antidumping duty rate.

It is the Department's standard policy to assign all exporters of the merchandise subject to review in NME countries a single rate unless an exporter can affirmatively demonstrate an absence of government control, both in law (*de jure*) and in fact (*de facto*), with respect to exports. To establish whether a company is sufficiently independent to be entitled to a separate, company–specific rate, the Department analyzes each exporting entity in an NME country under the test established in the Final Determination of Sales at Less than Fair Value: Sparklers from the People's Republic of China (''Sparklers''), 56 FR 20588 (May 6, 1991), as amplified by the *Notice of Final Determination of Sales at Less*

[2] *See* Memorandum from Julia Hancock, Senior Case Analyst, Office 9, to James C. Doyle, Director, Office 9, ''Antidumping Duty New Shipper Review of Fresh Garlic from the People's Republic of China: *Bona Fide* Nature of the Sale Under Review for Shandong Chenhe International Trading Co., Ltd.,'' dated April 22, 2008; Memorandum from Paul Walker, Senior Case Analyst, Office 9, to James C. Doyle, Director, Office 9, ''Antidumping Duty New Shipper Review of Fresh Garlic from the People's Republic of China: *Bona Fide* Nature of the Sale Under Review for Qingdao Tiantaixing Foods Co., Ltd.,'' dated April 22, 2008; Memorandum from Paul Walker, Senior Case Analyst, Office 9, to James C. Doyle, Director, Office 9, ''Antidumping Duty New Shipper Review of Fresh Garlic from the People's Republic of China: *Bona Fide* Nature of the Sale Under Review for Hebei Golden Bird Trading Co., Ltd.,'' dated April 22, 2008; Memorandum from Paul Walker, Senior Case Analyst, Office 9, to James C. Doyle, Director, Office 9, ''Antidumping Duty New Shipper Review of Fresh Garlic from the People's Republic of China: *Bona Fide* Nature of the Sale Under Review for Jining Yongjia Trade Co., Ltd.,'' dated April 22, 2008; and, Memorandum from Paul Walker, Senior Case Analyst, Office 9, to James C. Doyle, Director, Office 9, ''Antidumping Duty New Shipper Review of Fresh Garlic from the People's Republic of China: *Bona Fide* Nature of the Sale Under Review for Shenzhen Greening Trading Co., Ltd.,'' dated April 22, 2008.

Than Fair Value: Silicon Carbide from the People's Republic of China, 59 FR 22585 (May 2, 1994) (''*Silicon Carbide*'').

A. Absence of De Jure Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses; and (2) any legislative enactments decentralizing control of companies.

Throughout the course of this proceeding, the new shippers have placed a number of documents on the record to demonstrate absence of *de jure* control including business licenses, financial statements, and narrative information regarding government laws and regulations on corporate ownership, and the companies' operations and selection of management. Specifically, the new shippers have placed on the record the ''Foreign Trade Law of the People's Republic of China'' and the ''Administrative Regulations of the People's Republic of China Governing the Registration of Legal Corporations.'' The Department has analyzed such PRC laws and found that they establish an absence of *de jure* control. *See, e.g., Honey from the People's Republic of China: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review*, 72 FR 102, 105 (January 3, 2006), unchanged in *Honey from the People's Republic of China: Final Results and Final Rescission, In Part, of Antidumping Duty Administrative Review*, 72 FR 37715, 37716 (July 11, 2007). We have no information in this proceeding that would cause us to reconsider this determination. Thus, we believe that the evidence on the record supports a preliminary finding of an absence of *de jure* government control based on: (1) an absence of restrictive stipulations associated with the exporter's business license; and (2) the legal authority on the record decentralizing control over the respondent.

B. Absence of De Facto Control

The absence of *de facto* governmental control over exports is based on whether a company: (1) sets its own export prices independent of the government and other exporters; (2) retains the proceeds from its export sales and makes independent decisions regarding the disposition of profits or financing of losses; (3) has the authority to negotiate and sign contracts and other agreements; and (4) has autonomy from the government regarding the selection of management. *See Silicon Carbide*, 59 FR at 22587 and *Sparklers*, 56 FR at 20589; *see also Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China*, 60 FR 22544, 22545 (May 8, 1995).

The Department conducted a separate–rates analysis for each new shipper. In their questionnaire responses, each new shipper submitted evidence indicating an absence of *de facto* governmental control over its export activities. Specifically, this evidence indicates that: (1) each new shipper sets its own export prices independent of the government and without the approval of a government authority; (2) each new shipper retains the proceeds from its sales and makes independent decisions regarding the disposition of profits or financing of losses; (3) each new shipper has a general manager, branch manager or division manager with the authority to negotiate and bind the company in an agreement; (4) the general manager is selected by the board of directors or company employees, and the general manager appoints the deputy managers and the manager of each department; and (5) there is no restriction on each new shipper's use of export revenues. The questionnaire responses of each new shipper do not suggest that pricing is coordinated among exporters. During our analysis of the information on the record, we found no information indicating the existence of government control. Therefore, the Department preliminarily finds that each new shipper has established, *prima facie*, that they qualify for separate rates under the criteria established by *Silicon Carbide* and *Sparklers*.

Surrogate Country

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs it to base NV, in most circumstances, on the NME producer's factors of production (''FOPs''), valued in a surrogate market economy country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, in valuing the FOPs, the Department shall utilize, to the extent possible, the prices or costs of FOPs in one or more market economy countries that are: (1) at a level of economic development comparable to that of the NME country; and (2) significant producers of comparable merchandise. The sources of the surrogate factor values are discussed under the ''Normal Value'' section below and in the Memorandum to the File from Paul Walker, Senior Analyst, Office 9, ''New Shipper Review of Fresh Garlic from the People's Republic of China: Surrogate Values for the Preliminary Results,'' dated April 22, 2008 (''Factor Valuation Memo'').

As discussed in the ''Separate Rates'' section, above, the Department considers the PRC to be an NME country. The Department has treated the PRC as an NME country in all previous antidumping proceedings. In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. None of the parties to this proceeding contested such treatment. Accordingly, we treated the PRC as an NME country for purposes of these reviews and calculated NV, pursuant to section 773(c) of the Act, by valuing the FOPs in a surrogate country.

The Department determined that India, Sri Lanka, Indonesia, Philippines, and Egypt are countries comparable to the PRC in terms of economic development. *See* Memorandum from Ron Lorentzen, Director, Office of Policy, to Alex Villanueva, Program Manager, China/NME Group, Office 9, ''Antidumping Administrative Review of Fresh Garlic from the People's Republic of China: Request for a List of Surrogate Countries,'' dated August 1, 2007. Moreover, it is the Department's practice to select an appropriate surrogate country based on the availability and reliability of data from the countries. *See* Department Policy Bulletin No. 04.1: Non–Market Economy Surrogate Country Selection Process (March 1, 2004).

In this case, the Department has found that India and Egypt are both significant producers of comparable merchandise. The Department finds India to be a reliable source for surrogate values because India is at a similar level of economic development pursuant to 773(c)(4) of the Act, is a significant producer of comparable merchandise, and has publicly available and reliable data. Furthermore, the Department notes that India has been the primary surrogate country in past segments, and the only surrogate value data submitted on the record are from Indian sources. Given the above facts, the Department is preliminarily selecting India as the surrogate country for the PRC on the basis that: (1) it is at a similar level of economic development pursuant to section 773(c)(4) of the Act; (2) it is a significant producer of comparable merchandise; and (3) we have reliable data from India that we can use to value the FOPs.

Fair Value Comparisons

To determine whether sales of the subject merchandise made by Chenhe, Greening, Golden Bird, QTF, and Yongjia to the United States were at prices below NV, we compared each company's export price (''EP'') to NV, as described below.

U.S. Price

In accordance with section 772(a) of the Act, we calculated the EP for sales to the United States for Chenhe, Greening, Golden Bird, QTF, and Yongjia because the first sale to an unaffiliated party was made before the date of importation and the use of constructed EP (''CEP'') was not otherwise warranted. We calculated EP based on the price to unaffiliated purchasers in the United States. In accordance with section 772(c) of the Act, as appropriate, we deducted from the starting price to unaffiliated purchasers foreign inland freight, and brokerage and handling. For Chenhe, Greening, Golden Bird, QTF, and Yongjia, each of these services was either provided by an NME vendor or paid for using an NME currency. Thus, we based the deduction of these movement charges on surrogate values. *See* Factor Valuation Memo for details regarding the surrogate values for movement expenses. Additionally, Chenhe reported certain U.S. Customs duties, U.S. brokerage and handling, and other expenses that must be deducted from the starting price to unaffiliated purchasers. Accordingly, we will deduct these expenses from the starting price to unaffiliated purchasers, as reported by Chenhe. *See* Memorandum to the File from Julia Hancock, Senior Analyst, Office 9, ''Company Analysis Memorandum in the Antidumping Duty New Shipper Review of Fresh Garlic from the People's Republic of China (''PRC''): Shandong Chenhe,'' dated April 22, 2008.

Normal Value

A. Methodology

Section 773(c)(1) of the Act provides that the Department shall determine NV using an FOP methodology if the merchandise is exported from an NME country and the information does not permit the calculation of NV using home market prices, third–country prices, or constructed value under section 773(a) of the Act. The Department calculates NV using each of the FOPs that a respondent consumes in the production of a unit of the subject merchandise because the presence of government controls on various aspects of NMEs renders price comparisons and the calculation of production costs invalid under the Department's normal methodologies. However, there are circumstances in which the Department will modify its standard FOP methodology, choosing to apply a surrogate value to an intermediate input instead of the individual FOPs used to produce that intermediate input. In some cases, a respondent may report factors used to produce an intermediate input that account for an insignificant share of total output. When the potential increase in accuracy to the overall calculation that results from valuing each of the FOPs is outweighed by the resources, time, and burden such an analysis would place on all parties to the proceeding, the Department has valued the intermediate input directly using a surrogate value. *See Notice of Final Determination of Sales at Less Than Fair Value: Polyvinyl Alcohol from the People's Republic of China*, 68 FR 47538 (August 11, 2003), and accompanying Issues and Decision Memorandum at Comment 1 (citing to *Final Results of First New Shipper Review and First Antidumping Duty Administrative Review: Certain Preserved Mushrooms from the People's Republic of China*, 66 FR 31204 (June 11, 2001)).

In the 9th administrative review, the Department recognized that there were serious discrepancies between the reported FOPs of the different respondents and that the standard FOP methodology might not be adequate to apply in future reviews. *See Fresh Garlic from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 70 FR 34082 (June 13, 2005). In the 10th administrative review, the Department conducted a ''harvest verification'' of several garlic producers in the PRC, interviewing farmers, studying farming techniques, and reviewing standard PRC garlic production record–keeping.[3] In analyzing the questionnaire responses and ''harvest verification'' reports in the 10th administrative review, the Department determined that, to capture the complete costs of producing fresh garlic, the methodology of valuing the intermediate product, the fresh garlic bulb, would more accurately capture the complete costs of producing subject merchandise. *See Fresh Garlic from the People's Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative Review and Final Results of New Shipper Reviews*, 71 FR 26329 (May 4, 2006) (''*10th Review Final Results*''), and accompanying Issues and Decision Memorandum at Comment 1. In the two previous administrative reviews, the Department also stated that ''should a respondent be able to provide sufficient factual evidence that it maintains the necessary information in its internal books and records that would allow us to establish the completeness and accuracy of the reported FOPs, we will revisit this issue and consider whether to use its reported FOPs in the calculation of NV.'' *See 10th Review Final Results*, 71 FR at 26331; *Fresh Garlic from the People's Republic of China: Partial Rescission and Preliminary Results of the Eleventh Administrative Review and New Shipper Reviews*, 71 FR 71510, 71520 (December 11, 2006).

In the course of these reviews, the Department has requested and obtained detailed information from the respondents with respect to each company's garlic production practices. Questionnaire responses revealed that only Yongjia had farming operations to grow fresh garlic.[4] However, based on our analysis of the information on the record and for the reasons outlined in the Memorandum to James C. Doyle, Director, Office 9, from Paul Walker, Senior Case Analyst, Office 9, ''New Shipper Reviews of the Antidumping Duty Order on Fresh Garlic From the People's Republic of China: Intermediate Input Methodology,'' dated April 22, 2008 (''Intermediate Product Memo''), we continue to believe that the sole respondent that farmed garlic, Yongjia, was unable to accurately record and substantiate the complete costs of growing garlic during the POR.

Thus, in the preliminary results for these new shipper reviews, in order to eliminate the distortions in our calculation of NV, for all of the reasons identified above and described in the Intermediate Product Memo, the Department applied an ''intermediate–product valuation methodology'' to all companies. Using this methodology, the Department calculated NV by starting with a surrogate value for the garlic bulb

[3] *See* Memorandum to the File from Julia Hancock, Senior Case Analyst; Intermediate Input Methodology Memoranda from the 10th Administrative Review Final Results and 11th Administrative Review Preliminary Results (April 22, 2008), in which the Department placed the Intermediate Input Methodology memos from the tenth and eleventh Administrative Reviews on the record of this proceeding, inclusive of the verification reports resulting from the ''harvest verification.''

[4] Specifically, Chenhe, Greening, QTF, and Golden Bird are all processors and exporters of fresh garlic that purchased whole garlic bulbs and processed it for export. Consequently, the FOPs provided by each all begin with whole garlic bulbs and not the factors that are used to grow whole garlic bulbs.

(*i.e.*, the ''intermediate product''), adjusted for yield losses during the processing stages, and adding the respondents' processing costs, which were calculated using their reported usage rates for processing fresh garlic. For a complete explanation of the Department's analysis, and for a more detailed analysis of these issues with respect to each respondent, *see* the Intermediate Product Memo.

B. Factor Valuations

In accordance with section 773(c) of the Act, the Department calculated NV based on the intermediate product value and processing FOPs reported by the respondents for the POR. To calculate NV, the Department multiplied the reported per–unit factor quantities by publicly available surrogate values in India with the exception of the surrogate value for ocean freight, which we obtained from an international freight company. In selecting the surrogate values, the Department considered the quality, specificity, and contemporaneity of the data. As appropriate, the Department adjusted input prices by including freight costs to make them delivered prices. The Department calculated these freight costs based on the shorter of the reported distance from the domestic supplier to the factory or the distance from the port in accordance with the decision in *Sigma Corporation v. United States*, 117 F.3d 1401 (Fed. Cir. 1997). The Department made currency conversions into U.S. dollars, in accordance with section 773A(a) of the Act, based on the exchange rates in effect on the dates of the U.S. sale(s) as certified by the U.S. Federal Reserve Bank.

Additionally, during the POR, Greening purchased all of certain inputs from a market economy supplier and paid for the inputs in a market economy currency. The Department has instituted a rebuttable presumption that market economy input prices are the best available information for valuing an input when the total volume of the input purchased from all market economy sources during the period of investigation or review exceeds 33 percent of the total volume of the input purchased from all sources during the period. In these cases, unless case–specific facts provide adequate grounds to rebut the Department's presumption, the Department will use the weighted–average market economy purchase price to value the input. Alternatively, when the volume of an NME firm's purchases of an input from market economy suppliers during the period is below 33 percent of its total volume of purchases of the input during the period, but where these purchases are otherwise valid and there is no reason to disregard the prices, the Department will weight–average the weighted–average market economy purchase price with an appropriate surrogate value (''SV'') according to their respective shares of the total volume of purchases, unless case–specific facts provide adequate grounds to rebut the presumption. When a firm has made market economy input purchases that may have been dumped or subsidized, are not *bona fide*, or are otherwise not acceptable for use in a dumping calculation, the Department will exclude them from the numerator of the ratio to ensure a fair determination of whether valid market economy purchases meet the 33–percent threshold. *See Antidumping Methodologies: Market Economy Inputs, Expected Non–Market Economy Wages, Duty Drawback; and Request for Comments*, 71 FR 61716, 61717–18 (October 19, 2006).

Accordingly, we valued Greening's inputs using the market economy prices paid for the inputs where the total volume of the input purchased from all market economy sources during the POI exceeded 33 percent of the total volume of the input purchased from all sources during that period. Where appropriate, we increased the market economy prices of inputs by freight expenses. *See* Factor Valuation Memorandum. For a detailed description of all actual values used for market–economy inputs, see Memorandum to the File from Julia Hancock, Senior Analyst, Office 9, ''Company Analysis Memorandum in the Antidumping Duty New Shipper Review of Fresh Garlic from the People's Republic of China (''PRC''): Shenzhen Greening,'' dated April 22, 2008.

Moreover, in applying the intermediate input methodology, the Department sought foremost to identify the best available surrogate value for the fresh garlic bulb input to production, as opposed to identifying a surrogate value for garlic seed. Therefore, the Department has valued the fresh garlic bulb using prices for the size range ''super–A'' grade garlic bulb in India, as published by Azadpur Agriculture Produce Marketing Committee (''APMC'') in its ''Market Information Bulletin'' (the ''Bulletin''). Azadpur APMC is the largest fruit and vegetable market in Asia and has become a ''National Distribution Centre'' for important Indian agricultural products such as garlic. The Bulletin is published by the Azadpur APMC on each trading day and contains, among other things, a list of all fruits and vegetables sold on the previous trading day, the amount (by weight) of each fruit or vegetable sold on that day, and a low, high and modal price for each commodity sold. The Department notes that the ''A'' grade garlic typically ranges from 40 - 55 millimeters (''mm'') in diameter, and the ''super–A'' grade garlic ranges from 40 mm and above in diameter. However, the Department also finds that garlic that ranges from 55 mm in diameter and above is the ''super–A'' grade garlic. *See* Memorandum to the File from Julia Hancock, ''Placing Market Research Report on the Record,'' dated April 22, 2008.

As the Department determined in past reviews, the price at which garlic is sold is heavily dependent upon physical characteristics such as bulb size. *See, e.g., 10th Review Final Results*, 71 FR 26329 at Comment 2; Fresh Garlic from the People's Republic of China: Final Results and Partial Rescission of the Eleventh Administrative Review and New Shipper Reviews, 72 FR 34438, 34440 (June 22, 2007) (''*11th Review Final Results*''), and accompanying Issues and Decision Memorandum at Comment 2. Accordingly, the Department finds that it is important to use surrogate Indian garlic values reflecting sales of garlic bulbs of similar diameter to that of Chenhe, Greening, Golden Bird, QTF, and Yongjia merchandise during the POR. Therefore, for these preliminary results, the Department finds that the ''super–A'' grade garlic data from Azadpur APMC are the best available and most appropriate information on the record to value the garlic bulb input, pursuant to section 773(c) of the Act, for the reasons stated below. The Department has found that the data from Azadpur APMC satisfy the Department's surrogate value selection criteria. *See 11th Review Final Results* at Comment 2.

Because the Department is able to identify the grades of Indian garlic that correspond to various diameter ranges and because Chenhe, Greening, Golden Bird, QTF, and Yongjia reported the size of the garlic bulb they sold during the POR, the Department is calculating the surrogate value for the garlic bulb input using a simple average of the Azadpur APMC data for ''super–A'' grade garlic for Chenhe, Greening, Golden Bird, QTF, and Yongjia. For further discussion of the Department's calculation for the surrogate value for the garlic bulb, as well as other surrogate values used, *see* the Factor Valuation Memo.

Preliminary Results of the Reviews

As a result of our review, we preliminarily find that the following

margins exist for the period November 1, 2006 through May 17, 2007[5]:

FRESH GARLIC FROM THE PRC

Exporter/Manufacturer	Weighted–Average Margin (Percent)
Exported and Produced by Shandong Chenhe International Trading Co., Ltd.	0.00
Exported and Produced by Qingdao Tiantaixing Foods Co., Ltd.	32.85
Exported by Hebei Golden Bird Trading Co., Ltd. and Produced by Cangshan County Hongyang Vegetables & Foods Co., Ltd.	13.89
Exported by Jining Yongjia Trade Co., Ltd. and Produced by Jinxiang County Shanfu Frozen Co., Ltd.	18.94
Exported and Produced by Shenzhen Greening Trading Co., Ltd.	2.15

The Department will disclose to parties of this proceeding the calculations performed in reaching the preliminary results within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

In accordance with 19 CFR 351.301(c)(3)(ii), for the final results in an antidumping duty new shipper review, interested parties may submit publicly available information to value FOPs within 20 days after the date of publication of these preliminary results. Interested parties must provide the Department with supporting documentation for the publicly available information to value each FOP. Additionally, in accordance with 19 CFR 351.301(c)(1), for the final results of this new shipper review, interested parties may submit factual information to rebut, clarify, or correct factual information submitted by an interested party less than ten days before, on, or after, the applicable deadline for submission of such factual information. The Department notes that 19 CFR 351.301(c)(1) permits new information only insofar as it rebuts, clarifies, or corrects information recently placed on the record. Therefore, parties should take note that new surrogate value data that are introduced following the 20–day deadline generally will not fall within the meaning and applicability of 19 CFR 351.301(c)(1). *See Glycine from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Rescission*, in Part, 72 FR 58809 (October 17, 2007) and accompanying Issues and Decision Memorandum at Comment 2.

Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication of these preliminary results of this new shipper review. *See* 19 CFR 351.309(c)(1)(ii). Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed no later than 5 days after the deadline for submitting the case briefs. *See* 19 CFR 351.309(d)(1). The Department requests that interested parties provide an executive summary of each argument contained within the case briefs and rebuttal briefs.

Any interested party may request a hearing within 30 days of publication of these preliminary results. *See* 19 CFR 351.310(c). Requests should contain the following information: (1) the party's name, address, and telephone number; (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. If we receive a request for a hearing, we plan to hold the hearing seven days after the deadline for submission of the rebuttal briefs at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

The Department intends to issue the final results of these new shipper reviews, which will include the results of its analysis raised in any such comments, within 90 days of publication of these preliminary results, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon completion of the final results, pursuant to 19 CFR 351.212(b), the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of review. If these preliminary results are adopted in our final results of review, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. Pursuant to 19 CFR 351.212(b)(1), we will calculate importer–specific (or customer) *ad valorem* duty assessment rates based on the ratio of the total amount of the dumping margins calculated for the examined sales to the total entered value of those same sales. We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if any importer–specific assessment rate calculated in the final results of this is above *de minimis*.

Cash Deposit Requirements

The following cash deposit requirements, when imposed, will be effective upon publication of the final results of these new shipper reviews for all shipments of subject merchandise from Chenhe, Greening, QTF, Golden Bird, and Yongjia entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) for subject merchandise produced and exported by Chenhe, produced and exported by Greening, produced and exported by QTF, produced by Cangshan County Hongyang Vegetables & Foods Co., Ltd. and exported by Golden Bird, or produced by Jinxiang County Shanfu Frozen Co., Ltd. and exported by Yongjia, the cash–deposit rate will be that established in the final results of these reviews; (2) for subject merchandise exported by Golden Bird but not manufactured by Cangshan County Hongyang Vegetables & Foods Co., Ltd. and for subject merchandise exported by Yongjia but not manufactured by Jinxiang County Shanfu Frozen Co., Ltd., the cash deposit rate will continue to be the PRC–wide rate (*i.e.*, 376.67 percent); and (3) for subject merchandise exported by Chenhe, Greening, and QTF, but manufactured by any other party, the cash deposit rate will be the PRC–wide rate (*i.e.*, 376.67 percent).

If the cash deposit rate calculated in the final results is zero or *de minimis*, no cash deposit will be required for those specific producer–exporter combinations. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Interested Parties

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing this determination in accordance with

[5] The POR has been extended until May 17, 2007, so as to capture entries from Chenhe and Greening which, though shipped prior to April 30, 2007 did not enter the U.S. market until after, respectively. *See* Memorandum to the File from Julia Hancock, Senior Case Analyst, Office 9, ''Expansion of the Period of Review in the New Shipper Reviews of Fresh Garlic from the People's Republic of China,'' dated April 23, 2008.

sections 751(a)(1), 751(a)(2)(B), and 777(i) of the Act, and 19 CFR 351.214(h) and 351.221(b)(4).

Dated: April 22, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E8–9597 Filed 4–30–08; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN: 0648–XH57

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's (Council) Squid, Mackerel, and Butterfish Monitoring Committee and Scientific and Statistical Committee (SSC) will hold a public meeting.

DATES: The meeting will be held on Wednesday, May 21, 2008, from 10 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at the Hilton Garden Inn Providence Airport, One Thurber Street, Warwick, RI 02886; telephone: (401) 734–9600).

Council address: Mid-Atlantic Fishery Management Council; 300 S. New Street, Room 2115, Dover, DE 19904; telephone: (302) 674–2331.

FOR FURTHER INFORMATION CONTACT: Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council; 300 S. New Street, Room 2115, Dover, DE 19904; telephone: (302) 674–2331, extension 19.

SUPPLEMENTARY INFORMATION: The purposes of this meeting are: to examine the biology, fisheries, and current stock status for Atlantic mackerel, Loligo and Illex squid and butterfish; to review staff analyses regarding proposed specifications and related management measures for the 2009 fishing year; and, to make recommendations to the Council's Squid, Mackerel, and Butterfish Committee relative to the 2009 quota specifications and other management measures. The Council's SSC will meet simultaneously with the Squid, Mackerel, and Butterfish Monitoring Committee to provide its input and advice concerning the 2009 quota specifications and other management measures developed by the Monitoring Committee.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to M. Jan Bryan at the Mid-Atlantic Council Office, (302) 674–2331 extension 18, at least 5 days prior to the meeting date.

Dated: April 28, 2008.

Tracey L. Thompson,

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

[FR Doc. E8–9600 Filed 4–30–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN: 0648–XH55

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The New England Fishery Management Council's (Council) Herring Oversight Committee will meet to consider actions affecting New England fisheries in the exclusive economic zone (EEZ).

DATES: The meeting will be held on Thursday, May 22, 2008, at 9 a.m.

ADDRESSES: The meeting will be held at the Clarion Hotel, 1230 Congress Street, Portland, ME 04102; telephone: (207) 774–5611.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: The items of discussion in the committee's agenda are as follows:

1. There will be one hour scheduled at the beginning of this meeting (9 a.m.) for the public to provide scoping comments on Amendment 4 to the Herring Fishery Management Plan (FMP).
2. Review and discuss comments and recommendations from the April 30, 2008 Herring Advisory Panel Meeting.
3. Review and discuss updated Atlantic herring stock/fishery information.
4. Receive a report regarding the current sea sampling (observer) program, and review/discuss updated sea sampling data for the herring fishery.
5. Review and discuss existing shore-side bycatch monitoring initiatives for the herring fishery.
6. Continue work on the development of management alternatives for consideration in Amendment 4 to the Herring FMP.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting date.

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

Dated: April 28, 2008.

Tracey L. Thompson,

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

[FR Doc. E8–9598 Filed 4–30–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN: 0648–XH56

New England Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce

ACTION: Notice of a public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Habitat/MPA/Ecosystem Committee, in May, 2008, to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Friday, May 16, 2008, at 9:30 a.m.

ADDRESSES: This meeting will be held at the Holiday Inn, 30 Hampshire Street, Mansfield, MA 02048; telephone: (508) 339–2200; fax: (508) 339–1040.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: The Committee will review the Omnibus Habitat Amendment 2 Phase 1 Proposed Action document and the Draft Gear Effects and Habitat Vulnerability components of the Risk Assessment for Phase 2 of the Omnibus Habitat Amendment. The Committee will also generically discuss tool options for minimizing the adverse impacts of fishing on essential fish habitat. The Committee will also consider other topics at their discretion.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: April 28, 2008.

Tracey L. Thompson,

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

[FR Doc. E8–9599 Filed 4–30–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket Number: 080424599–8600–01]

National Weather Service Support for Special Event

AGENCY: National Weather Service, National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Notice; request for comments.

SUMMARY: The National Weather Service (NWS) proposes to update its policy regarding NWS support for special events such as athletic competitions and festivals. These events can put large numbers of spectators and participants in harm's way if adverse weather conditions occur. This policy update is intended to clarify the role of NWS in providing products and services as well as address the role of private sector weather providers in providing complementary services.

DATES: The agency must receive comments on or before June 30, 2008.

ADDRESSES: Comments must be submitted to the following address: *nwssp.comments@noaa.gov* or land mail address below. The proposed policy is available electronically at *http://weather.gov/sp/specialevents.htm* Requests for hard copies should be sent to Special Events, Room 11430, 1325 East-West Highway, Silver Spring, MD 20910–3283.

FOR FURTHER INFORMATION CONTACT: For further information contact Wendy Levine, at 301–713–3380 or by e-mail at *wendy.levine@noaa.gov.*

Dated: April 28, 2008.

David Murray,

Director, Management and Organization Division, Office of the Chief Financial Officer, NWS.

[FR Doc. E8–9614 Filed 4–30–08; 8:45 am]

BILLING CODE 3510–KE–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket Number 080328487–8488–01]

Revision to the Remote Community Alert Systems Program

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice.

SUMMARY: NOAA publishes this notice to reopen the application solicitation period and to amend the application requirements for the Remote Community Alert Systems Program, which was announced in the **Federal Register** on February 8, 2008. The notice informs applicants that NOAA reopens the competition and establishes a new due date for applications of May 23, 2008, clarifies the submission requirements concerning an abstract page and project description, and clarifies that eligible applicants include U.S. Commonwealths and Territories. It also removes a typographical error which referenced a required ''item 5'' which does not exist in the text. Finally, it advises applicants that they can amend or resubmit their applications, if they so choose, by the new application deadline.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Craig Hodan, NOAA/NWS, 1325 East-West Highway, Room 3348, Silver Spring, Maryland 20910. Phone: 301–713–9480 x 187, e-mail: *craig.hodan@noaa.gov.*

SUPPLEMENTARY INFORMATION: NOAA publishes this notice to make changes to the Remote Community Alert Systems Program, which was announced in the **Federal Register** on February 8, 2008 (73 FR 7528). This notice reopens the application solicitation period for the Remote Community Alert System Program published in the **Federal Register** notice cited above. The new deadline for applications is 5 p.m. on May 23, 2008. Applicants who submitted proposals may amend or resubmit their applications by the newly established date. All applications received after April 11, 2008 and by the new deadline will be considered timely and will be evaluated by the program.

Also, NOAA amends the ''Eligibility'' paragraph to clarify that eligible applicants include those from U.S. Commonwealths and Territories. The current language reads: ''Eligible applicants are States and Tribal Communities.'' NOAA amends this

language to read: ''Eligible applicants are States (including U.S. Commonwealths and Territories) and Tribal Communities.''

In addition, this notice clarifies the requirement to submit an abstract page and project description as part of the application, and removes reference to the submission of an ''item 5'' which does not exist in the text and was a typographical error. The Announcement of Federal Funding Opportunity (NWS–NWSPO–2008–2001322) for this program requires, as part of the application, an abstract and a project description. However, section IV.B of the FFO contained misleading language that erroneously implied that these two documents were not required to be submitted by the due date: ''Failure to submit items 1, 4 and 5 by the application date will result in the application not being reviewed.'' This notice clarifies that the abstract and project description are required to be submitted by the application due date in order for the application to be considered for funding. Therefore, the text of the third sentence of Section IV.B. is revised to read: ''Failure to submit items 1 through 4 by the application date will result in the application not being reviewed.'' The Announcement presently explains what the abstract page and project description should contain.

Limitation of Liability

In no event will NOAA or the Department of Commerce be responsible for proposal preparation costs if this program is cancelled because of other agency priorities. Publication of this announcement does not oblige NOAA to award any specific project or to obligate any available funds. Applicants are hereby given notice that funding for the Fiscal Year 2008 program is contingent upon the availability of Fiscal Year 2008 appropriations.

Universal Identifier

Applicants should be aware they are required to provide a Dun and Bradstreet Data Universal Numbering System (DUNS) number during the application process. See the October 30, 2002, **Federal Register**, (67, FR 66177) for additional information. Organizations can receive a DUNS number at no cost by calling the dedicated toll-free DUNS Number request line at 1–866–705–5711 or via the Internet at *http://www.dunandbradstreet.com.*

National Environmental Policy Act (NEPA)

NOAA must analyze the potential environmental impacts, as required by the National Environmental Policy Act (NEPA), for applicant projects or proposals which are seeking NOAA federal funding opportunities. Detailed information on NOAA compliance with NEPA can be found at the following NOAA NEPA Web site: *http://www.nepa.noaa.gov/,* including our NOAA Administrative Order 216–6 for NEPA, *http://www.nepa.noaa.gov/NAO216_6_TOC.pdf*, and the Council on Environmental Quality implementation regulations, *http://ceq.eh.doe.gov/nepa/regs/ceq/toc_ceq.htm*. Consequently, as part of an applicant's package, and under their description of their program activities, applicants are required to provide detailed information on the activities to be conducted, locations, sites, species and habitat to be affected, possible construction activities, and any environmental concerns that may exist (e.g., the use and disposal of hazardous or toxic chemicals, introduction of non-indigenous species, impacts to endangered and threatened species, aquaculture projects, and impacts to coral reef systems). In addition to providing specific information that will serve as the basis for any required impact analyses, applicants may also be requested to assist NOAA in drafting of an environmental assessment, if NOAA determines an assessment is required. Applicants will also be required to cooperate with NOAA in identifying feasible measures to reduce or avoid any identified adverse environmental impacts of their proposal. The failure to do so shall be grounds for not selecting an application. In some cases if additional information is required after an application is selected, funds can be withheld by the Grants Officer under a special award condition requiring the recipient to submit additional environmental compliance information sufficient to enable NOAA to make an assessment on any impacts that a project may have on the environment.

The Department of Commerce Preaward Notification Requirements for Grants and Cooperative Agreements contained in the **Federal Register** notice of October 1, 2001 (66 FR 49917), as amended by the **Federal Register** notice published on October 30, 2002 (67 FR 66109), are applicable to this solicitation.

Paperwork Reduction Act

This document contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA). The requirement for an abstract and project description fall under the approval for Standard Form 424. The use of Standard Forms 424, 424A, 424B, SF–LLL, and CD–346 has been approved by the Office of Management and Budget (OMB) under the respective control numbers 0348–0043, 0348–0044, 0348–0040, 0348–0046, and 0605–0001. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB control number.

Executive Order 12866

This notice has been determined to be not significant for purposes of Executive Order 12866.

Executive Order 13132 (Federalism)

It has been determined that this notice does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

Administrative Procedure Act/ Regulatory Flexibility Act

Prior notice and an opportunity for public comment are not required by the Administrative Procedure Act or any other law for rules concerning public property, loans, grants, benefits, and contracts (5 U.S.C. 553(a)(2)). Because notice and opportunity for comment are not required pursuant to 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are inapplicable. Therefore, a regulatory flexibility analysis has not been prepared.

Dated: April 28, 2008.

David Murray,

Director, Management and Organization Division, NWS CFO.

[FR Doc. E8–9616 Filed 4–30–08; 8:45 am]

BILLING CODE 3510–KE–P

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 08–C0008]

Kohl's Department Stores, Inc., Provisional Acceptance of a Settlement Agreement and Order

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: It is the policy of the Commission to publish settlements

which it provisionally accepts under the Consumer Product Safety Act in the **Federal Register** in accordance with the terms of 16 CFR 1118.20(e). Published below is a provisionally accepted Settlement Agreement with Kohl's Department Stores, Inc., containing a civil penalty of $35,000.00.

DATES: Any interested person may ask the Commission not to accept this agreement or otherwise comment on its contents by filing a written request with the Office of the Secretary by May 16, 2008.

ADDRESSES: Persons wishing to comment on this Settlement Agreement should send written comments to the Comment 08–C0008, Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Room 502, Bethesda, Maryland 20814–4408.

FOR FURTHER INFORMATION CONTACT: Seth B. Popkin, Trial Attorney, Legal Division, Office of Compliance and Field Operations, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, Maryland 20814–4408; telephone (301) 504–7612.

SUPPLEMENTARY INFORMATION: The text of the Agreement and Order appears below.

Dated: April 23, 2008.

Todd A. Stevenson,

Secretary.

Settlement Agreement

1. In accordance with 16 CFR 1118.20, Kohl's Department Stores, Inc. (''Kohl's'') and the staff (''Staff'') of the United States Consumer Product Safety Commission (''Commission'') enter into this Settlement Agreement (''Agreement''). The Agreement and the incorporated attached Order (''Order'') settle the Staffs allegations set forth below.

Parties

2. The Commission is an independent federal regulatory agency established pursuant to, and responsible for the enforcement of, the Consumer Product Safety Act, 15 U.S.C. 2051–2084 (''CPSA'').

3. Kohl's is a corporation organized and existing under the laws of Delaware, with its principal offices located in Menomonee Falls, Wisconsin. At all times relevant hereto, Kohl's sold apparel, accessories, and other products.

Staff Allegations

4. From August 3 to September 1, 2006, Kohl's held for sale and/or sold, at Kohl's stores and Kohls.com, 9,626 Candie's brand children's hoodie sweatshirts with drawstrings through the hood, style number 38g041k (''Drawstring Sweatshirts'').

5. Kohl's sold the Drawstring Sweatshirts to consumers.

6. The Drawstring Sweatshirts are ''consumer product[s],'' and, at all times relevant hereto, Kohl's was a ''retailer'' of those consumer products, which were ''distributed in commerce,'' as those terms are defined in CPSA sections 3(a)(l), (6), (11), and (12), 15 U.S.C. 2052(a)(l), (6), (11), and (12).

7. In February 1996, the Staff issued the Guidelines for Drawstrings on Children's Upper Outerwear (''Guidelines'') to help prevent children from strangling or entangling on neck and waist drawstrings. The Guidelines state that drawstrings can cause, and have caused, injuries and deaths when they catch on items such as playground equipment, bus doors, or cribs. In the Guidelines, the Staff recommends that there be no hood and neck drawstrings in children's upper outerwear sized 2T to 12.

8. In June 1997, ASTM adopted a voluntary standard, ASTM F1816–97, that incorporated the Guidelines. The Guidelines state that firms should be aware of the hazards and should be sure garments they sell conform to the voluntary standard.

9. On May 19, 2006, the Commission posted on its Web site a letter from the Commission's Director of the Office of Compliance to manufacturers, importers, and retailers of children's upper outerwear. The letter urges them to make certain that all children's upper outerwear sold in the United States complies with ASTM F1816–97. The letter states that the Staff considers children's upper outerwear with drawstrings at the hood or neck area to be defective and to present a substantial risk of injury to young children under Federal Hazardous Substances Act (''FHSA'') section 15(c), 15 U.S.C. 1274(c). The letter also notes the CPSA's section 15(b) reporting requirements.

10. Kohl's reported to the Commission that there had been no incidents or injuries from the Drawstring Sweatshirts.

11. Kohl's distribution in commerce of the Drawstring Sweatshirts did not meet the Guidelines or ASTM F1816–97, failed to comport with the Staff's May 2006 defect notice, and posed a strangulation hazard to children.

12. On September 20, 2006, the Commission, in cooperation with Kohl's and the manufacturer, announced a recall of the Drawstring Sweatshirts, informing consumers that they should immediately remove the drawstrings to eliminate the hazard.

13. Kohl's had presumed and actual knowledge that the Drawstring Sweatshirts distributed in commerce posed a strangulation hazard and presented a substantial risk of injury to children under FHSA section 15(c)(1), 15 U.S.C. 1274(c)(l). Kohl's had obtained information that reasonably supported the conclusion that the Drawstring Sweatshirts contained a defect that could create a substantial product hazard or that they created an unreasonable risk of serious injury or death. CPSA sections 1 5(b)(2) and (3), 15 U.S.C. 2064(b)(2) and (3), required Kohl's to immediately inform the Commission of the defect and risk.

14. Kohl's knowingly failed to immediately inform the Commission about the Drawstring Sweatshirts as required by CPSA sections 15(b)(2) and (3), 15 U.S.C. 2064(b)(2) and (3), and as the term ''knowingly'' is defined in CPSA section 20(d), 15 U.S.C. 2069(d). This failure violated CPSA section 19(a)(4), 15 U.S.C. 2068(a)(4). Pursuant to CPSA section 20, 15 U.S.C. 2069, this failure subjected Kohl's to civil penalties.

Kohl's Response

15. Kohl's denies the Staff's allegations above, including, but not limited to, the allegations that Kohl's failed to immediately inform the Commission about the Drawstring Sweatshirts as required by CPSA Sections 15(b)(2) and (3) or otherwise violated the CPSA or FHSA.

16. In order to supply products to Kohl's, vendors are required to represent and warrant to Kohl's that all merchandise delivered to Kohl's will comply with all existing laws, regulations, standards, orders, and rulings, including, but not limited to, the CPSA and the FHSA.

17. On August 31, 2006, an investigator with the Commission alerted Kohl's to the presence of the Drawstring Sweatshirts in Kohl's stores. Within 24 hours, Kohl's (i) had the Drawstring Sweatshirts pulled from the Kohls.com Web site, (ii) sent notice to all Kohl's stores to pull the Drawstring Sweatshirts, and (iii) took additional steps to prevent further sales of the Drawstring Sweatshirts.

18. On September 1, 2006, also within 24 hours of being notified of the Drawstring Sweatshirts by the investigator with the Commission, Kohl's filed a Section 15(b) Report with the Commission.

19. Kohl's, in cooperation with the manufacturer and the Commission, recalled approximately 4,400 units of the Drawstring Sweatshirts. The remaining 5,200 units represent units

that Kohl's immediately removed from Kohl's distribution channels. As part of the recall, Kohl's posted recall notices in all Kohl's stores and on the Kohls.com Web site. Kohl's also independently sent e-mail notifications to all known online purchasers based on the availability of ''ship to'' addresses.

Agreement of the Parties

20. Under the CPSA, the Commission has jurisdiction over this matter and over Kohl's.

21. The parties enter into the Agreement for settlement purposes only. The Agreement does not constitute an admission by Kohl's, or a determination by the Commission, that Kohl's has violated the CPSA.

22. In settlement of the Staff's allegations, Kohl's shall pay a civil penalty in the amount of thirty-five thousand dollars ($35,000.00). The civil penalty shall be paid within twenty (20) calendar days of service of the Commission's final Order accepting the Agreement. The payment shall be by check payable to the order of the United States Treasury.

23. Upon provisional acceptance of the Agreement, the Agreement shall be placed on the public record and published in the **Federal Register** in accordance with the procedures set forth in 16 CFR 1118.20(e). In accordance with 16 CFR 1118.20(f), if the Commission does not receive any written request not to accept the Agreement within fifteen (15) calendar days, the Agreement shall be deemed finally accepted on the sixteenth (16th) calendar day after the date it is published in the **Federal Register**.

24. Upon the Commission's final acceptance of the Agreement and issuance of the final Order, Kohl's knowingly, voluntarily, and completely waives any rights it may have regarding the Staff's allegations to the following: (1) An administrative or judicial hearing; (2) judicial review or other challenge or contest of the validity of the Order or of the Commission's actions; (3) a determination by the Commission of whether Kohl's failed to comply with the CPSA and its underlying regulations; (4) a statement of findings of fact and conclusions of law; and (5) any claims under the Equal Access to Justice Act.

25. Upon issuance of, and Kohl's compliance with, the final Order, the Commission regards this matter as resolved and agrees not to bring a civil penalty action against Kohl's based upon the Staff's allegations contained herein regarding the Drawstring Sweatshirts.

26. The Commission may publicize the terms of the Agreement and the Order.

27. The Agreement and the Order shall apply to, and be binding upon, Kohl's and each of its successors and assigns.

28. The Commission issues the Order under the provisions of the CPSA, and violation of the Order may subject Kohl's to appropriate legal action.

29. The Agreement may be used in interpreting the Order. Understandings, agreements, representations, or interpretations apart from those contained in the Agreement and the Order may not be used to vary or contradict their terms. The Agreement shall not be waived, amended, modified, or otherwise altered without written agreement thereto executed by the party against whom such waiver, amendment, modification, or alteration is sought to be enforced.

30. If any provision of the Agreement and the Order is held to be illegal, invalid, or unenforceable under present or future laws effective during the terms of the Agreement and the Order, such provision shall be fully severable. The balance of the Agreement and the Order shall remain in full force and effect, unless the Commission and Kohl's agree that severing the provision materially affects the purpose of the Agreement and the Order.

31. Pursuant to section 6(d) of the Interim Delegation of Authority ordered by the Commission on February 1, 2008, the Commission delegated to the Assistant Executive Director for Compliance and Field Operations the authority to act, with the concurrence of the General Counsel, for the Commission under 16 CFR 1118.20 with respect to Staff allegations that any person or firm violated 15 U.S.C. 2068, where the total amount of the settlement involves no more than $100,000.

Kohl's Department Stores, Inc.
Dated: April 3, 2008.
By: Richard Schepp,
Exec. Vice President, General Counsel, and Secretary.

Kohl's Department Stores, Inc.
N56 W 17000 Ridgewood Drive,
Menomonee Falls, WI 53051.

U.S. Consumer Product Safety Commission Staff
J. Gibson Mullan,
Assistant Executive Director, Office of Compliance and Field Operations.

Ronald U. Yelenik,
Acting Director, Legal Division, Office of Compliance and Field Operations.

Dated: 4–16–08.
By: Seth B. Popkin,
Trial Attorney, Legal Division, Office of Compliance and Field Operations.

Order

Upon consideration of the Settlement Agreement entered into between Kohl's Department Stores, Inc. (''Kohl's'') and the U.S. Consumer Product Safety Commission (''Commission'') staff, and the Commission having jurisdiction over the subject matter and over Kohl's, and pursuant to the authority delegated in section 6(d) of the Interim Delegation of Authority ordered by the Commission on February 1, 2008, and it appearing that the Settlement Agreement and the Order are in the public interest, it is

Ordered, that the Settlement Agreement be, and hereby is, accepted; and it is

Further ordered, that Kohl's shall pay a civil penalty in the amount of thirty-five thousand dollars ($35,000.00). The civil penalty shall be paid within twenty (20) calendar days of service of the Commission's final Order accepting the Agreement. The payment shall be made by check payable to the order of the United States Treasury. Upon the failure of Kohl's to make the foregoing payment when due, interest on the unpaid amount shall accrue and be paid by Kohl's at the federal legal rate of interest set forth at 28 U.S.C. 1961(a) and (b).

Provisionally accepted and provisional Order issued on the 22nd day of April, 2008.

By Order of the Commission.

Todd A. Stevenson,
Secretary, U.S. Consumer Product Safety Commission.

[FR Doc. E8–9274 Filed 4–30–08; 8:45 am]
BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Revised Non-Foreign Overseas Per Diem Rates

AGENCY: DoD, Per Diem, Travel and Transportation Allowance Committee.

ACTION: Notice of Revised Non-Foreign Overseas Per Diem Rates.

SUMMARY: The Per Diem, Travel and Transportation Allowance Committee is publishing Civilian Personnel Per Diem Bulletin Number 258. This bulletin lists revisions in the per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico, the Northern Mariana Islands and Possessions of the United States. AEA changes announced in Bulletin Number 194 remain in effect. Bulletin Number 258 is being published in the **Federal Register** to assure that

travelers are paid per diem at the most current rates.

DATES: *Effective Date:* May 1, 2008.

SUPPLEMENTARY INFORMATION: This document gives notice of revisions in per diem rates prescribed by the Per Diem Travel and Transportation Allowance Committee for non-foreign areas outside the continental United States. It supersedes Civilian Personnel Per Diem Bulletin Number 257. Distribution of Civilian Personnel Per Diem Bulletins by mail was discontinued. Per Diem Bulletins published periodically in the **Federal Register** now constitute the only notification of revisions in per diem rates to agencies and establishments outside the Department of Defense. For more information or questions about per diem rates, please contact your local travel office. The text of the Bulletin follows:

Dated: April 24, 2008.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–P

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
THE ONLY CHANGES IN CIVILIAN BULLETIN 258 ARE UPDATES TO THE RATES FOR HAWAII.				
ALASKA				
ADAK	120	79	199	07/01/2003
ANCHORAGE [INCL NAV RES]				
05/01 - 09/15	181	97	278	04/01/2007
09/16 - 04/30	99	89	188	04/01/2007
BARROW	159	95	254	05/01/2002
BETHEL	135	82	217	06/01/2007
BETTLES	135	62	197	10/01/2004
CLEAR AB	90	82	172	10/01/2006
COLD BAY	90	73	163	05/01/2002
COLDFOOT	165	70	235	10/01/2006
COPPER CENTER				
05/01 - 09/30	129	80	209	07/01/2007
10/01 - 04/30	89	76	165	07/01/2007
CORDOVA				
05/01 - 09/30	95	78	173	06/01/2007
10/01 - 04/30	85	77	162	06/01/2007
CRAIG	140	79	219	04/01/2007
DEADHORSE	95	67	162	05/01/2002
DELTA JUNCTION	90	77	167	02/01/2007
DENALI NATIONAL PARK				
06/01 - 08/31	117	73	190	04/01/2007
09/01 - 05/31	75	69	144	04/01/2007
DILLINGHAM	114	69	183	06/01/2004
DUTCH HARBOR-UNALASKA	121	84	205	04/01/2006
EARECKSON AIR STATION	90	77	167	06/01/2007
EIELSON AFB				
05/01 - 09/15	169	95	264	02/01/2007
09/16 - 04/30	75	86	161	02/01/2007
ELMENDORF AFB				
05/01 - 09/15	181	97	278	04/01/2007
09/16 - 04/30	99	89	188	04/01/2007
FAIRBANKS				
05/01 - 09/15	169	95	264	02/01/2007
09/16 - 04/30	75	86	161	02/01/2007
FOOTLOOSE	175	18	193	06/01/2002
FT. GREELY	90	77	167	02/01/2007
FT. RICHARDSON				
05/01 - 09/15	181	97	278	04/01/2007
09/16 - 04/30	99	89	188	04/01/2007
FT. WAINWRIGHT				
05/01 - 09/15	169	95	264	02/01/2007
09/16 - 04/30	75	86	161	02/01/2007
GLENNALLEN				
05/01 - 09/30	129	80	209	07/01/2007
10/01 - 04/30	89	76	165	07/01/2007
HAINES				
04/01 - 09/30	109	75	184	06/01/2007

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
10/01 - 03/31	89	73	162	06/01/2007
HEALY				
06/01 - 08/31	117	73	190	04/01/2007
09/01 - 05/31	75	69	144	04/01/2007
HOMER				
05/15 - 09/15	131	84	215	07/01/2007
09/16 - 05/14	79	78	157	07/01/2007
JUNEAU				
05/01 - 09/30	129	89	218	04/01/2006
10/01 - 04/30	79	84	163	04/01/2006
KAKTOVIK	165	86	251	05/01/2002
KAVIK CAMP	150	69	219	05/01/2002
KENAI-SOLDOTNA				
05/01 - 08/31	129	92	221	04/01/2006
09/01 - 04/30	79	87	166	04/01/2006
KENNICOTT	249	110	359	04/01/2007
KETCHIKAN				
05/01 - 09/30	135	85	220	06/01/2007
10/01 - 04/30	98	81	179	06/01/2007
KING SALMON				
05/01 - 10/01	225	91	316	05/01/2002
10/02 - 04/30	125	81	206	05/01/2002
KLAWOCK	140	79	219	04/01/2007
KODIAK				
05/01 - 09/30	123	91	214	04/01/2006
10/01 - 04/30	99	88	187	04/01/2006
KOTZEBUE				
05/15 - 09/30	179	90	269	06/01/2007
10/01 - 05/14	139	89	228	06/01/2007
KULIS AGS				
05/01 - 09/15	181	97	278	04/01/2007
09/16 - 04/30	99	89	188	04/01/2007
MCCARTHY	249	110	359	04/01/2007
MCGRATH	165	69	234	10/01/2006
MURPHY DOME				
05/01 - 09/15	169	95	264	02/01/2007
09/16 - 04/30	75	86	161	02/01/2007
NOME	130	96	226	04/01/2008
NUIQSUT	180	53	233	05/01/2002
PETERSBURG	95	69	164	06/01/2007
POINT HOPE	130	70	200	03/01/1999
POINT LAY	105	67	172	03/01/1999
PORT ALSWORTH	135	88	223	05/01/2002
PRUDHOE BAY	95	67	162	05/01/2002
SELDOVIA				
05/15 - 09/15	131	84	215	07/01/2007
09/16 - 05/14	79	78	157	07/01/2007
SEWARD				
05/01 - 09/30	199	85	284	06/01/2007
10/01 - 04/30	69	72	141	06/01/2007

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
SITKA-MT. EDGECUMBE				
05/01 - 09/30	119	83	202	02/01/2007
10/01 - 04/30	99	81	180	02/01/2007
SKAGWAY				
05/01 - 09/30	135	85	220	06/01/2007
10/01 - 04/30	98	81	179	06/01/2007
SLANA				
05/01 - 09/30	139	55	194	02/01/2005
10/01 - 04/30	99	55	154	02/01/2005
SPRUCE CAPE				
05/01 - 09/30	123	91	214	04/01/2006
10/01 - 04/30	99	88	187	04/01/2006
ST. GEORGE	129	55	184	06/01/2004
TALKEETNA	100	89	189	07/01/2002
TANANA	130	96	226	04/01/2008
TOGIAK	100	39	139	07/01/2002
TOK				
05/01 - 09/30	109	69	178	02/01/2007
10/01 - 04/30	90	67	157	02/01/2007
UMIAT	350	35	385	10/01/2006
VALDEZ				
05/01 - 10/01	149	87	236	04/01/2007
10/02 - 04/30	79	80	159	04/01/2007
WASILLA				
05/01 - 09/30	144	88	232	06/01/2007
10/01 - 04/30	86	83	169	06/01/2007
WRANGELL				
05/01 - 09/30	135	85	220	06/01/2007
10/01 - 04/30	98	81	179	06/01/2007
YAKUTAT	100	71	171	06/01/2007
[OTHER]	90	77	167	02/01/2007
AMERICAN SAMOA				
AMERICAN SAMOA	122	73	195	12/01/2005
GUAM				
GUAM (INCL ALL MIL INSTAL)	135	94	229	06/01/2007
HAWAII				
CAMP H M SMITH	177	106	283	05/01/2008
EASTPAC NAVAL COMP TELE AREA	177	106	283	05/01/2008
FT. DERUSSEY	177	106	283	05/01/2008
FT. SHAFTER	177	106	283	05/01/2008
HICKAM AFB	177	106	283	05/01/2008
HONOLULU	177	106	283	05/01/2008
ISLE OF HAWAII: HILO	112	104	216	06/01/2007
ISLE OF HAWAII: OTHER	180	104	284	06/01/2007
ISLE OF KAUAI	198	109	307	06/01/2007
ISLE OF MAUI	160	101	261	05/01/2008
ISLE OF OAHU	177	106	283	05/01/2008
KEKAHA PACIFIC MISSILE RANGE FAC	198	109	307	06/01/2007
KILAUEA MILITARY CAMP	112	104	216	06/01/2007
LANAI	295	139	434	06/01/2007

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
LUALUALEI NAVAL MAGAZINE	177	106	283	05/01/2008
MCB HAWAII	177	106	283	05/01/2008
MOLOKAI	178	99	277	06/01/2007
NAS BARBERS POINT	177	106	283	05/01/2008
PEARL HARBOR	177	106	283	05/01/2008
SCHOFIELD BARRACKS	177	106	283	05/01/2008
WHEELER ARMY AIRFIELD	177	106	283	05/01/2008
[OTHER]	112	104	216	05/01/2008
MIDWAY ISLANDS				
MIDWAY ISLANDS				
INCL ALL MILITARY	100	45	145	06/01/2006
NORTHERN MARIANA ISLANDS				
ROTA	129	91	220	05/01/2006
SAIPAN	121	98	219	06/01/2007
TINIAN	85	69	154	06/01/2007
[OTHER]	55	72	127	04/01/2000
PUERTO RICO				
AGUADILLA	75	64	139	11/01/2007
BAYAMON	195	82	277	10/01/2007
CAROLINA	195	82	277	10/01/2007
CEIBA				
05/01 - 11/30	155	57	212	08/01/2006
12/01 - 04/30	185	57	242	08/01/2006
FAJARDO [INCL ROOSEVELT RDS NAVS				
05/01 - 11/30	155	57	212	08/01/2006
12/01 - 04/30	185	57	242	08/01/2006
FT. BUCHANAN [INCL GSA SVC CTR,	195	82	277	10/01/2007
HUMACAO				
05/01 - 11/30	155	57	212	08/01/2006
12/01 - 04/30	185	57	242	08/01/2006
LUIS MUNOZ MARIN IAP AGS	195	82	277	10/01/2007
LUQUILLO				
05/01 - 11/30	155	57	212	08/01/2006
12/01 - 04/30	185	57	242	08/01/2006
MAYAGUEZ	109	77	186	11/01/2007
PONCE	139	83	222	11/01/2007
SABANA SECA [INCL ALL MILITARY]	195	82	277	10/01/2007
SAN JUAN & NAV RES STA	195	82	277	10/01/2007
[OTHER]	62	57	119	01/01/2000
VIRGIN ISLANDS (U.S.)				
ST. CROIX				
04/15 - 12/14	135	92	227	05/01/2006
12/15 - 04/14	187	97	284	05/01/2006
ST. JOHN				
04/15 - 12/14	163	98	261	05/01/2006
12/15 - 04/14	220	104	324	05/01/2006
ST. THOMAS				
04/15 - 12/14	240	105	345	05/01/2006
12/15 - 04/14	299	111	410	05/01/2006

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
WAKE ISLAND				
WAKE ISLAND	152	15	167	06/01/2006

[FR Doc. E8–9395 Filed 4–30–08; 8:45 am]

BILLING CODE 5001–06–C

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Grant Exclusive Patent License; SPADAC, Inc.; Correction

AGENCY: Department of the Navy, DoD.

ACTION: Notice; correction.

SUMMARY: The Department of the Navy published a notice in the **Federal Register**, 73 FR 19056, on April 8, 2008, announcing its intent to grant to SPADAC, Inc., a revocable, nonassignable, exclusive license in the United States and certain foreign countries. The notice is being corrected to reflect the Government's interest in the invention.

FOR FURTHER INFORMATION CONTACT: Rita Manak, Head, Technology Transfer Office, NRL Code 1004, 4555 Overlook Avenue, SW., Washington, DC 20375–5320, telephone: 202–767–3083, fax: 202–404–7920, or e-mail: *rita.manak@nrl.navy.mil.*

Correction

In the **Federal Register** of April 8, 2008, in FR Doc. E8–7261, make the following changes:

1. In the first column, on page 19056, correct the **SUMMARY** section to read:

''The Department of the Navy hereby gives notice of its intent to grant to SPADAC Inc., a revocable, nonassignable, exclusive license in the United States and certain foreign countries, the Government's interest in the invention described in U.S. Patent No. 7,120,620: Method and System for Forecasting Events and Threats Based on Geospatial Modeling, Navy Case No. 96,695 and any continuations, divisionals or re-issues thereof.''

Dated: April 25, 2008.

T.M. Cruz,

Lieutenant, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. E8–9565 Filed 4–30–08; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

[CFDA Nos.: 84.381A and 84.381B]

Notice Announcing the Technical Assistance Workshop for Fiscal Year (FY) 2008 for the Teachers for a Competitive Tomorrow Programs for Baccalaureate Degrees in Science, Technology, Engineering, Mathematics, or Critical Foreign Languages, With Concurrent Teacher Certification (TCT–B) and the Teachers for a Competitive Tomorrow Programs for Master's Degrees in Science, Technology, Engineering, Mathematics, or Critical Foreign Language Education (TCT–M)

AGENCY: Office of Postsecondary Education, Higher Education Programs, Department of Education.

SUMMARY: The Department expects to hold two competitions for new grants under the Teachers for Competitive Tomorrow programs in FY 2008. This notice provides information about a one-day technical assistance workshop to assist institutions of higher education interested in applying for FY 2008 new awards under the TCT–B and TCT–M programs. Program and Department staff will present information to potential applicants about the purpose of the TCT programs, grant competition highlights, the peer review process, and the Grants.gov Web site, as well as suggestions for writing a quality grant proposal.

Although the Department has not yet announced an application deadline date in the **Federal Register** for the FY 2008 TCT–B and TCT–M competitions, the Department is holding this workshop to give potential applicants guidance for preparing applications for the competitions we expect to conduct in FY 2008. Specific requirements for the FY 2008 competitions will be published in separate notices inviting applications for the TCT–B and TCT–M programs. This notice announces the technical assistance workshop only.

FOR FURTHER INFORMATION CONTACT: Steve Sniegoski, Teachers for a Competitive Tomorrow programs (TCT), U.S. Department of Education, 1990 K Street, NW., Room 7092, Washington, DC 20006–8524. Telephone: (202) 502–7686.

If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service, toll free, at 1–800–877–8339.

Individuals with disabilities can obtain this document in an alternative format (e.g., Braille, large print, audio tape, or computer diskette) by contacting the program contact person listed in this section.

SUPPLEMENTARY INFORMATION: The technical assistance workshop will be held at the following location: U.S. Department of Education, Barnard Auditorium, 400 Maryland Avenue SW., Washington, DC 20202.

The Technical Assistance Workshop session will be held on May 14, 2008 from 8 a.m. to 5 p.m. Registration is from 8 a.m. to 9 a.m. on the day of the session. There is no fee for this workshop. However, space is limited. Attendees must make their own travel and hotel reservations. We encourage attendance from both those who will be responsible for writing the grant proposal and those who will provide technical support for uploading the application materials onto the Grants.gov Apply site.

Assistance to Individuals With Disabilities Attending the Technical Assistance Workshop

The technical assistance workshop is accessible to individuals with disabilities. If you need an auxiliary aid or service to participate in the workshop (e.g., interpreting service, assistive

listening device, or materials in an alternative format), notify the contact person listed under **FOR FURTHER INFORMATION CONTACT** at least two weeks before the scheduled workshop date. Although we will attempt to meet a request received after that date, we may not be able to make available the requested auxiliary aid or service because of insufficient time to arrange it.

Electronic Access to This Document: You can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister*.

To use PDF, you must have Adobe Acrobat Reader, which is available free at this site. If you have any questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Program Authority: 20 U.S.C. 9801 et seq.

Dated: April 25, 2008.

Diane Auer Jones,

Assistant Secretary for Postsecondary Education.

[FR Doc. E8–9594 Filed 4–30–08; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Bonneville Power Administration

[BPA File No.: TRM–12]

2012 Tiered Rate Methodology Proceeding; Public Hearings and Opportunities for Public Review and Comment

AGENCY: Bonneville Power Administration (BPA), Department of Energy (DOE).

ACTION: Notice of proposed tiered rate methodology.

SUMMARY: BPA is proposing to adopt a new tiered rate design for setting its Priority Firm Power (PF) rates beginning with the FY 2012–2013 rate period. The primary feature of this Tiered Rate Methodology (TRM) proposal is one rate tier (Tier 1) based on generation output and costs attributed to BPA's current Federal base system resources and a second rate tier (Tier 2) based on the generation and costs associated with newly acquired resources.

The TRM is part of BPA's effort to achieve the overall policy objectives of the Long-Term Regional Dialogue Policy (Policy). Under this Policy, BPA will offer 20-year Regional Dialogue Contracts to its Federal agency and public utility customers for power priced at a tiered PF rate. The TRM is intended to provide customers with a predictable and durable means by which to calculate BPA's PF tiered rate for the term of these contracts.

Determinations of specific rate levels applicable to these contracts will not be established in this proceeding. Rather the specific rate levels will be developed consistent with the TRM in the respective Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act) section 7(i) rate proceedings during the term of this TRM. BPA intends to set the actual power rates on a two-year cycle throughout the term of the Regional Dialogue contracts beginning with the FY 2012–2013 rate period.

BPA is commencing this proceeding under section 7 of the Northwest Power Act to establish the TRM. Entities wishing to become a formal party to the proceeding must file a petition to intervene, notifying BPA in writing of their intention to do so in conformance with the requirements stated in this Notice.

DATES: Petitions to intervene must be received no later than 5 p.m., Pacific Daylight Time (PDT), on May 7, 2008. Proposed hearing dates are supplied in **SUPPLEMENTARY INFORMATION**, Part I.A. below. Non-party participants may make written comments between May 2, 2008, and July 10, 2008. Comments must be received by 5 p.m., PDT, on July 10, 2008, in order to be considered in the Record of Decision.

ADDRESSES: Petitions to intervene should be directed to Camille Blakely, Hearing Clerk, LP–7, Bonneville Power Administration, 905 NE 11th Avenue, Portland, OR 97232 or by e-mail to: *trm12rate@bpa.gov,* and must be received no later than 5 p.m., PDT, on May 7, 2008. In addition, a copy of the petition must be served concurrently on BPA's General Counsel directed to Peter J. Burger, LP–7, Office of General Counsel, Bonneville Power Administration, 905 NE 11th Avenue, Portland, OR 97232 or by e-mail to: *pjburger@bpa.gov.* (See Part III (A) for more information.) Written comments can be submitted online at BPA's Web site *http://www.bpa.gov/comment,* or by mail to: BPA Public Affairs, DKE–7, P.O. Box 14428, Portland, OR 97293–4428. Please identify written or electronic comments as ''TRM–12 Proceeding'' comments. Documents will be available for public viewing after May 9, 2008. The documents are available at: *http://www.bpa.gov/corporate/ratecase,* or at BPA's Public Information Center, BPA Headquarters Building, 1st Floor, 905 NE 11th, Portland, Oregon, and will be provided to parties on a compact disk (CD) at the prehearing conference to be held on May 9, 2008, beginning at 1:30 p.m., Room 223, 911 NE 11th, Portland, Oregon. Due to increased security requirements, attendees should allow additional time to enter the building and complete the required screening process. Photo identification will be required for entry.

FOR FURTHER INFORMATION CONTACT: Ms. Nita Burbank, Lead Public Affairs Specialist, Power Policy Development, PFP–6, P.O. Box 3621, Portland, OR 97208. Interested persons may also call 503–230–3458 or 1–800–622–4519 (toll-free).

SUPPLEMENTARY INFORMATION:

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Part I. Introduction and Procedural Background
Part II. Policy Guidance and Scope of Hearing
Part III. Public Participation
Part IV. The Tiered Rates Methodology

Part I—Introduction and Procedural Background

Section 7(i) of the Northwest Power Act, 16 U.S.C. section 839e(i), requires that BPA's rates be established according to certain procedures. These procedures include, among other things: Publication of a notice of the proposed rates in the **Federal Register**; one or more hearings conducted as expeditiously as practicable by a Hearing Officer; public opportunity to provide both oral and written views related to the proposed rates; opportunity to offer refutation or rebuttal of submitted material; and a decision by the Administrator based on the record. This proceeding is governed by section 1010 of BPA's Rules of Procedure Governing Rate Hearings, 51 FR 7611 (1986) (BPA Hearing Procedures). These procedures implement the statutory section 7(i) requirements.

Section 1010.7 of the BPA Hearing Procedures prohibits *ex parte* communications. The *ex parte* rule applies to all BPA and DOE employees and contractors. Except as provided below, any outside communications with BPA and/or DOE personnel regarding BPA's rate case by other Executive Branch agencies, Congress, existing or potential BPA customers

(including tribes), and nonprofit or public interest groups are considered outside communications and are subject to the *ex parte* rule. The general rule does not apply to communications relating to: (1) Matters of procedure only (the status of the rate case, for example); (2) exchanges of data in the course of business or under the Freedom of Information Act; (3) requests for factual information; (4) matters BPA is responsible for under statutes other than the ratemaking provisions; or (5) matters that all parties agree may be made on an *ex parte* basis. The *ex parte* rule remains in effect until the Administrator's Final ROD is issued, which is scheduled to occur on or about September 29, 2008.

The Bonneville Project Act, 16 U.S.C. section 832, the Flood Control Act of 1944, 16 U.S.C. 825s, the Federal Columbia River Transmission System Act, 16 U.S.C. 838, and the Northwest Power Act, 16 U.S.C. 839, provide guidance regarding BPA ratemaking. The Northwest Power Act requires BPA to set rates that are sufficient to recover, in accordance with sound business principles, the cost of acquiring, conserving and transmitting electric power, including amortization of the Federal investment in the FCRPS over a reasonable period of years, and certain other costs and expenses incurred by the Administrator.

BPA's proposed TRM is available for viewing and downloading on BPA's website at *http://www.bpa.gov/corporate/ratecase* and is discussed in Part IV below. BPA will be conducting a formal rate proceeding open to rate case parties. Interested parties must file petitions to intervene in order to take part in the formal hearing as discussed in Part III (A) below. A proposed schedule for the formal process is as follows. The Hearing Officer will establish a final schedule at the prehearing conference.

Prehearing/BPA Direct Case	05/09/08
Clarification	05/14–15/08
Motions to Strike	05/16/08
Data Request Deadline	05/16/08
Answers to Motions to Strike	05/22/08
Data Response Deadline	05/22/08
Parties file Direct Cases	06/13/08
Clarification	06/18–19/08
Motions to Strike	06/20/08
Data Request Deadline	06/20/08
Answers to Motions to Strike	06/26/08
Data Response Deadline	06/26/08
Litigants file Rebuttal	07/10/08
Close of Participant Comments	07/10/08
Clarification	07/14–15/08
Motions to Strike	07/16/08
Data Request Deadline	07/16/08
Answers to Motions to Strike	07/22/08
Data Response Deadline	07/22/08
Cross-Examination	07/24–25/08
Initial Briefs Filed	08/04/08
Oral Argument	08/07/08
Draft ROD Issued	09/02/08
Briefs on Exceptions	09/08/08
Final ROD and Final TRM Issued	09/29/08

Part II—Policy Guidance and Scope of Hearing

A. Overview and Background

The Regional Dialogue process began in April 2002 when a group of BPA's Pacific Northwest electric utility customers submitted a joint customer proposal to BPA that addressed both near-term and long-term contract and rate issues. Since then, BPA, the Northwest Power and Conservation Council (Council), customers, and other interested parties have worked on these near- and long-term issues. Considering the depth and complexity of many of these issues, BPA determined that it would address the issues in two phases. The first phase of the Regional Dialogue, referred to as the Near-Term Policy, addressed issues that had to be resolved in order to replace power rates that expired in September 2006. See Bonneville Power Administration's Policy for Power Supply Role for Fiscal Years 2007–2011 (February 2005). The issues in the second phase were addressed in BPA's Long-Term Regional Dialogue Final Policy and Record of Decision, which were published on July 19, 2007. The Long-Term Regional Dialogue Final Policy is expected to be implemented through new power sales contracts and the TRM, which will be established in this rate case.

This proposed TRM provides for a two-tiered PF rate design applicable to firm requirements power service for public utility customers that sign a Regional Dialogue Contract that provides for tiered rates. The TRM establishes a predictable and durable means by which to calculate BPA's PF tiered rate, beginning in FY 2012 when power deliveries commence. Tiered rate design differentiates between the costs of service associated with Tier 1 System Resources and the cost associated with additional amounts of power needed to serve any remaining portion of public utility customers' Net Requirement (Tier 2). Rate Period High Water Marks (RHWM), determined according to this TRM, are the basis for determining how much of each customer's Net Requirement purchase from BPA is charged Tier 1 rates and how much may be charged Tier 2 rates. This TRM specifies how rates will be developed that ensure to the maximum extent possible that customers purchasing at Tier 1 rates do not pay any of the costs of serving other public utility customers' above RHWH load. Each customer may purchase up to its RHWM, limited by its Net Requirement, at Tier 1 rates. To meet its above-RHWM load, a customer may purchase Federal power, procure non-Federal power or a combination of the two. To the extent a customer purchases Federal power for its above-RHWM load, a PF Tier 2 rate(s) will be applied to this portion of their Federal power service.

B. Scope of the TRM–12 Proceeding

This section provides guidance to the Hearing Officer as to those matters that are within the scope of the rate case, and those that are outside the scope.

1. Regional Dialogue Policy and Contracts

The design and scope of the power products and issues related to the terms and conditions of the Regional Dialogue contract are not determined in rate cases nor are they established by the TRM. Pursuant to section 1010.3(f) of BPA Hearing Procedures, the Administrator hereby directs the Hearing Officer to exclude from the record any materials attempted to be submitted or arguments attempted to be made in the proceeding that seek to address the design and scope of the power products and terms and conditions of the Regional Dialogue contracts.

2. DSI Service

The decision regarding whether BPA will provide service and/or benefits to its Direct Service Industry (DSI) customers beginning in FY 2012 will be made in a supplemental process as outlined in the Long-Term Regional Dialogue Final Policy. It should be noted that while the decision on DSI service and the manner, if any of such service will be determined in a separate process, the allocation of any cost associated with any DSI service under the TRM is a proper issue in this proceeding. Pursuant to section 1010.3(f) of the BPA Hearing Procedures, the Administrator directs the Hearing Officer to exclude from the record any materials attempted to be submitted or arguments attempted to be made in the proceeding that seek to in any way address the decision to serve the DSIs and the nature and manner of such service, except as any such material is relevant to the issue of the appropriate allocation of any cost associated with any DSI service under the TRM.

C. The National Environmental Policy Act

1. Potential Environmental Impacts

As discussed in this section, potential environmental impacts of BPA's proposed actions are assessed through appropriate analysis and documentation under the NEPA. The NEPA process is conducted separately from BPA's formal rate proceedings. Therefore, pursuant to section 1010.3(f) of the BPA Hearing Procedures, the Administrator directs the Hearing Officer to exclude from the record all evidence and argument that seek in any way to address the potential environmental impacts of the proposed TRM.

2. The National Environmental Policy Act

BPA is in the process of assessing the potential environmental effects that could result from implementation of its proposed TRM, consistent with the National Environmental Policy Act (NEPA). Because this proposal implicates BPA's ongoing business practices, BPA is reviewing the proposal in light of BPA's Business Plan Environmental Impact Statement (Business Plan EIS), completed in June 1995 (DOE/EIS–0183), as refreshed April 2007. This EIS evaluates environmental impacts potentially resulting from a range of business plan alternatives that can be varied by applying policy modules, including modules specifically designed for varying tiered rate methodologies. Any combination of alternative policy modules should allow BPA to balance its costs and revenues.

In August 1995, the BPA Administrator issued a Record of Decision (Business Plan ROD) that adopted the Market-Driven Alternative from the Business Plan EIS. This alternative was selected because, among other reasons, it allows BPA to: (1) Recover costs through rates; (2) competitively market BPA's products and services; (3) develop rates that meet customer needs for clarity and simplicity; (4) continue to meet BPA's legal mandates; and (5) avoid adverse environmental impacts.

In April 2007, BPA completed and issued a Supplement Analysis to the Business Plan EIS. The Supplement Analysis found that the Business Plan EIS's relationship-based and policy-level analysis of potential environmental impacts from BPA's business practices remains valid, and that BPA's current business practices are still consistent with BPA's Market-Driven approach. The Business Plan EIS and ROD thus continue to provide a sound basis for making determinations under NEPA concerning BPA's business-related decisions.

Because the proposed TRM likely would assist BPA in accomplishing the goals identified in the Business Plan ROD, the proposal appears consistent with these aspects of the Market-Driven Alternative. In addition, the proposed TRM is similar to the types of tiered rate constructs identified and considered in the Business Plan EIS; thus, implementation of this proposal would not be expected to result in significantly different environmental impacts from those examined in the Business Plan EIS. Therefore, BPA expects that the proposed TRM likely will fall within the scope of the Market-Driven Alternative that was evaluated in the Business Plan EIS and adopted in the Business Plan ROD.

As part of the Administrator's ROD that will be prepared for the proposed TRM, BPA may tier its decision under NEPA to the Business Plan ROD. However, depending upon the ongoing environmental review, BPA may, instead, issue another appropriate NEPA document. During the public review and comment period for the TRM, persons interested in submitting comments regarding its potential environmental effects may do so by submitting comments to Katherine Pierce, NEPA Compliance Officer, KEC–4, Bonneville Power Administration, 905 NE 11th Avenue, Portland, OR 97232. Any such comments received by July 10, 2008, will be considered by BPA's NEPA compliance staff in the NEPA process that will be conducted for the proposed TRM.

Part III—Public Participation

A. Distinguishing Between ''Participants'' and ''Parties''

BPA distinguishes between ''participants in'' and ''parties to'' the section 7(i) hearing process. Apart from the formal hearing process, BPA will accept comments, views, opinions, and information from ''participants,'' who are defined in the BPA Hearing Procedures as persons who may submit comments without being subject to the duties of, or having the privileges of, parties. Participants' written and oral comments will be made a part of the official record and considered by the Administrator when making his decision. Participants are not entitled to participate in the prehearing conference; may not cross-examine parties' witnesses, seek discovery, or serve or be served with documents; and are not subject to the same procedural requirements as parties.

The views of participants are important to BPA. Written comments by participants will be included in the record if they are received by 5 p.m., PDT, on July 10, 2008. Written views, supporting information, questions, and arguments should be submitted to BPA Public Affairs at the address listed in the **ADDRESSES** section.

Persons wishing to become a party to BPA's rate proceeding must notify BPA in writing and file a Petition to Intervene with the Hearing Officer. Petitioners may designate no more than two representatives upon whom service of documents will be made. Petitions to Intervene must state the name and address of the person requesting party status and the person's interest in the hearing. Petitions to Intervene as parties in the rate proceeding are due to the Hearing Officer by 5 p.m., PDT, on May 7, 2008, and should be directed as stated in the **ADDRESSES** section above.

Petitioners must explain their interests in sufficient detail to permit the Hearing Officer to determine whether they have a relevant interest in the proceeding. Pursuant to section 1010.1(d) of BPA Hearing Procedures, BPA waives the requirement in section 1010.4(d) that an opposition to an intervention petition must be filed and served 24 hours before the prehearing conference. Any opposition to an intervention petition may instead be made at the prehearing conference. Any party, including BPA, may oppose a petition for intervention. Persons who have been denied party status in any past BPA rate proceeding shall continue to be denied party status unless they establish a significant change of circumstances. All timely applications will be ruled on by the Hearing Officer. Late interventions are strongly disfavored.

B. Developing the Record

The record will comprise, among other things, verbal and written comments made by participants, including the transcripts of all hearings, any written materials submitted by the parties, documents developed by BPA staff, and other materials accepted into the record by the Hearing Officer. Written comments by participants will be included in the record if they are received by 5 p.m., PDT, on July 10, 2008. The Hearing Officer will then review the record, supplement it if necessary, and will certify the record to the Administrator for decision.

The Administrator will adopt the final TRM based on the entire record, which includes the record certified by the Hearing Officer, as described above. The basis for the final TRM first will be

expressed in the Administrator's Draft ROD. Parties will have an opportunity to respond to the Draft ROD as provided in the BPA Hearing Procedures. The Administrator will serve copies of the Final ROD on all parties. The ROD will also be publicly available at *http://www.bpa.gov/corporate/ratecase.*

BPA must continue to meet with customers in the ordinary course of business during the rate case. To comport with the rate case procedural rule prohibiting ex parte communications, BPA will provide the prescribed notice of meetings involving rate case issues in order to permit the opportunity for participation by all rate case parties. These meetings may be held on very short notice. Consequently, parties should be prepared to devote the necessary resources to participate fully in every aspect of the rate proceeding and attend meetings any day during the course of the rate case.

Part IV—The Tiered Rate Methodology

The TRM establishes a predictable and durable means by which to tier and calculate BPA's Priority Firm (PF) power rate. Specific determinations of rate levels will be made in each general rate case in a manner consistent with the TRM in the respective section 7(i) proceedings applicable during the term of this TRM. Tiered PF rates will be implemented beginning in FY 2012 when power deliveries under new contracts commence. The TRM provides for a two-tiered PF rate design applicable to requirements firm power service for those customers that participate in the contracts that provide for tiered rate service. Tiered rate design differentiates between the costs of service associated with the existing Federal system (Tier 1) and the cost associated with additional amounts of power needed to serve the remaining portion of customers' net requirements (Tier 2). This TRM specifies how rates will be developed that assure to the extent possible that customers will be able to purchase Tier 1 power that does not include the costs of serving other customers' load growth.

The TRM addresses: (1) How to determine a customer's eligibility to purchase power at Tier 1 rates; (2) how to determine the amount of power to be charged at Tier 1 rates; (3) how costs will be allocated to the PF Tier 1 and Tier 2 rate pools; (4) how rates for Tier 1 and Tier 2 sales will be designed; and (5) how rates for resource support services will be designed.

The cost allocation and rate design methods will be implemented in each BPA power rate case during the term of the Regional Dialogue contracts, except under limited circumstances. Power rates will be calculated on a two-year cycle under the TRM.

Rate Period High Water Marks (RHWM), determined according to this TRM, are the basis for separating which portion of each customer's net requirements purchase from BPA is charged Tier 1 rates and which is charged Tier 2 rates. Each customer may purchase up to its RHWM, limited by its net requirement, at Tier 1 rates. To meet its above-RHWM load, a customer may purchase Federal power, procure non-Federal power or both. To the extent a customer purchases Federal power to meet its above RHWH load, a PF Tier 2 rate will be applied to the Federal power service.

BPA will limit the sum of all RHWMs to the planned firm power output of the existing Federal system as it is currently defined, plus a limited amount of augmentation.

For purposes of the TRM, BPA will calculate the projected amounts of Federal system resource output, contract purchases, and contract obligations necessary for developing tiered rates for each rate period. The projected output of resources assigned to each rate tier will be used in the determination of RHWMs, which will be incorporated in the ratemaking process.

In each applicable rate proposal, BPA will allocate all of its costs into three cost pools for determining Tier 1 rates and a number of Tier 2 cost pools corresponding to the Tier 2 rate alternatives that customers have selected.

In each rate case, BPA will define risk mitigation mechanisms and set rates to support BPA's then-current Agency financial risk standard(s). The Agency financial risk standard(s) is (are) set in BPA's 10-Year Financial Plan, or its successor, subject to any required review in a 7(i) rate proceeding.

The proposed TRM includes a rate design for Tier 1 rates that includes three components: customer charges, demand rates and load shaping rates. However, there are significant changes in the billing determinants to which these rates apply from BPA's current rate structure. There will be three customer charges, only two of which will be applicable to any particular product selected by the customer. The Composite Customer Charge and the Non-Slice Customer Charge will be applicable to purchasers of the Load Following and Block products, including the block portion of the Slice/Block product. The Composite Customer Charge and the Slice Customer Charge will be applicable to purchasers of the Slice portion of the Slice/Block product. The Demand Charge will apply to Load Following and Block with Shaping Capacity purchasers and will be charged to a portion of each customer's maximum hourly load in each month. The Load Shaping Charge will apply to Load Following and Block purchasers and will be charged to a portion of each customer's energy load during each diurnal period of each month.

BPA's proposed TRM is available for viewing and downloading on BPA's Web site at *http://www.bpa.gov/corporate/ratecase*. Copies will also be available for viewing at BPA's Public Information Center, BPA Headquarters Building, 1st Floor, 905 NE 11th Avenue, Portland, Oregon.

Issued this 24th day of April, 2008.

Stephen J. Wright,

Administrator and Chief Executive Officer.

[FR Doc. E8–9572 Filed 4–30–08; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

April 23, 2008.

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP96–272–074.

Applicants: Northern Natural Gas Company.

Description: Northern Natural Gas Company submits 50 Revised Sheet 66A *et al.* of its FERC Gas Tariff, Fifth Revised Volume 1 effective April 22, 2008.

Filed Date: 04/21/2008.

Accession Number: 20080422–0153.

Comment Date: 5 p.m. Eastern Time on Monday, May 5, 2008.

Docket Numbers: RP99–518–105.

Applicants: Gas Transmission Northwest Corporation.

Description: Gas Transmission Northwest Corp submits Fifteenth Revised Sheet 24 *et al.* to FERC Gas Tariff, Third Revised Volume 1–A, to become effective 4/23/08.

Filed Date: 04/22/2008.

Accession Number: 20080422–0081.

Comment Date: 5 p.m. Eastern Time on Monday, May 05, 2008.

Docket Numbers: RP08–319–000.

Applicants: Natural Gas Pipeline Company of America.

Description: Natural Gas Pipeline Company of America LLC submits its entire FERC Gas Tariff, Seventh Revised Sheet Volume 1 and Third Revised Volume 2 as set forth in Appendix C.

Filed Date: 04/18/2008.
Accession Number: 20080421–0100.
Comment Date: 5 p.m. Eastern Time on Wednesday, April 30, 2008.

Docket Numbers: GP94–2–017.
Applicants: Columbia Gas Transmission Corporation.
Description: Columbia Gas Transmission Corporation submits its refund report.
Filed Date: 04/11/2008.
Accession: 20080415–0157.
Comment Date: 5 p.m. Eastern Time Tuesday, April 29, 2008.

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. E8–9475 Filed 4–30–08; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

April 25, 2008.

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP96–383–085.
Applicants: Dominion Transmission, Inc.
Description: Dominion Transmission, Inc. submits Tenth Revised Sheet 1405 effective April 18, 2008.
Filed Date: 04/17/2008.
Accession Number: 20080418–0217.
Comment Date: 5 p.m. Eastern Time on Wednesday, April 30, 2008.

Docket Numbers: RP08–200–001.
Applicants: Guardian Pipeline, L.L.C.
Description: Guardian Pipeline, LLC submits executed copies of the nine service agreements.
Filed Date: 04/23/2008.
Accession Number: 20080424–0107.
Comment Date: 5 p.m. Eastern Time on Monday, May 5, 2008.

Docket Numbers: RP08–320–000.
Applicants: Northern Natural Gas Company.
Description: Petition of Northern Natural Gas Company for limited waiver of tariff provisions.
Filed Date: 04/23/2008.
Accession Number: 20080424–0007.
Comment Date: 5 p.m. Eastern Time on Monday, May 5, 2008.

Docket Numbers: RP08–321–000.
Applicants: Northern Natural Gas Company.
Description: Northern Natural Gas Company submits 1 Revised Tenth Revised Sheet 135 et al. to FERC Gas Tariff, Fifth Revised Volume 1, to become effective 5/24/08.
Filed Date: 04/23/2008.
Accession Number: 20080424–0008.
Comment Date: 5 p.m. Eastern Time on Monday, May 5, 2008.

Docket Numbers: RP08–322–000.
Applicants: Canyon Creek Compression Company.
Description: Canyon Creek Compression Company submits Third Revised Sheet 0 et al. to FERC Gas Tariff, Third Revised Volume 1, to become effective 5/19/08.
Filed Date: 04/24/2008.
Accession Number: 20080425–0004.
Comment Date: 5 p.m. Eastern Time on Tuesday, May 6, 2008.

Docket Numbers: RP08–323–000.
Applicants: Horizon Pipeline Company, L.L.C.
Description: Horizon Pipeline Company, LLC submits First Revised Sheet 0 and First Revised Sheet 221 to FERC Gas Tariff, Original Volume 1, to become effective 5/19/08.
Filed Date: 04/24/2008.
Accession Number: 20080425–0002.
Comment Date: 5 p.m. Eastern Time on Tuesday, May 06, 2008.

Docket Numbers: RP08–324–000.
Applicants: Kinder Morgan Illinois Pipeline LLC.
Description: Kinder Morgan Illinois Pipeline LLC submits First Revised Sheet 0 et al. to their FERC Gas Tariff, Original Volume 1, to become effective 5/19/08.
Filed Date: 04/24/2008.
Accession Number: 20080425–0003.
Comment Date: 5 p.m. Eastern Time on Tuesday, May 6, 2008.

Docket Numbers: RP08–325–000.
Applicants: Trailblazer Pipeline Company LLC.
Description: Trailblazer Pipeline Company LLC submits First Revised Sheet 0 and First Revised Sheet 241 to FERC Gas Tariff, Fourth Revised Volume 1, to become effective 5/19/08.
Filed Date: 04/24/2008.
Accession Number: 20080425–0001.
Comment Date: 5 p.m. Eastern Time on Tuesday, May 6, 2008.

Docket Numbers: CP07–207–001.
Applicants: Colorado Interstate Gas Company.
Description: Colorado Interstate Gas Company submits Fifteenth Revised sheet No. 7, et al., to the First Revised Volume No. 1, effective May 5, 2008.
Filed Date: 04/21/2008.
Accession Number: 20080424–0226.
Comment Date: 5 p.m. Eastern Time on Friday, May 9, 2008.

Docket Numbers: CP07–406–002.
Applicants: Monroe Gas Storage Company, L.P.
Description: Monroe Gas Storage Company, L.P. submits application for limited amendment of the certificate of public convenience and necessity issued 12/21/07 for approval of the First Revised Pro Forma FERC Gas Tariff.
Filed Date: 04/15/2008.
Accession Number: 20080421–0012.
Comment Date: 5 p.m. Eastern Time Friday, May 9, 2008.

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. E8–9542 Filed 4–30–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

April 22, 2008.

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC08–67–000.
Applicants: LS Power Development, LLC; Luminus Management, LLC.
Description: LS Power Development, LLC and Luminus Management, LLC submit a supplement to their joint application submitted 4/8/08.
Filed Date: 04/17/2008.
Accession Number: 20080418–0285.
Comment Date: 5 p.m. Eastern Time on Thursday, May 8, 2008.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG08–64–000.
Applicants: Valencia Power, LLC.
Description: Self Certification Notice of Valencia Power, LLC as an Exempt Wholesale Generator.
Filed Date: 04/21/2008.
Accession Number: 20080421–5188.
Comment Date: 5 p.m. Eastern Time on Monday, May 12, 2008.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER01–48–009.
Applicants: Powerex Corp.
Description: Power Corp submits an update to its Notice of a Non-Natural Change in Status.
Filed Date: 04/16/2008.
Accession Number: 20080417–0184.
Comment Date: 5 p.m. Eastern Time on Wednesday, May 7, 2008.

Docket Numbers: ER03–770–003.
Applicants: AIG Energy Inc.
Description: AIG Energy, Inc submits a notice of non-material change in status.
Filed Date: 04/17/2008.
Accession Number: 20080421–0001.
Comment Date: 5 p.m. Eastern Time on Thursday, May 8, 2008.

Docket Numbers: ER03–774–007.
Applicants: Eagle Energy Partners I, LP
Description: Eagle Energy Partners I, LP submits Notice of Non-Material Change in Status from the characteristics upon which FERC relied in granting Eagle market-based rate authority concerning an Energy Management Agreement etc.
Filed Date: 04/17/2008.
Accession Number: 20080421–0010.
Comment Date: 5 p.m. Eastern Time on Thursday, May 8, 2008.

Docket Numbers: ER04–1215–002.
Applicants: Anthracite Power and Light Company.
Description: Anthracite Power and Light Co submits additional information re its exemption from submitting any regularly scheduled market power analysis etc.
Filed Date: 04/18/2008.
Accession Number: 20080421–0055.
Comment Date: 5 p.m. Eastern Time on Friday, May 9, 2008.

Docket Numbers: ER05–665–004.
Applicants: Barrick Goldstrike Mines Inc.
Description: Triennial Report and Request for Finding of Category 1 Seller of Barrick Goldstrike Mines Inc.
Filed Date: 04/21/2008.
Accession Number: 20080421–5172.
Comment Date: 5 p.m. Eastern Time on Monday, May 12, 2008.

Docket Numbers: ER06–1555–002.
Applicants: Entergy Services, Inc.
Description: Entergy Operating Companies submits Settlement Agreement with the Cleco Power, LLC *et al.* in compliance with FERC's 3/17/08 Order.
Filed Date: 04/16/2008.
Accession Number: 20080417–0030.
Comment Date: 5 p.m. Eastern Time on Wednesday, May 7, 2008.

Docket Numbers: ER08–441–003.
Applicants: Velocity American Energy Master I, L.P.
Description: Velocity American Energy Master I, LP submits Substitute Original Sheet 1 to FERC Electric Tariff, Original Volume 1.
Filed Date: 04/16/2008.
Accession Number: 20080417–0032.
Comment Date: 5 p.m. Eastern Time on Wednesday, May 7, 2008.

Docket Numbers: ER08–518–001.
Applicants: Southern California Edison Company.
Description: Southern California Edison submits a revised rate sheet to its Transmission Owner Tariff, FERC Electric Tariff, Second Revised Volume 6.
Filed Date: 04/18/2008.
Accession Number: 20080421–0003.
Comment Date: 5 p.m. Eastern Time on Friday, May 9, 2008.

Docket Numbers: ER08–589–001.
Applicants: Edison Mission Solutions, L.L.C.
Description: Edison Mission Solutions LLC supplements the notice of succession filed on 2/22/08 and request that its First Revised Rate Schedule FERC 1 be made effective on 2/23/08.
Filed Date: 04/18/2008.
Accession Number: 20080422–0045.
Comment Date: 5 p.m. Eastern Time on Friday, May 9, 2008.

Docket Numbers: ER08–797–001.
Applicants: HEEP Fund Inc.
Description: HEEP Fund Inc. request for additional information and tariff amendments.
Filed Date: 04/16/2008.
Accession Number: 20080418–0256.
Comment Date: 5 p.m. Eastern Time on Wednesday, May 7, 2008.

Docket Numbers: ER08–832–000.
Applicants: ISO New England Inc.
Description: ISO New England, Inc. *et al.* submits proposed revisions to Section II of the ISO Tariff to comply with FERC's Order 890–A.
Filed Date: 04/15/2008.
Accession Number: 20080417–0198.
Comment Date: 5 p.m. Eastern Time on Tuesday, May 6, 2008.

Docket Numbers: ER08–833–001.
Applicants: Progress Energy Service Company; Florida Power & Light Company.
Description: Florida Power & Light Co's Certificate of Concurrence re Rate Schedule 200—Facilities Interconnection Agreement with Orlando Utilities Commission.
Filed Date: 04/18/2008.
Accession Number: 20080421–0002.
Comment Date: 5 p.m. Eastern Time on Friday, May 9, 2008.

Docket Numbers: ER08–833–000.
Applicants: Progress Energy Service Company.
Description: Progress Energy Services Co *et al.* submits an executed 230 kV Facilities Interconnection Agreement with Florida Power Corp.
Filed Date: 04/16/2008.
Accession Number: 20080417–0029.
Comment Date: 5 p.m. Eastern Time on Wednesday, May 7, 2008.

Docket Numbers: ER08–834–000.
Applicants: New York Independent System Operator, Inc.
Description: New York Independent System Operator, Inc's proposed amendments to certain Market Power Mitigation Measures set forth in Attachment H to its Market Administration and Control Area Services Tariff etc.
Filed Date: 04/16/2008.
Accession Number: 20080417–0033.
Comment Date: 5 p.m. Eastern Time on Wednesday, May 7, 2008.

Docket Numbers: ER08–836–000.
Applicants: Champion Energy Marketing LLC.
Description: Champion Energy Marketing LLC submits an application for market-based rate authority.
Filed Date: 04/16/2008.
Accession Number: 20080418–0255.
Comment Date: 5 p.m. Eastern Time on Wednesday, May 7, 2008.

Docket Numbers: ER08–837–000.
Applicants: PJM Interconnection, L.L.C.
Description: PJM Interconnection, LLC submits amendments to Schedule 12—Appendix under ER08–837.
Filed Date: 04/16/2008.
Accession Number: 20080418–0254.
Comment Date: 5 p.m. Eastern Time on Wednesday, May 7, 2008.

Docket Numbers: ER08–838–000.
Applicants: Affordable Power, L.P.
Description: Affordable Power LP submits the Application for Market-Based Rate Authorization and Request for Waivers, Blanket Authorizations, and Expedited Action.
Filed Date: 04/16/2008.
Accession Number: 20080418–0253.
Comment Date: 5 p.m. Eastern Time on Wednesday, May 7, 2008.

Docket Numbers: ER08–839–000.
Applicants: Northeast Utilities Service Company.
Description: NU Companies submits Notices of Cancellation to terminate certain transmission service agreements under the NU Companies' open-access transmission tariff.
Filed Date: 04/17/2008.
Accession Number: 20080418–0252.
Comment Date: 5 p.m. Eastern Time on Thursday, May 8, 2008.

Docket Numbers: ER08–840–000.
Applicants: Xcel Energy Services, Inc.
Description: Xcel Energy Services, Inc on behalf of Northern States Power Co submits a Notice of Termination of the Municipal Transmission Service Agreement etc.
Filed Date: 04/17/2008.
Accession Number: 20080418–0257.
Comment Date: 5 p.m. Eastern Time on Thursday, May 8, 2008.

Docket Numbers: ER08–841–000.
Applicants: PJM Interconnection, L.L.C.
Description: PJM Interconnection, LLC submits revisions to the PJM Open Access Transmission Tariff and Operating Agreement.
Filed Date: 04/17/2008.
Accession Number: 20080421–0004.
Comment Date: 5 p.m. Eastern Time on Thursday, May 8, 2008.

Docket Numbers: ER08–842–000.
Applicants: New York Independent System Operator, Inc.
Description: New York Independent System Operator, Inc. submits revisions to its Open Access Transmission Tariff etc.
Filed Date: 04/17/2008.
Accession Number: 20080421–0005.
Comment Date: 5 p.m. Eastern Time on Thursday, May 8, 2008.

Docket Numbers: ER08–843–000.
Applicants: Public Service Company of New Mexico.
Description: Public Service Company of New Mexico submits a Contract for Capital Construction and Interconnection at Tri-State's Willard 115kV Switching Station dated 4/17/08 between itself and Tri-State Generation and Transmission Association Inc.
Filed Date: 04/18/2008.
Accession Number: 20080421–0006.
Comment Date: 5 p.m. Eastern Time on Friday, May 9, 2008.

Docket Numbers: ER08–844–000.
Applicants: Entergy Services, Inc.
Description: Entergy Mississippi Inc. submits a Notice of Termination of the executed Interconnection and Operating Agreement and Generator Imbalance Agreement filed on 8/11/00 with Gen Power McAdams LLC etc.
Filed Date: 04/18/2008.
Accession Number: 20080421–0007.
Comment Date: 5 p.m. Eastern Time on Friday, May 9, 2008.

Docket Numbers: ER08–845–000.
Applicants: Entergy Services, Inc.
Description: Entergy Operating Companies submits a mutually-executed Dynamic Transfer Operating Agreement designated as ESI Service Agreement 498 under FERC Electric Tariff, Second Revised Volume 3 etc.
Filed Date: 04/18/2008.
Accession Number: 20080421–0008.
Comment Date: 5 p.m. Eastern Time on Friday, May 9, 2008.

Docket Numbers: ER08–846–000.
Applicants: Arizona Public Service Company.
Description: Arizona Public Service Company submits First Revised Sheet 1 and 2 to the APS FERC Electric Tariff, Volume 5.
Filed Date: 04/16/2008.
Accession Number: 20080421–0009.
Comment Date: 5 p.m. Eastern Time on Wednesday, May 7, 2008.

Docket Numbers: ER08–847–000.
Applicants: Union Electric Company.
Description: Ameren UE submits an amendment to the Interchange Agreement between Union Electric Company and Entergy Arkansas Inc. in order to terminate one of the Delivery Points sets forth in Appendix I etc.
Filed Date: 04/18/2008.
Accession Number: 20080422–0046.
Comment Date: 5 p.m. Eastern Time on Friday, May 9, 2008.

Docket Numbers: ER08–848–000.
Applicants: GearyEnergy, LLC.
Description: GearyEnergy, LLC submits Petition for Acceptance of Initial Tariff, Waivers and Blanket Authority, FERC Electric Tariff, Original Volume 1 under which it will engage in wholesale sales of electric energy & capacity etc.
Filed Date: 04/18/2008.

Accession Number: 20080422–0047.
Comment Date: 5 p.m. Eastern Time on Friday, May 9, 2008.

Docket Numbers: ER08–849–000.
Applicants: Arizona Public Service Company.
Description: Arizona Public Service Company submits Amendment 1 to the currently effective Interconnection and Operating Agreement with Gila River Power, LP etc.
Filed Date: 04/18/2008.
Accession Number: 20080422–0048.
Comment Date: 5 p.m. Eastern Time on Friday, May 9, 2008.

Docket Numbers: ER08–850–000.
Applicants: New York Independent System Operator, Inc.
Description: New York Independent System Operator, Inc. submits proposed revisions to its Market Administration and Control Area Services Tariff and its Open Access Transmission Tariff etc.
Filed Date: 04/16/2008.
Accession Number: 20080422–0049.
Comment Date: 5 p.m. Eastern Time on Wednesday, May 7, 2008.

Docket Numbers: ER96–1947–022; ER03–160–008; ER02–900–008; ER02–1052–008.
Applicants: LS Power Marketing, LLC; Las Vegas Power Company, LLC; Sugar Creek Power Company, LLC; West Georgia Generating Company, LLC.
Description: Notification of change of status re LS Power Marketing LLC *et al.*
Filed Date: 04/18/2008.
Accession Number: 20080422–0044.
Comment Date: 5 p.m. Eastern Time on Friday, May 9, 2008.

Take notice that the Commission received the following electric securities filings:
Docket Numbers: ES08–44–000.
Applicants: El Paso Electric Company.
Description: Application of El Paso Electric Company for Authorization Under Section 204 of the Federal Power Act for Issuance of Long-Term Bonds.
Filed Date: 04/17/2008.
Accession Number: 20080417–5099.
Comment Date: 5 p.m. Eastern Time on Thursday, May 8, 2008.

Take notice that the Commission received the following open access transmission tariff filings:
Docket Numbers: OA07–43–003.
Applicants: Arizona Public Service Company.
Description: Arizona Public Service Company's Annual Compliance Report on Penalty Assessments and Distribution as Required by Order Nos. 890 and 890–A.
Filed Date: 04/17/2008.
Accession Number: 20080421–5102.
Comment Date: 5 p.m. Eastern Time on Thursday, May 8, 2008.

Docket Numbers: OA07–53–003.
Applicants: Progress Energy, Inc.
Description: Annual Informational Filing of Penalty Revenues Distribution for Carolina Power & Light Company and Florida Power Corporation.
Filed Date: 04/17/2008.
Accession Number: 20080418–5023.
Comment Date: 5 p.m. Eastern Time on Thursday, May 8, 2008.

Docket Numbers: OA07–25–003.
Applicants: Duke Energy Carolinas, LLC.
Description: Order No. 890 Penalty Refund Report OATT Filing of Duke Energy Carolinas, LLC.
Filed Date: 04/16/2008.
Accession Number: 20080417–5029.
Comment Date: 5 p.m. Eastern Time on Wednesday, May 7, 2008.

Docket Numbers: OA08–106–000.
Applicants: Midwest Independent Transmission System.
Description: Midwest Independent Transmission System Operator, Inc submits the FPA Section 206 Compliance Filing of Non-Rate Terms and Conditions as set forth in Order 890–A.
Filed Date: 04/15/2008.
Accession Number: 20080417–0037.
Comment Date: 5 p.m. Eastern Time on Tuesday, May 6, 2008.

Docket Numbers: OA08–109–000.
Applicants: New York Independent System Operator, Inc.
Description: Annual Compliance Report of the New York Independent System Operator, Inc. Regarding Unreserved Use and Late Study Penalties.
Filed Date: 04/18/2008.
Accession Number: 20080418–5188.
Comment Date: 5 p.m. Eastern Time on Friday, May 9, 2008.

Docket Numbers: OA08–111–000.
Applicants: Portland General Electric Company.
Description: Annual Informational Filing on Operational Penalty Assessments and Distributions as Required by Order Nos. 890 and 890–A.
Filed Date: 04/18/2008.
Accession Number: 20080421–5095.
Comment Date: 5 p.m. Eastern Time on Friday, May 9, 2008.

Docket Numbers: OA08–96–001.
Applicants: Southern Company Services, Inc.
Description: Southern Company Services, Inc. Annual Report of Penalty Assessments and Distributions in accordance with Order Nos. 890 and 890–A.
Filed Date: 04/18/2008.
Accession Number: 20080418–5115.
Comment Date: 5 p.m. Eastern Time on Friday, May 9, 2008.

Docket Numbers: OA08–97–001.
Applicants: MidAmerican Energy Company.
Description: Annual Informational Report on Penalty Assessments and Distributions as required by Order Nos. 890 and 890–A of MidAmerican Energy Company.
Filed Date: 04/18/2008.
Accession Number: 20080418–5121.
Comment Date: 5 p.m. Eastern Time on Friday, May 9, 2008.

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. E8–9543 Filed 4–30–08; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2007–0061; FRL–8560–6]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NESHAP for Friction Materials Manufacturing (Renewal), EPA ICR Number 2025.04, OMB Control Number 2060–0481

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR which is abstracted below describes the nature of the collection and the estimated burden and cost.

DATES: Additional comments may be submitted on or before June 2, 2008.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OECA–2007–0061, to (1) EPA online using *http://www.regulations.gov* (our preferred method), or by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, mail code 2201T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Learia Williams, Compliance Assessment and Media Programs Division, Office of Compliance, Mail Code 2223A, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: (202) 564–4113; fax number: (202) 564–0050; email address: *williams.learia@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On March 9, 2007 (72 FR 10735), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

The EPA has established a public docket for this ICR under docket ID number EPA–HQ–OECA–2007–0061, which is available for public viewing online at *http://www.regulations.gov,* in person viewing at the Enforcement and Compliance Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket is (202) 566–1927.

Use EPA's electronic docket and comment system at *http://www.regulations.gov,* to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *http://www.regulations.gov,* as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *http://www.regulations.gov.*

Title: NESHAP for Friction Materials Manufacturing (Renewal).

ICR Numbers: EPA ICR Number 2025.04, OMB Control Number 2060–0481.

ICR Status: This ICR is scheduled to expire on July 31, 2008. Under OMB regulations, the Agency may continue to either conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, and displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) Reporting and Recordkeeping Requirements for the Friction Materials Manufacturing were proposed on October 4, 2001 (66 FR 50768) and promulgated on October 18, 2002 (67 FR 64498).

These standards apply to any new, reconstructed, or existing solvent mixers located at any friction materials manufacturing facility engaged in the manufacture of friction materials such as brake and clutch linings. A friction materials manufacturing facility is a major source of hazardous air pollutant (HAP) if it emits or has the potential to emit any single HAP at a rate of 9.07 megagrams (10 tons) or more per year or any combination of HAP at a rate of 22.68 megagrams (25 tons) or more per year.

Owners or operators must submit notification reports upon the construction or reconstruction of any friction materials manufacturing facility. Semiannual reports for periods of operation during which the emission limitation has exceeded (or reports certifying that no exceedances have occurred) also are required. Affected entities must retain reports and records for a total of five years: Two years at the site and the remaining three years at an off-site location.

Notifications are used to inform the Agency or delegated authority when a source becomes subject to the standard. The reviewing authority may then inspect the source to ensure that the pollution control devices are properly installed and that the operating standard is being met. The information generated by monitoring, recordkeeping, and reporting requirements described in this ICR are used by the Agency to ensure that facilities that are affected by the standard continue to operate the control equipment and achieve continuous compliance with the regulation.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number. The OMB Control Number for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15, and are identified on the form and/or instrument, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 162 hours per response. Burden means the total time,

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

Respondents/Affected Entities: Friction materials manufacturing.

Estimated Number of Respondents: 4.

Frequency of Response: Annually, semiannually, initially and occasionally.

Estimated Total Annual Hour Burden: 1,296.

Estimated Total Annual Cost: $104,512, which is comprised of $1,088 in O&M costs, $103,424 in labor costs, and no annualized capital costs.

Changes in the Estimates: There is no change in the labor hours or cost in this ICR compared to the previous ICR except for the correction of a small mathematical error in the previous ICR. This is due to two considerations: (1) The regulations have not changed over the past three years and are not anticipated to change over the next three years; and (2) the growth rate for the industry is very low, negative or non-existent, so there is no significant change in the overall burden.

Since there are no changes in the regulatory requirements and there is no significant industry growth, the labor hours and cost figures in the previous ICR are used in this ICR and there is no change in burden to industry.

Dated: April 24, 2008.

Sara Hisel-McCoy,

Director, Collection Strategies Division.

[FR Doc. E8–9609 Filed 4–30–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2007–0062; FRL–8560–7]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NESHAP for Cellulose Products Manufacturing (Renewal), EPA ICR Number 1974.05, OMB Control Number 2060–0488

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR which is abstracted below describes the nature of the collection and the estimated burden and cost.

DATES: Additional comments may be submitted on or before June 2, 2008.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OECA–2007–0062, to: (1) EPA online using *http://www.regulations.gov* (our preferred method), or by e-mail to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, mail code 2201T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Learia Williams, Compliance Assessment and Media Programs Division, Office of Compliance, Mail Code 2223A, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: (202) 564–4113; fax number: (202) 564–0050; e-mail address: *williams.learia@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On March 9, 2007 (72 FR 10735), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under docket ID number EPA–HQ–OECA–2007–0062, which is available for public viewing online at *http://www.regulations.gov,* in person viewing at the Enforcement and Compliance Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket is (202) 566–1927.

Use EPA's electronic docket and comment system at *http://www.regulations.gov,* to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted either electronically or in paper, will be made available for public viewing at *http://www.regulations.gov,* as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *http://www.regulations.gov.*

Title: NESHAP for Cellulose Products Manufacturing (Renewal).

ICR Numbers: EPA ICR Number 1974.04, OMB Control Number 2060–0488.

ICR Status: This ICR is schedule to expire on July 31, 2008. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, and displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Cellulose Products

Manufacturing were proposed on August 28, 2000 (65 FR 52166) and promulgated on June 11, 2002 (67 FR 40043). These standards apply to any existing, reconstructed, or new affected sources. These standards apply to each operation that is a major source of hazardous air pollutants (HAP), which includes both the miscellaneous viscose processes source category and the cellulose ethers productions source category. The viscose process includes the cellulose food casing, rayon, cellulosic sponge, and cellophane operations, and the cellulose ethers includes all of the cellulose ether operations. Respondents of affected sources are subject to the requirements of 40 CFR part 63, subpart A, the General Provisions, unless the regulation specifies otherwise.

Owners or operators must submit notification that the facility is subject to the rule; notification of performance test; notification of compliance status (including results of performance tests and other initial compliance demonstrations) and semiannual compliance reports. Owners or operators of cellulose products manufacturing facilities subject to the rule must maintain a file of these measurements, and retain the file for at least five years following the date of such measurements, maintenance reports, and records.

All reports are sent to the delegated state or local authority. In the event that there is no such delegated authority, the reports are sent directly to the EPA regional office. This information is being collected to assure compliance with 40 CFR part 63, subpart UUUU, as authorized in section 112 and 114(a) of the Clean Air Act. The required information consists of emissions data and other information that have been determined to be private.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number. The OMB Control Number for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15, and are identified on the form and/or instrument, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 141 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to: Review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Cellulose products manufacturing.

Estimated Number of Respondents: 13.

Frequency of Response: Weekly, semiannually, and occasionally.

Estimated Total Annual Hour Burden: 12,088.

Estimated Total Annual Cost: $965,095, which includes $1,014 in O&M costs, $964,081 in labor costs, and no annualized capital costs.

Changes in the Estimates: There is no change in the labor hours or cost in this ICR compared to the previous ICR. This is due to two considerations. First, the regulations have not changed over the past three years and are not anticipated to change over the next three years. Secondly, the growth rate for the industry is very low, negative or non-existent, so there is no significant change in the overall burden. It should be noted that the previous ICR rounded the burden cost down to the nearest one thousand. In this ICR, the exact cost figure is reported which results in an apparent increase in the cost when, in fact, no increase has occurred.

Since there are no changes in the regulatory requirements and there is no significant industry growth, the labor hours and cost figures in the previous ICR are used in this ICR, thus there is no change in burden to industry.

Dated: April 15, 2008.

Sara Hisel-McCoy,

Director, Collection Strategies Division.

[FR Doc. E8–9612 Filed 4–30–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8560–8]

Notice of Charter Renewal for the Environmental Financial Advisory Board (EFAB)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Charter for the Environmental Protection Agency's Environmental Financial Advisory Board (EFAB) will be renewed for an additional two-year period, as a necessary committee which is in the public interest, in accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App section 9(c). The purpose of EFAB is to provide advice and recommendations to the Administrator of EPA on issues associated with environmental financing. It is determined that EFAB is in the public interest in connection with the performance of duties imposed on the Agency by law.

FOR FURTHER INFORMATION CONTACT: Inquiries may be directed to Vanessa Bowie, Environmental Finance Program, U.S. EPA, Ariel Rios Building, 1200 Pennsylvania Ave., NW., Washington, DC 20460 (Mailcode 2731R), Telephone (202) 564–5186, or *bowie.vanessa@epa.gov*.

Dated: April 24, 2008.

Terry Ouverson,

Acting Director, OETI.

[FR Doc. E8–9610 Filed 4–30–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8560–5]

Notice of Open Meeting, Environmental Financial Advisory Board (EFAB), Workshop on Financial Assurance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The United States Environmental Protection Agency's Environmental Financial Advisory Board will hold an open meeting of its Financial Assurance Project Workgroup.

EFAB is chartered with providing analysis and advice to the EPA Administrator and EPA program offices on issues relating to environmental finance. The purpose of this meeting is for the EFAB to gather information and ideas with respect to the use of insurance as a financial assurance tool in EPA programs. The day will be structured to address this issue via a series of presentations and panel discussions involving Federal environmental officials, State insurance regulators, insurance underwriters, insurance industry professionals, and State environmental regulators.

The meeting is open to the public with seating available on a first come first served basis. Due to building security requirements, all members of the public who wish to attend the

meeting must register in advance no later than Friday, June 6, 2008.

DATES: June 17, 2008 from 8:30 a.m.–5 p.m.

ADDRESSES: EPA Region 2 Lower Manhattan Office, 290 Broadway, 30th Floor Conference Room, New York, NY 10007.

FOR FURTHER INFORMATION CONTACT: To register for the workshop or to obtain further information, contact Pamela Scott, U.S. EPA, EFAB Staff, at 202–564–6368 or *scott.pamela@epa.gov.*

For information on access or services for individuals with disabilities, please contact Pamela Scott at 202–564–6368 or *scott.pamela@epa.gov.* To request accommodation of disability, please contact Pamela Scott, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: April 24, 2008.

Terry Ouverson,

Acting Director, Office of Enterprise Technology and Innovation.

[FR Doc. E8–9607 Filed 4–30–08; 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, Comments Requested

April 25, 2008.

SUMMARY: As part of its continuing effort to reduce paperwork burden and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission invites the general public and other Federal agencies to comment on the following information collection(s). 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. An agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB 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 that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before June 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: Submit your comments to Nicholas A. Fraser, Office of Management and Budget (e-mail address: *nfraser@omb.eop.gov*), and to the Federal Communications Commission's PRA mailbox (e-mail address: *PRA@fcc.gov*). Include in the e-mails the OMB control number of the collection as shown in the **SUPPLEMENTARY INFORMATION** section below or, if there is no OMB control number, the Title as shown in the **SUPPLEMENTARY INFORMATION** section. If you are unable to submit your comments by e-mail contact the person listed below to make alternate arrangements.

FOR FURTHER INFORMATION CONTACT: For additional information contact Leslie F. Smith via e-mail at PRA@fcc.gov or at (202) 418–0217. To view or obtain a copy of an information collection request (ICR) submitted to OMB: (1) Go to this OMB/GSA Web page: *http://www.reginfo.gov/public/do/PRAMain*, (2) look for the section of the Web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, and (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of the ICR you want to view (or its title if there is no OMB control number) and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0816.

Title: Local Telephone Competition and Broadband Reporting, FCC Form 477.

Form Number: FCC Form 477.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit; not-for-profit institutions; and state, local or tribal government.

Number of Respondents and Responses: 1,400 respondents; 2,800 responses.

Estimated Time per Response: 46.0 hours.

Obligation to respond: Mandatory, as required by the Commission's rules implementing section 706 of the Telecommunications Act of 1996, 47 U.S.C. 157nt, and the Communications Act of 1934, as amended, 47 U.S.C. 151–155, 160, 161, 201–205, 215, 218–220, 251–271, 303(r), 332, 403, 502, and 503.

Frequency of Response: Semi-annual reporting requirement.

Total Annual Burden: 128,800 hours.

Total Annual Cost: $0.00.

Privacy Act Impact Assessment: No impacts.

Nature of Extent of Confidentiality: Respondents may request confidential treatment for competitively sensitive information by using a drop-down box located on the first page of Form 477. If the Commission receives a request for release pursuant to the Freedom of Information Act, the respondent is notified and afforded an opportunity to show why the data should not be released under 47 CFR 0.459(b) of the Commission's rules. Additionally, the Commission only releases aggregated (non-company specific) information in its published reports.

Needs and Uses: The information is necessary to evaluate the status of local telephone competition and the status of broadband services deployment. The information assists the Commission in preparing the report mandated by section 706 of the Telecommunications Act of 1996, and it is used by the Commission to evaluate the efficacy of Commission rules and policies adopted to implement the Telecommunications Act of 1996.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E8–9604 Filed 4–30–08; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institute for Occupational Safety and Health

Final Effect of Designation of a Class of Employees for Addition to the Special Exposure Cohort

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) gives notice concerning the final effect of the HHS

decision to designate a class of employees at the Mound Plant, near Dayton, Ohio, as an addition to the Special Exposure Cohort (SEC) under the Energy Employees Occupational Illness Compensation Program Act of 2000. On March 3, 2008, as provided for under 42 U.S.C. 7384q(b), the Secretary of HHS designated the following class of employees as an addition to the SEC:

Employees of the Department of Energy (DOE), its predecessor agencies, and DOE contractors or subcontractors who worked in any areas at the Mound Plant site from October 1, 1949, through February 28, 1959, for a number of work days aggregating at least 250 work days or in combination with work days within the parameters established for one or more other classes of employees in the Special Exposure Cohort.

This designation became effective on April 2, 2008, as provided for under 42 U.S.C. 7384l(14)(C). Hence, beginning on April 2, 2008, members of this class of employees, defined as reported in this notice, became members of the Special Exposure Cohort.

FOR FURTHER INFORMATION CONTACT: Larry Elliott, Director, Office of Compensation Analysis and Support, National Institute for Occupational Safety and Health (NIOSH), 4676 Columbia Parkway, MS C–46, Cincinnati, OH 45226, Telephone 513–533–6800 (this is not a toll-free number). Information requests can also be submitted by e-mail to *OCAS@CDC.GOV.*

Dated: April 14, 2008.

John Howard,

Director, National Institute for Occupational Safety and Health.

[FR Doc. E8–9544 Filed 4–30–08; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institute for Occupational Safety and Health

Final Effect of Designation of a Class of Employees for Addition to the Special Exposure Cohort

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) gives notice concerning the final effect of the HHS decision to designate a class of employees at the Lawrence Livermore National Laboratory, Livermore, California, as an addition to the Special Exposure Cohort (SEC) under the Energy Employees Occupational Illness Compensation Program Act of 2000. On March 3, 2008, as provided for under 42 U.S.C. 7384q(b), the Secretary of HHS designated the following class of employees as an addition to the SEC:

Employees of the Department of Energy (DOE), its predecessor agencies, and DOE contractors or subcontractors who were monitored for radiation exposure while working at the Lawrence Livermore National Laboratory from January 1, 1950, through December 31, 1973, for a number of work days aggregating at least 250 work days or in combination with work days within the parameters established for one or more other classes of employees in the Special Exposure Cohort.

This designation became effective on April 2, 2008, as provided for under 42 U.S.C. 7384l(14)(C). Hence, beginning on April 2, 2008, members of this class of employees, defined as reported in this notice, became members of the Special Exposure Cohort.

FOR FURTHER INFORMATION CONTACT: Larry Elliott, Director, Office of Compensation Analysis and Support, National Institute for Occupational Safety and Health (NIOSH), 4676 Columbia Parkway, MS C–46, Cincinnati, OH 45226, Telephone 513–533–6800 (this is not a toll-free number). Information requests can also be submitted by e-mail to *OCAS@CDC.GOV.*

Dated: April 14, 2008.

John Howard,

Director, National Institute for Occupational Safety and Health.

[FR Doc. E8–9545 Filed 4–30–08; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institute for Occupational Safety and Health

Final Effect of Designation of a Class of Employees for Addition to the Special Exposure Cohort

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) gives notice concerning the final effect of the HHS decision to designate a class of employees at Combustion Engineering, Windsor, Connecticut, as an addition to the Special Exposure Cohort (SEC) under the Energy Employees Occupational Illness Compensation Program Act of 2000. On March 3, 2008, as provided for under 42 U.S.C. 7384q(b), the Secretary of HHS designated the following class of employees as an addition to the SEC:

Atomic Weapons Employer employees (AWE) who worked at the Combustion Engineering site in Windsor, Connecticut, from January 1, 1965, through December 31, 1972, for a number of work days aggregating at least 250 work days or in combination with work days within the parameters established for one or more other classes of employees in the Special Exposure Cohort.

This designation became effective on April 2, 2008, as provided for under 42 U.S.C. 7384*l*(14)(C). Hence, beginning on April 2, 2008, members of this class of employees, defined as reported in this notice, became members of the Special Exposure Cohort.

FOR FURTHER INFORMATION CONTACT: Larry Elliott, Director, Office of Compensation Analysis and Support, National Institute for Occupational Safety and Health (NIOSH), 4676 Columbia Parkway, MS C–46, Cincinnati, OH 45226, Telephone 513–533–6800 (this is not a toll-free number). Information requests can also be submitted by e-mail to *OCAS@CDC.GOV.*

Dated: April 14, 2008.

John Howard,

Director, National Institute for Occupational Safety and Health.

[FR Doc. E8–9546 Filed 4–30–08; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: Mentoring Children of Prisoners Service Delivery Demonstration Project Data Collection.

OMB No.: New Collection.

Description: The Promoting Safe and Stable Families Amendments, as reauthorized (2006), amended Title IV–B of the Social Security Act (42 U.S.C. 629–629e) providing funding for a service delivery demonstration project for the Mentoring Children of Prisoners (MCP) program. Grantees shall identify children of prisoners not being served by the grant program, provide families of identified children with a voucher for mentoring services and a list of quality mentoring programs, and monitor the delivery of mentoring services provided.

The Family and Youth Services Bureau (FYSB) of the Administration for Children and Families (ACF), United States Department of Health and Human Services, administers the MCP program.

The MCP program provides children of prisoners with caring adult mentors, supporting one-to-one mentoring relationships. Research in other populations has shown that such relationships can lead to reductions in risk behaviors and improvements in academic, behavioral, and psychological outcomes in children and youth. Although the MCP program was developed based on research documenting the efficacy of mentoring as a general intervention strategy, it is not yet known if this particular intervention yields positive outcomes for the children of prisoners population. Little is known about how mentoring relationships work for these youth and how effective mentoring relationships for children of prisoners differ from effective mentoring relationships for other youth. In addition, little is known about children of prisoners in general and thus a survey of MCP program youth has the potential to provide important data about this relatively unstudied population.

The evaluation and data collection proposed in this notice are to fulfill the statutory requirement under Section 8, subsection h(l) of the Child and Family Services Improvement Act of 2006, as amended, that the Secretary of the Department of Health and Human Services evaluate outcomes of the MCP service delivery demonstration project and report to Congress on the findings. The information collected will also be used for accountability monitoring, management improvement, and research.

Data collection will ensure that grantees know that mentoring relationships are meeting the established milestones and that mentoring activities are faithful to characteristics established by research as essential to success. Data collected will allow ACF to compare the MCP service delivery demonstration project with the MCP grant program. Data collected will also support grantees as they carry out ongoing responsibilities and manage information for internal use.

Respondents: Public, faith-based and community organizations applying to and implementing the MCP service delivery demonstration project.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Child Application	4,200	1	.5	2,100
Program Application	325	1	2	650
MentorPRO Basic:				
Mentoring Practices and Relationship Data	250	120	.5	15,000
Baseline Youth Survey	3,000	1	.5	1,500
Follow-up Youth Survey	2,000	1	.5	1,000
Relationship Quality Survey	2,250	1	.5	1,125
Program Survey	250	1	.5	125
Mentor Survey	2,000	1	.5	1,000
Payment Information	1	52	2	104

Estimated Total Annual Burden Hours: 22,604.

In compliance with the requirements of Section 506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. E-mail address: *infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) 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. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: April 23, 2008.

Janean Chambers,

Reports Clearance Officer.

[FR Doc. E8–9292 Filed 4–30–08; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2007–E–0457] (formerly Docket No. 2007E–0138)

Determination of Regulatory Review Period for Purposes of Patent Extension; ARTEFILL

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for ARTEFILL and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that medical device.

ADDRESSES: Submit written comments and petitions to the Division of Dockets Management (HFA–305), Food and Drug

Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Beverly Friedman, Office of Regulatory Policy, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 6222, Silver Spring, MD 20993–0002, 301–796–3602.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Public Law 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For medical devices, the testing phase begins with a clinical investigation of the device and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the device and continues until permission to market the device is granted. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of Patents and Trademarks may award (half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a medical device will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(3)(B).

FDA recently approved for marketing the medical device, ARTEFILL. ARTEFILL is indicated for correction of nasolabial folds. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for ARTEFILL (U.S. Patent No. 5,344,452) from Artes Medical USA, Inc., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated May 16, 2007, FDA advised the Patent and Trademark Office that this medical device had undergone a regulatory review period and that the approval of ARTEFILL represented the first permitted commercial marketing or use of the product. Thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for ARTEFILL is 3,530 days. Of this time, 1,859 days occurred during the testing phase of the regulatory review period, while 1671 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 520(g) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360j(g)) involving this device became effective*: February 28, 1997. FDA has verified the applicant's claim that the date the investigational device exemption (IDE) required under section 520(g) of the act for human tests to begin became effective February 28, 1997.

2. *The date an application was initially submitted with respect to the device under section 515 of the act (21 U.S.C. 360e)*: April 1, 2002. FDA has verified the applicant's claim that the premarket approval application (PMA) for ARTEFILL (PMA P020012) was initially submitted April 1, 2002.

3. *The date the application was approved*: October 27, 2006. FDA has verified the applicant's claim that PMA P020012 was approved on October 27, 2006.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,827 days of patent term extension.

Anyone with knowledge that any of the dates as published are incorrect may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments and ask for a redetermination by June 30, 2008. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by October 28, 2008. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Division of Dockets Management. Three copies of any mailed information are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Please note that on January 15, 2008, the FDA Division of Dockets Management Web site transitioned to the Federal Dockets Management System (FDMS). FDMS is a Government-wide, electronic docket management system. Electronic comments or submissions will be accepted by FDA only through FDMS at *http://www.regulations.gov*.

Dated: April 21, 2008.

Jane A. Axelrad,

Associate Director for Policy, Center for Drug Evaluation and Research.

[FR Doc. E8–9592 Filed 4–30–08; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2006–E–0196] (formerly Docket No. 2006E–0500)

Determination of Regulatory Review Period for Purposes of Patent Extension; AZILECT

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for AZILECT and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Submit written comments and petitions to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Beverly Friedman, Office of Regulatory Policy, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 6222, Silver Spring, MD 20993–0002, 301–796–3602.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Public Law 100–670) generally provide that a

patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the human drug product becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA approved for marketing the human drug product AZILECT (rasagiline mesylate). AZILECT is indicated for the treatment of the signs and symptoms of idiopathic Parkinson's disease as initial monotherapy and as adjunct therapy to levodopa. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for AZILECT (U.S. Patent No. 5,453,446) from Teva Pharmaceutical Industries, Ltd., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated February 6, 2007, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of AZILECT represented the first permitted commercial marketing or use of the product. Thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for AZILECT is 4,269 days. Of this time, 3,284 days occurred during the testing phase of the regulatory review period, while 985 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355(i)) became effective*: September 9, 1994. The applicant claims September 12, 1994, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was September 9, 1994, which was 30 days after FDA receipt of the IND.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the act*: September 5, 2003. FDA has verified the applicant's claim that the new drug application (NDA) for Azilect (NDA 21–641) was initially submitted on September 5, 2003.

3. *The date the application was approved*: May 16, 2006. FDA has verified the applicant's claim that NDA 21–641 was approved on May 16, 2006.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,827 days of patent term extension.

Anyone with knowledge that any of the dates as published are incorrect may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments and ask for a redetermination by June 30, 2008. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by October 28, 2008. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Division of Dockets Management. Three copies of any mailed information are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Please note that on January 15, 2008, the FDA Division of Dockets Management Web site transitioned to the Federal Dockets Management System (FDMS). FDMS is a Government-wide, electronic docket management system. Electronic comments or submissions will be accepted by FDA only through FDMS at *http://www.regulations.gov*.

Dated: April 21, 2008.

Jane A. Axelrad,

Associate Director for Policy, Center for Drug Evaluation and Research.

[FR Doc. E8–9591 Filed 4–30–08; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Anesthesiology and Respiratory Therapy Devices Panel of the Medical Devices Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Anesthesiology and Respiratory Therapy Devices Panel of the Medical Devices Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on June 12, 2008, from 8 a.m. to 5 p.m.

Location: Hilton Washington DC North/Gaithersburg, Salons A, B, & C, 620 Perry Pkwy., Gaithersburg, MD.

Contact Person: Neel J. Patel, Center for Devices and Radiological Health (HFZ–480), Food and Drug Administration, 9200 Corporate Blvd., 240–276–3700, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 3014512624. Please call the Information Line for up-to-date information on this meeting. A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the agency's Web site and call the appropriate advisory committee hot line/phone line to learn about possible modifications before coming to the meeting.

Agenda: The committee will discuss, make recommendations and vote on a

premarket approval application for the ProGEL Surgical Sealant sponsored by NeoMend, Inc. The device is indicated to reinforce soft tissue where weakness exists as an adjunct to the standard procedure (sutures/staples) for closing intraoperative air leaks.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/ohrms/dockets/ac/acmenu.htm*, click on the year 2008 and scroll down to the appropriate advisory committee link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before May 29, 2008. Oral presentations from the public will be scheduled for approximately 30 minutes at the beginning of the committee deliberations and for approximately 30 minutes near the end of committee deliberations. Those desiring to make formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before May 21, 2008. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by May 22, 2008.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact AnnMarie Williams, Conference Management Staff, at 240–276–8932, at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/oc/advisory/default.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: April 22, 2008.

Randall W. Lutter,

Deputy Commissioner for Policy.

[FR Doc. E8–9537 Filed 4–30–08; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Dermatologic and Ophthalmic Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Dermatologic and Ophthalmic Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on June 17, 2008, from 8 a.m. to 5 p.m., and June 18, 2008, from 8 a.m. to 2 p.m.

Location: Food and Drug Administration, Center for Drug Evaluation and Research, Advisory Committee Conference Room, rm. 1066, 5630 Fishers Lane, Rockville, MD.

Contact Persons: Yvette Waples or John Lauttman, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane (for express delivery, 5630 Fishers Lane, rm. 1093), Rockville, MD 20857, 301–827–7001, FAX: 301–827–6776, e-mail: *yvette.waples@fda.hhs.gov*, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 3014512534. Please call the Information Line for up-to-date information on this meeting. A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the agency's Web site and call the appropriate advisory committee hotline/phone line to learn about possible modifications before coming to the meeting.

Agenda: On June 17, 2008, the committee will discuss biologic licensing application (BLA) 125261, ustekinumab, a human monoclonal antibody, Centocor, Inc., proposed for the treatment of moderate to severe psoriasis. On June 18, 2008, the committee will discuss supplemental biologic licensing application (sBLA) 103795/5350, etanercept, a lyophilized powder for subcutaneous injection, Immunex Corp., proposed for the treatment of moderate to severe psoriasis in the pediatric population.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/ohrms/dockets/ac/acmenu.htm*, click on the year 2008 and scroll down to the appropriate advisory committee link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before June 3, 2008. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. Those desiring to make formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before May 27, 2008. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by May 28, 2008.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical

disabilities or special needs. If you require special accommodations due to a disability, please contact Yvette Waples or John Lauttman at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/oc/advisory/default.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: April 22, 2008.

Randall W. Lutter,

Deputy Commissioner for Policy.

[FR Doc. E8–9549 Filed 4–30–08; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources And Services Administration

Agency Information Collection Activities: Proposed Collection: Comment Request

In compliance with the requirement for opportunity for public comment on proposed data collection projects (section 3506(c)(2)(A) of Title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Pub. L. 104–13), the Health Resources and Services Administration (HRSA) publishes periodic summaries of proposed projects being developed for submission to OMB under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, call the HRSA Reports Clearance Officer on (301) 443–1129.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information 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.

Proposed Project: Health Centers Patient Survey—Pretest (NEW)

The Health Center program supports Community Health Centers (CHCs), Migrant Health Centers (MHCs), Health Care for the Homeless (HCH) projects, and Public Housing Primary Care (PHPC) programs. Health Centers (HCs) receive grants from HRSA to provide primary and preventive health care services to medically underserved populations.

The proposed Patient Survey will collect in-depth information about HC patients, their health status, the reasons they seek care at HCs, their diagnoses, the services they utilize at HCs and elsewhere, the quality of those services, and their satisfaction with the care they receive, through personal interviews of a stratified random sample of HC patients. The survey pre-test, which is the subject of this Notice, will serve as a pilot test of the survey instrument, survey sampling methodologies and procedures. This pre-test will also include cognitive interviews to ensure that the questions are being understood as was intended; as a result, it is estimated that each pre-test patient interview will take 2 hours.

The Patient Survey being pre-tested builds on previous periodic User-Visit Surveys which were conducted to learn about the process and outcomes of care in CHCs and HCH programs. The original questionnaires were derived from the National Health Interview Survey (NHIS) and the National Hospital Ambulatory Medical Care Survey (NHAMCS) conducted by the National Center for Health Statistics (NCHS). Conformance with the NHIS and NHAMCS allowed comparisons between these NCHS surveys and the previous CHC and HCH User-Visit Surveys. The new Patient Survey was developed using a questionnaire methodology similar to that used in the past, and so will allow some longitudinal comparisons for CHCs and HCH programs with the previous User-Visit survey data, including monitoring of process outcomes over time. In addition, this survey will include interviews of patients drawn from migrant populations and from residents of public housing, populations not included in the previous surveys.

The estimated response burden for the pilot test is as follows:

PRETEST

Type of respondent; activity involved	Number of respondents	Responses per respondent	Total number of responses	Burden per response (hours)	Total hour burden
Grantee/Site Recuitment	2	3	6	3.75	22.5
Patient Recuitment	90	1	90	.167	15
Patient Survey	70	1	70	2	140
Total—Pretest	92		166		177.5

Send comments to Susan G. Queen, PhD., HRSA Reports Clearance Officer, Room 10–33, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: April 24, 2008.

Alexandra Huttinger,

Director, Division of Policy Review and Coordination.

[FR Doc. E8–9517 Filed 4–25–08; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing

to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Human and Improved Murine Monoclonal Antibodies Against CD22

Description of Technology: CD22 is a cell surface protein that is highly expressed in a number of B cell lymphomas, such as hairy cell leukemia (HCL), non-Hodgkins lymphoma (NHL) and chronic lymphocytic leukemia (CLL). Several clinical trials using anti-CD22 antibodies are ongoing. However, all of these antibodies are murine in nature, and have the potential to elicit immune responses in patients. The immunogenicity may adversely affect the ability to provide patients with repeated doses of a therapeutic comprising the antibody, limiting the clinical application of those therapeutics.

In order to address the issue of immunogenicity in a patient, NIH inventors have generated two anti-CD22 antibodies of human origin. Each antibody has the ability to recognize CD22 on the surface of Raji cells. Thus, these antibodies represent an attractive alternative to the murine anti-CD22 antibodies currently being tested in clinical trials.

Additionally, the inventors have generated a modified murine anti-CD22 antibody with increased binding affinity and solubility. This antibody could also be a suitable alternative for the murine antibodies currently available.

Applications:

Use as an antibody therapeutic for B cell lymphomas.

Use in an immunotoxin therapeutic for B cell lymphomas.

Diagnostic for the detection of CD22 positive tumors.

Advantages:

Antibody against a proven target for immunotherapy.

Fully human antibody reduces potential immunogenicity, thereby allowing repeated dosing.

Murine antibody has increased binding affinity and solubility relative to current murine anti-CD22 antibodies.

Benefits: The antibody based therapeutic market is likely to grow steadily in the next decade, with the present estimate of the market at more than ten billion U.S. dollars. Approximately five billion U.S. dollars are spent annually for treatment of lymphoma. The development of a successful antibody therapeutic for B cell lymphomas would occupy a significant portion of that market as approximately eighty-five percent of all lymphomas are B cell-linked.

Inventors: Dimiter S. Dimitrov *et al.* (NCI).

Patent Status: U.S. Provisional Application No. 61/042,329 filed 04 Apr 2008 (HHS Reference No. E–080–2008/0-US–01).

Licensing Status: Available for licensing.

Licensing Contact: David A. Lambertson, PhD; 301–435–4632; *lambertsond@mail.nih.gov.*

Collaborative Research Opportunity: The NCI CCR Nanobiology Program is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize anti-CD22 human monoclonal antibodies. Please contact John D. Hewes, PhD at 301–435–3121 or *hewesj@mail.nih.gov* for more information.

Human Monoclonal Antibody Against Mesothelin

Description of Technology: Mesothelin is a cell surface protein that is naturally expressed at very low levels. However, the expression of mesothelin is significantly increased in aggressive tumors, such as mesotheliomas and pancreatic and ovarian tumors. As a result, mesothelin is an excellent candidate for tumor targeted immunotherapeutics.

Currently, the only antibodies against mesothelin that are available for clinical trials are of murine origin. These antibodies have the potential to elicit immune responses in patients, which may adversely affect the ability to provide patients with repeated doses. As a result, the clinical application of the antibodies may be limited.

In order to address the issue of immunogenicity in patients, NIH inventors have generated an anti-mesothelin antibody of human origin. The antibody has the ability to efficiently recognize mesothelin on the surface of cells, and induce ADCC in mesothelin-positive cells. Thus, this antibody represents an attractive alternative to the murine anti-mesothelin antibodies currently available.

Applications:

Use as an antibody therapeutic for mesotheliomas and pancreatic and ovarian tumors.

Use in an immunotoxin therapeutic for mesotheliomas and pancreatic and ovarian tumors.

Diagnostic for the detection of mesothelin positive tumors.

Research agent for the detection of mesothelin.

Advantages:

Fully human antibody reduces potential immunogenicity, thereby allowing repeated dosing.

First human antibody against mesothelin.

Benefits: The antibody based therapeutic market is likely to grow steadily in the next decade, with the present estimate of the market at more than ten billion U.S. dollars. The development of a successful antibody therapeutic for mesotheliomas and pancreatic and ovarian cancers would occupy a significant portion of that market.

Inventors: Dimiter S. Dimitrov *et al.* (NCI).

Patent Status: U.S. Provisional Application filed 27 Mar 2008 (HHS Reference No. E–079–2008/0–US–01)

Licensing Status: Available for licensing.

Licensing Contact: David A. Lambertson, PhD; 301–435–4632; *lambertsond@mail.nih.gov.*

Collaborative Research Opportunity: The NCI CCR Nanobiology Program is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize the antibody. Please contact John D. Hewes, PhD at 301–435–3121 or *hewesj@mail.nih.gov* for more information.

New Insect SF–9ET Cell Line for Determining Baculovirus Titers

Description of Technology: The baculovirus based protein expression system has gained increased prominence as a method for expressing recombinant proteins that are used in a wide range of biomedical applications. An important step in the use of this system is the ability to determine the virus infectious titer, i.e., the number of active baculovirus particles produced during an infection of the insect host cell. The current ''gold standard'' methods used for determining baculovirus titers, such as the plaque and end point dilution assays, can be costly, take a long time to complete (up to 7–8 days), and are sometimes difficult to interpret as they involve observing the cytopathic effects (CPE) that baculovirus infection has on the infected insect host cell. To solve these problems, a modified insect cell line, SF–9ET, was developed to genetically express the green fluorescent protein (GFP) when infected with baculovirus. In these cells, the gene for GFP is placed

under the control of a baculovirus promoter so that the cells express GFP when they are infected with the virus. The baculovirus titer can then be quantitated from the level of GFP expression in the insect host cell. The results are obtained within 3 days compared to the 7–8 day period typical of the traditional CPE based methods.

The GFP based system is capable of replacing the traditional methods as it is faster, more accurate and may be less expensive than the currently used systems. This proprietary technology can become an indispensible tool for the quantitation of baculovirus titers; a step that is important in the production of recombinant proteins and vaccine like particles (VLPs) for academic and commercial purposes.

Applications: Baculovirus based recombinant protein expression.

Advantages: Fast, accurate, and inexpensive determination of baculovirus titers for protein expression.

Inventors: Ralph F. Hopkins III and Dominic Esposito (SAIC/NCI).

Patent Status: U.S. Provisional Application No. 61/019,562 filed 07 Jan 2008 (HHS Reference No. E–009–2008/0–US–01).

Licensing Status: Available for exclusive or non-exclusive licensing.

Licensing Contact: Jasbir (Jesse) S. Kindra, J.D., M.S.; 301–435–5170; *kindraj@mail.nih.gov.*

A Molecular Grading System for Ductal Carcinoma In Situ (DCIS) of the Breast: A New Molecular Diagnostic To Determine Disease Stages of DCIS

Description of Technology: The technology describes the comprehensive profiling of Ductal Carcinoma in situ (DCIS) in breast cancer patients. The inventors have developed a molecular grading system for DCIS utilizing both gene expression profiling and genomic change profiling. The inventors have identified molecular profiles that identify early stage patients at risk of disease progression requiring more aggressive therapy. These observations suggest that a clinical assay could be developed for the grading of DCIS. Furthermore, the invention demonstrates that the profiles correlate with the molecular grade and with cell proliferation, suggesting that a clinical assay using routine methods, based on the nuclear grade and staining for Ki67 as a measure of proliferation, could also potentially be developed.

Advantages and Applications:

The technology has the potential of being developed into an accurate diagnostic test for DCIS patients according to their risk of tumor progression.

The diagnostic profiling can assist physicians in making clinically informed and personalized therapy decisions for DCIS patients.

In the studies, tissue samples collected via laser capture micro-dissection from in situ breast cancer patients were used, which validate and authenticate the relevance of the study.

Development Status: Larger clinical study is currently being planned.

Inventors: Paul S. Meltzer *et al.* (NCI).

Patent Status: U.S. Provisional Application No. 60/936,526 filed 20 Jun 2007 (HHS Reference No. E–192–2007/0–US–01).

Licensing Status: Available for exclusive and non-exclusive licensing.

Licensing Contact: Mojdeh Bahar, J.D.; 301–435–2950; *baharm@mail.nih.gov.*

Collaborative Research Opportunity: The National Cancer Institute, Genetics Branch, is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize molecular grading of DCIS. Please contact John D. Hewes, Ph.D. at 301–435–3121 or *hewesj@mail.nih.gov* for more information.

April 24, 2008.

David Sadowski,

Deputy Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. E8–9535 Filed 4–30–08; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel.

Date: June 19, 2008.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Sooyoun (Sonia) Kim, MS, Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NIDCR/NIH, 6701 Democracy Blvd, Rm 675, Bethesda, MD 20892–4878, (301) 594–4827, *kims@email.nidr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: April 23, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–9404 Filed 4–30–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

Public Workshop: Privacy Compliance Fundamentals—PTAs, PIAs, and SORNs

AGENCY: Privacy Office, Department of Homeland Security (DHS).

ACTION: Notice announcing public workshop.

SUMMARY: The Department of Homeland Security Privacy Office will host a public workshop, ''Privacy Compliance Fundamentals—PTAs, PIAs, and SORNs.''

DATES: The workshop will be held on May 23, 2008, from 9 a.m. to 4:30 p.m.

ADDRESSES: The workshop will be held in the auditorium at the DHS Offices at the GSA Regional Headquarters Building located at 7th and D Streets, SW., Washington, DC, 20024.

FOR FURTHER INFORMATION CONTACT: Tamara Baker, Privacy Office, Department of Homeland Security, Washington, DC 20528; by telephone 703–235–0780; by facsimile 703–235–0442; or by e-mail at *privacyworkshop@dhs.gov.*

SUPPLEMENTARY INFORMATION: The Department of Homeland Security (DHS) Privacy Office is holding a public workshop that will provide in-depth training on the privacy compliance process at DHS, and specifically how to write privacy impact assessments (PIAs)

and systems of records notices (SORNs). A case study will be used to illustrate a step-by-step approach to researching, preparing, and writing these documents. The workshop will highlight the Privacy Impact Assessments: Official Guidance and introduce the System of Records Notices: Official Guidance for DHS.

The workshop is open to the public and there is no fee for attendance.

Registration and Security: In order to facilitate security requirements of the GSA facility, attendees must register in advance for this workshop. Registration closes at 9 a.m., Monday, May 19, 2008. To register, please send an e-mail to *privacyworkshop@dhs.gov*, with the name of the workshop (''Privacy Compliance Fundamentals—PTAs, PIAs, and SORNs'') in the subject line, and your full name and organizational affiliation in the body of the email. Alternatively, you may call 703–235–0780 to register and to provide the Privacy Office with your full name and organizational affiliation.

All attendees who are employed by a federal agency will be required to show their federal agency employee photo identification badge to enter the building. Attendees who do not possess a federal agency employee photo identification badge will need to show a form of government-issued photo identification, such as a driver's license, in order to verify their previously-provided registration information. This is a security requirement of the facility.

The Privacy Office will only use your name for the security purposes of this specific workshop and to contact you in the event of a change to the workshop.

Special Assistance: Persons with disabilities who require special assistance should indicate this in their admittance request and are encouraged to identify anticipated special needs as early as possible.

John W. Kropf,

Acting Chief Privacy Officer, Department of Homeland Security.

[FR Doc. E8–9519 Filed 4–30–08; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–3286–EM]

Ohio; Emergency and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of an emergency for the State of Ohio (FEMA–3286–EM), dated April 24, 2008, and related determinations.

DATES: *Effective Date:* April 24, 2008.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated April 24, 2008, the President declared an emergency declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act), as follows:

I have determined that the impact in certain areas of the State of Ohio resulting from the record snow and near record snow during the period of March 7–9, 2008, is of sufficient severity and magnitude to warrant an emergency declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act). Therefore, I declare that such an emergency exists in the State of Ohio.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide emergency protective measures, including snow removal, under the Public Assistance program to save lives and to protect property and public health and safety. Other forms of assistance under Title V of the Stafford Act may be added at a later date, as you deem appropriate. This emergency assistance will be provided for any continuous 48-hour period during or proximate to the incident period. You may extend the period of assistance, as warranted. This assistance excludes regular time costs for the sub-grantees' regular employees. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs in the designated areas. Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, Department of Homeland Security, under Executive Order 12148, as amended, Michael H. Smith, of FEMA is appointed to act as the Federal Coordinating Officer for this declared emergency.

I do hereby determine the following areas of the State of Ohio to have been affected adversely by this declared emergency:

Ashtabula, Brown, Clermont, Clinton, Crawford, Delaware, Fairfield, Franklin, Geauga, Greene, Hardin, Huron, Lake, Morrow, Richland, Union, and Wyandot Counties for emergency protective measures (Category B), including snow removal, under the Public Assistance program for any continuous 48-hour period during or proximate to the incident period.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050 Individuals and Households Program—Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

R. David Paulison,

Administrator, Federal Emergency Management Agency.

[FR Doc. E8–9531 Filed 4–30–08; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1751–DR]

Arkansas; Amendment No. 5 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Arkansas (FEMA–1751–DR), dated March 26, 2008, and related determinations.

DATES: *Effective Date:* April 22, 2008.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Arkansas is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of March 26, 2008.

Cleburne, Jefferson, Lee, Miller, Phillips, and Sebastian Counties for Individual Assistance.

Crawford, St. Francis, and White Counties for Individual Assistance (already designated for Public Assistance.)

Searcy and Yell Counties for Individual Assistance (already designated for Public

Assistance, including direct Federal assistance.)

Clark, Cleburne, Lee, Little River, Mississippi, Phillips, and Pike Counties for Public Assistance.

Hot Spring and Washington Counties for Public Assistance (already designated for Individual Assistance and emergency protective measures [Category B], limited to direct Federal assistance, under the Public Assistance program.)

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidential Declared Disaster Areas; 97.049, Presidential Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidential Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

R. David Paulison,

Administrator, Federal Emergency Management Agency.

[FR Doc. E8–9533 Filed 4–30–08; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1749–DR]

Missouri; Amendment No. 4 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Missouri (FEMA–1749–DR), dated March 19, 2008, and related determinations.

DATES: *Effective Date:* April 23, 2008.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Missouri is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of March 19, 2008.

Douglas and Ozark Counties for Public Assistance (already designated for emergency protective measures [Category B], limited to direct Federal assistance, under the Public Assistance program.)

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidential Declared Disaster Areas; 97.049, Presidential Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidential Declared Disaster Assistance to Individuals and Households—Other Needs, 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

R. David Paulison,

Administrator, Federal Emergency Management Agency.

[FR Doc. E8–9530 Filed 4–30–08; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Submission of Agency Information Collection the Office of Management and Budget

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Indian Affairs (BIA) is submitting this information collection to the Office of Management and Budget for reinstatement of the Indian Child Welfare Annual Report form. The information collected will aid the BIA in fulfilling requirements of law. This reinstatement meets the requirements of the Paperwork Reduction Act of 1995.

DATES: Submit comments on or before June 2, 2008.

ADDRESSES: Interested parties are invited to submit written comments regarding this proposal to the Desk Officer of the Department of the Interior by facsimile to 202–395–6566. You may also send comments by e-mail to: *OIRA_DOCKET@omb.eop.gov*.

Copies of comments should refer to the proposal by name and/or OMB Control Number and should be sent to Kevin Sanders, Acting Chief, Office of Indian Services, Bureau of Indian Affairs, Department of the Interior, 1849 C Street, NW., MS–4513–MIB, Washington, DC 20240. Telephone (202) 513–7621.

FOR FURTHER INFORMATION CONTACT: Copies of the collection of information form or requests for additional information should be directed to Kevin Sanders, Bureau of Indian Affairs, Department of Interior, 1849 C Street, NW., MS–4513–MIB, Washington, DC 20240. Telephone (202) 513–7621.

SUPPLEMENTARY INFORMATION:

I. Abstract

The information collection required by the use of this form is necessary to comply with Public Law 95–608, the Indian Child Welfare Act, and as codified in 25 CFR part 23, Indian Child Welfare Act (ICWA). This information is collected through the use of a consolidated caseload form by tribal ICWA program directors who are the providers of the ICWA services. The information is used to determine the extent of service needs in local Indian communities, assessment of the ICWA program effectiveness, and to provide data for the annual program budget justification. The responses to this request for information collection are voluntary and the aggregated report is not considered confidential. The public is not required to respond unless a currently valid OMB control number is displayed.

II. Request for Comments

A request for comments was published January 28, 2008 (73 FR 5207). No comments were received.

You may submit comments to OMB at the address provided in the **ADDRESSES** section with a copy to the Bureau of Indian Affairs within 30 days concerning the following:

(a) The necessity of this information collection for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) The accuracy of the agency's estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used;

(c) Ways we could enhance the quality, utility and clarity of the information to be collected; and,

(d) Ways we could minimize the burden of the collection of the information on the respondents, such as through the use of automated collection techniques or other forms of information technology.

Please note that an agency may not sponsor nor request, and an individual need not respond to, a collection of information unless it has a valid OMB Control Number. Please note that all comments received will be available for public review. Before including your

address, phone number, e-mail address or other personally identifiable information, be advised that your entire comment—including your personally identifiable information—may be made public at any time. While you may request that we withhold your personally identifiable information, we cannot guarantee that we will be able to do so. We do not consider anonymous comments. All comments from representatives of businesses or organizations will be made public in their entirety.

OMB is required to respond to this request within 60 days after publication of this notice in the **Federal Register**, but may respond after 30 days; therefore, your comments should be submitted to OMB within 30 days of publication to assure maximum consideration.

III. Data

Title: Department of the Interior, Bureau of Indian Affairs, Indian Child Welfare Act Annual Report, 25 CFR part 23.

OMB Control Number: 1076–0131.

Type of Review: Reinstatement.

Brief Description of Collection: Indian tribes are required to collect selected data on Indian child welfare cases and submit them to the Bureau for consolidation. This data is useful on a local level, to the tribes and tribal organizations that collect it, for case management purposes and on nationwide bases for planning and budget purposes.

Respondents: Indian tribes or tribal entities who are operating programs for Indian tribes.

Number of Respondents: 536.

Estimated Time per Response: 30 minutes.

Frequency of Response: Quarterly.

Estimated Annual Burden to Respondents: 1072 hours.

Dated: April 25, 2008.

Sanjeev "Sonny" Bhagowalia,

Chief Information Officer—Indian Affairs.

[FR Doc. E8–9528 Filed 4–30–08; 8:45 am]

BILLING CODE 4310–4J–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Information Collection Activities, Submission to the Office of Management and Budget

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice announces that the Information Collection Request for the 25 CFR part 256, U.S. Department of the Interior (DOI), Bureau of Indian Affairs (BIA) Housing Improvement Program, OMB Control # 1076–0084, is being submitted to the Office of Information and Regulatory Affairs, Office of Management and Budget for reinstatement. The collection expired during the renewal process.

DATES: Submit comments on or before June 2, 2008.

ADDRESSES: Interested parties are invited to submit written comments regarding this proposal to the Desk Officer of the Department of the Interior by facsimile to 202–395–6566. You may also send comments by e-mail to: *OIRA_DOCKET@omb.eop.gov*.

Copies of comments should refer to the proposal by name and/ or OMB Control Number and should be sent to Les Jensen, Bureau of Indian Affairs, Department of the Interior, 1849 C Street, NW., MS–4513–MIB, Washington, DC 20240. Telephone 907–586–7397.

FOR FURTHER INFORMATION CONTACT: Copies of the collection of information form or requests for additional information should be directed to Les Jensen, Bureau of Indian Affairs, Department of Interior, 1849 C Street, NW., MS–4513–MIB, Washington, DC 20240. Telephone 907–586–7397.

SUPPLEMENTARY INFORMATION:

I. Abstract

The information is needed to establish an applicant's eligibility to receive services under the Housing Improvement Program and to establish the priority order in which eligible applicants may receive services under the program. A **Federal Register** notice requesting comments was published on October 30, 2007 (72 FR61365). No comments were received.

II. Method of Collection

The housing regulations at 25 CFR part 256 contain the program eligibility and selection criteria (§§ 256.6, 256.8, 256.9, 256.10, 256.13, 256.14), which must be met by prospective applicants seeking program services. Information collected from applicants under these regulations provides eligibility and selection data used by the local servicing housing office to establish whether an applicant is eligible to receive services. The local servicing housing office may be a tribal housing office under a Public Law 93–638, Indian Self-Determination contract or a Self-Governance annual funding agreement, or part of the BIA. Additionally, the data is used by the Assistant Secretary—Indian Affairs to establish whether a request for waiver of a specific housing regulation is in the best interest of the applicant and the Federal Government.

III. Data

(1) *Title of the Collection of Information:* Department of the Interior, Bureau of Indian Affairs, Housing Improvement Program, 25 CFR Part 256.

OMB Control Number: 1076–0084.

Type of Review: Reinstatement of an information collection.

(2) *Summary of the Collection of Information:* The collection of information provides pertinent data concerning an applicant's eligibility to receive services under the Housing Improvement Program and includes:

A. Applicant Information including: Name, current address, telephone number, date of birth, Social Security Number, tribe, roll number, reservation, marital status, name of spouse, date of birth of spouse, tribe of spouse, and roll number of spouse.

B. Family Information including: Name, date of birth, relationship to applicant, and tribe/roll number.

C. Income Information: Earned and unearned income.

D. Housing Information including: Location of the house to be repaired, constructed, or purchased; description of housing assistance for which applying; knowledge of receipt of prior Housing Improvement Program assistance, amount, to whom and when; ownership or rental; availability of electricity and name of electric company; type of sewer system; water source; number of bedrooms; size of house; and bathroom facilities.

E. Land Information including: Landowner; legal status of land; or type of interest in land.

F. General Information including: Prior receipt of services under the Housing Improvement Program and description of such; ownership of other housing and description of such; identification of Housing and Urban Development funded house and current status of project; identification of other sources of housing assistance for which the applicant has applied and been denied assistance if applying for a new housing unit or purchase of an existing standard unit; and advisement and description of any severe health problem, handicap or permanent disability.

G. Applicant Certification including: Signature of applicant and date, and signature of spouse and date.

(3) *Description of the Need for the Information and Proposed Use of the Information:* Submission of this information is required in order to

receive services under the Housing Improvement Program. The information is collected to determine applicant eligibility for services and applicant priority order to receive services under the program.

(4) *Description of Affected Entities:* Individual members of federally recognized Indian tribes who are living within a designated tribal or legally defined service area. Lack of funding drives our number of respondents which we will estimate as one (1) to keep the information collection current.

Estimated Number of Respondents: 8,000.

Proposed Frequency of Response: Annually or less frequently, depending on length of waiting list, funding availability and dynamics of service population.

Estimated Number of Annual Responses: 8,000.

Estimated Time per Application: 1 hour.

Estimated Total Annual Burden Hours: 8,000 hours.

IV. Request for Comments

We specifically request your comments concerning the following:

1. Whether the collection of information is necessary for the proper performance of the functions of the BIA, including whether the information will have practical utility;
2. The accuracy of the BIA's estimate of the burden to collect the information, including the validity of the methodology and assumptions used;
3. The quality, utility and clarity of the information to be collected; and,
4. How to minimize the burden of the information collection on those who are to respond, including the use of appropriate automated electronic, mechanical 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; the comments will also become a matter of public record.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The comments, names and addresses of commenters will be available for public view during regular business hours. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, be advised that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold from public review your personal identifying information, we cannot guarantee that we will be able to do so. We may withhold comments for other reasons, but we will not consider anonymous comments. The complete comments for businesses or organizations will be made public, including the representative's name.

OMB is required to respond to this request within 60 days after publication of this notice in the **Federal Register**, but may respond after 30 days; therefore, your comments should be submitted to OMB within 30 days to assure maximum consideration.

Dated: April 25, 2008.

Sanjeev "Sonny" Bhagowalia,

Chief Information Officer—Indian Affairs.

[FR Doc. E8–9529 Filed 4–30–08; 8:45 am]

BILLING CODE 4310–4J–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Grant Program to Build Tribal Energy Development Capacity

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Solicitation of Proposals.

SUMMARY: The Energy Policy Act of 2005 authorizes the Secretary to provide assistance to Indian tribes for use in developing and sustaining the managerial and technical capacity needed to develop energy resources on Indian land, and to properly account for resulting energy production and revenues. In furtherance of this goal, the Department of the Interior's Office of Indian Energy and Economic Development is soliciting proposals from tribes and tribal energy resource development organizations. The Department will use a competitive evaluation process to select several proposed projects to receive an award.

DATES: Submit grant proposals by June 30, 2008. We will not consider grant proposals received after this date.

ADDRESSES: You must submit the Tribal Energy Development Capacity proposal by mail or hand-carry to the Department of the Interior, Office of Indian Energy and Economic Development, Attention: Tribal Energy Development Capacity Proposal, Room 20—South Interior Building, 1951 Constitution Avenue, NW., Washington, DC 20245.

FOR FURTHER INFORMATION CONTACT: Darryl Francois, Office of Indian Energy and Economic Development, Room 20—South Interior Building, 1951 Constitution Avenue, NW., Washington, DC 20245, Telephone (202) 219–0740 or Fax (202) 208–4564.

SUPPLEMENTARY INFORMATION:

A. Background
B. Items To Consider Before Preparing an Application for a Tribal Energy Development Capacity Grant
C. How To Prepare an Application for Tribal Energy Development Capacity Funding
D. Submission of Application in Digital Format
E. Award Evaluation and Administrative Information
F. When To Submit
G. Where To Submit
H. Transfer of Funds
I. Reporting Requirements for Award Recipients

A. Background

Title V, section 503 of the Energy Policy Act of 2005 (Pub. L. 109–58) amends Title XXVI (Indian Energy) of the Energy Policy Act of 1992 to require the Secretary of the Interior (Secretary) to offer Indian tribes the opportunity to enter into a Tribal Energy Resource Agreement (TERA) with the Department of the Interior. The intent of these agreements is to promote tribal oversight and management of energy and mineral resource development on tribal lands and further the goal of Indian Self-Determination. A TERA offers a tribe an entirely new alternative for entering into energy-related business agreements and leases and for granting rights-of-way for pipelines and electric transmission and distribution lines without further approval of the Secretary.

The Energy Policy Act of 2005 requires that the Secretary, before approving a TERA with a tribe, make a determination of a tribe's capacity to manage the full scope of administrative, regulatory, and energy resource development that the tribe proposes to assume under an approved TERA. Recognizing that a tribe wanting to enter into a TERA with the Department may need technical assistance in building its management capacity, the Energy Policy Act of 2005 also authorizes the Secretary to provide financial assistance to Indian tribes for use in developing and sustaining the managerial and technical capacity needed to develop energy resources on Indian land, and to properly account for resulting energy production and revenues. In furtherance of this goal, the Department of the Interior's Office of Indian Energy and Economic Development (IEED) is soliciting proposals from tribes and tribal energy resource development organizations to achieve the following goals:

• Evaluate the type and range of energy development activities that a tribe may want to pursue.

• Determine the current level of scientific, technical, administrative, or financial management capacity of the tribe to assume responsibility for the identified development activities; and

• Determine which scientific, technical, administrative, or financial management capacities need enhancement and what process and/or procedures the grantee may use to eliminate capacity gaps, or sustain the continued development of their energy development capacity into the future.

B. Items To Consider Before Preparing an Application for a Tribal Energy Development Capacity Grant

1. Trust Land Status

Tribal Energy Development Capacity (TEDC) funding can be made available only to tribes whose lands are held in trust or restricted fee by the Federal government. Congress has appropriated these funds to develop tribal capacity to manage the full scope of administrative, regulatory, and energy resource development only on Indian trust or restricted fee lands.

2. Tribes' Compliance History

The IEED will monitor all TEDC grants for statutory and regulatory compliance to assure that awarded funds are correctly applied to approved projects. Tribes that expend funds on unapproved functions may forfeit remaining funds in that proposal year, as well as future year TEDC funding. Consequently, IEED may request a tribe to provide a summary of any funds it has received in past years through other projects approved by IEED, and IEED may conduct a review of prior award expenditures before making a decision on current year proposals.

3. BIA Sanction List

Tribes who are currently under BIA sanction resulting from non compliance with the Single Audit Act may be ineligible from being considered for an award.

4. Multi-Year Proposals

The IEED cannot fund multi-year TEDC proposals. Therefore, all proposals should be designed to be completed in one year.

5. What the Tribal Energy Development Capacity Award Cannot Fund

As stated above, these funds are used specifically to assist tribes in an assessment of their ability to manage the full scope of administrative, regulatory, and technical energy resource development work only. Examples of items that cannot be funded include, but are not limited to the following:

• Purchasing and/or leasing of equipment for the development of energy and mineral resources;

• Establishing or operating a tribal office, and/or purchase of office equipment not specific to the assessment project. Tribal salaries may be included only if they are directly involved in the proposal and only for the duration of the proposal;

• Indirect costs and overhead as defined by the Federal Acquisition Regulation (FAR);

• Purchase of project equipment such as computers, vehicles, field gear, etc.;

• The payment of fees or procurement of any services associated with energy assessment or exploration or development activity;

• Legal fees;

• Research and development of unproven technologies;

• Training;

• Contracted negotiation fees;

• Purchase of resource assessment data; and

• Any other activities not authorized by the tribal resolution or by the contract.

C. How To Prepare an Application for Tribal Energy Development Capacity Funding

Applications must be prepared in accordance with this section. A complete application for TEDC funding must contain the following components:

• A current tribal resolution authorizing the proposal;

• A proposal describing the planned activities and deliverable products;

• A detailed budget estimate.

A detailed description of each of the required components follows.

1. *Mandatory Component:* Tribal Resolution.

The tribal resolution must be current, and it must be signed. It must authorize tribal approval for a TEDC proposal in the same fiscal year as that of the proposal and must explicitly refer to the proposal being submitted.

2. *Mandatory Component:* Tribal Energy Development Capacity Proposal.

A tribe must present its TEDC proposal in the format prescribed in this section. The proposal should be well organized, contain as much detail as possible, yet be presented succinctly to allow a quick and thorough understanding of the proposal by the IEED evaluation team. The proposal must include the following sections:

(a) Tribal point of contact and contact information, including telephone and fax numbers, and tribal responsible parties for technical execution and administration of the project;

(b) Include a short summary overview of the proposal that includes the reason for the proposed project, the total funding requested for the project, and the elements described in (c), (d), (e), (f), (g), (h), (i), and (j) of this part.

(c) Energy resource development potential: Describe in relevant detail the tribe's identified energy resources and existing or planned exploration and assessment.

(d) Energy resource development history and current status: Provide examples of the tribe's experience with energy resource development activities (both in the target area for capacity assessment and other energy resource development activities).

(e) Existing energy resource development capabilities: Describe in relevant detail the tribe's existing capabilities in comparison with the spectrum of capabilities and the spectrum of abilities necessary for successful energy development, including, but not limited to the following:

• Land and lease management.

• Technical, scientific, and engineering assessment.

• Financial and revenue management.

• Environmental monitoring and assessment.

• Regulatory monitoring and development (especially Federal, State, and tribal environmental and safety regulations).

(f) Describe in relevant detail plans the tribe has for energy development and growth including any current efforts to develop governmental institutions or independent business entities related to energy development activities.

(g) Describe in relevant detail any existing or planned tribal projects or programs, including but not limited to, staff, training, or budget resources, that could be applied to completion of the objectives in the accompanying proposal and future development of those objectives.

(h) *Technical Summary and Current Status:* Describe in relevant detail the proposal. Acknowledge any existing capacity assessments or building efforts already underway or previously completed. Give examples of the tribe's experience with energy development activities (both in the target area for capacity assessment and other energy development activities). Describe future plans the tribe has for energy development and growth. The proposed new study should not duplicate previous work. Describe the tribe's existing capabilities in comparison with the spectrum of abilities necessary for

successful energy development, including but not limited to the following:

- Land and lease management.
- Technical, scientific and engineering assessment.
- Financial and revenue management.
- Environmental monitoring and assessment.
- Regulatory monitoring and development (especially Federal, State, and tribal environmental and safety regulations).

(i) *Proposal Objectives, Goals and Scope of Work:* Describe the work proposed and the project goals and objectives expected to be achieved by the proposal. Specifically, identify the areas on which the proposal's assessment will focus. Describe in relevant detail the scope of work and justify a particular approach to be used in assessing the tribe's capacity to manage energy development activities and determine proposed next steps to be taken to eliminate identified skill gaps.

(j) *Deliverable Products:* Describe the deliverable products that the proposed project will generate. Discuss and provide deadlines for planned status reports as well as the final report.

(k) *Resumes of Key Personnel:* Provide the resumes of key personnel who will do the project work. The resumes should provide information on each individual's expertise. If subcontractors are used, these should also be disclosed.

3. *Mandatory Component:* Detailed Budget Estimate.

A detailed budget estimate is required for the funding level requested. The detail not only provides the tribe with an estimate of costs, but it also provides IEED with the means of evaluating each proposal. This line-by-line budget must fully detail all projected and anticipated expenditures under the TEDC proposal. The ranking committee reviews each budget estimate to determine whether the budget is reasonable and can produce the results outlined under the proposal.

Each proposal should have a budget. The budget should break out contract and consulting fees, travel, and all other relevant proposal expenses. Preparation of the budget portion of a proposal should be considered a top priority. A TEDC proposal that includes sound budget projections will receive a more favorable ranking over those proposals that fail to provide appropriate budget projections. The budget should provide a comprehensive breakdown for those proposal line items that involve several components or contain numerous sub-functions. The budget breakdown should include, at a minimum the following:

(a) *Contracted Personnel Costs:* This includes all contracted personnel and consultants, their respective positions and time (staff-hour) allocations for the proposed functions of a project. Personnel funded under the Public Law 93–638 Tribal Energy Development Capacity Program must have documented professional qualifications necessary to perform the work. Attach position descriptions to the budget estimate. If a consultant is to be hired for a fixed fee, itemize the consultant's expenses as part of the project budget. Consultant fees must be accompanied by documentation that clearly identifies the qualifications of the proposed consultants, specifics how the consultant(s) are to be used and includes a line item breakdown of costs associated with each consultant activity.

(b) *Travel Estimates:* Estimates should be itemized by airfare and vehicle rental, lodging and per diem, based on the current federal government per diem schedule.

(c) *Data Collection and Analysis Costs:* These costs should be itemized in sufficient detail for the reviewer to evaluate the charges.

(d) *Other Expenses:* Include computer rental, report generation, drafting, and advertising costs for a proposal.

As previously stated, a tribe or tribal organization that expends TEDC funds on unapproved project functions is subject to forfeiture of any remaining funds in that project year as well as sanctions against receipt of any future year TEDC funding.

D. Submission of Application in Digital Format

Submit the application in digital form. Acceptable formats are MS Word, WordPerfect, and Adobe Acrobat PDF. Image and graphic files may be JPG, TIF, or other PC bit image file formats.

Files must be saved with filenames that clearly identify the file being submitted. File name extensions must clearly indicate the software application used for preparation of the documents, (i.e., .wpd, .doc, pdf.)

Documents requiring an original signature, such as cover letters, tribal resolutions, and other letters of tribal authorization must also be submitted in hard copy (paper) form. If you have any additional questions concerning the Tribal Energy Development Capacity proposal submission process, please contact Darryl Francois at (202) 208–7253.

E. Award Evaluation and Administrative Information

1. Ranking Criteria

The proposal ranking criteria factors and associated scores as follows:

(a) Energy resource potential, 25 points.

(b) Energy resource development history and current status, 15 points.

(c) Existing energy resource development capabilities, 15 points.

(d) Demonstrated willingness to develop independent energy resource development business entity, 20 points.

(e) Intent to develop and retain energy development capacity within tribal government or business entities, 10 points.

(f) Tribal commitment of staff, training, or monetary resources, 15 points.

2. Ranking of Proposals and Award Letters

The TEDC review committee will rank the tribal energy development capacity proposals using the ranking criteria. The evaluation team will then forward the rated requests to the Director of IEED (Director) for approval. Once approved, the Director will submit all proposals to the Assistant Secretary—Indian Affairs for concurrence and announcement of awards to the selected tribes, via written notice. Those tribes not receiving an award will also be notified in writing.

F. When To Submit

The IEED will accept applications at any time before June 30, 2008, and will send a notification of receipt to the return address on the application package, along with a determination of whether or not the application is complete. However, the technical evaluation of the proposal will begin only after June 30, 2008.

G. Where To Submit

Applicants must submit the Tribal Energy Development Capacity proposals to IEED at ATTN: Tribal Energy Development Capacity Proposal, South Interior Building—Room 20, 1951 Constitution Avenue, NW., Washington, DC 20245.

A tribe may fax a complete TEDC proposal to IEED prior to the deadline for submission of proposals; however, an original signature copy, including all signed tribal resolutions and/or letters of tribal authorization, must be received in IEED's office within 5 working days after the deadline.

H. Transfer of Funds

IEED will transfer a tribe's TEDC funds to the BIA Regional Office that

serves that tribe, via a sub-allotment funding document coded for the tribe's TEDC proposal. The tribe should be anticipating the transfer of funds and be in contact with their budget personnel contacts at the Regional and Agency office levels. Tribes receiving TEDC awards must establish a new 638 contract to complete the transfer process, or use an existing 638 contract, as applicable.

I. Reporting Requirements for Award Recipients

1. Quarterly Reporting Requirements

During the life of the TEDC project, quarterly reports are to be submitted to the IEED project coordinator assigned to your project. The beginning and ending quarter periods are to be based on the actual start date of the TEDC project. This date can be determined between the IEED project coordinator and the tribe.

The quarterly report can be a one to two page summary of events, accomplishments, problems and/or results that took place during the quarter. Quarterly reports are due two weeks after the end of a project's fiscal quarter.

2. Final Reporting Requirements

The tribe must deliver all products and data generated by the proposed assessment project to IEED through the TEDC project coordinator within two weeks after completion of the project.

IEED requires that deliverable products be provided in digital format, along with printed hard copies. Reports can be provided in either WordPerfect, MS Word or PDF format. Spreadsheet data can be provided in MS Excel or PDF formats. Images can be provided in PDF, JPEG, TIFF, or any of the Windows metafile formats.

When a tribe prepares a proposal for a TEDC project, it must describe the deliverable products and include a requirement that the products be prepared in standard format (see format description above). Each proposal's budget estimate will provide funding for a total of six printed and six digital copies of the final report to be distributed as follows:

(a) The tribe will receive two printed and two digital copies of the TEDC report.

(b) IEED will receive four printed copies and four digital copies of the report sent to the IEED—Capacity Development Report, South Interior Building—Room 20, 1951 Constitution Avenue, NW., Washington, DC 20245. IEED will transmit one of these copies to the tribe's BIA Regional Office, and one copy to the tribe's BIA Agency office. Two printed and two digital copies will then reside with IEED.

Dated: April 18, 2008.

Carl J. Artman,

Assistant Secretary—Indian Affairs.

[FR Doc. E8–9512 Filed 4–30–08; 8:45 am]

BILLING CODE 4310–04–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–350–1610-DR]

Notice of Availability of Record of Decision for the Alturas Resource Management Plan

AGENCY: Bureau of Land Management.

ACTION: Notice of availability.

SUMMARY: In accordance with the National Environmental Policy Act (NEPA), the Federal Land Policy and Management Act (FLPMA), and the Bureau of Land Management (BLM) policies, the BLM announces the availability of the Record of Decision (ROD)/Approved Resource Management Plan (RMP) for the Alturas Field Office. The California State Director has signed the ROD, which constitutes the final decision of the BLM and makes the Approved RMP effective immediately.

ADDRESSES: Copies of the ROD and RMP are available upon request from the Field Manager, Alturas Field Office, Bureau of Land Management, 708 West 12th Street Alturas, CA 96101, or via the internet at *http://www.blm.gov/ca/st/en/prog/planning.html.*

FOR FURTHER INFORMATION CONTACT: For further information contact Jeff Fontana, Public Affairs Officer, Bureau of Land Management, 2950 Riverside Dr., Susanville, CA 96130, telephone (530) 257–0456, or e-mail your request to: *necarmp@ca.blm.gov.*

SUPPLEMENTARY INFORMATION: The Alturas Field Office includes approximately 503,045 acres in northeastern California. The geographic area includes BLM-administered lands within the counties of Modoc, Lassen, Shasta, and Siskiyou, California. The Alturas RMP was developed in coordination with the Eagle Lake and Surprise Field Office RMPs to provide a consistent framework for managing public lands and resource uses in northeast California and far northwest Nevada. BLM officially initiated the planning process for the Draft Alturas Resource Management Plan (RMP) with publication of a Notice of Intent in the **Federal Register** on July 22, 2003 (Volume 68, Number 140). Issues related to resource management in the Alturas planning area were assembled during the scoping process consisting of public scoping meetings, field tours, socioeconomic workshops, and interactions with federal, state, tribal, and county collaborators.

The RMP describes management actions to meet desired resource conditions for vegetation communities, wildlife habitats, and cultural and visual resources. It also outlines actions for recreation, protection of sensitive natural and cultural resources, livestock grazing, wild and scenic rivers, guidance for energy and mineral development, land tenure adjustments, and other planning issues raised during the scoping process.

The Alturas RMP designated seven Areas of Critical Environmental Concern (ACECs): Ash Valley ACEC (1,322 acres); Timbered Crater (17,896 acres); Emigrant Trials (1,750 acres); Mountain Peaks (3,500 acres); Old-Growth Juniper (3,115 acres); Mount Dome (1,510 acres); and Yankee Jim/Likely Tablelands/Fitzhugh Creek (1,400 acres). The following types of resource use limitations apply to these ACECs: (1) New rights-of-way exclusion; (2) Visual Resource Management Class II; (3) Certain restrictions to energy and mineral development; and (4) Motorized travel permitted only on designated open routes.

The BLM's Draft Alturas RMP/Draft Environmental Impact Statement (EIS) (April 2006) presented five alternatives to help the BLM and interested parties understand the various ways of addressing issues in the region. Upon evaluation of the alternatives and associated impacts described in the Draft RMP/EIS and based on public and agency comments on that document, the BLM prepared the Alturas Proposed RMP and Final EIS which was released on June 15, 2007. The Proposed RMP is comprised of the preferred alternative identified in the Draft RMP/EIS with small changes as a result of comments received.

Two protest letters on the Alturas Proposed RMP were received and resolved by the BLM Director. The BLM determined that the Proposed Action, as described in the Proposed RMP and Final EIS, best meets the purpose and need for the project.

The Governor of the State of California in his letter dated September 17, 2007 stated, ''Pursuant to 43 CFR 1603–2, and after consulting with affected State and Local agencies, the Governor's Office of Planning and Research (OPR) has not found any inconsistencies with any state or local plans, policies, or programs with

regards to this [Proposed] Resource Management Plan.''

The decisions identifying designated routes of travel for motorized vehicles are implementation decisions and are appealable to the Interior Board of Land Appeals (IBLA) under 43 CFR part 4. These decisions are contained in Chapter 2.16.6 and shown on Map TRAVEL–2 of the RMP. Any party adversely affected by the BLM's decision(s) to identify, evaluate, define, delineate, and/or select specific routes as available for motorized use within designated areas of travel as set forth in the Alturas Resource Management Plan may appeal within 30 days of publication of this Notice of Availability.

The appeal must be filed with the Alturas Field Manager at the above listed address. Please consult 43 CFR part 4 for further information on the IBLA appeal process.

Tim Burke,

Alturas Field Office Manager.

[FR Doc. E8–9520 Filed 4–30–08; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–350–1610–DR]

Notice of Availability of Record of Decision for the Eagle Lake Resource Management Plan

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the National Environmental Policy Act (NEPA), the Federal Land Policy and Management Act (FLPMA), and the Bureau of Land Management (BLM) policies, the BLM announces the availability of the Record of Decision (ROD)/Approved Resource Management Plan (RMP) for the Eagle Lake Field Office. The California State Director has signed the ROD, which constitutes the final decision of the BLM and makes the Approved RMP effective immediately.

ADDRESSES: Copies of the ROD and RMP are available upon request from the Field Manager, Eagle Lake Field Office, Bureau of Land Management, 2950 Riverside Drive, Susanville, CA 96130, or via the internet at *http://www.blm.gov/ca/st/en/prog/planning.html.*

FOR FURTHER INFORMATION: For further information contact Jeff Fontana, Public Affairs Officer, Bureau of Land Management, 2950 Riverside Dr., Susanville, CA 96130, telephone (530) 257–0456, or e-mail your request to: *necarmp@ca.blm.gov.*

SUPPLEMENTARY INFORMATION: The Eagle Lake Field Office includes approximately 1,022,767 acres in northeastern California and northwest Nevada. The geographic area includes BLM-administered lands within the counties of Lassen, Plumas, and Sierra, California, and Washoe, Nevada. BLM's mission is to sustain the health, diversity, and productivity of the public lands it manages for the use and enjoyment of present and future generations. The Eagle Lake RMP was developed in coordination with the Alturas and Surprise Field Office RMPs to provide a consistent framework for managing public lands and resource uses in northeast California and northwest Nevada.

BLM officially initiated the planning process for the Draft Eagle Lake Resource Management Plan (RMP) with publication of a Notice of Intent in the **Federal Register** on July 22, 2003 (Volume 68, Number 140). Issues related to resource management in the Eagle Lake planning area were assembled during the scoping process consisting of public scoping meetings, field tours, socioeconomic workshops, and interactions with federal, state, tribal, and county collaborators.

The RMP describes management actions to meet desired resource conditions for vegetation communities, wildlife habitats, and cultural and visual resources. It also outlines actions for recreation, protection of sensitive natural and cultural resources, livestock grazing, wild and scenic rivers, guidance for energy and mineral development, land tenure adjustments, and other planning issues raised during the scoping process.

The Eagle Lake RMP designated seven Areas of Critical Environmental Concern (ACECs): Eagle Lake Basin (34,320 acres); Susan River (2,495 acres); Pines Dunes (2,887 acres); Willow Creek (2,130 acres); Lower Smoke Creek (894 acres); Buffalo Creek Canyons (36,515 acres); and North Dry Valley (10,156 acres). The following types of resource use limitations apply to these ACECs: (1) New rights-of-way avoidance areas; (2) Visual Resource Management Class II; (3) Certain restrictions to energy and mineral development; and (4) Motorized travel permitted only on designated open routes.

The BLM's Draft Eagle Lake RMP/Draft Environmental Impact Statement (EIS) (April 2006) presented five alternatives to help the BLM and interested parties understand the various ways of addressing issues in the region. Upon evaluation of the alternatives and associated impacts described in the Draft RMP/EIS and based on public and agency comments on that document, the BLM prepared the Eagle Lake Proposed RMP and Final EIS which was released on June 15, 2007. The Proposed RMP is comprised of the preferred alternative identified in the Draft RMP/EIS with small changes as a result of comments received.

Ten protest letters on the Eagle Lake proposed RMP were received and resolved by the BLM Director. The BLM determined that the Proposed Action, as described in the Proposed RMP and Final EIS, best meets the purpose and need for the project.

The Governor of the State of California in his letter September 17, 2007 stated, ''Pursuant to 43 CFR 1603–2, and after consulting with affected State and Local agencies, the Governor's Office of Planning and Research (OPR) has not found any inconsistencies with any state or local plans, policies, or programs with regards to this [Proposed] Resource Management Plan.''

The decisions identifying designated routes of travel for motorized vehicles are implementation decisions and are appealable to the Interior Board of Land Appeals (IBLA) under 43 CFR, Part 4. These decisions are contained in Chapter 2.16.6 and shown on Map TRAVEL–2 of the RMP. Any party adversely affected by the BLM's decision(s) to identify, evaluate, define, delineate, and/or select specific routes as available for motorized use within designated areas of travel as set forth in the Eagle Lake Resource Management Plan may appeal within 30 days of publication of this Notice of Availability. The appeal must be filed with the Eagle Lake Field Manager at the above listed address. Please consult 43 CFR part 4 for further information on the IBLA appeal process.

Dayne Barron,

Field Manager.

[FR Doc. E8–9521 Filed 4–30–08; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–190–07–1610]

Notice of Availability of Record of Decision for the Surprise Resource Management Plan

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability.

SUMMARY: In accordance with the National Environmental Policy Act (NEPA), the Federal Land Policy Management Act (FLPMA), and the Bureau of Land Management (BLM), policies, the BLM announces the availability of the Record of Decision (ROD)/Approved Resource Management Plan (RMP) for the Surprise Field Office. The California State Director has signed the ROD, which constitutes the final decision of the BLM and makes the Approved RMP effective immediately.

ADDRESSES: Copies of the ROD and RMP are available upon request from the Field Manager, Surprise Field Office, Bureau of Land Management, 602 Cressler Street Cedarville, California 96104, or via the internet at *http://www.blm.gov/ca/st/en/prog/planning.html.*

FOR FURTHER INFORMATION CONTACT: For further information contact Jeff Fontana, Public Affairs Officer, Bureau of Land Management, 2950 Riverside Dr., Susanville, CA 96130, telephone (530) 257–0456, or e-mail your request to: *necarmp@ca.blm.gov.*

SUPPLEMENTARY INFORMATION: The Surprise Field Office includes approximately 1,220,644 acres in northeastern California and northwest Nevada. The geographic area includes BLM-administered lands within the counties of Modoc and Lassen, California, and Humboldt and Washoe, Nevada. The Surprise RMP was developed in coordination with the Alturas and Eagle Lake Field Office RMPs to provide a consistent framework for managing public lands and resource uses in northeast California and northwest Nevada.

BLM officially initiated the planning process for the Draft Surprise Resource Management Plan (RMP) with publication of a Notice of Intent in the **Federal Register** on July 22, 2003 (Volume 68, Number 140). Issues related to resource management in the Surprise planning area were established during the scoping process consisting of public scoping meetings, field tours, socioeconomic workshops, and interactions with Federal, state, tribal, and county collaborators.

The RMP describes management actions to meet desired resource conditions for vegetation communities, wildlife habitats, and cultural and visual resources. It also outlines actions for recreation, protection of sensitive natural and cultural resources, livestock grazing, guidance for energy and mineral development, land tenure adjustments, and other planning issues raised during the scoping process. The Surprise RMP designated three Areas of Critical Environmental Concern (ACECs): Massacre Rim ACEC (44,870 acres); Bitner ACEC (1,921 acres); and Rahilly-Gravelly ACEC/RNA (957 acres). The following types of resource use limitations apply to these ACECs: (1) New rights-of-way exclusion or avoidance; (2) Visual Resource Management Class II; (3) Certain restrictions to energy and mineral development; and (4) Motorized travel permitted only on designated open routes. The BLM's Draft Surprise RMP/Draft Environmental Impact Statement (EIS) (April 2006) presented five alternatives to help the BLM and interested parties understand the various ways of addressing issues in the region. Upon evaluation of the alternatives and associated impacts described in the Draft RMP/EIS and based on public and agency comments on that document, the BLM prepared the Surprise Proposed RMP and Final EIS which was released on June 15, 2007. The Proposed RMP is comprised of the preferred alternative identified in the Draft RMP/EIS with small changes as a result of comments received. Six protest letters on the Surprise proposed RMP were received and resolved by the BLM Director. The BLM determined that the Proposed Action, as described in the Proposed RMP and Final EIS, best meets the purpose and need for the project. The Governor of the State of California in his letter September 17, 2007 stated, ''Pursuant to 43 CFR 1603–2, and after consulting with affected State and Local agencies, the Governor's Office of Planning and Research (OPR) has not found any inconsistencies with any state or local plans, policies, or programs with regards to this [Proposed] Resource Management Plan.''

The decisions identifying designated routes of travel for motorized vehicles are implementation decisions and are appealable to the Interior Board of Land Appeals (IBLA) under 43 CFR Part 4. These decisions are contained in Chapter 2.14.4 and shown on Map TRAVEL–1 of the RMP. Any party adversely affected by the BLM's decision(s) to identify, evaluate, define, delineate, and/or select specific routes as available for motorized use within designated areas of travel as set forth in the Surprise Resource Management Plan may appeal within 30 days of publication of this Notice of Availability. The appeal must be filed with the Surprise Field Manager at the above listed address. Please consult 43 CFR Part 4 for further information on the IBLA appeal process.

Dated: December 10, 2007.

Shane Deforest,

Surprise Field Office Manager.

[FR Doc. E8–9513 Filed 4–30–08; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–190–08–1220–PN]

Notice of Closure of BLM Public Lands Within the Clear Creek Management Area

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice of closure to all forms of entry and public use of approximately 31,000 acres of public lands within the Clear Creek Management Area (CCMA), referred to as the Serpentine Area of Environmental Concern (ACEC) and portions of adjacent BLM-administered lands, located in southern San Benito County and western Fresno County, California.

SUMMARY: Pursuant to 43 Code of Federal Regulations (CFR), subpart 8364.1, an Order has been issued by the Bureau of Land Management (BLM), Hollister Field Office, closing to all forms of entry and public use certain BLM-administered public lands. This closure is necessary to protect public land users from human health risks associated with exposure to airborne asbestos in the CCMA based upon a final report issued by the Environmental Protection Agency that concludes that public use activities could expose an individual to excess lifetime cancer risks. The order will remain in effect while the BLM completes a Resource Management Plan for the CCMA to determine if and how visitor use can occur without associated excess health risks. This closure affects approximately 31,000 acres of public lands located within the Bureau of Land Management's Clear Creek Management Area (CCMA).

DATES: The Order was issued and became effective on May 1, 2008.

FOR FURTHER INFORMATION CONTACT: Rick Cooper, Hollister Field Manager, BLM, Hollister Field Office, 20 Hamilton Court, Hollister, California, 95023. Telephone: 831–630–5010 Fax: 831–630–5055, during regular business hours, 7:30 a.m. to 4 p.m., Monday through Friday, except holidays.

SUPPLEMENTARY INFORMATION: CCMA is a remote area with hundreds of miles of roads and trails that were created to support historic timber harvesting and

mining activities. The 63,000 acre area is a popular location for off-highway vehicle (OHV) recreation. A variety of other recreation activities also occur within the CCMA, including hunting, rock-hounding, wildlife watching, and hiking. This is a unique geological area with serpentine soils that contain naturally occurring asbestos.

BLM has issued the Closure Order in response to the results of a study conducted by the U.S. Environmental Protection Agency (EPA) that concludes public use activities could expose an individual to excess lifetime cancer risks.

Closure Order: Pursuant to 43 CFR 8364.1, BLM has issued an Order closing approximately 31,000 acres of public land to all forms of entry and public use within the Clear Creek Management Area (CCMA). The area is referred to as the Serpentine Area of Environmental Concern (ACEC) and portions of adjacent BLM-administered lands in lower Clear Creek Canyon, located in southern San Benito County and western Fresno County, California. The lands include portions of Mount Diablo Principal Meridian: Township 17 South, Ranges 11 and 12 East; Township 18 South, Ranges 11, 12 and 13 East, and Township 19 South, Range 13 East.

This closure is necessary to protect public land users from human health risks associated with exposure to airborne asbestos in the CCMA based upon a final report issued by the Environmental Protection Agency that concludes that public use activities could expose an individual to excess lifetime cancer risks. The order will remain in effect while the BLM completes a Resource Management Plan for the CCMA to determine if and how visitor use can occur without associated excess health risks.

The following persons are exempt from the identified restrictions:

(1) Federal, State, or local law enforcement officers, while engaged in the execution of their official duties.

(2) BLM personnel or their representatives while engaged in the execution of their official duties.

(3) Any member of an organized rescue, fire-fighting force, or emergency medical services organization while in the performance of their official duties.

(4) Any member of a federal, state, or local government agencies while in the performance of an official duty.

(5) Any person in receipt of a written authorization of exemption obtained from the authorized officer.

Private landowners within the restricted area and persons with valid existing rights-of-way, mining claims, or leases must request in writing access permission from Hollister Field Manager at the address listed below.

During the closure period the area will be clearly posted. Informational signs will be posted at main entry points to locations affected by this Order. Maps of the closed area will be posted with the Order at key locations that provide access to the closed area, and may also be obtained at the Hollister Field Office, 20 Hamilton Court, Hollister, California 95023.

Failure to comply with this order is punishable by a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months Pursuant to 43 CFR, subpart 8360.0–7.

Dated: April 3, 2008.

Rick Cooper,

Hollister Field Manager.

[FR Doc. E8–9681 Filed 4–30–08; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–1320–EL, WYW176446]

Coal Exploration License, WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Invitation for Coal Exploration License.

SUMMARY: Pursuant to section 2(b) of the Mineral Leasing Act of 1920, as amended by section 4 of the Federal Coal Leasing Amendments Act of 1976, 90 Stat. 1083, 30 U.S.C. 201(b), and to the regulations adopted as 43 CFR 3410, all interested parties are hereby invited to participate with Black Butte Coal Company on a pro rata cost sharing basis in its program for the exploration of coal deposits owned by the United States of America in the following-described lands in Sweetwater County, WY:

T. 18 N., R. 101 W., 6th P.M., Wyoming
Sec. 2: Lot 4;
Sec. 4: Lots 1, 2, S½NE¼;

T. 19 N., R. 101 W., 6th P.M., Wyoming
Sec. 26: N½NE¼, NE¼NW¼.

Containing 319.83 acres, more or less.

The purpose of the exploration program is to obtain structural and quality information of the coal. The proposed exploration program is fully described and will be conducted pursuant to an exploration plan to be approved by the Bureau of Land Management.

ADDRESSES: Copies of the exploration plan are available for review during normal business hours in the following offices (serialized under number WYW176446): Bureau of Land Management, Wyoming State Office, 5353 Yellowstone Road, P.O. Box 1828, Cheyenne, WY 82003; and, Bureau of Land Management, Rock Springs Field Office, 280 Highway 191 North, Rock Springs, WY 82901. The written notice should be sent to the following addresses: Black Butte Coal Company, Attn: Clark Fritz, P.O. Box 98, Point of Rocks, WY 82901, and the Bureau of Land Management, Wyoming State Office, Branch of Solid Minerals, Attn: Mavis Love, P.O. Box 1828, Cheyenne, WY 82003.

SUPPLEMENTARY INFORMATION: This notice of invitation will be published in the Rock Springs Daily Rocket-Miner once each week for two consecutive weeks beginning the week of April 28, 2008, and in the **Federal Register**. Any party electing to participate in this exploration program must send written notice to both the Bureau of Land Management and Black Butte Coal Company, as provided in the **ADDRESSES** section above, no later than thirty days after publication of this invitation in the **Federal Register**.

The foregoing is published in the **Federal Register** pursuant to 43 CFR 3410.2–1(c)(1).

Dated: April 21, 2008.

Larry Claypool,

Acting Deputy State Director, Minerals and Lands.

[FR Doc. E8–9195 Filed 4–30–08; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF JUSTICE

Office on Violence Against Women; Notice of Establishment

AGENCY: Office on Violence Against Women, Justice.

ACTION: Notice of establishment.

SUMMARY: This notice sets forth the establishment of the Violence Against Women in Indian Country Task Force (hereinafter ''the Task Force'').

SUPPLEMENTARY INFORMATION: The Department of Justice hereby gives notice of establishment of the Violence Against Women in Indian Country Task Force, a statutorily mandated Federal Advisory Committee. The Attorney General has established the Task Force pursuant to the requirements of section 904 of the Violence Against Women and Department of Justice Reauthorization Act of 2005 (VAWA 2005), Public Law 109–162.

The Task Force will advise the National Institute of Justice and the

Office on Violence Against Women regarding the development and implementation of a program of research on violence against Indian women, including domestic violence, dating violence, sexual assault, stalking, and murder.

As required by the VAWA 2005, the Task Force is composed of members representing national tribal domestic violence and sexual assault organizations, tribal governments, and national tribal organizations. The Task Force will function solely as an advisory body in compliance with the provisions of the Federal Advisory Committee Act. Its charter will be filed in accordance with the provisions of the Act. The Attorney General, through the Director of the Office on Violence Against Women, has appointed the following members to serve on the Task Force:

Ms. Karen Artichoker, Director of Administration and Shelter Services, Cangleska, Inc., Pine Ridge, South Dakota;

Ms. Jacqueline Agtuca, Director of Public Policy, Clan Star, Inc., San Francisco, California;

Ms. Jolanda Ingram, Director, Niwhongwhxw STOP the Violence Coalition, Hoopa, California;

The Honorable Billy Jo (''BJ'') Jones, Director, Northern Plains Tribal Judicial Training Institute, Chief Judge, Sisseton-Wahpeton Tribe, Rapid City, South Dakota;

Ms. Cheryl Neskahi Coan, Director of Training, Southwest Center for Law & Policy, Tucson, Arizona;

Ms. Shannon Cozzoni, First Assistant Attorney General, Muscogee (Creek) Nation, Okmulgee, Oklahoma;

Ms. Vikki Shirley, First Lady, Navajo Nation, Window Rock, Arizona;

Ms. Lori Jump, Program Manager, Advocacy Resource Center, Sault Ste. Marie Tribe of Chippewa Indians Victim Services Program, Sault Ste. Marie, Michigan;

Ms. Denise Morris, President and Chief Executive Officer, Alaska Native Justice Center, Inc., Anchorage, Alaska;

Mr. Arlen Quetawki, Zuni Pueblo Law Enforcement Consultant, Pueblo of Zuni, New Mexico;

Ms. Patricia Megeshick, Program Director, Ft. Peck Family Violence Resource Center, Poplar, Montana;

Ms. Bernadette LaSarte, Program Director, Couer d'Alene Tribal Domestic Violence Program, Plummer, Idaho;

Ms. Nancy Soctomah, Project Coordinator, Peaceful Relations Domestic Violence Response Program, Pleasant Point Reservation, Maine;

Senator Theresa Two Bulls, Senator, South Dakota Senate, Oglala Sioux tribal prosecutor, Pine Ridge, South Dakota;

Ms. Virginia Davis, Associate Counsel, National Congress of American Indians, Washington, DC.;

Ms. Pamela Iron, Executive Director, National Indian Women's Health Resource Center, Tulsa, Oklahoma;

Mr. Dana Grey Jim, Staff Attorney, Cherokee Nation, Secretary, Oklahoma Indian Bar Association, Tahlequah, Oklahoma.

Dated: April 23, 2008.

Cindy Dyer,

Director, Office on Violence Against Women.

[FR Doc. E8–9576 Filed 4–30–08; 8:45 am]

BILLING CODE 4410–FX–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0020]

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-Day Notice of Information Collection Under Review: Firearms Transaction Record, Part 1, Over-the-Counter.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until June 30, 2008. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Barbara Terrell, Firearms Enforcement Branch, 99 New York Avenue, NE., Washington, DC 20226.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Firearms Transaction Record, Part 1, Over-the-Counter.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: ATF F 4473 (5300.9) Part 1. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. *Other:* Business or other for-profit. The form is used to determine the eligibility (under the Gun Control Act) of a person to receive a firearm from a Federal firearms licensee and to establish the identity of the buyer. It is also used in law enforcement investigations/inspections to trace firearms.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 10,225,000 respondents will complete a 25 minute form.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 4,260,417 annual total burden hours associated with this collection.

If additional information is required contact: Lynn Bryant, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, Department of Justice, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: April 28, 2008.

Lynn Bryant,

Department Clearance Officer, PRA, U.S. Department of Justice.

[FR Doc. E8–9615 Filed 4–30–08; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

Meeting of the CJIS Advisory Policy Board

AGENCY: Federal Bureau of Investigation (FBI), Department of Justice.

ACTION: Meeting notice.

SUMMARY: The purpose of this notice is to announce the meeting of the Criminal Justice Information Services (CJTS) Advisory Policy Board (APB). The CJIS APB is a federal advisory committee established pursuant to the Federal Advisory Committee Act. This meeting announcement is being published as required by Section 10 of the FACA.

The CJIS APB is responsible for reviewing policy issues and appropriate technical and operational issues related to the programs administered by the FBI's CJIS Division, and thereafter, making appropriate recommendations to the FBI Director. The programs administered by the CJIS Division are the Integrated Automated Fingerprint Identification System, the Interstate Identification Index, Law Enforcement Online, National Crime Information Center, the National Instant Criminal Background Check System, the National Incident-Based Reporting System, Law Enforcement National Data Exchange, and Uniform Crime Reporting.

The meeting will be open to the public on a first-come, first-seated basis. Any member of the public wishing to file a written statement concerning the CJIS Division programs or wishing to address this session should notify Senior CJTS Advisor Roy G. Weise at (304) 625–2730 at least 24 hours prior to the start of the session. The notification should contain the requestor's name, corporate designation, and consumer affiliation or government designation along with a short statement describing the topic to be addressed and the time needed for the presentation. A requestor will ordinarily be allowed no more than 15 minutes to present a topic.

Dates and Times: The APB will meet in open session from 8:30 a.m. until 5 p.m., on June 11–12, 2008.

ADDRESSES: The meeting will take place at the Statehouse Convention Center, Little Rock, Arkansas, (501) 370–3225.

FOR FURTHER INFORMATION CONTACT: Inquiries may be addressed to Mrs. Margery E. Broadwater; Management and Program Analyst; Advisory Groups Management Unit; Liaison, Advisory, Training and Statistics Section; FBI CJIS Division; Module C3; 1000 Custer Hollow Road; Clarksburg; West Virginia 26306–0149; telephone (304) 625–2446; facsimile (304) 625–5090.

Dated: April 18, 2008.

Roy G. Weise,

Senior CJIS Advisor, Criminal Justice Information Services Division, Federal Bureau of Investigation.

[FR Doc. E8–9547 Filed 4–30–08; 8:45 am]

BILLING CODE 4410–02–M

DEPARTMENT OF LABOR

Office of the Secretary

Enhancing Skills of Colombian Trade Unionists

AGENCY: Bureau of International Labor Affairs, Department of Labor.

Announcement Type: New. Notice of Availability of Funds and Solicitation for Cooperative Agreement Applications. The full announcement is posted on *http://www.Grants.Gov* as well as on the DOL Web site at *http://www.dol.gov/ilab.*

Funding Opportunity Number: SGA 08–09.

Catalog of Federal Domestic Assistance (CFDA) Number: Not applicable.

Key Dates: The closing date for receipt of applications is June 6, 2008 via Grants.gov.

Executive Summary: This notice contains all of the information and forms needed to apply for grant funding. The U.S. Department of Labor, Bureau of International Labor Affairs, announces the availability of up to USD $1.25 million to be granted by Cooperative Agreement for a project to improve trade union skills of Colombian trade unionists through a U.S. based training program.

I. Funding Opportunity Description

The U.S. Department of Labor (USDOL), Bureau of International Labor Affairs (ILAB), announces the availability of $1.25 million to be awarded by Cooperative Agreement (hereinafter referred to as ''grant'' or ''Cooperative Agreement'') to a qualifying international organization that has experience working to promote core labor standards and improve labor-management relations in Colombia by working in a tripartite manner (government, employers, and unions). ILAB is authorized to award and administer this program by the Department of Labor Appropriations Act, 2008, Public Law 110–161, 121 Stat. 1844 (2007). The Cooperative Agreement awarded under this initiative will be managed by ILAB's Office of Trade and Labor Affairs. The duration of the project funded by this solicitation is two to three years. The start date of program activities will be negotiated upon award of the Cooperative Agreement, but will be no later than September 30, 2008.

The full Solicitation for Grant Application is posted on *http://www.Grants.Gov* under U.S. Department of Labor/ILAB. Only Applications submitted through *http://www.Grants.Gov* will be accepted. If you need to speak to a person concerning these grants, or if you have issues regarding access to the Grants.gov Web site, you may telephone Lisa Harvey at 202–693–4570 (not a toll-free number).

Signed at Washington, DC, this 25th day of April, 2008.

Lisa Harvey,

Grant Officer.

[FR Doc. E8–9470 Filed 4–30–08; 8:45 am]

BILLING CODE 4510–28–P

MILLENNIUM CHALLENGE CORPORATION

[MCC FR 08–04]

Agency Information Collection Request; Comment Request

AGENCY: Millennium Challenge Corporation.

ACTION: 30 Day Notice.

SUMMARY: The Millennium Challenge Corporation, in accordance with the Paperwork Reduction Act of 1995, invites public comment on a proposed information collection request. Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatements of previously approved collections.

This document describes on collection of information which the Millennium Challenge Corporation intends to seek OMB approval.

DATES: Please submit comments by June 12, 2008.

ADDRESSES: To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, email your request, including your address, phone number, Form/OMB number to *Kellytj@mcc.gov,* or call Thomas Kelly, Director, Economic Policy at (202) 521–3600. Written comments and recommendations for the proposed

information collection must be received within 30-days of this notice, and directed to the Desk Officer at the following address:

OMB Desk Officer: David Rostker, OMB/ORIA, New Executive Office Building, Room 10235, Washington, DC 20503.

SUPPLEMENTARY INFORMATION: In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, as amended, the Millennium Challenge Corporation (MCC) is publishing the following summary of a proposed information collection for public comment. Interested persons are invited to send comments on: (i) The necessity and utility of the proposed collection of information for the proper performance of the agency's functions; (ii) the accuracy of the estimated burden; (iii) the quality, utility and clarity of the information to be collected; and (iv) the burden of the collection of information on those who are to respond, including various technological collection techniques or other forms of information technology to minimize the information collection burden.

Proposed Project: A survey of international development organizations to assist in measuring MCC's leadership role in development practice. This survey, conducted by an independent organization, will become a part of MCC's data measuring its performance under the provisions of the Government Performance Results Act of 1993. It will seek to measure how MCC is affecting change in the manner development assistance is administered by other organizations providing similar assistance.

Abstract:

Type of Information Collection Request: New Request.

Title of Information Collection: Leadership in Development Assistance Survey.

Use: The Millennium Challenge Act of 2003 (Pub. L. 108–199) established the Millennium Challenge Corporation (MCC) to reduce poverty through sustainable economic growth to poor countries demonstrating through their policy performance their commitment to good governance. One of MCC's strategic goals, as stated in its strategic plan developed pursuant to GPRA, is to ''advance the international development practice.'' This survey will gather information regarding how MCC's unique model of assistance is impacting the development assistance community. In particular, it will measure whether other organizations recognize the distinguishing characteristics of MCC's approach to providing foreign assistance, whether they believe that MCC's approach represents best practice, and whether they are modifying their own assistance programs to include elements of MCC's approach. The survey will be conducted by phone to organizations and individuals selected by MCC. Data gathered by the independent survey will be provided to MCC for the purpose of assessing its performance with respect to the above-stated strategic goal.

Frequency: Biannual.

Affected Public: International donors, Foundations, Think Tanks, Academicians.

Biannual Number of Respondents: 300.

Total Biannual Responses: 300.

Average Burden per Response: 10 minutes.

Total Biannual Hours: 50 hours.

Authority: The Paperwork Reduction Act of 1995 and 5 CFR 1320.8(d).

Dated: April 22, 2008.

William G. Anderson, Jr.,

Vice President and General Counsel, Millennium Challenge Corporation.

[FR Doc. E8–9536 Filed 4–30–08; 8:45 am]

BILLING CODE 9211–03–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (08–041)]

Notice of Information Collection

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collection.

SUMMARY: The National Aeronautics and Space Administration, 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 (Pub. L. 104–13, 44 U.S.C. 3506(c)(2)(A)).

DATES: All comments should be submitted within 30 calendar days from the date of this publication.

ADDRESSES: All comments should be addressed to Sharon Mar, Office of Information and Regulatory Affairs; Office of Management and Budget; Room 10236; New Executive Office Building; Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Dr. Walter Kit, NASA Clearance Officer, NASA Headquarters, 300 E Street, SW., JB000, Washington, DC 20546, (202) 358–1350, *Walter.Kit-1@nasa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The LIST System form is used primarily to support services at GSFC dependent upon accurate locator type information. The Personal Identifiable Information (PII) is maintained, protected, and used for mandatory security functions. The system also serves as a tool for performing short and long-term institutional planning.

II. Method of Collection

Approximately 46% of the data is collected electronically by means of the data entry screen that duplicates the Goddard Space Flight Center form GSFC 24–27 in the LISTS system. The remaining data is keyed into the system from hardcopy version of form GSFC 24–27.

III. Data

Title: Locator and Information Services Tracking System (LISTS) Form.

OMB Number: 2700–0064.

Type of review: Extension of currently approved collection.

Affected Public: Federal government, individuals or households, and business or other for-profit.

Responses Per Respondent: 1.

Annual Responses: 8,455.

Hours Per Request: 0.08 hours/5 minutes.

Annual Burden Hours: 702.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection.

They will also become a matter of public record.

Gary Cox,

Associate Chief Information Officer (Acting).

[FR Doc. E8–9349 Filed 4–30–08; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (08–040)]

Notice of Information Collection Under OMB Review

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collection under OMB review.

SUMMARY: The National Aeronautics and Space Administration, 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 (Pub. L. 104–13, 44 U.S.C. 3506(c)(2)(A)).

DATES: All comments should be submitted within 30 calendar days from the date of this publication.

ADDRESSES: All comments should be addressed to Sharon Mar, Office of Information and Regulatory Affairs; Room 10236; New Executive Office Building; Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Dr. Walter Kit, NASA PRA Clearance Officer, NASA Headquarters, 300 E Street, SW., JE0000, Washington, DC 20546, (202) 358–1350, *Walter.Kit-1@nasa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This information collection has to do with recordkeeping and reporting required to ensure proper accounting of Federal funds and property provided under NASA cooperative agreements with commercial firms.

II. Method of Collection

Electronic funds transfer is used for payment under Treasury guidance. In addition, NASA encourages the use of computer technology and is participating in Federal efforts to extend the use of information technology to more Government processes via the Internet. Specifically, progress has been made in the area of property reporting, most of it being done electronically.

III. Data

Title: Cooperative Agreements with Commercial Firms.

OMB Number: 2700–0092.

Type of review: Revision of Currently Approved Collection.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 288.

Estimated Total Annual Burden Hours: 1496.

Estimated Total Annual Cost to Government: $0.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection. They will also become a matter of public record.

Gary Cox,

Associate Chief Information Officer (Acting).

[FR Doc. E8–9509 Filed 4–30–08; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (08–039)]

NASA Advisory Council; Science Committee; Planetary Protection Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: The National Aeronautics and Space Administration (NASA) announces a meeting of the Planetary Protection Subcommittee of the NASA Advisory Council (NAC). This Subcommittee reports to the Science Committee of the NAC. The Meeting will be held for the purpose of soliciting from the scientific community and other persons scientific and technical information relevant to program planning.

DATES: Thursday, May 22, 2008, 9 a.m. to 5:30 p.m. and Friday, May 23, 2008, 9 a.m. to 4 p.m. Pacific Daylight Time.

ADDRESSES: Jet Propulsion Laboratory, room 180–703C, 4800 Oak Grove Drive, Pasadena, CA 91109.

FOR FURTHER INFORMATION CONTACT: Ms. Marian Norris, Science Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 358–4452, fax (202) 358–4118, or *mnorris@nasa.gov.*

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. The agenda for the meeting includes the following topics:

—Planning for Mars Sample Return and the Sample Receiving Facility.

—Review of Microbial Reduction and Inventory Technologies.

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Attendees will be requested to sign a register and to comply with NASA/Jet Propulsion Laboratory security requirements, including the presentation of a valid Government issued picture ID, before receiving an access badge. Foreign nationals attending this meeting will be required to provide the following information no less than 7 working days prior to the meeting: Full name; gender; date/place of birth; citizenship; visa/green card information (number, type, expiration date); passport information (number, country, expiration date); employer/affiliation information (name of institution, address, country, telephone); title/position of attendee. Additional information may be requested. A Passport and Visa must be presented at the time of entrance to the Jet Propulsion Laboratory. To expedite admittance, attendees with U.S. citizenship can provide identifying information 5 working days in advance by contacting Marian Norris via e-mail at *mnorris@nasa.gov* or by telephone at (202) 358–4452.

Dated: April 24, 2008.

P. Diane Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. E8–9516 Filed 4–30–08; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL PRISON RAPE ELIMINATION COMMISSION

Notice of Availability for Public Comment on NPREC Draft Standards

AGENCY: National Prison Rape Elimination Commission.

ACTION: Notice.

SUMMARY: The National Prison Rape Elimination Commission is announcing the release and availability for public comment on its Draft Standards for the Prevention, Detection, Response, and Monitoring of Sexual Abuse in Adult Prisons, Jails, and supplemental standards for facilities holding Immigration Detainees.

DATES: The comment period will begin May 5, 2008 and close on July, 7, 2008. All comments must be received by 5 p.m. E.D.T. on Monday, July 7, 2008.

ADDRESSES: The preferred comment method is via the Microsoft Word form accessible at the NPREC Web site (*http://www.nprec.us*). This form can be downloaded and used to submit comments via mail, e-mail and/or fax. E-mailed comment forms should be sent to *comments@nprec.us*. To submit via mail, fill out the form, then print and mail to: National Prison Rape Elimination Commission, 1440 New York Avenue, NW., Suite 200, Washington, DC 20005–2111. Faxed forms should be sent to (202) 233–1089.

FOR FURTHER INFORMATION CONTACT: Questions regarding the comment process should be directed to the National Prison Rape Elimination Commission at (202) 233–1090.

SUPPLEMENTARY INFORMATION: The National Prison Rape Elimination Commission (''NPREC'' or ''the Commission'') is a bipartisan panel created by Congress as part of the Prison Rape Elimination Act of 2003. The Commission is charged with studying federal, state and local government policies and practices related to the prevention, detection, response and monitoring of sexual abuse in correctional and detention facilities in the United States. Consistent with the Act, the Commission's recommendations will be designed to make the prevention of sexual abuse a top priority in America's jails, prisons, lock-ups, juvenile facilities, and other detention facilities.

Since its creation, the Commission has undertaken a comprehensive legal and factual study of the penological, physical, mental, medical, social and economic impacts of prison sexual abuse on federal, state and local government functions and on the communities and social institutions in which they operate.

Upon completion of its study, the Commission will report its findings, conclusions and recommendations to the President, Congress, the U.S. Attorney General and other federal and state officials. As a key component of its report, the panel will include the statutorily required zero-tolerance standards.

This notice is to announce the release of Draft Standards for the Prevention, Detection, Response, and Monitoring of Sexual Abuse in Adult Prisons, Jails, and supplemental standards for facilities holding Immigration Detainees, for a public comment period of 60 days. Written comments about these draft standards are invited from the public, as well as affected agencies and organizations.

This draft can be accessed and downloaded from the NPREC Web site: *http://www.nprec.us*. A hard copy of the NPREC draft standards is available by mailing a request to the NPREC address, by telephoning (202) 233–1090, or via e-mail at *nprec@nprec.us*.

Separate draft standards for Lock-Ups, Juvenile and Community Corrections facilities will become available for public comment in June 2008. Separate notice and comment forms will be posted for this purpose in June.

Dated: April 24, 2008.

Margaret M. Chiara,

General Counsel, National Prison Rape Elimination Commission.

[FR Doc. E8–9596 Filed 4–30–08; 8:45 am]

BILLING CODE 4410–18–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–387 and 50–388]

PPL Susquehanna, LLC; Susquehanna Steam Electric Station, Units 1 and 2; Notice of Availability of the Draft Supplement 35 to the Generic Environmental Impact Statement for License Renewal of Nuclear Plants and Public Meeting for the License Renewal of Susquehanna

Notice is hereby given that the U.S. Nuclear Regulatory Commission (NRC, Commission) has published a draft plant-specific supplement to the Generic Environmental Impact Statement for License Renewal of Nuclear Plants (GEIS), NUREG–1437, regarding the renewal of operating licenses NPF–14 and NPF–22 for an additional 20 years of operation for the Susquehanna Steam Electric Station, Units 1 and 2. Susquehanna Steam Electric Station is located in northeastern Pennsylvania (PA) in Salem Township, approximately 5 miles northeast of the Borough of Berwick, PA, 20 miles southwest of Wilkes-Barre, PA, and 50 miles northwest of Allentown, PA. Possible alternatives to the proposed action (license renewal) include no action and several reasonable alternative energy sources.

The draft Supplement 35 to the GEIS is publicly available at the NRC Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, or from the NRC's Agencywide Documents Access and Management System (ADAMS). The ADAMS Public Electronic Reading Room is accessible at *http://adamswebsearch.nrc.gov/dologin.htm*. The Accession Number for the draft Supplement 35 to the GEIS is ML081140337. Persons who do not have access to ADAMS, or who encounter problems in accessing the documents located in ADAMS, should contact the NRC's PDR Reference staff by telephone at 1–800–397–4209, or 301–415–4737, or by e-mail at *pdr@nrc.gov*. In addition, the McBride Memorial Library—located at 500 N. Market St., Berwick, PA 18603—and the Mill Memorial Library—located at 495 E. Main St., Nanticoke, PA 18634—have agreed to make the draft supplement to the GEIS available for public inspection.

Any interested party may submit comments on the draft supplement to the GEIS for consideration by the NRC staff. To be considered, comments on the draft supplement to the GEIS and the proposed action must be received by July 21, 2008; the NRC staff is able to assure consideration only for comments received on or before this date. Comments received after the due date will be considered only if it is practical to do so. Written comments on the draft supplement to the GEIS should be sent to: Chief, Rulemaking, Directives and Editing Branch, Division of Administrative Services, Office of Administration, Mailstop T–6D59, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Comments may be hand-delivered to the NRC at 11545 Rockville Pike, Room T–6D59, Rockville, Maryland, between 7:30 a.m. and 4:15 p.m. on Federal workdays. Electronic comments may be submitted to the NRC by e-mail at *SusquehannaEIS@nrc.gov*. All comments received by the Commission, including those made by Federal, State, local agencies, Native American Tribes, or other interested persons, will be made available electronically at the Commission's PDR in Rockville, Maryland, and through ADAMS.

The NRC staff will hold a public meeting to present an overview of the draft plant-specific supplement to the GEIS and to accept public comments on the document. The public meeting will be held on May 28, 2008, at the The Eagles Building, 107 South Market St., Berwick, PA 18603. There will be two sessions to accommodate interested parties. The first session will convene at 1:30 p.m. and will continue until 4:30 p.m., as necessary. The second session will convene at 7 p.m. with a repeat of the overview portions of the meeting and will continue until 10 p.m., as necessary. Both meetings will be transcribed and will include: (1) A presentation of the contents of the draft plant-specific supplement to the GEIS, and (2) the opportunity for interested government agencies, organizations, and individuals to provide comments on the draft report. Additionally, the NRC staff will host informal discussions one hour prior to the start of each session at the same location. No comments on the draft supplement to the GEIS will be accepted during the informal discussions. To be considered, comments must be provided either at the transcribed public meeting or in writing. Persons may pre-register to attend or present oral comments at the meeting by contacting Mr. Drew Stuyvenberg, the NRC Environmental Project Manager at 1–800–368–5642, extension 4006, or by e-mail at *SusquehannaEIS@nrc.gov* no later than May 23, 2008. Members of the public may also register to provide oral comments within 15 minutes of the start of each session. Individual, oral comments may be limited by the time available, depending on the number of persons who register. If special equipment or accommodations are needed to attend or present information at the public meeting, the need should be brought to Mr. Stuyvenberg's attention no later than May 16, 2008, to provide the NRC staff adequate notice to determine whether the request can be accommodated.

FOR FURTHER INFORMATION, CONTACT: Mr. Drew Stuyvenberg, Renewal Projects Branch 1, Division of License Renewal, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Mail Stop O–11F1, Washington, DC 20555–0001. Mr. Stuyvenberg may be contacted at the aforementioned telephone number or e-mail address.

Dated at Rockville, Maryland, this 25th day of April, 2008.

For the Nuclear Regulatory Commission.

Louise Lund,

Branch Chief, Renewal Projects Branch 1, Division of License Renewal, Office of Nuclear Reactor Regulation.

[FR Doc. E8–9593 Filed 4–30–08; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Federal Register Notice

AGENCY HOLDING THE MEETINGS: Nuclear Regulatory Commission.

DATE: Week of April 28, 2008.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

ADDITIONAL MATTERS TO BE CONSIDERED:

Week of April 28, 2008

Wednesday, April 30, 2008

12:55 p.m., Affirmation Session (Public Meeting) (Tentative).

a. Indian Point Nuclear Generating Units 2 and 3, Docket Nos. 50–247–LR and 50–286–LR; WestCAN ''Petition for Review'' of Board Order denying oral argument on contention admissibility in the Indian Point license renewal proceeding (Tentative).

b. Pacific Gas and Electric Co. Diablo Canyon ISFSI, San Luis Obispo Mothers for Peace's Motion for Reconsideration of CLI–08–05 & San Luis Obispo Mothers for Peace's Request for Admission of Late-Filed Contention 6 Re Diablo Canyon Environmental Assessment (Tentative).

This meeting will be webcast live at the Web address—*http://www.nrc.gov*.

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*The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: Michelle Schroll, (301) 415–1662.

* * * * *

Additional Information

By a vote of 4–0 on April 24 and 25, 2008, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that ''Affirmation of: a. Indian Point Nuclear Generating Units 2 and 3, Docket Nos. 50–247–LR and 50–286–LR; WestCAN ''Petition for Review'' of Board Order denying oral argument on contention admissibility in the Indian Point license renewal proceeding (Tentative) and b. Pacific Gas and Electric Co. Diablo Canyon ISFSI, San Luis Obispo Mothers for Peace's Motion for Reconsideration of CLI–08–05 & San Luis Obispo Mothers for Peace's Request for Admission of Late-Filed Contention 6 Re Diablo Canyon Environmental Assessment (Tentative)'' be held April 30, 2008, and on less than one week's notice to the public.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/about-nrc/policy-making/schedule.html.*

* * * * *

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.* braille, large print), please notify the NRC's Disability Program Coordinator, Rohn Brown, at 301–415–2279, TDD: 301–415–2100, or by e-mail at *Rohn.Brown@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to *dkw@nrc.gov.*

Dated: April 28, 2008.

R. Michelle Schroll,

Office of the Secretary.

[FR Doc. 08–1204 Filed 4–29–08; 10:58 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Proposed Generic Communication; Fatigue Analysis of Nuclear Power Plant Components

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of opportunity for public comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is proposing to issue a regulatory issue summary (RIS) to inform licensees of an analysis

methodology used to demonstrate compliance with the American Society of Mechanical Engineers Boiler and Pressure Vessel Code (ASME Code) fatigue acceptance criteria that could be nonconservative if not correctly applied.

This **Federal Register** notice is available through the NRC's Agencywide Documents Access and Management System (ADAMS) under accession number ML081080562.

DATES: Comment period expires June 16, 2008. Comments submitted after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except for comments received on or before this date.

ADDRESSES: Submit written comments to the Chief, Rulemaking, Directives and Editing Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Mail Stop T6-D59, Washington, DC 20555–0001, and cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to NRC Headquarters, 11545 Rockville Pike (Room T–6D59), Rockville, Maryland, between 7:30 a.m. and 4:15 p.m. on Federal workdays.

FOR FURTHER INFORMATION, CONTACT: John R. Fair at 301–415–2759 or by e-mail at *John.Fair@nrc.gov.*

SUPPLEMENTARY INFORMATION:

NRC Regulatory Issue Summary 2008–XX

Fatigue Analysis of Nuclear Power Plant Components

Addressees

All holders of operating licenses for nuclear power reactors, except those who have permanently ceased operations and have certified that fuel has been permanently removed from the reactor vessel.

Intent

The U.S. Nuclear Regulatory Commission (NRC) is issuing this regulatory issue summary (RIS) to inform licensees of an analysis methodology used to demonstrate compliance with the American Society of Mechanical Engineers Boiler and Pressure Vessel Code (ASME Code) fatigue acceptance criteria that could be nonconservative if not correctly applied.

Background Information

Title 10 of the Code of Federal Regulations (10 CFR) Part 54, ''Requirements for Renewal of Operating Licenses for Nuclear Power Plants,'' requires that applicants for license renewal perform an evaluation of time-limited aging analyses relevant to structures, systems, and components within the scope of license renewal. The fatigue analysis of the reactor coolant pressure boundary components is an issue that involves time-limited assumptions. In addition, the staff has provided guidance in NUREG–1800, Rev. 1, ''Standard Review Plan for Review of License Renewal Applications for Nuclear Power Plants,'' issued September 2005. NUREG–1800, Rev. 1, specifies that the effects of the reactor water environment on fatigue life be evaluated for a sample of components to provide assurance that cracking because of fatigue will not occur during the period of extended operation. Since the reactor water environment has a significant impact on the fatigue life of components, many license renewal applicants have performed supplemental detailed analyses to demonstrate acceptable fatigue life for these components.

10 CFR 50.55a, ''Codes and Standards,'' specifies the ASME Code requirements for operating reactors. Some operating facilities may have performed supplemental detailed analysis of components because of new loading conditions identified after the plant began operation.

Summary of Issue

The staff identified a concern regarding the methodology used by some license renewal applicants to demonstrate the ability of nuclear power plant components to withstand the cyclic loads associated with plant transient operations for the period of extended operation. This particular analysis methodology involves the use of the Green's function to calculate the fatigue usage during plant transient operations such as startups and shutdowns.

The Green's function approach involves performing a detailed stress analysis of a component to calculate its response to a step change in temperature. This detailed analysis is used to establish an influence function, which is subsequently used to calculate the stresses caused by the actual plant temperature transients. This methodology has been used to perform fatigue calculations and as input for on-line fatigue monitoring programs. The Green's function methodology is not in question. The concern involves a simplified input for applying the Green's function in which only one value of stress is used for the evaluation of the actual plant transients. The detailed stress analysis requires consideration of six stress components, as discussed in ASME Code, Section III, Subsection NB, Subarticle NB–3200. Simplification of the analysis to consider only one value of the stress may provide acceptable results for some applications; however, it also requires a great deal of judgment by the analyst to ensure that the simplification still provides a conservative result.

The staff has requested that recent license renewal applicants that have used this simplified Green's function methodology perform confirmatory analyses to demonstrate that the simplified Green's function analyses provide acceptable results. The confirmatory analyses retain all six stress components. To date, the confirmatory analysis of one component, a boiling-water reactor feedwater nozzle, indicated that the simplified input for the Green's function did not produce conservative results in the nozzle bore area when compared to the detailed analysis. However, the confirmatory analysis still demonstrated that the nozzle had acceptable fatigue usage.

Licensees may have also used the simplified Green's function methodology in operating plant fatigue evaluations for the current license term. For plants with renewed licenses, the staff is considering additional regulatory actions if the simplified Green's function methodology was used.

Backfit Discussion

This RIS informs addressees of a potential nonconservative calculation methodology and reminds them that the ASME Code fatigue analysis should be performed properly. For license renewal, metal fatigue is evaluated as a time-limited aging analysis in accordance with 10 CFR 54.21(c). The associated staff review guidance appears in Section 4.3, ''Metal Fatigue Analysis,'' of NUREG–1800, Rev. 1. For operating reactors, the ASME Code requirements appear in 10 CFR 50.55a. This RIS does not impose a new or different regulatory staff position. It requires no action or written response and, therefore, is not a backfit under 10 CFR 50.109, ''Backfitting.'' Consequently, the NRC staff did not perform a backfit analysis.

Federal Register Notification

To be done after the public comment period.

Congressional Review Act

The NRC has determined that this RIS is not a rule as designated by the Congressional Review Act (5 U.S.C. 801–808) and, therefore, is not subject to the Act.

Paperwork Reduction Act Statement

This RIS does not contain information collection requirements that are subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Public Protection Notification

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

Contact

Please direct any questions about this matter to the technical contacts listed below: Michael J. Case, Director, Division of Policy and Rulemaking, Office of Nuclear Reactor Regulation.

Technical Contacts: Kenneth C. Chang, NRR, E-mail: *Kenneth.Chang@nrc.gov,* 301–415–1913. John R. Fair, NRR, 301–415–2759, E-mail: *John.Fair@nrc.gov.*

Note: The NRC' s generic communications may be found on the NRC public Web site, *http://www.nrc.gov,* under Electronic Reading Room/Document Collections.

End of Draft Regulatory Issue Summary

Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/NRC/ADAMS/index.html.* If you do not have access to ADAMS or if you have problems in accessing the documents in ADAMS, contact the NRC Public Document Room (PDR) reference staff at 1–800–397–4209 or 301–415–4737 or by e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 23rd day of April 2008.

For the Nuclear Regulatory Commission.

Martin C. Murphy,

Chief, Generic Communications Branch, Division of Policy and Rulemaking, Office of Nuclear Reactor Regulation.

[FR Doc. E8–9451 Filed 4–30–08; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–247]

Entergy Nuclear Indian Point 2, LLC; Entergy Nuclear Operations, Inc.; Notice of Withdrawal of Application for Amendment to Facility Operating License No. DPR–26 Indian Point Nuclear Generating Unit No. 2

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Entergy Nuclear Operations, Inc. (the licensee) to withdraw its March 22, 2007, application for proposed amendment to Facility Operating License No. DPR–26 for Indian Point Nuclear Generating Unit No. 2, located in Westchester County, New York.

The proposed amendment would have revised the test acceptance criteria for the emergency diesel generators endurance test.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on April 10, 2007 (72 FR 17947). However, by letter dated April 10, 2008, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated March 22, 2007, and the licensee's letter dated April 10, 2008, which withdrew the application for a license amendment. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the internet at the NRC Web site, *http://www.nrc.gov/reading-rm.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, or 301–415–4737 or by e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 24th day of April 2008.

For the Nuclear Regulatory Commission.

John P. Boska,

Senior Project Manager, Plant Licensing Branch I–1, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. E8–9586 Filed 4–30–08; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

Sunshine Act Meetings

NAME OF AGENCY: Postal Regulatory Commission.

TIME AND DATE: Tuesday, April 29, 2008 at 9 a.m.

PLACE: Commission conference room, 901 New York Avenue, NW., Suite 200, Washington, DC 20268–0001.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Docket No. MC2008–1—consideration of motion to compel.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, Postal Regulatory Commission, 901 New York Avenue, NW., Suite 200, Washington, DC 20268–0001, 202–789–6818.

Dated: April 28, 2008.

Steven W. Williams,

Secretary.

[FR Doc. 08–1205 Filed 4–29–08; 11:38 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE

Sunshine Act Meeting

DATE AND TIME: Tuesday, May 6, 2008, at 11:30 a.m.; and Wednesday, May 7, 2008, at 8:30 a.m. and 10:30 a.m.

PLACE: Washington, DC, at U.S. Postal Service Headquarters, 475 L'Enfant Plaza, SW., in the Benjamin Franklin Room.

STATUS: May 6—11:30 a.m.—Closed; May 7—8:30 a.m.—Open; May 7—10:30 a.m.—Closed.

MATTERS TO BE CONSIDERED

Tuesday, May 6 at 11:30 a.m. (Closed)

1. Strategic Issues.
2. Product Pricing.
3. Financial Update.
4. Personnel Matters and Compensation Issues.
5. Governors' Executive Session—Discussion of prior agenda items and Board Governance.

Wednesday, May 7 at 8:30 a.m. (Open)

1. Minutes of the Previous Meetings, April 1–2, and April 14, 2008.
2. Remarks of the Chairman of the Board.
3. Remarks of the Postmaster General and CEO.
4. Committee Reports.

Wednesday, May 7 at 8:30 am. (Open) [continued]

5. Quarterly Report on Service Performance.

6. Quarterly Report on Financial Performance.

7. Capital Investments.

a. Richmond, Virginia, Processing and Distribution Center.

b. New York, New York, International Service Center/John F. Kennedy Air Mail Center New Lease—Ground and Building.

8. Tentative Agenda for the July 29–30, 2008, meeting in Washington, DC.

Wednesday, May 7 at 10:30 a.m. (Closed)—if Needed

1. Continuation of Tuesday's closed session agenda.

CONTACT PERSON FOR MORE INFORMATION: Julie S. Moore, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza, SW., Washington, DC 20260–1000. Telephone (202) 268–4800.

Julie S. Moore,

Secretary.

[FR Doc. E8–9497 Filed 4–30–08; 8:45 am]

BILLING CODE 7710–12–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–28255]

Notice of Applications for Deregistration Under Section 8(f) of the Investment Company Act of 1940

April 25, 2008.

The following is a notice of applications for deregistration under section 8(f) of the Investment Company Act of 1940 for the month of April, 2008. A copy of each application may be obtained for a fee at the SEC's Public Reference Branch (tel. 202–551–5850). An order granting each application will be issued unless the SEC orders a hearing. Interested persons may request a hearing on any application by writing to the SEC's Secretary at the address below and serving the relevant applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 20, 2008, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Secretary, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

For Further Information Contact: Diane L. Titus at (202) 551–6810, SEC, Division of Investment Management, Office of Investment Company Regulation, 100 F Street, NE., Washington, DC 20549–4041.

Dean Family of Funds [File No. 811–7987]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On March 30, 2007, applicant transferred its assets to Dean Large Cap Value Fund, Dean Small Cap Value Fund, and Dean International Fund, each a series of Unified Series Trust, based on net asset value. Expenses of $131,162 incurred in connection with the reorganization were paid by Unified Fund Services, applicant's transfer agent, and Dean Investment Associates, applicant's investment adviser.

Filing Dates: The application was filed on March 5, 2008, and amended on April 22, 2008.

Applicant's Address: 2480 Kettering Tower, Dayton, OH 45423.

Templeton Russia/Eurasia Fund [File No. 811–8409]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Applicant has never made a public offering of its securities and does not propose to make a public offering or engage in business of any kind.

Filing Date: The application was filed on April 4, 2008.

Applicant's Address: 500 East Broward Blvd., Suite 2100, Ft. Lauderdale, FL 33394.

Scudder Intermediate Government & Agency Trust [File No. 811–5539]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On July 29, 2005, applicant transferred its assets to DWS Strategic Government Securities Fund (formerly, DWS U.S. Government Securities Fund and Scudder U.S. Government Securities Fund), based on net asset value. Expenses of $180,000 incurred in connection with the reorganization were paid by applicant.

Filing Date: The application was filed on April 10, 2008.

Applicant's Address: 222 South Riverside Plaza, Chicago, IL 60606.

Seligman New Technologies Fund II, Inc. [File No. 811–9849]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On February 14, 2008 and February 19, 2008, applicant made liquidating distributions to its shareholders, based on net asset value. Expenses of $259,300 incurred in connection with the liquidation were paid by applicant. Applicant has retained a cash reserve of approximately $57,449 to cover certain unpaid expenses relating to applicant's liquidation and dissolution.

Filing Date: The application was filed on April 11, 2008.

Applicant's Address: 100 Park Ave., New York, NY 10017.

Merrimac Funds [File No. 811–7939]

Summary: Applicant, a feeder fund in a master-feeder structure, seeks an order declaring that it has ceased to be an investment company. On October 30, 2007, applicant made a liquidating distribution to its shareholders, based on net asset value. Expenses of $2,358 incurred in connection with the liquidation were paid by applicant. Applicant has retained $2,260 in cash to pay outstanding accrued expenses of the same amount.

Filing Dates: The application was filed on March 28, 2008, and amended on April 14, 2008.

Applicant's Address: 200 Clarendon St., 16th Floor, Boston, MA 02116.

Dreyfus California Tax Exempt Money Market Fund [File No. 811–4216]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On March 16, 2007, applicant transferred its assets to General California Municipal Money Market Fund, based on net asset value. Expenses of $42,390 incurred in connection with the reorganization were paid by The Dreyfus Corporation, applicant's investment adviser.

Filing Date: The application was filed on March 31, 2008.

Applicant's Address: c/o The Dreyfus Corporation, 200 Park Ave., New York, NY 10166.

Merrimac Master Portfolio [File No. 811–7941]

Summary: Applicant, a master fund in a master-feeder structure, seeks an order declaring that it has ceased to be an investment company. On October 30, 2007, applicant made a liquidating distribution to its shareholders, based on net asset value. Expenses of $142,095 incurred in connection with the liquidation were paid by applicant. Applicant has retained $105,682 in cash to pay outstanding accrued expenses of the same amount.

Filing Date: The application was filed on March 28, 2008.

Applicant's Address: 200 Clarendon St., 16th Floor, Boston, MA 02116.

Merrimac Series [File No. 811–8741]

Summary: Applicant, a feeder fund in a master-feeder structure, seeks an order declaring that it has ceased to be an investment company. On October 30, 2007, applicant made a liquidating distribution to its shareholders, based on net asset value. Expenses of $115,988 incurred in connection with the liquidation were paid by applicant. Applicant has retained $80,900 in cash to pay outstanding accrued expenses of the same amount.

Filing Date: The application was filed on March 28, 2008.

Applicant's Address: 200 Clarendon St., 16th Floor, Boston, MA 02116.

First Investors Single Payment and Periodic Payment Plans for the Accumulation of Shares of Vanguard Wellington Fund, Inc. [File No. 811–343]; First Investors Single Payment and Periodic Payment Plans for the Accumulation of Shares of AMCAP Fund, Inc. [File No. 811–636]; First Investors Single Payment and Periodic Payment Plans for the Accumulation of Shares of Fundamental Investors, Inc. [File No. 811–818]

Summary: Each applicant, a unit investment trust, seeks an order declaring that it has ceased to be an investment company. On or about June 19, 2001, January 10, 2007, and January 10, 2007, respectively, each applicant made a liquidating distribution to its unitholders, based on net asset value. Expenses of $1,313, $679, and $1,158, respectively, incurred in connection with each liquidation were paid by First Investors Corporation, applicants' sponsor.

Filing Date: The applications were filed on March 28, 2008.

Applicants' Address: 110 Wall St., New York, NY 10005.

ACM Managed Income Fund, Inc. [File No. 811–5643]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On August 29, 2007, applicant made a liquidating distribution to its shareholders, based on net asset value. Expenses of $100,000 incurred in connection with the liquidation were paid by applicant.

Filing Date: The application was filed on April 2, 2008.

Applicant's Address: 1345 Avenue of the Americas, New York, NY 10105.

Topiary Fund for Benefit Plan Investors (BPI) LLC [File No. 811–21480]; Topiary Master Fund for Benefit Plan Investors (BPI) LLC [File No. 811–21605]

Summary: Each applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On September 30, 2007, applicants transferred their assets to Hatteras Multi-Strategy TEI Fund, L.P. and Hatteras Master Fund, L.P., respectively, based on net asset value. Expenses of approximately $130,000 incurred in connection with each reorganization were paid by DB Investment Managers, Inc., applicants' investment adviser.

Filing Dates: The applications were filed on December 26, 2007, and amended on March 27, 2008.

Applicants' Address: DB Investment Managers, Inc., 345 Park Ave., New York, NY 10154.

AllianceBernstein High Yield Fund, Inc. [File No. 811–9160]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On January 25, 2008, applicant transferred its assets to AllianceBernstein High Income Fund, Inc. (formerly known as AllianceBernstein Emerging Market Debt Fund, Inc.) (''acquiring fund''), based on net asset value. Expenses of approximately $246,800 incurred in connection with the reorganization were paid by applicant and the acquiring fund.

Filing Dates: The application was filed on February 21, 2008, and amended on April 2, 2008.

Applicant's Address: 1345 Avenue of the Americas, New York, NY 10105.

Dreyfus Connecticut Intermediate Municipal Bond Fund [File No. 811–6642]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On May 30, 2007, applicant transferred its assets to a corresponding series of Dreyfus Premier State Municipal Bond Fund, based on net asset value. Expenses of $42,930 incurred in connection with the reorganization were paid by The Dreyfus Corporation, applicant's investment adviser.

Filing Date: The application was filed on March 20, 2008.

Applicant's Address: c/o The Dreyfus Corporation, 200 Park Ave., New York, NY 10166.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–9538 Filed 4–30–08; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57707; File No. SR–Amex–2008–14]

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing of Proposed Rule Change, and Amendment No. 1 Thereto, To Amend Rule 903C to Permit the Listing and Trading of Additional Index Options Series

April 24, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 20, 2008, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by Amex. On April 24, 2008, Amex submitted Amendment No. 1 to the proposed rule change. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Amex proposes to amend Rule 903C to permit the listing and trading of additional index options series that do not meet current requirements, if such options series are listed and traded on at least one other national securities exchange. For each additional options series listed by the Exchange pursuant to the amended rule, the Exchange would submit a proposed rule change with the Commission that is effective upon filing within the meaning of Section 19(b)(3)(A) under the Act. The text of the proposed rule change is available at Amex, the Commission's Public Reference Room, and *http://www.amex.com.*

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Amex 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. Amex has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to add new Commentary .06 to Rule 903C to permit the listing and trading of additional index options series that do not meet current Rule 903C requirements, if such options series are listed on at least one other national securities exchange in accordance with the applicable rules of such exchange for the listing and trading of index options. For each additional options series listed by the Exchange pursuant to proposed Commentary .06, the Exchange would submit a proposed rule change with the Commission that is effective upon filing within the meaning of Section 19(b)(3)(A) under the Act.

Rule 903C provides the mechanism for the Exchange to list or open options expiration month series on particular index options classes approved for listing and trading on the Exchange. In general, up to a six expiration month series may be listed at any one time. Amex *Rule 903C(a) permits the Exchange to open options expiration month series on approved index options classes as follows:* (i) Consecutive Month Series; (ii) Cycle Month Series; (iii) Long-Term Options Series; (iv) Short-Term (1 week) Options Series; and (v) Quarterly Options Series. This proposal seeks to permit the Exchange to list additional index options expiration month series if another options exchange does so, regardless of whether the additional series listing complies with the requirements of Rule 903C.

Consecutive Month Series

Under Rule 903C(a)(i), Consecutive Month Series options are a series of options, within a particular class of stock index options, having up to four consecutive expiration months which can be opened for simultaneous trading. The shortest-term series permissible are series initially having no more than two months to expiration.

Cycle Month Series

Under Rule 903C(a)(ii), the Exchange may designate one expiration cycle for each class of stock index options, consisting of four calendar months occurring at three-month intervals. With respect to any particular class of stock index options, Cycle Month Series options expiring in three of the four cycle months designated by the Exchange for that class may be traded simultaneously with the shortest-term series initially having approximately three months to expiration.

Long-Term Option Series

Under Rule 903C(a)(iii), the Exchange may list series of options having up to sixty (60) months to expiration for any particular class of stock index options. These Long-term Options Series may be traded simultaneously with Consecutive Month Series options as well as Cycle Month Series options.

Quarterly Options Series

Under Rule 903C(a)(iv), the Exchange may list and trade options series that expire at the close of business on the last business day of a calendar quarter. Quarterly Options Series for up to five currently listed stock index options classes or options classes for options on ETFs may be listed. The Exchange may also list Quarterly Options Series on any options classes that are selected by other options exchanges.

Short Term (1 Week) Option Series

Under Rule 903C(a)(v), the Exchange may open for trading, on any business Friday, series of options that expire at the close of business on the following Friday. The Exchange may select up to five currently listed option classes on which Short Term Option Series may be opened. Additionally, the Exchange may list Short Term Option Series on any option classes that are selected by other options exchanges.

Consistent with this proposal, the index options class must either be specifically reviewed and approved by the Commission under section 19(b)(2) of the 1934 Act and rules thereunder, or comply with Commentary .02 or .03 to Rule 901C, for the Exchange to be able to list the additional series. Amex believes the ability to list and trade additional series of an index options class that may not meet the requirements of Rule 903C if another options exchange lists such expiration month series is appropriate and necessary in order to remain competitive and provide customers with the full offering of index option products. Although the proposal may result in an incremental increase in message and quote traffic for systems of the Exchange and the Options Price Reporting Authority (OPRA), the Exchange expects the operational impact of such increase in quote traffic to be minimal.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[3] in general, and furthers the objectives of Section 6(b)(5),[4] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

[3] 15 U.S.C. 78f(b).

[4] 15 U.S.C. 78f(b)(5).

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 No. SR–Amex–2008–14 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Amex–2008–14. 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, 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 Amex. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Amex–2008–14 and should be submitted on or before May 22, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[5]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–9523 Filed 4–30–08; 8:45 am]

BILLING CODE 8010–01–P

[5] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57712; File No. SR–Phlx–2007–69]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Granting Approval of a Proposed Rule Change, as Modified by Amendment Nos. 1 and 2 Thereto, Relating to Obvious Errors

April 24, 2008.

I. Introduction

On September 4, 2007, the Philadelphia Stock Exchange, Inc. (''Phlx'' 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 Phlx Rule 1092, the Exchange's obvious error rule (''Obvious Error Rule''). On February 29, 2008, the Exchange filed Amendment No. 1 to the proposed rule change. On March 11, 2008, the Exchange filed Amendment No. 2 to the proposal. The proposed rule change, as modified, was published for comment in the **Federal Register** on March 18, 2008.[3] The Commission received no comment letters on the proposal, as modified. This order approves the proposed rule change, as modified by Amendment Nos. 1 and 2.

The Exchange proposes to amend Rule 1092 to: (i) Change the definition of Theoretical Price to mean either the last National Best Bid price, with respect to an erroneous sell transaction or the last National Best Offer price, with respect to an erroneous buy transaction, just prior to the trade; (ii) allow an Options Exchange Official[4] to establish the Theoretical Price when there are no quotes for comparison purposes, or when the National Best Bid/Offer (''NBBO'') for the affected series, just prior to the erroneous transaction, was at least two times the permitted bid/ask differential permitted under Exchange Rule 1014(c)(1)(A)(i)(a); (iii) establish the Theoretical Price for transactions occurring as part of the Exchange's automated opening system as the first quote after the transaction(s) in question that does not reflect the erroneous transaction(s); (iv) determine the average quote width for the underlying security by adding the quote widths of sample quotations at regular 15-second intervals during the two minutes preceding and following an erroneous transaction; (v) delete the provision pertaining to trades that are automatically executed when the specialist or Registered Options Trader (''ROT'') sells $.10 or more below parity; (vi) permit nullification of transactions that occur during trading halts in the affected option on the Exchange or in the underlying security in specified situations; and (vii) increase the time period, which varies depending on the status of the party, within which a party who believes it participated in an erroneous transaction must notify the Exchange's Market Surveillance Department, and allow a longer notification time period for certain erroneous transactions involving a non-broker-dealer customer that occur as part of the Phlx's automated opening process.

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[5] and, in particular, the requirements of Section 6(b) of the Act[6] and the rules and regulations thereunder. Specifically, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,[7] in that the proposal is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest.

The Commission considers that, in most circumstances, trades that are executed between parties should be honored. On rare occasions, the price of the executed trade indicates an ''obvious error'' may exist, suggesting that it is unrealistic to expect that the parties to the trade had come to a meeting of the minds regarding the terms of the transaction. In the Commission's view, the determination of whether an ''obvious error'' has occurred should be based on specific and objective criteria and subject to specific and objective procedures.

The Commission believes that the proposed revisions to the definition of Theoretical Price provide clear and objective standards for determining when an obvious price error exists. The Commission also believes that the proposed revisions to the time periods

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 57482 (March 12, 2008), 73 FR 14544.

[4] *See* Phlx Rule 1(pp).

[5] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

for requesting review of a transaction, including for certain erroneous transactions involving a non-broker-dealer customer that occur during the Exchange's automated opening process, as well as the proposal to sample quotations at 15-second intervals to determine the average quote width of the underlying security, represent reasonable modifications to the Obvious Error Rule. Furthermore, the Commission believes that eliminating the provision pertaining to trades that are automatically executed when the specialist or ROT sells $.10 or more below parity and permitting the nullification of transactions that occur during trading halts in the affected option on the Exchange or in the underlying security in specified situations are clear and objective. Therefore, the Commission believes that the proposed changes to the Obvious Error Rule are appropriate.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[8] that the proposed rule change (SR–Phlx–2007–69), as modified by Amendment Nos. 1 and 2, is hereby approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–9539 Filed 4–30–08; 8:45 am]

BILLING CODE 8010–01–P

[8] 15 U.S.C. 78s(b)(2).

[9] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Small Business Size Standards: Waiver of the Nonmanufacturer Rule

AGENCY: U.S. Small Business Administration.

ACTION: Notice of waiver of the Nonmanufacturer Rule for Safety Zone Rubber Gloves Manufacturing product number 9999.

SUMMARY: The U.S. Small Business Administration (SBA) is granting a waiver of the Nonmanufacturer Rule for Safety Zone Rubber Gloves Manufacturing.

The basis for waiver is that no small business manufacturers are supplying this class of product to the Federal government. The effect of a waiver would be to allow otherwise qualified regular dealers to supply the products of any domestic manufacturer on a Federal contract set aside for small businesses; service-disabled veteran-owned small businesses or SBA's 8(a) Business Development Program.

DATES: This waiver is effective May 16, 2008.

FOR FURTHER INFORMATI0N CONTACT: Pamela M. McClam, Program Analyst, by telephone at (202) 205–7408; by FAX at (202) 481–4783; or by e-mail at *Pamela.McClam@sba.gov.*

SUPPLEMENTARY INFORMATION: Section 8(a)(17) of the Small Business Act, (Act) 15 U.S.C. 637(a)(17), requires that recipients of Federal contracts set aside for small businesses, service-disabled veteran-owned small businesses, or SBA's 8(a) Business Development Program provide the product of a small business manufacturer or processor, if the recipient is other than the actual manufacturer or processor of the product. This requirement is commonly referred to as the Nonmanufacturer Rule. The SBA regulations imposing this requirement are found at 13 CFR 121.406(b). Section 8(a)(17)(b)(iv) of the Act authorizes SBA to waive the Nonmanufacturer Rule for any ''class of products'' for which there are no small business manufacturers or processors available to participate in the Federal market.

As implemented in SBA's regulations at 13 CFR 121.1202(c), in order to be considered available to participate in the Federal market for a class of products, a small business manufacturer must have submitted a proposal for a contract solicitation or received a contract from the Federal government within the last 24 months. The SBA defines ''class of products'' based on six digit coding systems. The first coding system is the Office of Management and Budget North American Industry Classification System (NAICS). The second is the Product and Service Code required as a data entry field by the Federal Procurement Data System.

The SBA received a request on February 26, 2008, to waive the Nonmanufacturer Rule for Safety Zone Rubber Gloves Manufacturing.

In response, on April 8, 2008, SBA published in the **Federal Register** a notice of intent to waive the Nonmanufacturer Rule for Safety Zone Rubber Gloves Manufacturing. SBA explained in the notice that it was soliciting comments and sources of small business manufacturers of this class of products. No comments were received in response to this notice. SBA has determined that there are no small business manufacturers of this class of products, and is therefore granting the waiver of the Nonmanufacturer Rule for Safety Zone Rubber Gloves Manufacturing. NAICS code 339113 product number 9999.

Authority: 15 U.S.C. 637(a)(17).

Linda S. Korbol,

Acting Director for Government Contracting.

[FR Doc. E8–9551 Filed 4–30–08; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Small Business Size Standards: Waiver of the Nonmanufacturer Rule

AGENCY: U.S. Small Business Administration.

ACTION: Notice of waiver of the Nonmanufacturer Rule for Trash Bags Manufacturing product number 8105.

SUMMARY: The U.S. Small Business Administration (SBA) is granting a waiver of the Nonmanufacturer Rule for Trash Bags Manufacturing.

The basis for waiver is that no small business manufacturers are supplying this class of product to the Federal government. The effect of a waiver would be to allow otherwise qualified regular dealers to supply the products of any domestic manufacturer on a Federal contract set aside for small businesses; service-disabled veteran-owned small businesses or SBA's 8(a) Business Development Program.

DATES: This waiver is effective May 16, 2008.

FOR FURTHER INFORMATION CONTACT: Pamela M. McClam, Program Analyst, by telephone at (202) 205–7408; by FAX at (202) 481–4783; or by e-mail at *Pamela.McClam@sba.gov.*

SUPPLEMENTARY INFORMATION: Section 8(a)(17) of the Small Business Act, (Act) 15 U.S.C. 637(a)(17), requires that recipients of Federal contracts set aside for small businesses, service-disabled veteran-owned small businesses, or SBA's 8(a) Business Development Program provide the product of a small business manufacturer or processor, if the recipient is other than the actual manufacturer or processor of the product. This requirement is commonly referred to as the Nonmanufacturer Rule. The SBA regulations imposing this requirement are found at 13 CFR 121.406 (b). Section 8(a)(17)(b)(iv) of the Act authorizes SBA to waive the Nonmanufacturer Rule for any ''class of products'' for which there are no small business manufacturers or processors available to participate in the Federal market.

As implemented in SBA's regulations at 13 CFR 121.1202 (c), in order to be considered available to participate in the Federal market for a class of

products, a small business manufacturer must have submitted a proposal for a contract solicitation or received a contract from the Federal government within the last 24 months. The SBA defines ''class of products'' based on six digit coding systems. The first coding system is the Office of Management and Budget North American Industry Classification System (NAICS). The second is the Product and Service Code required as a data entry field by the Federal Procurement Data System.

The SBA received a request on February 22, 2008, to waive the Nonmanufacturer Rule for Trash Bags Manufacturing.

In response, on April 8, 2008, SBA published in the **Federal Register** a notice of intent to waive the Nonmanufacturer Rule for Trash Bags Manufacturing. SBA explained in the notice that it was soliciting comments and sources of small business manufacturers of this class of products. No comments were received in response to this notice. SBA has determined that there are no small business manufacturers of this class of products, and is therefore granting the waiver of the Nonmanufacturer Rule for Trash Bags Manufacturing. NAICS code 326111 product number 8105.

Authority: 15 U.S.C. 637(a)(17).

Linda S. Korbol,

Acting Director for Government Contracting.

[FR Doc. E8–9552 Filed 4–30–08; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Small Business Size Standards: Waiver of the Nonmanufacturer Rule

AGENCY: U.S. Small Business Administration.

ACTION: Notice of waiver of the Nonmanufacturer Rule for Paper Products Manufacturing product number 8540.

SUMMARY: The U.S. Small Business Administration (SBA) is granting a waiver of the Nonmanufacturer Rule for Paper Products Manufacturing.

The basis for waiver is that no small business manufacturers are supplying this class of product to the Federal government. The effect of a waiver would be to allow otherwise qualified regular dealers to supply the products of any domestic manufacturer on a Federal contract set aside for small businesses; service-disabled veteran-owned small businesses or SBA's 8(a) Business Development Program.

DATE: This waiver is effective May 16, 2008.

FOR FURTHER INFORMATION CONTACT: Pamela M. McClam, Program Analyst, by telephone at (202) 205–7408; by FAX at (202) 481–4783; or by e-mail at *Pamela.McClam@sba.gov.*

SUPPLEMENTARY INFORMATION: Section 8(a)(17) of the Small Business Act, (Act) 15 U.S.C. 637(a)(17), requires that recipients of Federal contracts set aside for small businesses, service-disabled veteran-owned small businesses, or SBA's 8(a) Business Development Program provide the product of a small business manufacturer or processor, if the recipient is other than the actual manufacturer or processor of the product. This requirement is commonly referred to as the Nonmanufacturer Rule. The SBA regulations imposing this requirement are found at 13 CFR 121.406 (b). Section 8(a)(17)(b)(iv) of the Act authorizes SBA to waive the Nonmanufacturer Rule for any ''class of products'' for which there are no small business manufacturers or processors available to participate in the Federal market.

As implemented in SBA's regulations at 13 CFR 121.1202 (c), in order to be considered available to participate in the Federal market for a class of products, a small business manufacturer must have submitted a proposal for a contract solicitation or received a contract from the Federal government within the last 24 months. The SBA defines ''class of products'' based on six digit coding systems. The first coding system is the Office of Management and Budget North American Industry Classification System (NAICS). The second is the Product and Service Code required as a data entry field by the Federal Procurement Data System.

The SBA received a request on February 22, 2008, to waive the Nonmanufacturer Rule for Paper Products Manufacturing.

In response, on April 8, 2008, SBA published in the **Federal Register** a notice of intent to waive the Nonmanufacturer Rule for Paper Products Manufacturing. SBA explained in the notice that it was soliciting comments and sources of small business manufacturers of this class of products. No comments were received in response to this notice. SBA has determined that there are no small business manufacturers of this class of products, and is therefore granting the waiver of the Nonmanufacturer Rule for Paper Products Manufacturing. NAICS code 326111 product number 8540.

Authority: 15 U.S.C. 637(a)(17).

Dated: April 25, 2008.

Linda S. Korbol,

Acting Director for Government Contracting.

[FR Doc. E8–9550 Filed 4–30–08; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Future Systems Technology Advisory Panel

[Docket No. SSA–2008–0012]

Establishment of the Future Systems Technology Advisory Panel

AGENCY: Social Security Administration (SSA).

ACTION: Establishment of the Future Systems Technology Advisory Panel.

SUMMARY: The Commissioner of Social Security is establishing the Future Systems Technology Advisory Panel under the provisions of the Federal Advisory Committee Act (FACA). In making this decision, the Commissioner has found that the Panel is necessary and in the public interest. It will contribute to the performance of duties imposed upon SSA in carrying out its statutory mission. The Commissioner consulted with the Committee Management Secretariat, General Services Administration (GSA).

FOR FURTHER INFORMATION CONTACT: Dianne Rose, Designated Federal Official, Future Systems Technology Advisory Panel, Social Security Administration, by:

- Mail addressed to SSA, Future Systems Technology Advisory Panel, Room 800, Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235–0001;
- Telephone at 410–965–9455;
- Fax at 410–965–0210; or
- E-mail to *dianne.rose@ssa.gov.*

SUPPLEMENTARY INFORMATION: Panel members will analyze SSA's current technology status and provide independent advice and recommendations for future systems enhancements based on their knowledge of the needs of the Agency and technological advancements. This will serve as a road map for the Agency in determining what future systems technologies may be developed. It will help SSA carry out its statutory mission. Advice and recommendations can relate to SSA's systems in the area of internet applications, customer service, or any other arena that would improve the Agency's ability to serve the American people.

The Panel shall be composed of not more than 12 members, including:

(1) Members of academia and private industry recognized as experts in the area of future computer systems technology;

(2) Members of private industry familiar with the use of computer technology in the fields of customer service, health care, privacy, financial, and document management;

(3) Experts that can speak to the needs of SSA's clientele; and

(4) SSA experts familiar with the Agency's policies, systems, and practices with regard to its mission.

The Panel will be terminated two years after the effective date unless otherwise renewed. In accordance with the FACA, an additional notice will be published in the **Federal Register** announcing the Panel's first meeting.

Dated: April 24, 2008.

Michael J. Astrue,

Commissioner of Social Security.

[FR Doc. E8–9574 Filed 4–30–08; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 6207]

Bureau of Educational and Cultural Affairs (ECA) Request for Grant Proposals: U.S.-Poland Parliamentary Youth Exchange Leadership Program

Announcement Type: New Grant.

Funding Opportunity Number: ECA/PE/C/PY–08–68.

Catalog of Federal Domestic Assistance Number: 00.000.

Key Dates:

Application Deadline: June 5, 2008.

Executive Summary: The Office of Citizen Exchanges, Youth Programs Division (ECA/PE/C/PY), of the Department of State's Bureau of Educational and Cultural Affairs announces an open competition for the U.S.-Poland Parliamentary Youth Exchange Leadership Program. Public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 U.S.C. 501(c)(3) may submit proposals to conduct a three- to four-week exchange program in academic year 2008–09, preferably with an early 2009 winter program, focusing on civic education and leadership for 15 secondary school students and 2 educators each from Poland and the U.S. for a total of 34 participants.

I. Funding Opportunity Description

Authority: Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.'' The funding authority for the program above is provided through legislation.

Purpose: In recognition of the 90th Anniversary of U.S.-Polish Diplomatic Relations in 2009, the Office of Citizen Exchanges' Youth Programs Division proposes to sponsor an exchange program for secondary school students and educators (either teachers or adults who work with youth in other capacities) from the United States and Poland, who will travel to the host country to spend up to four weeks on an intensive academic and hands-on training program designed to develop the participants' knowledge and skill base in the principles of civic education, civil society, rule of law, community service, and youth leadership, and to examine the history, constitution and political development of the host country in particular. As a part of the four-week program, students and educators will shadow professionals and participate in community service projects and/or mini (volunteer) internships in relevant fields designed to reinforce learning. The program structure will include:

Up to two weeks of training in a host community outside of the capital cities; a one week Civic Education Workshop in Washington, DC or Warsaw; and one week of shadowing, community service or an internship. Polish and American participants will meet and interact at some point during either the host community stay or the Civic Education Workshop.

II. Award Information

Type of Award: Grant Agreement.

Fiscal Year Funds: 2008.

Approximate Total Funding: $250,000.

Approximate Number of Awards: One.

Approximate Average Award: $250,000.

Anticipated Award Date: September 2008.

Anticipated Project Completion Date: December 2009.

Additional Information: Pending successful implementation of this program and the availability of funds in subsequent fiscal years, it is ECA's intent to renew this grant for two additional fiscal years (for exchanges in academic years 2010 and 2011), before openly competing it again.

III. Eligibility Information

III.1. Eligible Applicants

Applications may be submitted by public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 U.S.C. 501(c)(3).

III.2. Cost Sharing or Matching Funds

There is no minimum or maximum percentage required for this competition. However, the Bureau encourages applicants to provide maximum levels of cost sharing and funding in support of its programs. Please note that cost sharing is one of the criteria by which proposals will be judged.

When cost sharing is offered, it is understood and agreed that the applicant must provide the amount of cost sharing as stipulated in its proposal and later included in an approved grant agreement. Cost sharing may be in the form of allowable direct or indirect costs. For accountability, you must maintain written records to support all costs which are claimed as your contribution, as well as costs to be paid by the Federal government. Such records are subject to audit. The basis for determining the value of cash and in-kind contributions must be in accordance with OMB Circular A–110, (Revised), Subpart C.23—Cost Sharing and Matching. In the event you do not provide the minimum amount of cost sharing as stipulated in the approved budget, ECA's contribution will be reduced in like proportion.

III.3. Other Eligibility Requirements

Bureau grant guidelines require that organizations with less than four years experience in conducting international exchanges be limited to $60,000 in Bureau funding. ECA anticipates awarding one grant, in an amount up to $250,000 to support program and administrative costs required to implement this exchange program. Therefore, organizations with less than four years experience in conducting international exchanges are ineligible to apply under this competition.

IV. Application and Submission Information

Note: Please read the complete announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

IV.1. Contact Information to Request an Application Package

Please contact the Youth Programs Division, Office of Citizen Exchanges (ECA/PE/C/PY), Room 568, U.S. Department of State, SA–44, 301 4th Street, SW., Washington, DC 20547, telephone (202) 203–7507, fax (202) 203–7529, e-mail *jonessa1@state.gov* to request a Solicitation Package. Please refer to the Funding Opportunity Number ECA/PE/C/PY–08–68 located at the top of this announcement when making your request.

Alternatively, an electronic application package may be obtained from grants.gov. Please see section IV.3f for further information.

The Solicitation Package contains the Proposal Submission Instruction (PSI) document which consists of required application forms, and standard guidelines for proposal preparation.

It also contains the Project Objectives, Goals and Implementation (POGI) document, which provides specific information, award criteria and budget instructions tailored to this competition.

Please specify Bureau Program Officer Shalita Jones and refer to the Funding Opportunity Number ECA/PE/C/PY–08–68 located at the top of this announcement on all other inquiries and correspondence.

IV.2. To Download a Solicitation Package Via Internet

The entire Solicitation Package may be downloaded from the Bureau's Web site at *http://exchanges.state.gov/education/rfgps/menu.htm,* or from the Grants.gov Web site at *http://www.grants.gov.*

Please read all information before downloading.

IV.3. Content and Form of Submission

Applicants must follow all instructions in the Solicitation Package. The application should be submitted per the instructions under IV.3f. ''Application Deadline and Methods of Submission'' section below.

IV.3a

You are required to have a Dun and Bradstreet Data Universal Numbering System (DUNS) number to apply for a grant or cooperative agreement from the U.S. Government. This number is a nine-digit identification number, which uniquely identifies business entities. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access *http://www.dunandbradstreet.com* or call 1–866–705–5711. Please ensure that your DUNS number is included in the appropriate box of the SF–424 which is part of the formal application package.

IV.3b

All proposals must contain an executive summary, proposal narrative and budget.

Please refer to the Solicitation Package. It contains the mandatory Proposal Submission Instructions (PSI) document and the Project Objectives, Goals and Implementation (POGI) document for additional formatting and technical requirements.

IV.3c

You must have nonprofit status with the IRS at the time of application. **Please note:** Effective March 14, 2008, all applicants for ECA federal assistance awards must include with their application, a copy of page 5, Part V–A, ''Current Officers, Directors, Trustees, and Key Employees'' of their most recent Internal Revenue Service (IRS) Form 990, ''Return of Organization Exempt From Income Tax.'' If your organization is a private nonprofit which has not received a grant or cooperative agreement from ECA in the past three years, or if your organization received nonprofit status from the IRS within the past four years, you must submit the necessary documentation to verify nonprofit status as directed in the PSI document. Failure to do so will cause your proposal to be declared technically ineligible.

IV.3d

Please take into consideration the following information when preparing your proposal narrative:

IV.3d.1. Adherence To All Regulations Governing The J Visa

The Office of Citizen Exchanges of the Bureau of Educational and Cultural Affairs is the official program sponsor of the exchange program covered by this RFGP, and an employee of the Bureau will be the ''Responsible Officer'' for the program under the terms of 22 CFR 62, which covers the administration of the Exchange Visitor Program (J visa program). Under the terms of 22 CFR 62, organizations receiving grants under this RFGP will be third parties ''cooperating with or assisting the sponsor in the conduct of the sponsor's program.'' The actions of grantee program organizations shall be ''imputed to the sponsor in evaluating the sponsor's compliance with'' 22 CFR part 62. Therefore, the Bureau expects that any organization receiving a grant under this competition will render all assistance necessary to enable the Bureau to fully comply with 22 CFR part 62 *et seq.*

The Bureau of Educational and Cultural Affairs places critically important emphases on the secure and proper administration of Exchange Visitor (J visa) Programs and adherence by grantee program organizations and program participants to all regulations governing the J visa program status. Therefore, proposals should explicitly state in writing that the applicant is prepared to assist the Bureau in meeting all requirements governing the administration of Exchange Visitor Programs as set forth in 22 CFR part 62. If your organization has experience as a designated Exchange Visitor Program Sponsor, the applicant should discuss their record of compliance with 22 CFR 62 et seq., including the oversight of their Responsible Officers and Alternate Responsible Officers, screening and selection of program participants, provision of pre-arrival information and orientation to participants, monitoring of participants, proper maintenance and security of forms, record-keeping, reporting and other requirements.

The Office of Citizen Exchanges of ECA will be responsible for issuing DS–2019 forms to participants in this program.

A copy of the complete regulations governing the administration of Exchange Visitor (J) Programs is available at *http://exchanges.state.gov* or from: United States Department of State, Office of Exchange Coordination and Designation, ECA/EC/ECD–SA–44, Room 734, 301 4th Street, SW., Washington, DC 20547, Telephone: (202) 203–5029, Fax: (202) 453–8640.

IV.3d.2. Diversity, Freedom and Democracy Guidelines

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and disabilities. Applicants are strongly encouraged to adhere to the advancement of this principle both in program

administration and in program content. Please refer to the review criteria under the ''Support for Diversity'' section for specific suggestions on incorporating diversity into your proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy,'' the Bureau ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.'' Public Law 106—113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

IV.3d.3. Program Monitoring and Evaluation

Proposals must include a plan to monitor and evaluate the project's success, both as the activities unfold and at the end of the program. The Bureau recommends that your proposal include a draft survey questionnaire or other technique plus a description of a methodology to use to link outcomes to original project objectives. The Bureau expects that the grantee will track participants or partners and be able to respond to key evaluation questions, including satisfaction with the program, learning as a result of the program, changes in behavior as a result of the program, and effects of the program on institutions (institutions in which participants work or partner institutions). The evaluation plan should include indicators that measure gains in mutual understanding as well as substantive knowledge.

Successful monitoring and evaluation depend heavily on setting clear goals and outcomes at the outset of a program. Your evaluation plan should include a description of your project's objectives, your anticipated project outcomes, and how and when you intend to measure these outcomes (performance indicators). The more that outcomes are ''smart'' (specific, measurable, attainable, results-oriented, and placed in a reasonable time frame), the easier it will be to conduct the evaluation. You should also show how your project objectives link to the goals of the program described in this RFGP.

Your monitoring and evaluation plan should clearly distinguish between program *outputs* and *outcomes. Outputs* are products and services delivered, often stated as an amount. Output information is important to show the scope or size of project activities, but it cannot substitute for information about progress towards outcomes or the results achieved. Examples of outputs include the number of people trained or the number of seminars conducted. *Outcomes,* in contrast, represent specific results a project is intended to achieve and are usually measured as an extent of change. Findings on outputs and outcomes should both be reported, but the focus should be on outcomes.

We encourage you to assess the following four levels of outcomes, as they relate to the program goals set out in the RFGP (listed here in increasing order of importance):

1. Participant satisfaction with the program and exchange experience.
2. Participant learning, such as increased knowledge, aptitude, skills, and changed understanding and attitude. Learning includes both substantive (subject-specific) learning and mutual understanding.
3. Participant behavior, concrete actions to apply knowledge in work or community; greater participation and responsibility in civic organizations; interpretation and explanation of experiences and new knowledge gained; continued contacts between participants, community members, and others.
4. Institutional changes, such as increased collaboration and partnerships, policy reforms, new programming, and organizational improvements.

Please note: Consideration should be given to the appropriate timing of data collection for each level of outcome. For example, satisfaction is usually captured as a short-term outcome, whereas behavior and institutional changes are normally considered longer-term outcomes.

Overall, the quality of your monitoring and evaluation plan will be judged on how well it (1) specifies intended outcomes; (2) gives clear descriptions of how each outcome will be measured; (3) identifies when particular outcomes will be measured; and (4) provides a clear description of the data collection strategies for each outcome (i.e., surveys, interviews, or focus groups). (Please note that evaluation plans that deal only with the first level of outcomes [satisfaction] will be deemed less competitive under the present evaluation criteria.)

Grantees will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

IV.3e

Please take the following information into consideration when preparing your budget:

IV.3e.1

Applicants must submit a comprehensive budget for the entire program. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets. Applicants may provide separate sub-budgets for each program component, phase, location, or activity to provide clarification.

Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

IV.3f. Application Deadline and Methods of Submission

Application Deadline Date: Thursday, June 5, 2008.

Reference Number: ECA/PE/C/PY–08–68.

Methods of Submission:

Applications may be submitted in one of two ways:

(1) In hard-copy, via a nationally recognized overnight delivery service (i.e., DHL, Federal Express, UPS, Airborne Express, or U.S. Postal Service Express Overnight Mail, etc.), or

(2) Electronically through *http://www.grants.gov.*

Along with the Project Title, all applicants must enter the above Reference Number in Box 11 on the SF–424 contained in the mandatory Proposal Submission Instructions (PSI) of the solicitation document.

IV.3f.1 Submitting Printed Applications

Applications must be shipped no later than the above deadline. Delivery services used by applicants must have in-place, centralized shipping identification and tracking systems that may be accessed via the Internet and delivery people who are identifiable by commonly recognized uniforms and delivery vehicles. Proposals shipped on or before the above deadline but received at ECA more than seven days after the deadline will be ineligible for further consideration under this competition. Proposals shipped after the established deadlines are ineligible for consideration under this competition. ECA will not notify you upon receipt of application. It is each applicant's responsibility to ensure that each package is marked with a legible tracking number and to monitor/confirm delivery to ECA via the Internet. Delivery of proposal packages may not be made via local courier service or in person for this competition. Faxed

documents will not be accepted at any time. Only proposals submitted as stated above will be considered.

Important Note: When preparing your submission please make sure to include one extra copy of the completed SF–424 form and place it in an envelope addressed to ''ECA/EX/PM''.

The original and six copies of the application should be sent to:

U.S. Department of State, SA–44, Bureau of Educational and Cultural Affairs, *Ref.:* ECA/PE/C/PY–08–68 (each Program Office assigns a unique number), Program Management, ECA/EX/PM, Room 534, 301 4th Street, SW., Washington, DC 20547.

Applicants submitting hard-copy applications must also submit via e-mail the Executive Summary, Proposal Narrative, and Budget sections of the proposal, as well as any essential attachments, in Microsoft Word and/or Excel to the program officer Shalita Jones at *jonessa1@state.gov.* The Bureau will provide these files electronically to the Office of Public Affairs at the U.S. Embassy in Warsaw for its review.

IV.3f.2 Submitting Electronic Applications

Applicants have the option of submitting proposals electronically through Grants.gov (*http://www.grants.gov*). Complete solicitation packages are available at Grants.gov in the ''Find'' portion of the system. Please follow the instructions available in the ''Get Started'' portion of the site (*http://www.grants.gov/GetStarted*).

Several of the steps in the Grants.gov registration process could take several weeks. Therefore, applicants should check with appropriate staff within their organizations immediately after reviewing this RFGP to confirm or determine their registration status with Grants.gov.

Once registered, 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 not wait until the application deadline to begin the submission process through Grants.gov.

Direct all questions regarding Grants.gov registration and submission to: Grants.gov Customer Support, Contact Center Phone: 800–518–4726, Business Hours: Monday–Friday, 7 a.m.–9 p.m. Eastern Time, E-mail: *support@grants.gov.*

Applicants have until midnight (12 a.m.), Washington, DC time of the closing date to ensure that their entire application has been uploaded to the Grants.gov site. There are no exceptions to the above deadline. Applications uploaded to the site after midnight of the application deadline date will be automatically rejected by the grants.gov system, and will be technically ineligible.

Applicants will receive a confirmation e-mail from grants.gov upon the successful submission of an application. ECA will not notify you upon receipt of electronic applications.

It is the responsibility of all applicants submitting proposals via the Grants.gov web portal to ensure that proposals have been received by Grants.gov in their entirety, and ECA bears no responsibility for data errors resulting from transmission or conversion processes.

IV.3g. Intergovernmental Review of Applications

Executive Order 12372 does not apply to this program.

V. Application Review Information

V.1. Review Process

The Bureau will review all proposals for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office, as well as the Public Diplomacy section overseas, where appropriate. Eligible proposals will be subject to compliance with Federal and Bureau regulations and guidelines and forwarded to Bureau grant panels for advisory review. Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Assistant Secretary for Educational and Cultural Affairs. Final technical authority for assistance awards (grants) resides with the Bureau's Grants Officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

1. *Quality of the program idea:* Proposals should exhibit originality, substance, precision, and relevance to the Bureau's mission.

2. *Program planning:* Detailed agenda and relevant work plan should demonstrate substantive undertakings and logistical capacity. Agenda and plan should adhere to the program overview and guidelines described above.

3. *Ability to achieve program objectives:* Objectives should be reasonable, feasible, and flexible. Proposals should clearly demonstrate how the institution will meet the *program's objectives and plan.*

4. *Multiplier effect/impact:* Proposed programs should strengthen long-term mutual understanding, including maximum sharing of information and establishment of long-term institutional and individual linkages.

5. *Support of Diversity:* Proposals should demonstrate substantive support of the Bureau's policy on diversity. Achievable and relevant features should be cited in both program administration (selection of participants, program venue and program evaluation) and program content (orientation and wrap-up sessions, program meetings, resource materials and follow-up activities).

6. *Institutional Capacity:* Proposed personnel and institutional resources should be adequate and appropriate to achieve the program or project's goals.

7. *Institution's Record/Ability:* Proposals should demonstrate an institutional record of successful exchange programs, including responsible fiscal management and full compliance with all reporting requirements for past Bureau grants as determined by Bureau Grants Staff. The Bureau will consider the past performance of prior recipients and the demonstrated potential of new applicants.

8. *Follow-on Activities:* Proposals should provide a plan for continued follow-on activity (without Bureau support) ensuring that Bureau supported programs are not isolated events.

9. *Project Evaluation:* Proposals should include a plan to evaluate the activity's success, both as the activities unfold and at the end of the program. A draft survey questionnaire or other technique plus description of a methodology to use to link outcomes to original project objectives is recommended.

10. *Cost-effectiveness:* The overhead and administrative components of the proposal, including salaries and honoraria, should be kept as low as possible. All other items should be necessary and appropriate.

11. *Cost-sharing:* Proposals should maximize cost-sharing through other private sector support as well as institutional direct funding contributions.

VI. Award Administration Information

VI.1a. Award Notices

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed

through internal Bureau procedures. Successful applicants will receive a Federal Assistance Award (FAA) from the Bureau's Grants Office. The FAA and the original grant proposal with subsequent modifications (if applicable) shall be the only binding authorizing document between the recipient and the U.S. Government. The FAA will be signed by an authorized Grants Officer, and mailed to the recipient's responsible officer identified in the application.

Unsuccessful applicants will receive notification of the results of the application review from the ECA program office coordinating this competition.

VI.2. Administrative and National Policy Requirements

Terms and Conditions for the Administration of ECA agreements include the following:

Office of Management and Budget Circular A–122, ''Cost Principles for Nonprofit Organizations.''

Office of Management and Budget Circular A–21, ''Cost Principles for Educational Institutions.''

OMB Circular A–87, ''Cost Principles for State, Local and Indian Governments''.

OMB Circular No. A–110 (Revised), Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations.

OMB Circular No. A–102, Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments.

OMB Circular No. A–133, Audits of States, Local Government, and Non-profit Organizations.

Please reference the following Web sites for additional information: *http://www.whitehouse.gov/omb/grants. http://fa.statebuy.state.gov.*

VI.3. Reporting Requirements

You must provide ECA with a hard copy original plus one copy of the following reports:

(1) A final program and financial report no more than 90 days after the expiration of the award;

(2) Interim reports, as required in the Bureau grant agreement.

Grantees will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. (Please refer to IV. Application and Submission Instructions (IV.3.d.3) above for Program Monitoring and Evaluation information.

All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

All reports must be sent to the ECA Grants Officer and ECA Program Officer listed in the final assistance award document. Reports may also be sent electronically to *reports@state.gov* and copied the program officer at *jonessa1@state.gov.*

Program Data Requirements:

Organizations awarded grants will be required to maintain specific data on program participants and activities in an electronically accessible database format that can be shared with the Bureau as required. As a minimum, the data must include the following:

(1) Name, address, contact information and biographic sketch of all persons who travel internationally on funds provided by the grant or who benefit from the grant funding but do not travel.

(2) Itineraries of international and domestic travel, providing dates of travel and cities in which any exchange experiences take place. Final schedules for in-country and U.S. activities must be received by the ECA Program Officer at least three work days prior to the official opening of the activity.

VII. Agency Contacts

For questions about this announcement, contact Shalita Jones, Program Officer, Youth Programs Division, Office of Citizen Exchanges, ECA/PE/C/PY, Room 568, U.S. Department of State, SA–44, 301 4th Street, SW., Washington, DC 20547, Telephone: (202) 203–7507, Fax: (202) 203–7529, E-mail: *jonessa1@state.gov.*

All correspondence with the Bureau concerning this RFGP should reference the above title and number ECA/PE/C/PY–08–68.

Please read the complete announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

VIII. Other Information

Notice

The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements per section VI.3 above.

Dated: April 23, 2008.

Goli Ameri,

Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E8–9584 Filed 4–30–08; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 6206]

Bureau of Educational and Cultural Affairs (ECA) Request for Grant Proposals: Greek Teacher Professional Development Project

Announcement Type: New Cooperative Agreement.

Funding Opportunity Number: ECA/A/S/X–08–06.

Catalog of Federal Domestic Assistance Number: 00.000.

Key Dates: Application Deadline: June 6, 2008.

Executive Summary: The Office of Global Educational Programs of the Bureau of Educational and Cultural Affairs of the U.S. Department of State announces an open competition for the Greek Teacher Professional Development Project. U.S. public and private universities with schools of education and that meet the provisions described in Internal Revenue Code section 26 U.S.C. 501(c)(3) may submit proposals to administer an eight-week professional development program to start in August 2009, for approximately twenty teachers in the humanities from Greece at an early point in their careers as educators. The program will focus on teaching methodology as well as the use of technology in the classroom and should include both an academic component of seminars at a U.S. university's school of education and a practical component of practice teaching with guidance from experienced mentor teachers in local schools. Interested universities should demonstrate strong contacts with local U.S. school districts to facilitate the practical internship component, as well as the faculty resources to conduct a substantive academic program. Host schools for internships may be public, private, magnet or charter schools, and should exemplify educational best practices.

I. Funding Opportunity Description

Authority

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, as amended, Public Law 87–256, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic, and peaceful relations between the United States and the other countries of the world.'' The funding authority for the program above is provided through legislation.

Purpose

The program will bring approximately twenty beginning teachers in the humanities from Greece to the U.S. to study and practice student-centered teaching approaches and the uses of technology in the classroom. The teachers, who will speak English, will be recruited by the U.S. Educational Foundation in Greece (Fulbright Foundation) in consultation with the Ministry of Education in Greece for approval by the ECA program office. The group will be diverse in terms of their home regions in Greece, gender, and socio-economic background. Following the program, the teachers will return with enhanced abilities as young professionals teaching in secondary schools throughout Greece.

This program is designed to provide these new teachers with a substantive cultural and exchange experience in the United States as well as a basis for continuing cooperation with U.S. counterparts in the promotion of mutual understanding.

Program Administration

Activities and responsibilities of the program office in the Bureau of Educational and Cultural Affairs (ECA) include:

(1) Participation in the design and direction of program activities;

(2) Approval of key personnel;

(3) Approval and input on program timelines, agendas and administrative procedures;

(4) Guidance in execution of all program components;

(5) Review and approval of all program publicity and recruitment materials;

(6) Approval of participating teachers, in cooperation with the U.S. Educational Foundation in Greece;

(7) Approval of decisions related to special circumstances or problems throughout the duration of program;

(8) Assistance with non-immigration status and other SEVIS-related issues;

(9) Assistance with participant emergencies; and

(10) Liaison with the U.S. Educational Foundation in Greece.

Programs must conform with Bureau requirements and guidelines outlined in the Solicitation Package which includes the Request for Grant Proposals (RFGP), the Project Objectives, Goals and Implementation (POGI) and the Proposal Submission Instructions (PSI).

Overall Responsibilities of the Recipient

The recipient is responsible for preparation of form DS–2019 under a G Program Number under the Bureau's responsibility on behalf of the ECA program office; organizing and implementing pre-orientation and debriefing programs; placement; monitoring, supervision, and support of participants; administering sub-award competitions as necessary; and fiscal management, evaluation, and follow-on and alumni activities for the program components described above. Please see the POGI for details pertaining to these activities. The recipient should coordinate program administration with the Fulbright Foundation in Greece and consult with the ECA program office regarding program activities, maintaining regular telephone, e-mail, and fax communications. The recipient should administer financial aspects of the program and comply with Bureau reporting requirements.

Specific recipient activities and responsibilities are described according to program phases as follows:

Pre-departure Orientation: The recipient should, in cooperation with representatives of the Fulbright Foundation, conduct a two-day pre-departure orientation workshop for the participants in Greece.

The recipient should prepare and provide substantive information about the program for the pre-departure orientation including information about program goals and requirements. At the orientation, organizers should address issues about the participants' stay in the U.S. and provide a basic introduction to U.S. life and customs, and how these customs may differ from those in Greece.

U.S. Program: In the United States, the recipient should:

(1) Provide the Greek teachers with an introduction to U.S. government as it relates to education, the U.S. educational system and U.S. culture through site visits;

(2) Arrange for the teachers to visit a variety of secondary schools (public, private, charter, etc.), including economically and ethnically diverse schools;

(3) Arrange for the teachers to gain direct knowledge of local school governance, by attending faculty, board of education, and parent-teacher association meetings;

(4) Select local U.S. secondary schools to serve as internship hosts (based on a review of brief proposals solicited by the recipient from the schools outlining their interests, understanding of program goals, examples of best practices, and commitments to mentoring);

(5) Place small groups of participants at secondary schools near the university for six-week internships. The Greek teachers should be paired with experienced U.S. teachers whose academic specializations match their own. Internship activities should include observing a variety of teaching methods (inquiry, active classroom, group projects, etc.) as well as computer-based lessons; integrating technology in the classroom; working individually (or in pairs) with a mentor teacher on curriculum development; team teaching; and, if possible, teaching independently under the guidance of a mentor teacher;

(6) Organize and deliver seminars on pedagogical topics. These seminars should be integrated with the internships and include topics such as classroom management, conflict resolution, diversity, and curriculum development. The seminars should also help participants create a curriculum or portfolio for use after returning to Greece;

(7) Coordinate cultural experiences that enable participants to interact with their local communities through brief home hospitality visits and involvement with non-school-based groups in activities reflecting the diversity of U.S. society, and that include opportunities to speak formally or informally to Americans about contemporary Greek society and culture;

(8) Create a network through which Greek teachers can communicate and support one another in using the new methodologies and to facilitate the development of follow-on activities in cooperation with the Fulbright Foundation; and

(9) Arrange an end-of-program debriefing of one or two days in Washington, DC to enable the Greek teachers to share with ECA managers what they have observed and learned. The debriefing should also suggest strategies for Greek teachers to share their knowledge as program alumni with professional counterparts and students in their own classrooms in Greece after they return home.

Follow-on Activities in Greece: The recipient university should send representatives to make presentations and provide facilitative assistance at a follow-on workshop in Greece, to be organized and funded by the Fulbright Foundation.

The agreement will begin on or about September 1, 2008 and the recipient should complete all exchange activities by June 30, 2010. The exchange program will take place August–September 2009. Please refer to additional program specific guidelines in the Project Objectives, Goals, and Implementation (POGI) document.

Programs must comply with J–1 visa regulations. Please refer to Solicitation Package for further information.

II. Award Information

Type of Award: Cooperative Agreement.

Fiscal Year Funds: 2008.

Approximate Total Funding: $200,000.

Approximate Number of Awards: 1.

Approximate Average Award: $200,000.

Anticipated Award Date: Pending availability of funds, September 1, 2008.

Anticipated Project Completion Date: June 30, 2010.

Additional Information: Pending successful implementation of this program and the availability of funds in subsequent fiscal years, it is ECA's intent to renew this agreement for two additional fiscal years, before openly competing it again.

III. Eligibility Information

III.1. Eligible Applicants: Applications may be submitted by U.S. public and private universities meeting the provisions described in Internal Revenue Code section 26 U.S.C. 501(c)(3). Universities applying for this program must involve their schools or departments of education in program implementation.

III.2. Cost Sharing or Matching Funds: There is no minimum or maximum percentage required for this competition. However, the Bureau encourages applicants to provide maximum levels of cost sharing and funding in support of its programs.

When cost sharing is offered, it is understood and agreed that the applicant must provide the amount of cost sharing as stipulated in its proposal and later included in an approved grant agreement. Cost sharing may be in the form of allowable direct or indirect costs. For accountability, you must maintain written records to support all costs which are claimed as your contribution, as well as costs to be paid by the Federal government. Such records are subject to audit. The basis for determining the value of cash and in-kind contributions must be in accordance with OMB Circular A–110, (Revised), Subpart C.23—Cost Sharing and Matching. In the event you do not provide the minimum amount of cost sharing as stipulated in the approved budget, ECA's contribution will be reduced in like proportion.

III.3. Other Eligibility Requirements: Bureau grant guidelines require that organizations with less than four years experience in conducting international exchanges be limited to $60,000 in Bureau funding. ECA anticipates awarding one grant, in an amount up to $200,000 to support program and administrative costs required to implement this exchange program. Therefore, organizations with less than four years experience in conducting international exchanges are ineligible to apply under this competition. The Bureau encourages applicants to provide maximum levels of cost sharing and funding in support of its programs.

IV. Application and Submission Information

Note: Please read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

IV.1. Contact Information to Request an Application Package: Please contact Patricia Mosley of the Teacher Exchange Branch, ECA/A/S/X, Room 349, U.S. Department of State, SA–44, 301 4th Street, SW., Washington, DC 20547, telephone: (202) 453–8897, fax: (202) 453–8890, e-mail: *MosleyPJ@state.gov* to request a Solicitation Package. Please refer to the Funding Opportunity Number ECA/A/S/X–08–06 located at the top of this announcement when making your request.

Alternatively, an electronic application package may be obtained from grants.gov. Please see section IV.3f for further information.

The Solicitation Package contains the Proposal Submission Instruction (PSI) document which consists of required application forms, and standard guidelines for proposal preparation.

It also contains the Project Objectives, Goals and Implementation (POGI) document, which provides specific information, award criteria and budget instructions tailored to this competition.

Please specify Michelle Garren, telephone: (202) 453–8884, e-mail: *GarrenMW@state.gov* and refer to the Funding Opportunity Number ECA/A/S/X–08–06 located at the top of this announcement on all other inquiries and correspondence.

IV.2. To Download a Solicitation Package Via Internet: The entire Solicitation Package may be downloaded from the Bureau's Web site at *http://exchanges.state.gov/education/rfgps/menu.htm,* or from the Grants.gov Web site at *http://www.grants.gov.* Please read all information before downloading.

IV.3. Content and Form of Submission: Applicants must follow all instructions in the Solicitation Package. The original and seven copies of the application should be submitted per the instructions under IV.3f. ''Application Deadline and Methods of Submission'' section below.

IV.3a. You are required to have a Dun and Bradstreet Data Universal Numbering System (DUNS) number to apply for a grant or cooperative agreement from the U.S. Government. This number is a nine-digit identification number, which uniquely identifies business entities. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access *http://www.dunandbradstreet.com* or call 1–866–705–5711. Please ensure that your DUNS number is included in the appropriate box of the SF–424 which is part of the formal application package.

IV.3b. All proposals must contain an executive summary, proposal narrative and budget.

Please Refer to the Solicitation Package. It contains the mandatory Proposal Submission Instructions (PSI) document and the Project Objectives, Goals and Implementation (POGI) document for additional formatting and technical requirements.

IV.3c. You must have nonprofit status with the IRS at the time of application.

Please note: Effective March 14, 2008, all applicants for ECA federal assistance awards must include with their application, a copy of page 5, Part V–A, ''Current Officers, Directors, Trustees, and Key Employees'' of their most recent Internal Revenue Service (IRS) Form 990, ''Return of Organization Exempt From Income Tax.'' If your organization is a private nonprofit which has not received a grant or cooperative agreement

from ECA in the past three years, or if your organization received nonprofit status from the IRS within the past four years, you must submit the necessary documentation to verify nonprofit status as directed in the PSI document. Failure to do so will cause your proposal to be declared technically ineligible.

IV.3d. Please take into consideration the following information when preparing your proposal narrative:

IV.3d.1 Adherence to All Regulations Governing the J Visa

The Bureau of Educational and Cultural Affairs is placing critically important emphasis on the secure and proper administration of Exchange Visitor (J visa) Programs and adherence by grantees and sponsors to all regulations governing the J visa. Therefore, proposals should demonstrate the applicant's capacity to meet all requirements governing the administration of the Exchange Visitor Programs as set forth in 22 CFR part 62, including the oversight of Responsible Officers and Alternate Responsible Officers, screening and selection of program participants, provision of pre-arrival information and orientation to participants, monitoring of participants, proper maintenance and security of forms, record-keeping, reporting and other requirements.

The Grantee will be responsible for issuing DS–2019 forms to participants in this program on behalf of the Bureau and under the Bureau SEVIS number.

A copy of the complete regulations governing the administration of Exchange Visitor (J) programs is available at *http://exchanges.state.gov* or from: United States Department of State, Office of Exchange Coordination and Designation, ECA/EC/ECD—SA–44, Room 734, 301 4th Street, SW., Washington, DC 20547, Telephone: (202) 203–5029, FAX: (202) 453–8640.

Please refer to the Solicitation Package for further information.

IV.3d.2 Diversity, Freedom and Democracy Guidelines

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and disabilities. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the 'Support for Diversity' section for specific suggestions on incorporating diversity into your proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy,'' the Bureau ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.'' Public Law 106–113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

IV.3d.3 Program Monitoring and Evaluation

Proposals must include a plan to monitor and evaluate the project's success, both as the activities unfold and at the end of the program. The Bureau recommends that your proposal include a draft survey questionnaire or other technique plus a description of a methodology to use to link outcomes to original project objectives. The Bureau expects that the grantee will track participants or partners and be able to respond to key evaluation questions, including satisfaction with the program, learning as a result of the program, changes in behavior as a result of the program, and effects of the program on institutions (institutions in which participants work or partner institutions). The evaluation plan should include indicators that measure gains in mutual understanding as well as substantive knowledge.

Successful monitoring and evaluation depend heavily on setting clear goals and outcomes at the outset of a program. Your evaluation plan should include a description of your project's objectives, your anticipated project outcomes, and how and when you intend to measure these outcomes (performance indicators). The more that outcomes are ''smart'' (specific, measurable, attainable, results-oriented, and placed in a reasonable time frame), the easier it will be to conduct the evaluation. You should also show how your project objectives link to the goals of the program described in this RFGP.

Your monitoring and evaluation plan should clearly distinguish between program outputs and outcomes. Outputs are products and services delivered, often stated as an amount. Output information is important to show the scope or size of project activities, but it cannot substitute for information about progress towards outcomes or the results achieved. Examples of outputs include the number of people trained or the number of seminars conducted. Outcomes, in contrast, represent specific results a project is intended to achieve and is usually measured as an extent of change. Findings on outputs and outcomes should both be reported, but the focus should be on outcomes.

We encourage you to assess the following four levels of outcomes, as they relate to the program goals set out in the RFGP (listed here in increasing order of importance):

1. Participant satisfaction with the program and exchange experience.

2. Participant learning, such as increased knowledge, aptitude, skills, and changed understanding and attitude. Learning includes both substantive (subject-specific) learning and mutual understanding.

3. Participant behavior, concrete actions to apply knowledge in work or community; greater participation and responsibility in civic organizations; interpretation and explanation of experiences and new knowledge gained; continued contacts between participants, community members, and others.

4. Institutional changes, such as increased collaboration and partnerships, policy reforms, new programming, and organizational improvements.

Please note: Consideration should be given to the appropriate timing of data collection for each level of outcome. For example, satisfaction is usually captured as a short-term outcome, whereas behavior and institutional changes are normally considered longer-term outcomes.

Overall, the quality of your monitoring and evaluation plan will be judged on how well it (1) Specifies intended outcomes; (2) gives clear descriptions of how each outcome will be measured; (3) identifies when particular outcomes will be measured; and (4) provides a clear description of the data collection strategies for each outcome (i.e., surveys, interviews, or focus groups). (Please note that evaluation plans that deal only with the first level of outcomes [satisfaction] will be deemed less competitive under the present evaluation criteria.) Grantees will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

IV.3.d.4. Describe your plans for staffing: Please provide a staffing plan which outlines the responsibilities of each staff person and explains which

staff member will be accountable for each program responsibility. Wherever possible please streamline administrative processes.

IV.3e. Please take the following information into consideration when preparing your budget:

IV.3e.1. Applicants must submit a comprehensive budget for the entire program. The budget should not exceed $200,000 for program and administrative costs. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets for host campus and foreign teacher involvement in the program. Applicants may provide separate sub-budgets for each program component, phase, location, or activity to provide clarification.

The summary and detailed administrative and program budgets should be accompanied by a narrative which provides a brief rationale for each line item including a methodology for estimating appropriate average maintenance allowance levels and tuition costs (as applicable) for the participants, and the number that can be accommodated at the levels proposed. The total administrative costs funded by the Bureau must be reasonable and appropriate.

IV.3e.2. Allowable costs for the program and additional budget guidance are outlined in detail in the POGI document.

Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

IV.3f. Application Deadline and Methods of Submission:

Application Deadline Date: Friday, June 6, 2008.

Reference Number: ECA/A/S/X–08–06.

Methods of Submission: Applications may be submitted in one of two ways:

1. In hard-copy, via a nationally recognized overnight delivery service (i.e., DHL, Federal Express, UPS, Airborne Express, or U.S. Postal Service Express Overnight Mail, etc.), or

2. Electronically through *http://www.grants.gov.*

Along with the Project Title, all applicants must enter the above Reference Number in Box 11 on the SF–424 contained in the mandatory Proposal Submission Instructions (PSI) of the solicitation document.

IV.3f.1 Submitting Printed Applications

Applications must be shipped no later than the above deadline. Delivery services used by applicants must have in-place, centralized shipping identification and tracking systems that may be accessed via the Internet and delivery people who are identifiable by commonly recognized uniforms and delivery vehicles. Proposals shipped on or before the above deadline but received at ECA more than seven days after the deadline will be ineligible for further consideration under this competition. Proposals shipped after the established deadlines are ineligible for consideration under this competition. ECA will not notify you upon receipt of application. It is each applicant's responsibility to ensure that each package is marked with a legible tracking number and to monitor/confirm delivery to ECA via the Internet. Delivery of proposal packages may not be made via local courier service or in person for this competition. Faxed documents will not be accepted at any time. Only proposals submitted as stated above will be considered.

Important note: When preparing your submission please make sure to include one extra copy of the completed SF–424 form and place it in an envelope addressed to ''ECA/EX/PM''.

The original and seven copies of the application should be sent to: U.S. Department of State, SA–44, Bureau of Educational and Cultural Affairs, Ref.: ECA/A/S/X–08–06, Program Management, ECA/EX/PM, Room 534, 301 4th Street, SW., Washington, DC 20547.

Applicants submitting hard-copy applications must also submit the ''Executive Summary'' and ''Proposal Narrative'' sections of the proposal in text (.txt) format on a PC-formatted disk. The Bureau will provide these files electronically to the appropriate Public Affairs Section at the U.S. embassy for its review.

IV.3f.2 Submitting Electronic Applications

Applicants have the option of submitting proposals electronically through Grants.gov (*http://www.grants.gov*). Complete solicitation packages are available at Grants.gov in the ''Find'' portion of the system. Please follow the instructions available in the ''Get Started'' portion of the site (*http://www.grants.gov/GetStarted*).

Several of the steps in the Grants.gov registration process could take several weeks. Therefore, applicants should check with appropriate staff within their organizations immediately after reviewing this RFGP to confirm or determine their registration status with Grants.gov. Once registered, 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 not wait until the application deadline to begin the submission process through Grants.gov.

Direct all questions regarding Grants.gov registration and submission to: Grants.gov Customer Support, Contact Center Phone: 800–518–4726, Business Hours: Monday–Friday, 7 a.m.–9 p.m. Eastern Time, E-mail: *support@grants.gov*.

Applicants have until midnight (12 a.m.), Washington, DC time of the closing date to ensure that their entire application has been uploaded to the Grants.gov site. There are no exceptions to the above deadline. Applications uploaded to the site after midnight of the application deadline date will be automatically rejected by the grants.gov system, and will be technically ineligible.

Applicants will receive a confirmation e-mail from grants.gov upon the successful submission of an application. ECA will not notify you upon receipt of electronic applications.

It is the responsibility of all applicants submitting proposals via the Grants.gov Web portal to ensure that proposals have been received by Grants.gov in their entirety, and ECA bears no responsibility for data errors resulting from transmission or conversion processes.

IV.3g. Intergovernmental Review of Applications: Executive Order 12372 does not apply to this program.

V. Application Review Information

V.1. Review Process

The Bureau will review all proposals for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office, as well as the Public Diplomacy section and Fulbright Foundation overseas. Eligible proposals will be subject to compliance with Federal and Bureau regulations and guidelines and forwarded to Bureau grant panels for advisory review. Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Assistant Secretary for Educational and Cultural Affairs. Final technical authority for assistance awards (cooperative agreements) resides with the Bureau's Grants Officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

1. Program Development and Management: The proposal narrative should exhibit originality, substance, precision, and relevance to the Bureau's mission as well as the objectives of the Greek Teacher Professional Development Project. It should include an effective, feasible program plan for U.S.-based school internships and host university seminars.

2. Multiplier Effect/Impact: The proposed program should strengthen long-term mutual understanding, including maximum sharing of information and establishment of long-term institutional and individual linkages.

3. Support of Diversity: Proposals should demonstrate substantive support of the Bureau's policy on diversity. Achievable and relevant features should be cited in both program administration (selection of participants, program venue and program evaluation) and program content (orientation and wrap-up sessions, program meetings, resource materials and follow-up activities).

4. Institutional Capacity and Record: Proposals should demonstrate an institutional record of successful exchange programs, including responsible fiscal management and full compliance with all reporting requirements for past Bureau grants as determined by Bureau Grants Staff. The successful proposal will demonstrate the organization's experience in international educational exchange and internship programs, and an understanding of Greece's history, culture, religion, and system of education. The Bureau will consider the past performance of prior recipients and the demonstrated potential of new applicants.

5. Follow-on and Alumni Activities: Proposals should provide a plan for continued follow-on activity (both with and without Bureau support) ensuring that the Greek Teacher Professional Development Project is not an isolated event. Activities should include tracking and maintaining updated lists of all alumni and facilitating follow-up activities, including facilitating an alumni conference in Greece organized by the Fulbright Foundation and the Greek Ministry of Education.

6. Project Evaluation: Proposals should include a plan to evaluate the activity's success, both as the activities unfold and at the end of the program. A draft survey questionnaire or other technique plus description of a methodology to use to link outcomes to original project objectives is recommended.

7. Cost-effectiveness and Cost Sharing: The overhead and administrative components of the proposal, including salaries and honoraria, should be kept as low as possible. All other items should be necessary and appropriate. Proposals should maximize cost-sharing through other private sector support as well as institutional direct funding contributions.

VI. Award Administration Information

VI.1a Award Notices

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures. Successful applicants will receive an Assistance Award Document (AAD) from the Bureau's Grants Office. The AAD and the original grant proposal with subsequent modifications (if applicable) shall be the only binding authorizing document between the recipient and the U.S. Government. The AAD will be signed by an authorized Grants Officer, and mailed to the recipient's responsible officer identified in the application.

Unsuccessful applicants will receive notification of the results of the application review from the ECA program office coordinating this competition.

VI.2. Administrative and National Policy Requirements

Terms and Conditions for the Administration of ECA agreements include the following:

Office of Management and Budget Circular A–122, ''Cost Principles for Nonprofit Organizations.''

Office of Management and Budget Circular A–21, ''Cost Principles for Educational Institutions.''

OMB Circular A–87, ''Cost Principles for State, Local and Indian Governments''.

OMB Circular No. A–110 (Revised), Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations.

OMB Circular No. A–102, Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments.

OMB Circular No. A–133, Audits of States, Local Government, and Non-profit Organizations.

Please reference the following Web sites for additional information: *http://www.whitehouse.gov/omb/grants; http://exchanges.state.gov/education/grantsdiv/terms.htm#articleI.*

VI.3. Reporting Requirements

You must provide ECA with a hard copy original plus one copy of the following reports:

1. A final program and financial report no more than 90 days after the expiration of the award;

2. A concise, one-page final program report summarizing program outcomes no more than 90 days after the expiration of the award. This one-page report will be transmitted to OMB, and be made available to the public via OMB's USAspending.gov Web site—as part of ECA's Federal Funding Accountability and Transparency Act (FFATA) reporting requirements.

3. Quarterly program and financial reports.

The recipient will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. (Please refer to IV. Application and Submission Instructions (IV.3.d.3) above for Program Monitoring and Evaluation information.)

All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

All reports must be sent to the ECA Grants Officer and ECA Program Officer listed in the final assistance award document.

VII. Agency Contacts

For questions about this announcement, contact: Michelle Garren, Office of Global Educational Programs, ECA/A/S/X, Room 349, ECA/A/S/X–08–06, U.S. Department of State, SA–44, 301 4th Street, SW., Washington, DC 20547, telephone: 202–453–8884, fax 202–453–8890, *GarrenMW@state.gov.*

All correspondence with the Bureau concerning this RFGP should reference the above title and number ECA/A/S/X–08–06.

Please read the complete announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

VIII. Other Information

Notice

The terms and conditions published in this RFGP are binding and may not

be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements per section VI.3 above.

Dated: April 23, 2008.

Goli Ameri,

Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E8–9603 Filed 4–30–08; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 6203]

Culturally Significant Objects Imported for Exhibition Determinations: ''Thomas Hope: Regency Designer''

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition ''Thomas Hope: Regency Designer'', imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Bard Graduate Center, New York, NY, from on or about July 17, 2008, until on or about November 16, 2008, and at possible additional exhibitions or venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Richard Lahne, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–453–8058). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: April 22, 2008.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E8–9583 Filed 4–30–08; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 6204]

Culturally Significant Objects Imported for Exhibition Determinations: ''Grecian Taste and Roman Spirit: The Society of Dilettanti''

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition ''Grecian Taste and Roman Spirit: The Society of Dilettanti'', imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the J. Paul Getty Museum, Los Angeles, California, from on or about August 7, 2008, until on or about October 27, 2008, and at possible additional exhibitions or venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Wolodymyr Sulzynsky, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–453–8050). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: April 24, 2008.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E8–9601 Filed 4–30–08; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 6205]

Culturally Significant Objects Imported for Exhibition Determinations: ''The Dead Sea Scrolls''

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition ''The Dead Sea Scrolls,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit objects at the North Carolina Museum of Natural Sciences, from on or about June 28, 2008, until on or about December 30, 2008, and at possible additional exhibitions or venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Carol B. Epstein, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/453–8048). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: April 24, 2008.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E8–9595 Filed 4–30–08; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Sixth Meeting, Special Committee 213 Enhanced Flight Vision Systems/ Synthetic Vision System, (EFVS/SVS)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 213, Enhanced Flight Vision

Systems/Synthetic Vision System, (EFVS/SVS).

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 213, Enhanced Flight Vision Systems/ Synthetic Vision System, (EFVS/SVS).

DATES: The meeting will be held May 20–22, 2008 from 9 a.m.–5 p.m.

ADDRESSES: The meeting will be held at Marriot Courtyard, Montreal Airport, 7000 Place Robert-Joncas, Montreal, Quebec H4M 2Z5.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC 20036 telephone (202) 833–9339: fax (202) 833–9434: Web site *http://www.rtca.org* for directions. Marriot Courtyard Contact: Ms. Gabrielle Ricci. On Site Point of Contacts: Mr. Anthony Barber 514–855–9411, Ms. Sandra Beaven 514–855–9771.

Dress: Business Casual.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 213 meeting. The agenda will include:

- May 20:
- Welcome, Introductions, and Agenda Review;
- Review SC–213 Objectives, Action Items, and SC–213 Web site content;
- Approve minutes from previous;
- Review initial reports from WG 1 and WG 2;
- Review/edit most recent draft MASPS.
- May 21:
- Continuation of Plenary meetings to edit draft MASPS.
- May 22:
- Plenary consensus of combined draft MASPS;
- Plenary;
- Review of action items;
- Define next steps for continued MASPS development;
- Establish date and time for next meeting, adjourn.

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on April 22, 2008.

Francisco Estrada C.,

RTCA Advisory Committee.

[FR Doc. E8–9534 Filed 4–30–08; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Receipt of Noise Compatibility Program and Request for Review

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces that it is reviewing a proposed noise compatibility program that was submitted for Fresno Yosemite International Airport (FAT) under the provisions of 49 U.S.C. 47504 *et seq.* (the Aviation Safety and Noise Abatement Act, hereinafter referred to as ''the Act'') and 14 CFR part 150 by City of Fresno, California. This program was submitted subsequent to a determination by FAA that associated noise exposure maps submitted under 14 CFR part 150 for FAT were in compliance with applicable requirements, effective July 6, 2005 (70 FR 50437–50438). The proposed noise compatibility program will be approved or disapproved on or before October 15, 2008.

DATES: *Effective Date:* The effective date of the start of FM's review of the noise compatibility program is April 18, 2008. The public comment period ends June 17, 2008.

FOR FURTHER INFORMATION CONTACT: David B. Kessler, AICP, Regional Environmental Protection Specialist, Federal Aviation Administration, Western Pacific Region, P.O. Box 92007, Los Angeles, CA 90009–2007, Telephone 310/725–3615. Comments on the proposed noise compatibility program should also be submitted to the above office.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA is reviewing a proposed noise compatibility program for FAT, which will be approved or disapproved on or before October 15, 2008. This notice also announces the availability of this program for public review and comment.

An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) Part 150, promulgated pursuant to the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes to reduce existing non-compatible uses and prevent the introduction of additional non-compatible uses.

The City of Fresno initially submitted its noise compatibility program for the subject airport to the FAA on May 26, 2006 (71 FR 33032–33033). In a letter received by FAA on September 15, 2006, the City of Fresno requested that FAA suspend its review and processing of the noise compatibility program in order to modify the document. FAA terminated its formal review of the City of Fresno's noise compatibility program effective September 15, 2006 (71 FR 56582). The City of Fresno has submitted their revised noise compatibility program to FAA. Therefore, the FAA has formally received the noise compatibility program for FAT, effective on April 18, 2008. The airport operator has requested that the FAA review this material and that the noise mitigation measures, to be implemented jointly by the airport and surrounding communities, be approved as a noise compatibility program under section 47504 of the Act. Preliminary review of the submitted material indicates that it conforms to FAR Part 150 requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before October 15, 2008.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR part 150, § 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety or create an undue burden on interstate or foreign commerce, and whether they are reasonably consistent with obtaining the goal of reducing existing non-compatible land uses and preventing the introduction of additional noncompatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments relating to these factors, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Copies of the noise exposure maps and the proposed noise compatibility program are available for examination at the following locations:

Federal Aviation Administration, National Headquarters, Planning and Environmental Division, APP–400, 800 Independence Avenue, SW., Room 621, Washington, DC 20591.
Federal Aviation Administration Western-Pacific Region Office, Airports Division, Room 3012, 15000 Aviation Boulevard, Hawthorne, California 90261.
Federal Aviation Administration, Western Pacific Region, San Francisco Airports District Office, 831 Mitten Road, Suite 210, Burlingame, California 94010.
City of Fresno, Mr. Kevin Meikle, Airports Planning Manager, 4995 East Clinton Way, Fresno, CA 93727–1525.

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT**.

Issued in Hawthorne, California on April 18, 2008.

Mark A. McClardy,

Manager, Airports Division, AWP–600, Western-Pacific Region.

[FR Doc. E8–9532 Filed 4–30–08; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35133]

Milwaukee Industrial Trade Center, LLC, d/b/a Milwaukee Terminal Railway—Acquisition and Operation Exemption—Line Owned by Milwaukee Industrial Trade Center, LLC, d/b/a Milwaukee Terminal Railway

Milwaukee Industrial Trade Center, LLC, d/b/a Milwaukee Terminal Railway (MITC), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 [1] to acquire and operate approximately 2 miles of rail line [2] that is located within MITC's 84-acre plant site in Milwaukee, WI.

MITC states that the line connects with a rail line owned by Canadian Pacific Railway Company, which is operated by Wisconsin & Southern Railroad Co. MITC further states that the rail line to be acquired and operated by MITC constitutes a line of railroad for which an exemption from the Board is required because it is MITC's initial rail acquisition and operation, notwithstanding that it might otherwise be considered to be spur, industrial, and/or switching track exempt from the Board's acquisition and operation authority under 49 U.S.C. 10906.[3]

The transaction is expected to be consummated no sooner than 30 days after the filing of the amended notice of exemption, or after the May 16, 2008 effective date of the exemption.

MITC certifies that its projected annual revenues as a result of this transaction will not exceed those that would qualify it as a Class III rail carrier and will not exceed $5 million.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the transaction. Petitions for stay must be filed no later than May 9, 2008 (at least 7 days before the exemption becomes effective).

Pursuant to the Consolidated Appropriations Act, 2008, Public Law 110–161 section 193, 121 Stat. 1844 (2007), nothing in this decision authorizes the following activities at any solid waste rail transfer facility: Collecting, storing, or transferring solid waste outside of its original shipping container; or separating or processing solid waste (including baling, crushing, compacting, and shredding). The term ''solid waste'' is defined in section 1004 of the Solid Waste Disposal Act, 42 U.S.C. 6903.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35133, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Thomas F. McFarland, Thomas F. McFarland, P.C., 208 South LaSalle Street, Suite 1890, Chicago, IL 60604–1112.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: April 23, 2008.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Anne K. Quinlan,

Acting Secretary.

[FR Doc. E8–9568 Filed 4–30–08; 8:45 am]

BILLING CODE 4915–01–P

[1] The notice of exemption in this proceeding originally was filed on April 14, 2008, but was amended on April 16, 2008. Therefore, the official filing date for the notice of exemption is April 16, 2008.

[2] The rail line proposed to be acquired and operated by MITC has been privately owned track, which was formerly owned by A.O. Smith Corp., then by Tower Automotive, Inc., and now by MITC.

[3] *See Effingham RR Co.—Pet. for Declaratory Order,* 2 S.T.B. 606 (1997), *aff'd sub nom. United Transp. Union—III. Legislative Bd.* v. *Surface Transp. Bd.,* 183 F.3d 606 (7th Cir. 1999); *See also Bulkmatic RR.—Acquire and Operate—Bulkmatic Tranport,* 6 S.T.B. 481 (2002).

DEPARTMENT OF THE TREASURY

United States Mint

Notification of 2008 American Eagle Platinum Proof Coin Pricing

SUMMARY: The United States Mint is setting prices for the 2008 American Eagle Platinum Proof Coins.

Pursuant to the authority that 31 U.S.C. 5111(a) and 5112(k) grant the Secretary of the Treasury to mint and issue platinum coins, and to prepare and distribute numismatic items, the United States Mint mints and issues 2008 American Eagle Platinum Proof Coins in four denominations with the following weights: One-ounce, one-half ounce, one-quarter ounce, one-tenth ounce. The United States Mint also produces American Eagle Platinum Proof four-coin sets that contain one coin of each denomination. In accordance with 31 U.S.C. 9701(b)(2)(B), the United States Mint is setting the price of these coins to reflect increases in the market price of platinum.

Accordingly, the United States Mint will commence selling the following 2008 American Eagle Platinum Proof Coins according to the following price schedule:

Description	Price
2008 American Eagle Platinum Proof Coins:	
One-ounce platinum coin	$2,299.95
One-half ounce platinum coin	1,174.95
One-quarter ounce platinum coin	609.95
One-tenth ounce platinum coin	269.95
Four-coin platinum set	4,119.95

FOR FURTHER INFORMATION CONTACT: Gloria C. Eskridge, Associate Director for Sales and Marketing, United States Mint, 801 Ninth Street, NW., Washington, DC 20220; or call 202–354–7500.

Authority: 31 U.S.C. 5111, 5112 & 9701.

Edmund C. Moy,

Director, United States Mint.

[FR Doc. E8–9429 Filed 4–30–08; 8:45 am]

BILLING CODE 4810–02–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0463]

Proposed Information Collection (Notice of Waiver of VA Compensation or Pension To Receive Military Pay and Allowances) Activity; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments for information needed to waive disability benefits.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before June 30, 2008.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov;* or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail: *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0001'' in any correspondence. During the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 461–9769 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Notice of Waiver of VA Compensation or Pension to Receive Military Pay and Allowances, VA Form 21–8951 and VA Form 21–8951–2.

OMB Control Number: 2900–0463.

Type of Review: Extension of a currently approved collection.

Abstract: Claimants who wish to waive VA disability benefits in order to receive active or inactive duty training pay are require to complete VA Forms 21–8951 and 21–8951–2. Active and inactive duty training pay cannot be paid concurrently with VA disability compensation or pension benefits. Claimants who elect to keep training pay must waive VA benefits for the number of days equal to the number of days in which they received training pay.

Affected Public: Individuals or households.

Estimated Annual Burden: 3,500 hours.

Estimated Average Burden per Respondent: 10 minutes.

Frequency of Response: Annually.

Estimated Number of Respondents: 21,000.

Dated: April 23, 2008.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E8–9553 Filed 4–30–08; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0405]

Proposed Information Collection (REPS Annual Eligibility Report) Activity: Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments for information needed to confirm a claimant's continued entitlement to Restored Entitlement Program for Survivors (REPS) benefits.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before June 30, 2008.

ADDRESSES: Submit written comments on the collection of information through *http://www.Regulations.gov;* or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail: *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0001'' in any correspondence. During the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *http://www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 461–9769 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: REPS Annual Eligibility Report, (Under the Provisions of Section 156, Public Law 97–377), VA Form 21–8941.

OMB Control Number: 2900–0405.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 21–8941 is completed annually by claimants who

have earned income that is at or near the limit of earned income. The REPS program pays benefits to certain surviving spouses and children of veterans who died in service prior to August 13, 1981 or who died as a result of a service-connected disability incurred or aggravated prior to August 13, 1981. VA uses the information collected to determine a claimant's continued entitlement to REPS benefits.

Affected Public: Individuals or households.

Estimated Annual Burden: 300 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: Annually.

Estimated Number of Respondents: 1,200.

Dated: April 23, 2008.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E8–9555 Filed 4–30–08; 8:45 am]

BILLING CODE 8320–01–P

Federal Register

Thursday,
May 1, 2008

Part II

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 732, 785, 870 and 872
Remining Incentives; Proposed Rule

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 732, 785, 870 and 872

[Docket ID: OSM–2007–0016]

RIN 1029–AC57

Remining Incentives

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSM), are proposing to amend our existing regulations to provide incentives to promote the remining and reclamation of eligible abandoned coal mine refuse piles. We are also considering and seeking comment on other remining incentives that were authorized by recent amendments to the Surface Mining Control and Reclamation Act of 1977 made by the Tax Relief and Health Care Act of 2006 (2006 Act).

DATES: Comments on the proposed rule must be received on or before on June 30, 2008, to ensure our consideration.

Public hearings: Upon request, we will hold a public hearing on the proposed rule at a date, time, and location to be announced in the **Federal Register** before the hearing. We will accept requests for a public hearing until 4 p.m., Eastern Time, on May 22, 2008. If you wish to attend a hearing, but not speak, you should contact the person identified under **FOR FURTHER INFORMATION CONTACT** before the hearing date to verify that the hearing will be held. If you wish to attend and speak at a hearing, you should follow the procedures under ''III. Public Comment Procedures'' in the **SUPPLEMENTARY INFORMATION** section of this document.

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

- *Federal e-Rulemaking Portal: www.regulations.gov.* The notice is listed under the agency name ''Office of Surface Mining Reclamation and Enforcement.'' The proposed rule has been assigned Docket ID: OSM–2007–0016.

If you would like to submit comments through the Federal e-Rulemaking Portal, go to *www.regulations.gov* and do the following. Click on the ''Advanced Docket Search'' button on the right side of the screen. Type in the Docket ID OSM–2007–0016 and click the ''Submit'' button at the bottom of the page. The next screen will display the Docket Search Results for the rulemaking. If you click on OSM–2007–0016, you can view the proposed rule and submit a comment. You can also view supporting material and any comments submitted by others.

- *Mail, Hand-Delivery/Courier to:* Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 252–SIB, 1951 Constitution Avenue, NW., Washington, DC 20240. Please include the Docket ID (OSM–2007–0016) with your comment.

We cannot ensure that comments received after the close of the comment period (see **DATES**) will be included in the docket for this rulemaking and considered. Comments sent to an address other than those listed above will not be included in the docket for this rulemaking.

For additional information on the rulemaking process and the public availability of comments, see ''III. Public Comment Procedures'' in the **SUPPLEMENTARY INFORMATION** section of this document.

If you wish to comment on the information collection aspects of this proposed rule, submit your comments to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Interior Desk Officer, via electronic mail, to *OIRA_DOCKET@omb.eop.gov* or via fax at (202) 395–6566. Please refer to OMB control number 1029–0040 in your correspondence.

FOR FURTHER INFORMATION CONTACT: James M. Taitt, Office of Surface Mining Reclamation and Enforcement, Three Parkway Center, Pittsburgh, PA 15220. Telephone: 412–937–2106.

SUPPLEMENTARY INFORMATION:

I. Background
A. Remining
B. The 2006 Act
C. Outreach Summary
II. Description of the Proposed Amendment
III. Public Comment Procedures
IV. Procedural Determinations

I. Background

A. Remining

Remining is defined in 30 CFR 701.5 as ''surface coal mining and reclamation operations which affect previously mined areas.'' Many previously mined areas, generally those mined prior to the passage of SMCRA, were not adequately reclaimed during the original mining operation. These sites often include environmental and safety problems resulting from inadequate reclamation, such as landslides, instability, erosion and sedimentation of streams, inadequate vegetation, and water quality problems. In many cases, previously mined lands may still include coal reserves that can be economically mined using present technology. Often, operators can economically remine and reclaim these areas while at the same time eliminating the environmental and safety problems associated with the site.

Recognizing that remining can eliminate environmental and safety problems at previously mined sites while recovering coal reserves, Congress, in 1992, revised SMCRA to encourage remining. In the Energy Policy Act of 1992 (EPAct) (Pub. L. 102–486), Congress amended section 404 of SMCRA (30 U.S.C. 1234) to extend eligibility for reclamation of lands and water under that section to lands which are reaffected by remining operations. In the May 31, 1994, **Federal Register** (59 FR 28136) we published a final rule implementing changes to SMCRA made by the EPAct. We promulgated 30 CFR 874.12(h) which provides in relevant part that ''[s]urface coal mining operations on lands eligible for remining pursuant to section 404 of the Act shall not affect the eligibility of such lands for reclamation activities after the release of the bonds or deposits posted by any such operation as provided by § 800.40 of this chapter.''

We made further changes in our rules regarding remining in response to revisions to SMCRA made by the EPAct. In the November 27, 1995, **Federal Register** (60 FR 58479) we published amendments to our rules at 30 CFR 701.5, 773.15(b)(4)(i), 785.25, and 816/817.116(c)(2) that were designed to encourage remining of lands eligible for expenditures under sections 402(g)(4) and 404 of SMCRA.

In the February 12, 1999, **Federal Register** (64 FR 7470) we published a rule concerning the financing of abandoned mine land reclamation (AML) projects that involve the incidental extraction of coal. The rule (known as the enhancing AML reclamation rule) amends the definition of ''government-financed construction'' at 30 CFR 707.5.

We have also published a proposed rule that provides environmental performance and reclamation standards for remining abandoned coal refuse remining operations. That proposed rule was published in the **Federal Register** on January 17, 2007 (72 FR 2136). A provision of the January 17th proposed rule proposes a definition of the term ''abandoned coal refuse remining operations'' at 30 CFR 701.5. That proposed definition states:

> Abandoned coal refuse remining operations means those surface mining activities for the on-site reprocessing of abandoned coal refuse and for the removal of abandoned coal refuse on lands that would

otherwise be eligible for expenditure under section 404 and section 402(g)(4) of the Act. Reprocessing operations include on-site activities that separate the coal from waste material using specific gravity or floatation methods, as well as activities that use mechanical means to sort and size the refuse material prior to separation. Removal operations include on-site activities that remove refuse from the site as well as those activities that use mechanical means to sort and size the refuse material prior to its removal. The term ''abandoned coal refuse remining operations'' does not encompass the removal of refuse for non-fuel uses.

A final rule regarding this definition has not yet been promulgated, but the term has been used throughout this preamble and in our proposed rule language. Therefore, for purposes of the rulemaking, we will review any comments on the definition submitted in response to the January 17th proposed rule and we will accept any additional comments with regard to the definition that are submitted concerning this proposed rule.

B. The 2006 Act

Remining Incentives

On December 20, 2006, Congress enacted the 2006 Act, which included amendments to SMCRA. These amendments, among other things, added section 415, titled ''Remining Incentives'' to SMCRA. Section 415 gives the Secretary of the Interior the option to promulgate rules, subject to certain requirements, to provide incentives to promote remining of eligible lands. Section 415(a) provides that rules promulgated under this section must:

* * * describe conditions under which amounts in the fund may be used to provide incentives to promote remining of eligible land under section 404 in a manner that leverages the use of amounts from the fund to achieve more reclamation with respect to the eligible land than would be achieved without the incentives.

The fund referred to in that provision is defined in SMCRA section 701(7) as ''the Abandoned Mine Reclamation Fund established pursuant to section 401.'' In this proposed rule we refer to the Abandoned Mine Reclamation Fund as ''the Fund.''

Section 415(b) provides that ''Any regulations promulgated under subsection (a) shall specify that the incentives shall apply only if the Secretary determines, with the concurrence of the State regulatory authority referred to in title V, that, without the incentives, the eligible land would not be likely to be remined and reclaimed.''

In essence, section 415 establishes that the Secretary has discretion to promulgate rules authorizing remining incentives that use amounts from the Fund, so long as the incentives meet certain requirements. Section 415(c) specifies two types of incentives that the Secretary may consider.

(1) IN GENERAL.—Incentives that may be considered for inclusion in the regulations promulgated under subsection (a) include, but are not limited to—

(A) A rebate or waiver of the reclamation fees required under section 402(a); and

(B) The use of amounts in the fund to provide financial assurance for remining operations in lieu of all or a portion of the performance bonds required under section 509.

Section 415(c)(1)(A) specifies that the Secretary may consider a rebate or waiver of the reclamation fees that operators must pay for coal produced. Reclamation fees are authorized by SMCRA section 402 (30 U.S.C. 1232) which is implemented in large part at 30 CFR part 870. These fees are collected from coal companies and deposited into the Fund account in the United States Treasury. The Fund is then allocated according to SMCRA. Section 415 authorizes the Secretary to consider whether rebate or waiver of these reclamation fees as an incentive for remining operations would achieve more reclamation of eligible lands than would otherwise be achieved. Only moneys from the Fund can be used for incentives authorized under section 415. As a result, States cannot use prior balance money they receive under SMCRA section 411(h)(1) to pay for remining incentives because the prior balance money is appropriated from the general Treasury and not the Fund.

Section 415(c)(1)(B) specifies the second incentive that the Secretary may consider: ''The use of amounts in the fund to provide financial assurance for remining operations in lieu of all or a portion of the performance bonds required under section 509.'' The performance bonds required by section 509 must be posted by permittees wishing to conduct coal mining and reclamation operations including remining operations. Section 509(a) provides that, ''[t]he amount of the bond shall be sufficient to assure the completion of the reclamation plan if the work had to be performed by the regulatory authority in the event of forfeiture * * *. .'' A permittee may have difficulty obtaining a bond for remining previously mined sites because of the environmental and safety problems often associated with these sites. Therefore, Congress authorized the Secretary to offer as a remining incentive, the use of amounts in the Fund in lieu of all or a portion of the performance bond.

Limitations on Remining Incentives

As discussed above, general requirements for remining incentives are set out in sections 415(a) and (b). Section 415 sets no additional limitations on the use of amounts in the Fund as financial assurance in lieu of performance bonds for remining operations. However, under section 415(c), only two types of remining operations could be eligible for a rebate or waiver of reclamation fees: Those that remove or reprocess abandoned coal mine waste; and remining activities that meet the priorities specified in paragraph (1) or (2) of section 403(a).

Section 415(c)(2) establishes limitations on the use of a rebate or waiver of reclamation fees. Subsection 415(c)(2)(A) provides that:

A rebate or waiver under paragraph (1)(A) shall be used only for operations that—

(i) Remove or reprocess abandoned coal mine waste; or

(ii) Conduct remining activities that meet the priorities specified in paragraph (1) or (2) of section 403(a).

Under subsection 415(c)(2)(B), ''[t]he amount of a rebate or waiver provided as an incentive under paragraph (1)(A) to remine or reclaim eligible land shall not exceed the estimated cost of reclaiming the eligible land under this section.''

Remining Operations

Under subsection 415(c)(2)(A)(i), the Secretary may authorize a rebate or waiver of reclamation fees for operations that remove or reprocess abandoned coal mine waste. Abandoned coal mine waste (referred to in this rulemaking as abandoned coal refuse) is the refuse resulting from the cleaning of mined coal. Abandoned coal refuse sites are lands on which refuse was placed prior to the passage of SMCRA and that were not adequately reclaimed when mining was completed. The refuse material was often dumped or piled on lands without sufficient environmental protection controls or without ensuring stability of the piles. These piles can cause numerous environmental problems including acid drainage and pollution of adjacent streams, uncontrolled erosion resulting in stream siltation and downstream flooding, and diminished aesthetic qualities. Additionally, the coal refuse piles present serious health and safety risks including landslides, uncontrolled burning of the refuse material, and injuries to site visitors because of pile instability.

In many cases, the technology for separating coal from refuse material when these sites were created left a significant amount of coal in the piles. Operators may remine refuse material to recover coal by either reprocessing it (separating the coal from refuse material) in place or by hauling the refuse material to an offsite location for processing or burning. Remining and subsequent reclamation of refuse piles can eliminate safety and environmental problems while recovering coal reserves.

Under subsection 415(c)(2)(A)(ii), the Secretary may authorize a waiver or rebate of reclamation fees for remining activities that meet the priorities specified in paragraph (1) or (2) of SMCRA section 403(a) (known as priority 1 or priority 2 sites). Section 403(a) was also amended by the SMCRA Amendments of 2006. As amended, subsection 403(a)(1) is subdivided into subparagraphs (1)(A) and (1)(B). Similarly, amended subsection 403(a)(2) is subdivided into subparagraphs (2)(A) and (2)(B). The priority referred to in subparagraph (1)(A) is protection of public health, safety, and property from extreme danger of adverse effects of coal mining practices; and the priority referred to in subparagraph (1)(B) is restoration of land and water resources and the environment that have been degraded by the adverse effects of coal mining practices; and are adjacent to a site that has been or will be remediated under subparagraph (1)(A). The priority referred to in subparagraph (2)(A) is protection of public health and safety from adverse effects of coal mining practices; and the priority referred to in subparagraph (2)(B) is restoration of land and water resources and the environment that have been degraded by the adverse effects of coal mining practices, and are adjacent to a site that has been or will be remediated under subparagraph (2)(A). OSM refers to the priorities in subparagraphs (1)(A) and (B) collectively as ''priority 1,'' and to the priorities in subparagraphs (2)(A) and (B) collectively as ''priority 2.''

Priority 1 and priority 2 sites can include, among other things, abandoned surface mine areas and abandoned deep mine entries and voids, as well as abandoned coal refuse sites. As with coal refuse sites, remining of priority 1 and priority 2 sites can eliminate many safety and environmental hazards while recovering coal reserves.

The 2006 Act made numerous other changes to SMCRA. This rule proposes regulations to implement only new SMCRA section 415. Other amendments of SMCRA in the 2006 Act will be addressed in separate rulemakings.

C. Outreach Summary

Because Congress gave the Secretary the option to promulgate rules to use the Fund to implement section 415, we decided to ask stakeholders whether rules to encourage remining were necessary and, if so, what those rules should encompass. On February 23 and February 26, 2007, we conducted an outreach program to solicit comments, concerns and ideas for regulatory changes to implement section 415. We provided, via e-mail, a series of discussion points for stakeholders to consider when thinking of possible regulatory changes. We asked the stakeholders whether incentives were necessary to encourage remining operations and if so, what form the incentives should take. We also were concerned about any impacts incentives for remining operations may have on the amount of money in the Fund that would be used to reclaim abandoned mine land projects.

We sent the outreach discussion points to representatives of industry, the States, environmental, citizen and conservation organizations and groups. Information we received from the outreach was considered in the drafting of this proposed rule.

We received a limited response to our outreach effort. For the most part, organizations that responded supported efforts to encourage the remining of abandoned coal mines and indicated that remining incentives could complement existing programs to encourage remining.

In addition to the general comments supporting the concept of additional remining incentives, we also received some specific suggestions about incentives. One outreach respondent indicated that we should make a determination in the regulations that the incentives proposed will encourage remining that would not likely otherwise occur. The respondent believes that an individual finding by the Secretary for each remining permit would delay permit issuance and that the State regulatory authority should make the determination that remining permits are justified on a case by case basis. We have proposed a regulation at 30 CFR 732.18(c) that would implement this suggestion. We would interpret the requirement for the Secretary's determination in section 415(b) as a requirement applicable to changes in State AML or regulatory programs that implement these incentives. We do not propose to interpret section 415(b) as requiring a Secretarial determination for every proposed remining operation to which these incentives could apply.

However, we recognize that delegating this responsibility to the State regulatory authority may not be feasible or wanted by States. In the alternative, a potential process could be developed where the OSM Field Office Directors would be responsible for making the determination that remining and reclamation would not likely occur, save for the remining incentives, on a case-by-case basis. Operators seeking incentives would propose the projects to the State regulatory authority who, in turn, would notify the OSM Field Office Director with oversight authority in their State. The Field Office Director would examine the permit application and would forward his or her determination of eligibility for remining incentives to the State regulatory authority. We are seeking comments on whether such a system would be practical and advantageous; and on whether some other method of making the finding required in section 415(b) could be more practical or more helpful.

An outreach respondent indicated that waiver of reclamation fees was preferred over rebate of the fees. This respondent indicated that a rebate of fees would inject an element of uncertainty into the remining process when the purpose of the incentives should be to eliminate or reduce uncertainty. We have proposed rules at 30 CFR 785.26 and 30 CFR 870.13(d) to provide for waivers of reclamation fees for abandoned coal refuse remining operations that remove all refuse material for reprocessing off site. However, we are seeking comments on whether rebates of reclamation fees for abandoned coal refuse remining operations would be more practical than waivers and would increase the number of remining operations and their subsequent reclamation.

Another respondent to our outreach efforts supported the use of the Fund to provide financial assurance in lieu of some or all of the performance bonds. The respondent suggested that we establish a bond pool for remining operations. Since each State's bonding process is unique, we decided not to propose a national rule requiring a specific bonding system for remining operations such as a bond pool.

One respondent proposed that we create a bond pool for remining projects in the anthracite and bituminous regions of Pennsylvania. A State-specific bonding program would be beyond the scope of a national rulemaking. We chose not to propose a rule to use monies from the Fund to provide financial assurances in lieu of all or part of required performance bonds. A nationwide rule that adds to,

or modifies, existing bonding regulations would not fit well with the diversity of bonding systems employed in the States. Additionally, one State indicated that it employed one agency to administer Title IV projects and a separate agency to administer Title V projects. That State was concerned that its laws may not allow the use of Title IV funds to provide bonds to guarantee reclamation of Title V projects or may not allow transfer of funds from its Title IV agency to its Title V agency.

One respondent suggested that we develop a remining operator's assistance program to provide financial assistance to operators for preparing permit materials for remining sites. We are seeking comment from the public on the feasibility and utility of such a program.

One respondent also indicated support of the concept of a special nationwide permit for remining, but disagrees with the way it was limited by the Army Corps of Engineers (COE). The respondent indicated that we should not follow the COE practice of defining a remining site by a ratio of 60% remining acreage to 40% new disturbance. The respondent believes this ratio will serve to limit the number of remining sites addressed and that operators need maximum incentives to ensure that as much remining will be done as promptly as possible. We are seeking further comment from the public on whether we should address the COE definition of remining in our final rule.

A respondent requested that we revise 30 CFR 785.25 to remove paragraph (c) that allows 30 CFR 785.25 to expire. The removal of the September 30, 2004, expiration date will be addressed in a separate rulemaking.

Several States expressed concerns about whether they would be required to amend their approved mining or abandoned mine land programs to include counterparts to any Federal rules promulgated under section 415. We anticipate that State adoption of any rules we promulgate under section 415 of SMCRA will be discretionary. However, to participate in the remining incentives program, States will have to adopt rules that are no less effective than the Federal rules that may be eventually promulgated.

II. Description of the Proposed Amendment

After considering the comments we received in outreach, we determined that, while there was a general interest in remining incentives, there was little agreement on what specific incentives should be offered. When envisioning rules to implement section 415, we determined that any incentives offered should be easily implemented and result in the most rapid and complete reclamation possible. We felt that permittees would not likely take advantage of incentives that add excessive recordkeeping burdens or result in cumbersome procedures. As a result, we determined that a waiver of reclamation fees would be the most logical incentive to implement. A waiver would require little or no additional recordkeeping by operators and would result in benefits to operators as soon as coal is recovered from remining operations. Since reclamation fees are based on the amount of coal produced, a waiver of fees would give operators more revenue per ton and would encourage operators to mine quickly and efficiently. Mining more rapidly will lead to more rapid reclamation and efficient mining will increase the amount of coal reserves recovered from remining operations.

In deciding what types of remining operations we should encourage through the use of incentives, we felt that it would be logical to remine and subsequently reclaim previously affected sites that have serious environmental impacts and that have sufficient coal reserves to make a waiver of reclamation fees an attractive incentive. Coal refuse disposal sites appeared to be the most logical candidates that fit these criteria.

The safety impacts of refuse disposal sites can be severe. Refuse piles placed on hillsides, such as exist throughout Appalachia, may be unstable and slip, resulting in landslides with damage to adjacent property and roads. In addition, refuse is often easily combustible because of its significant coal content. As a result, burning refuse banks have been serious problems, because of both noxious fume emissions and the potential for fires spreading to adjacent areas and to nearby residences. Refuse piles are also attractive for off-road vehicle use which, because of the piles' unstable and steep slopes, can result in injury and even death.

Refuse disposal sites can also have severe environmental impacts, including: Acid drainage and pollution of adjacent streams resulting from the large amounts of pyritic materials that are often present; uncontrolled erosion resulting in stream siltation and downstream flooding; diminished aesthetic qualities, and loss of land use.

While the amount of coal in each refuse disposal site is variable, there can be significant amounts remaining to be remined. Remining can recover the reserves while at the same time reclaiming the site to eliminate the safety and environmental impacts.

We also considered whether to offer incentives for all refuse remining operations including both those that reprocess refuse on site and those that remove all on-site refuse material for reprocessing off site. There are several differences between abandoned coal refuse removal operations and on-site reprocessing operations that make reprocessing the refuse material off site preferable to on-site reprocessing. Most significantly, refuse removal operations generate little, if any, residual waste and no wet refuse waste, as compared to that generated by on-site reprocessing operations. Further, refuse removal operations do not require on-site reprocessing or preparation plants with their associated process water circuits, discharges, and ponds. Additionally, most refuse removal operations will be of shorter duration than on-site refuse reprocessing operations.

Having considered the above factors, we are proposing, in this rule, to authorize waiver of reclamation fees for the remining of refuse disposal sites where all refuse is removed for reprocessing off site. We are proposing to add four provisions to our regulations at 30 CFR to implement this remining incentive: 30 CFR 732.18, 785.26, 870.13(d), and 872.23.

Proposed 30 CFR 732.18 would provide that a State regulatory authority may submit a revision to its approved regulatory program to provide remining incentives under certain circumstances. This provision would also establish that approval by the Secretary of such a revision would be deemed a determination that without the incentives, the lands to be remined would not be likely to be remined and reclaimed. Proposed 30 CFR 785.26 would establish procedures for a State regulatory authority to waive reclamation fees as incentives for remining. Proposed section 870.13(d) would authorize the waiver of reclamation fees for abandoned coal refuse remining operations that remove all abandoned coal refuse to an off-site location for reprocessing or direct use. Finally, proposed 30 CFR 872.23 would establish procedures for the States to amend their programs to include remining incentives in their Title IV and Title V programs. We will discuss each of the four proposed new regulations in turn below.

30 CFR 732.18

We proposed 30 CFR 732.18 to satisfy the requirement of SMCRA section 415(b) that the Secretary determine, with the concurrence of the State regulatory authority, that, without the incentives, the eligible land would not

be likely to be remined and reclaimed. Proposed 30 CFR 732.18 provides:

(a) This section applies to any State implementing 30 CFR 785.26 and 870.13 providing for a waiver of reclamation fees as an incentive for remining.

(b) The State regulatory authority may submit a revision to its approved regulatory program to provide remining incentives by waiver of reclamation fees pursuant to 30 CFR 785.26 and 870.13, if the State determines that providing such incentives will result in remining and reclamation of eligible lands that would not otherwise be likely to be remined and reclaimed.

(c) Approval by the Secretary of the Interior of a revision to a State regulatory program under this section will constitute a determination that without the incentives pursuant to this section, the lands to be remined would not be likely to be remined and reclaimed.

Under this proposed provision, if a State first determines that a regulatory program provision providing remining incentives would result in remining and reclamation that would not otherwise be likely, then approval by the Secretary of the revision would constitute the Secretary's determination to the same effect. This provision would avoid the necessity for the Secretary to concur in every waiver decision on a remining permit. We believe that delegating to the State the authority for waiver decisions is consistent with the cooperative federalism that is central to the SMCRA regulatory scheme. When the State submits an amendment to adopt these remining incentives they will have to include provisions to ensure that the lands to be remined would not likely be mined and reclaimed without these provisions. Our approval of the amendment would ensure that the requirements for the finding are included in the State's program and would establish that once implemented by the State, OSM would conduct oversight on these remining operations to ensure that the finding was being made. We are also considering an alternative to this language: To delegate to OSM Field Office Directors the authority for making this finding on a case-by-case basis for each remining operation. We invite comment on this alternative.

30 CFR 785.26

Proposed 30 CFR 785.26 is intended to implement SMCRA sections 415(a) and (b). This section would establish procedures for a State regulatory authority to waive reclamation fees as an incentive for remining. It would require a State regulatory authority to consult with the State agency that administers the State reclamation program under Title IV and the implementing regulations at part 870, before making the determinations required under proposed 30 CFR 785.26(a) and (b). Proposed 30 CFR 785.26 provides:

This section applies to waiver of reclamation fees by a State regulatory authority as an incentive for remining operations under part 872 of this chapter. A waiver of reclamation fees under this section shall apply only to production of coal by removal of abandoned coal mine refuse for reprocessing or direct use off site.

(a) *Consultation with the Title IV reclamation agency.* You, the State regulatory authority, may waive reclamation fees otherwise required under part 870 of this chapter, provided that you first consult with the State agency designated to administer the State reclamation program under part 870 of this chapter, and make the following determinations:

(1) That waiver of reclamation fees for remining of eligible lands under the permit would result in more reclamation of the eligible land than would result from expenditure of the same amount from the Fund.

(2) That the eligible lands to be remined under the permit would not be likely to be remined and reclaimed without the waiver of reclamation fees as an incentive.

(b) *Eligibility.* After you make the determinations under paragraph (a) of this section, production of coal by remining pursuant to a permit you issue under part 786 of this chapter will be eligible for a waiver of reclamation fees in accordance with part 872 of this chapter.

(c) *Documentation.* You must include in the remining case file for the permit:

(1) The determinations made under paragraph (a) of this section; and

(2) The information taken into account in making the determinations.

This proposed rule would require that, after consultation, the State regulatory authority would determine whether remining under a permit for which a waiver of fees was requested would achieve more reclamation than would be achieved without the incentives. The required consultation and determinations are intended to assure that waivers could be authorized only for remining that would leverage use of moneys from the Fund to achieve more reclamation of eligible lands than would otherwise occur. If after making the determinations required under this section, the State regulatory authority issued a permit for remining a coal refuse pile to remove all abandoned coal refuse, the State regulatory authority could waive the reclamation fees that would normally be due on coal produced under that remining permit.

In general, the proposed rule would authorize waiver of reclamation fees for coal recovered from abandoned coal refuse remining operations that remove all refuse for reprocessing or burning off site if all criteria in section 415 of SMCRA are met. A State that amends its approved program to authorize fee waivers would be required to document, as part of the permit application process, that a remining operation is eligible for a waiver of the reclamation fees and that it meets the provisions of section 415. The State would have to retain that documentation for the waiver as part of the permitting package subject to review by OSM pursuant to our oversight and audit procedures. Permittees receiving permits for abandoned coal refuse remining operations would be required to file the OSM–1 form as provided for in the Federal regulations at 30 CFR Part 870. If this rule becomes final as proposed, the OSM–1 would be modified to address waiver of the reclamation fees for tonnage reported for coal recovered by these remining operations. The permittee's eligibility for a waiver would be subject to periodic audit and review under existing procedures in 30 CFR 870.16. If an audit confirms that a permittee has improperly received a fee waiver, or an operator fails to complete reclamation of an abandoned coal refuse remining operation, the fee waiver would be cancelled and the fee imposed for all coal produced.

The effect of this proposal on States would be to authorize uncertified States (*i.e.* States other than those States that have certified achievement under SMCRA section 411 of all section 403(a) priorities), in their discretion, to adopt State program amendments providing for fee waivers consistent with the proposed rule. If a State did amend its program to authorize fee waivers, the State would forego its share of the fees waived. If a State waived reclamation fees, the value of the waived fees would usually be offset to the extent abandoned coal refuse sites were reclaimed. The limit on the amount of fees waived for a particular remining operation should be less than the State's cost to reclaim the site using abandoned mine land funds. Therefore, the State abandoned mine land program would not have to expend Federal AML funds to reclaim the priority problem, and would realize a savings at least equivalent to the value of the fees waived. Additionally, a State could actually achieve more reclamation through remining incentives at less cost because it would not have to prepare designs and plans for reclamation of the coal refuse sites. Instead, operators would be responsible for preparing these documents as part of a permit application package to remine the site. Typically, the cost of preparing designs

and plans for reclaiming a coal refuse disposal area could amount to 10% of the overall cost of a project. States could save these costs by having an operator remine the site and include the designs and plans in a permit application package.

Waiver of reclamation fees could affect the amount of money available from the Fund for distributions to the States and for OSM's use. Waiving fees results in less money being sent to the Fund and, in turn, would mean less money available for distribution from the Fund. Therefore, a State with numerous remining sites qualifying for a waiver could conceivably reduce the amount of money available from the Fund for use by other States and OSM. While the amount of fee waivers is expected to be minor and the consequent impact to the Fund to also be minor, we are seeking comment on whether the proposed remining incentives would impact the ability of the States to effectively reclaim priority 1 and priority 2 sites.

Effects on industry would be positive. Any companies granted a fee waiver would remine and reclaim abandoned coal refuse sites. If the remining and reclamation would not be profitable, even with a fee waiver, then the operators would not conduct the operation. There is a possibility that, in some markets, an operator selling coal from remined coal refuse might compete with conventionally-mined coal, but OSM does not anticipate that a typical refuse remining operation would clean and sell a large amount of refuse coal.

The rule as proposed could have a minor effect on transfers to the United Mine Workers of America (UMWA) as authorized under SMCRA section 402(h). To the extent reclamation fees are waived or rebated, a minor reduction in the principal of the Fund could result in a minor reduction in earnings.

We are proposing to authorize waiver of reclamation fees because we believe that it would be simpler to administer an incentives program that offers a waiver, rather than a rebate. A rebate program would involve additional steps because it would first require an operator to pay reclamation fees and would require OSM to process the fees before they are rebated by the State from AML funds distributed to the State under SMCRA section 401(f) and allocated pursuant to SMCRA section 402(g). This would result in delayed payments to operators and would not achieve more rapid or complete reclamation.

Additionally, we are proposing that the waiver of fees apply only to operations that remove all coal refuse from the site for reprocessing or direct use off site. An operation that would remove only a portion of the refuse material from the site would not be eligible for a waiver. As discussed below, we believe that removal of all refuse material would be the most beneficial way to ensure complete reclamation of the site.

We believe that our proposal could be fairly and easily implemented by States who elect to do so, and would result in environmental improvements because the incentive would encourage operators to remine and reclaim abandoned coal mine refuse piles.

However, as we noted earlier, we are also seeking comments on the feasibility and practicality of offering reclamation fee rebates as provided in SMCRA section 415(c)(1)(A). Under a rebate program, operators would pay reclamation fees on coal recovered from abandoned coal refuse remining operations. An operator could then seek rebates of fees if the State elected to include fee rebate provisions in their approved program. The rebates would be paid by the State from moneys distributed from the Fund. In all cases, OSM would retain audit authority to ensure that the requirements of SMCRA section 415 were met.

30 CFR 870.13(d)

We propose to add a new paragraph (d) to existing 30 CFR 870.13 to provide that a State may waive fees for ''abandoned coal refuse remining operations'' under our specified conditions.

Proposed 30 CFR 870.13(d) provides:

(d) *Waiver of fees for abandoned coal refuse remining operations.* The operator will not be required to pay fees for coal produced by an abandoned coal refuse remining operation as defined in § 701.5 of this chapter that removes all abandoned coal refuse and that meets the requirements of § 872.23 of this chapter, if the fees have been waived pursuant to §§ 732.18 and 785.26 of this chapter.

Because existing 30 CFR 870.13 sets out the reclamation fee rates for various types of operations, we believe it would be logical to add this proposed provision on waiver of fee rates to it.

This proposed rule would change OSM's current practice regarding the assessment of reclamation fees on coal refuse material. Generally, OSM does not assess fees if the refuse is demonstrated to have no value for fee purposes. SMCRA imposes the fees at a flat rate per ton, but also states that the fee shall not exceed 10 percent of the value of the coal at the mine, as determined by the Secretary. SMCRA section 402(a), 30 U.S.C. 1232(a). In implementing this statutory restriction, OSM may find that refuse has no value in the following circumstances: when the operator clearly documents that the material was a by-product of a coal preparation process, is of low quality, has no relevant use other than as a waste material in a small power production or cogeneration facility qualified by the Federal Energy Regulatory Commission, and is not reprocessed using gravity separation to extract the useable coal. OSM also considers any other relevant factors in determining whether fees must be paid under section 402(a). By contrast, the fee waiver under this proposed rule would apply regardless of the material's quality and use, and the type of reprocessing.

30 CFR 872.23

Proposed 30 CFR 872.23 describes the process and requirements for State waiver of reclamation fees. As proposed, this section provides:

(a) The State regulatory authority may waive reclamation fees required under part 870 of this chapter for abandoned coal refuse remining operations permitted under subchapter G that remove all abandoned coal refuse for reprocessing or direct use off site.

(b) The amount of the waiver provided as an incentive under paragraph (a) of this section to remine and reclaim eligible land must not exceed the estimated cost as required in 30 CFR 780.18(b)(2) of reclaiming the eligible land.

Consistent with SMCRA section 415, this proposed rule specifies the circumstances in which a waiver may be given, and also requires that the amount of the waiver must not exceed the estimated cost of reclaiming the eligible land. Under proposed 30 CFR 872.23, if an operator obtains a permit under Title V of SMCRA to remine abandoned coal refuse by removing the refuse for reprocessing or direct use from the site, and the State regulatory authority makes the findings required under proposed 30 CFR 785.26, then the operation would be eligible for waiver of reclamation fees on coal removed thereafter.

Additional Provisions OSM Is Considering

As discussed below, we request comments on whether we should implement any other alternatives for incentives that are authorized in section 415, in addition to the incentives addressed in the proposed rule text. Under section 415 two types of remining operations could be eligible for a rebate or waiver of reclamation fees: Those that remove or reprocess abandoned coal mine waste; and

remining of priority 1 and priority 2 sites. This proposed rule addresses waiver of reclamation fees for operations that remine abandoned coal mine refuse and remove the refuse for direct use or reprocessing off site. We are not proposing a rebate or waiver of reclamation fees for operations that reprocess coal mine refuse on site without removal of the refuse from the site. An operation that reprocesses coal mine waste on-site would be required to reclaim any refuse remaining after recoverable coal is removed. This is required because failure to properly reclaim the refuse material could lead to serious environmental problems such as erosion, siltation of streams, and water quality issues, as well as safety concerns because of the potential instability of the disturbed refuse. Because of these potential problems from refuse left on a site, we believe a remining incentive that requires removal of the abandoned coal mine refuse is preferable. Removal should encourage rapid removal of the refuse and thus rapid alleviation of associated environmental and safety problems. However, we are considering providing for fee waivers or rebates for operations that reprocess abandoned coal mine refuse on site and we seek comments on whether such operations should also be eligible for waivers or rebates of reclamation fees. Commenters may wish to focus on the environmental benefits, if any, of reprocessing the refuse on site as opposed to removal of the refuse; whether incentives would encourage more refuse remining operations if they were applied to coal produced from refuse processed on site; and the relative costs and benefits of reclaiming the material remaining after separating coal from the refuse on site versus reclaiming the site after complete removal of all refuse.

This proposed rule would not authorize waiver of reclamation fees for remining of priority 1 or 2 sites, *per se*. It would apply only to abandoned coal refuse sites; however some abandoned coal refuse sites may also qualify as priority 1 or 2 sites. Nonetheless, we are considering making priority 1 or 2 sites eligible for a waiver of reclamation fees. We seek comments on whether making these sites eligible for incentives would be likely to increase the remining and subsequent reclamation of such sites and whether incentives for these sites would be likely to meet the requirements of SMCRA section 415(a) and (b).

We seek comments on alternative ways to implement the reclamation fee waiver provision. One alternative way to implement the waiver provision would be for the State to adopt a system that would provide a credit of reclamation fees in the full amount of the estimated cost to the State for reclamation of the priority 1 or 2 site or the coal refuse site. The credit would be applied to the site being remined, and if not fully utilized at that site, the balance of the credit could be applied to future fees otherwise payable for coal produced at other permits. This alternative could address situations in which coal refuse remining would not recover sufficient coal to ensure that a fee waiver would cover the full cost of reclamation. This type of incentive might more effectively encourage the remining of additional priority 1 or 2 sites and coal refuse areas.

We decided not to propose rules regarding the use of amounts in the Fund to provide financial assurance for remining operations in lieu of all or a portion of the performance bonds required under section 509. As we noted above, a nationwide rule that adds to, or modifies, existing bonding regulations would not fit well with the diversity of bonding systems employed in the States.

However, in addition to the proposed rule, we are also considering either addressing all types of incentives specifically authorized by Congress in section 415, or addressing other types of incentives generally authorized but not specified by Congress. Therefore, we seek comments and information on whether any additional remining incentives would be practical and would be likely to materially increase reclamation by remining operations. However, any additional incentives would be subject to the restrictions in section 415 on the use of remining incentives.

Finally, we request comments on the likely usefulness and effectiveness of remining incentives authorized in section 415 of SMCRA. If we determine that the record demonstrates insufficient interest in, or effectiveness of, remining as authorized in section 415 we may choose not to adopt a rule authorizing incentives.

How Will This Rule Affect Approved Regulatory Programs?

The proposed rule would authorize States to adopt similar provisions if they choose to, but we would not require the States to amend their programs.

III. Public Comment Procedures

Electronic or Written Comments: If you submit written comments, they should be specific, confined to issues pertinent to the proposed regulations, and explain the reason for any recommended change(s). We appreciate any and all comments, but those most useful and likely to influence decisions on the final regulations will be those that either involve personal experience or include citations to and analyses of SMCRA, its legislative history, its implementing regulations, case law, other pertinent State or Federal laws or regulations, technical literature, or other relevant publications or information on what factors are most significant when determining the viability and profitability of refuse remining.

We cannot ensure that comments received after the close of the comment period (see **DATES**) will be included in the docket for this rulemaking and considered. Comments sent to an address other than those listed above (see **ADDRESSES**) will not be included in the docket for this rulemaking.

Public Availability of Comments: 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.

Public Hearings: We will hold a public hearing on the proposed regulations upon request only. The time, date, and address for any hearing will be announced in the **Federal Register** at least 7 days prior to the hearing.

Any person interested in participating at a hearing should inform James Taitt (see **FOR FURTHER INFORMATION CONTACT**), either orally or in writing by 4 p.m., Eastern Time, on May 22, 2008. Any disabled individual who requires reasonable accommodation to attend a public hearing should also contact Mr. Taitt so that appropriate arrangements can be made.

If no one has contacted Mr. Taitt to express an interest in participating in a hearing by that date, a hearing will not be held. If only a few people express an interest, a public meeting rather than a hearing may be held. At the public meeting, we will note any concerns that are expressed and a summary will be entered into the docket for the rulemaking.

The public hearing will continue on the specified date until all persons scheduled to speak have been heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after all persons scheduled to speak and persons present

in the audience who wish to speak have been heard. To assist the transcriber and ensure an accurate record, we request, if possible, that each person who testifies at a public hearing provide us with a written copy of his or her testimony.

IV. Procedural Determinations

Executive Order 12866—Regulatory Planning and Review

This document is not a significant rule and the Office of Management and Budget has not reviewed this rule under Executive Order 12866. We have made the assessments required by Executive Order 12866 and the results are given below.

(1) The provisions in the rule would not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.

(2) The provisions in the rule would not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients.

(3) The provisions in the rule do not raise novel legal or policy issues.

(4) This rule would not have an effect of $100 million or more on the economy. The costs associated with this proposed rule would be in the form of waivers of reclamation fees that would normally be made part of the Fund. These costs are estimated at approximately $1.5 million; significantly less than $100 million. The costs are estimated from available data that indicate that refuse piles may have a carbon content ranging from a low of 27.5 percent to a high of 98.9 percent of the original coal values that were mined. Recovery of these formerly ''lost'' coal values, either by reprocessing or by directly burning the refuse, in a sense increases the nation's coal resources. Since the percentage of recoverable coal varies widely, we are assuming, for computation purposes, that the coal refuse, on average, contains from 5,000 to 8,000 Btu/lb, or about half the Btu value of bituminous coal. Approximately 9 million tons of refuse is recovered/utilized annually. Because this material has about half the Btu value of bituminous coal, these 9 million tons of refuse would represent, theoretically, at least 4.5 million tons of coal. Assuming that 4.5 million tons of coal are recovered from the remining of refuse piles each year, then $1,417,500 in reclamation fees would be waived in each year through fiscal year 2012, and $1,260,000 would be waived each year from fiscal years 2013 through 2021. The reduced waiver amount for fiscal years 2013 through 2021 results from the fact that the fee rate for those years has been set at a lower rate by law.

The rule might result in an increase in remining operations from the current levels; however, the increase is not expected to be significant and, therefore, would not add greatly to the waiver estimates provided above.

The rule would 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 rule would have the positive effects on the economy and the environment of increasing the number of coal refuse remining sites that are reclaimed, and of recovering coal within those sites that was unavailable for use because it was deposited as waste. While waiver of reclamation fees will reduce the amount of money in the Fund, we do not expect the reduction to significantly affect the ability of States to reclaim priority 1 or priority 2 sites.

Regulatory Flexibility Act

The Department of the Interior certifies that the proposed rules would 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.*). The proposed rules would not have an adverse economic impact on the coal industry or State regulatory authorities. Further, they would not produce 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.

The fee waiver contained in the proposed rule would presumably result in an economic benefit for the coal operator. Based on available data, we estimate that approximately $1,417,500 in reclamation fees would be waived in each year through fiscal year 2012 and $1,260,000 would be waived each year from fiscal years 2013 through 2021.

Small Business Regulatory Enforcement Fairness Act

For the reasons previously stated, the regulations are not considered ''major'' under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. The rule:

a. Would not have an annual effect on the economy of $100 million or more.

b. Would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

c. Would not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises for the reasons stated above.

Unfunded Mandates

The rule would not impose an unfunded mandate on State, Tribal, or local governments or the private sector of more than $100 million per year. The rule would not have a significant or unique effect on State, Tribal, or local governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*) is not required.

Executive Order 12630—Takings

In accordance with Executive Order 12630, the rule would not have takings implications that would require a takings implication analysis.

Executive Order 12988—Civil Justice Reform

In accordance with Executive Order 12988, the Office of the Solicitor has determined that the rule would not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of the Order.

Executive Order 13132—Federalism

In accordance with Executive Order 13132, the rule would not have Federalism implications sufficient to warrant the preparation of a Federalism Assessment for the reasons discussed above.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, we have evaluated the potential effects of the rule on Federally-recognized Indian tribes and 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.

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

These regulations are not considered a significant energy action under Executive Order 13211. The proposed revisions would not have a significant effect on the supply, distribution, or use of energy.

Paperwork Reduction Act

In accordance with 44 U.S.C. 3507(d), OSM has submitted the following

request for information collection and recordkeeping authority for 30 CFR 785 to the Office of Management and Budget (OMB) for review and approval:

Title: 30 CFR 785—Requirements for permits for special categories of mining.

OMB Control Number: 1029–0040.

Summary: The information is being collected to meet the requirements of sections 507, 508, 510, 515, 701 and 711 of Public Law 95–87, which requires applicants for special types of mining activities to provide descriptions, maps, plans and data of the proposed activity. This information will be used by the regulatory authority in determining if the applicant can meet the applicable performance standards for the special type of mining activity.

Bureau Form Number: None.

Frequency of Collection: Once.

Description of Respondents: Applicants for coal mine permits and State Regulatory Authorities.

Total Annual Responses: 387.

Total Annual Burden Hours: 24,521.

Total Non-Wage Costs: 0.

Under the Paperwork Reduction Act, OSM must obtain OMB approval of all information and recordkeeping requirements. No person is required to respond to an information collection request unless the form or regulation requesting the information has a currently valid OMB control (clearance) number. The control number appears in 30 CFR 785.10. To obtain a copy of OSM's information collection clearance request contact John A. Trelease at (202) 208–2783 or by e-mail at *jtrelease@osmre.gov.*

Comments are invited on:

(a) Whether the proposed collection of information is necessary for SMCRA regulatory authorities to implement their responsibilities, including whether the information will have practical utility.

(b) The accuracy of OSM's estimate of the burden 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 collection on the respondents.

By law, OMB must respond to OSM within 60 days of publication of this proposed rule, but may respond as soon as 30 days after publication. Therefore, to ensure consideration by OMB, you must send comments regarding these burden estimates or any other aspect of these information collection and recordkeeping requirements by June 2, 2008 to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Interior Desk Officer, via e-mail to *OIRA_DOCKET@omb.eop.gov*, or via facsimile to (202) 395–6566. Also, please send a copy of your comments to John A. Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave, NW., Room 202 SIB, Washington, DC 20240, or electronically to *jtrelease@osmre.gov.* Please include the OMB control number, 1029–0040, at the top of your correspondence.

National Environmental Policy Act

OSM has prepared a draft environmental assessment (EA) of this proposed rule and has made a tentative finding that it would not significantly affect the quality of the human environment under section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4332(2)(C). It is anticipated that a finding of no significant impact (FONSI) will be made for the final rule in accordance with OSM procedures under NEPA. The draft EA is on file in the docket for this rulemaking and may be viewed online at *http://www.regulations.gov.* At that internet address, the document is listed under ''Office of Surface Mining Reclamation and Enforcement.'' The EA will be completed and a finding made on the significance of any resulting impacts before we publish the final rule.

Data Quality Act

In developing this rule we did not conduct or use a study, experiment, or survey requiring peer review under the Data Quality Act (Pub. L. 106–554).

Clarity of This Regulation

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

(a) Be logically organized;

(b) Use the active voice to address readers directly;

(c) Use clear language rather than jargon;

(d) Be divided into short sections and sentences; and

(e) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in the **ADDRESSES** section. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

List of Subjects

30 CFR Part 732

Intergovernmental relations, Reporting and recordkeeping requirements, Surface mining, Underground mining.

30 CFR Part 785

Reporting and recordkeeping requirements, Surface mining, Underground mining.

30 CFR Part 870

Abandoned Mine Reclamation Fund, Reclamation fees, Reporting and recordkeeping requirements, Surface mining, Underground mining.

30 CFR Part 872

Abandoned Mine Reclamation Fund, Indian lands, Reclamation fees, Surface mining, Underground mining.

Dated: April 2, 2008.

C. Stephen Allred,

Assistant Secretary, Land and Minerals Management.

For the reasons discussed in the preamble, we are proposing to amend 30 CFR Parts 732, 785, 870, and 872 as set forth below:

PART 732—PROCEDURES AND CRITERIA FOR APPROVAL OR DISAPPROVAL OF STATE PROGRAM SUBMISSIONS

1. The authority citation for part 732 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.* and 16 U.S.C. 470 *et seq.*

2. Part 732 is amended by adding § 732.18 to read as follows:

§ 732.18 How does a State get approval to offer remining incentives?

(a) This section applies to any State implementing 30 CFR 785.26 and 870.13 providing for a waiver of reclamation fees as an incentive for remining.

(b) The State regulatory authority may submit a revision to its approved regulatory program to provide remining incentives by waiver of reclamation fees pursuant to 30 CFR 785.26 and 870.13, if the State determines that providing such incentives will result in remining and reclamation of eligible lands that would not otherwise be likely to be remined and reclaimed.

(c) Approval by the Secretary of the Interior of a revision to a State regulatory program under this section will constitute a determination that without the incentives pursuant to this section, the lands to be remined would not be likely to be remined and reclaimed.

PART 785—REQUIREMENTS FOR PERMITS FOR SPECIAL CATEGORIES OF MINING

3. The authority citation for part 785 is revised to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

4. Part 785 is amended by adding § 785.26 to read as follows:

§ 785.26 What are the procedures for a waiver of the reclamation fee for remining?

This section applies to waiver of reclamation fees by a State regulatory authority as an incentive for remining operations under part 872 of this chapter. A waiver of reclamation fees under this section shall apply only to production of coal by removal of abandoned coal mine refuse for reprocessing or direct use off site.

(a) *Consultation with the Title IV reclamation agency.* You, the State regulatory authority, may waive reclamation fees otherwise required under part 870 of this chapter, provided that you first consult with the State agency designated to administer the State reclamation program under part 870 of this chapter, and make the following determinations:

(1) That waiver of reclamation fees for remining of eligible lands under the permit would result in more reclamation of the eligible land than would result from expenditure of the same amount from the Fund.

(2) That the eligible lands to be remined under the permit would not be likely to be remined and reclaimed without the waiver of reclamation fees as an incentive.

(b) *Eligibility.* After you make the determinations under paragraph (a) of this section, production of coal by remining pursuant to a permit you issue under part 786 of this chapter will be eligible for a waiver of reclamation fees in accordance with part 872 of this chapter.

(c) *Documentation.* You must include in the remining case file for the permit:

(1) The determinations made under paragraph (a) of this section; and

(2) The information taken into account in making the determinations.

PART 870—ABANDONED MINE RECLAMATION FUND—FEE COLLECTION AND COAL PRODUCTION REPORTING

5. The authority citation for part 870 continues to read as follows:

Authority: 28 U.S.C. 1746, 30 U.S.C. 1201 *et seq.*, and Pub. L. 105–277.

6. Section 870.13 is amended by adding paragraph (d) to read as follows:

§ 870.13 Fee rates.

* * * * *

(d) *Waiver of fees for abandoned coal refuse remining operations.* The operator will not be required to pay fees for coal produced by an abandoned coal refuse remining operation as defined in § 701.5 of this chapter that removes all abandoned coal refuse and that meets the requirements of § 872.23 of this chapter, if the fees have been waived pursuant to §§ 732.18 and 785.26 of this chapter.

PART 872—ABANDONED MINE RECLAMATION FUNDS

7. The authority citation for part 872 is revised to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

8. Part 872 is amended by adding § 872.23 to read as follows:

§ 872.23 Incentives for abandoned coal refuse remining operations.

(a) The State regulatory authority may waive reclamation fees required under part 870 of this chapter for abandoned coal refuse remining operations permitted under subchapter G that remove all abandoned coal refuse for reprocessing or direct use off site.

(b) The amount of the waiver provided as an incentive under paragraph (a) of this section to remine and reclaim eligible land must not exceed the estimated cost as required in 30 CFR 780.18(b)(2) of reclaiming the eligible land.

[FR Doc. E8–9564 Filed 4–30–08; 8:45 am]

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Federal Register

Thursday,
May 1, 2008

Part III

The President

Proclamation 8247—Asian/Pacific American Heritage Month, 2008

Proclamation 8248—Jewish American Heritage Month, 2008

Proclamation 8249—National Physical Fitness and Sports Month, 2008

Federal Register
Vol. 73, No. 85
Thursday, May 1, 2008

Presidential Documents

Title 3—

The President

Proclamation 8247 of April 29, 2008

Asian/Pacific American Heritage Month, 2008

By the President of the United States of America

A Proclamation

Americans who trace their ancestry to Asia and the Pacific Islands have contributed much to our Nation. During Asian/Pacific American Heritage Month, we highlight their importance to our great Nation.

Asian/Pacific Americans have made our country better with their talents and hard work. Their values and commitment to family and community have helped shape and strengthen America. These citizens speak many languages, honor countless traditions, and practice different faiths, but they are bound by a shared commitment to freedom and liberty. The diversity among Asian/Pacific Americans adds to the cultural fabric of our society.

Asian/Pacific Americans have enriched our culture, excelling in many fields, including education, business, science, technology, government, sports, and the arts. We especially honor those Asian/Pacific Americans who have answered the call to protect the cause of freedom by serving in our Armed Forces. These brave men and women set a powerful example for all Americans.

As we celebrate Asian/Pacific American Heritage Month, we are reminded of the richness of the Asian and Pacific cultures. Asian/Pacific Americans enhance the American experience and contribute to our country's legacy of diversity.

To honor the achievements and contributions of Asian/Pacific Americans, the Congress, by Public Law 102–450, as amended, has designated the month of May each year as ''Asian/Pacific American Heritage Month.''

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim May 2008 as Asian/Pacific American Heritage Month. I call upon the people of the United States to learn more about the history of Asian/Pacific Americans and their many contributions to our Nation and to observe this month with appropriate programs and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of April, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.

[FR Doc. 08–1208
Filed 4–30–08; 11:26 am]
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Presidential Documents

Proclamation 8248 of April 29, 2008

Jewish American Heritage Month, 2008

By the President of the United States of America

A Proclamation

Jewish American Heritage Month is an opportunity to celebrate the history, culture, and faith of Jewish Americans and their contributions to our Nation.

The story of the Jewish people in America is the story of America itself. When the first Jewish settlers arrived on our shores hundreds of years ago, they saw a land of promise and liberty. With hard work and determination, these individuals helped build our country and strengthen our values. Their commitment to religious freedom and their belief in democracy have enriched our society and helped make our country a beacon of hope for all.

Many Jewish Americans have served in our military with valor and distinction in times of war and peace. We pay special tribute to all those who stepped forward when our country needed them most. These American heroes confronted grave dangers to protect our Nation.

During Jewish American Heritage Month and throughout the year, we honor Jewish Americans who played an integral role in shaping the cultural fabric of our Nation. Their spirit and talents have helped America succeed and prosper, and their efforts continue to remind us of the many blessings of this great country.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim May 2008 as Jewish American Heritage Month. I call upon all Americans to observe this month with appropriate programs and activities to honor Jewish Americans across the country.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of April, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.

[FR Doc. 08–1209
Filed 4–30–08; 11:26 am]
Billing code 3195–01–P

Presidential Documents

Proclamation 8249 of April 29, 2008

National Physical Fitness and Sports Month, 2008

By the President of the United States of America

A Proclamation

Health and fitness are personal responsibilities and important national goals for our citizens. During National Physical Fitness and Sports Month, we highlight the benefits of exercise and the value of participating in sports.

It is important for all Americans to participate in activities that help maintain a healthy lifestyle. Outdoor activities such as walking, running, swimming, and biking are good for the mind, body, and soul. Regular physical activity and healthy eating habits can help reduce stress and lower the risk for many chronic health conditions such as heart disease, diabetes, and depression.

My Administration is committed to encouraging all Americans to remain physically active. Through the President's Council on Physical Fitness and Sports, the National President's Challenge allows participants of all ages to set a fitness goal and keep track of their progress as they work to achieve it. To get more information, or to sign up to participate, people can visit presidentschallenge.org. By getting involved and exercising for 30 minutes a day, 5 days a week, Americans can improve their health and happiness and set a positive example for others.

During National Physical Fitness and Sports month and throughout the year, I encourage all Americans to make physical fitness a priority in their lives.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim May 2008 as National Physical Fitness and Sports Month. I call upon my fellow citizens to recognize the importance of exercise and participate in athletic activities. I also encourage individuals, schools, and communities to celebrate this month with appropriate activities and programs.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of April, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.

[FR Doc. 08–1210
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CFR PARTS AFFECTED DURING MAY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

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 MAY 1, 2008

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fisheries of the Economic Exclusive Zone Off Alaska:
- Northern Rockfish and Pelagic Shelf Rockfish for Trawl Catcher Vessels, etc.; published 4-24-08

Fisheries Off West Coast States and in the Western Pacific;
- West Coast Salmon Fisheries; 2008 Management Measures and a Temporary Rule; published 5-1-08

Fisheries Off West Coast States; In season Adjustments; published 4-18-08

Magnuson-Stevens Act Provisions:
- Fisheries of the Northeastern United States; Northeast Multispecies Fishery, etc.; published 4-10-08

Magnuson-Stevens Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery; etc.; published 4-3-08

Reduction Of Landing Limit:
- Magnuson-Stevens Fishery Conservation and Management Act Provisions; U.S./Canada Management Area; published 4-29-08

Taking of Marine Mammals Incidental to Commercial Fishing Operations:
- Atlantic Large Whale Take Reduction Plan Regulations; published 5-1-08

DEFENSE DEPARTMENT

User Fees; published 5-1-08

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Participants' Choices of TSP Funds; published 4-24-08

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Food Labeling:
- Health Claims; Soluble Fiber from Certain Foods and Risk of Coronary Heart Disease; published 5-1-08

HOMELAND SECURITY DEPARTMENT

Coast Guard

Drawbridge Operation Regulations:
- Harlem River, New York City, NY; published 3-26-08

INTERIOR DEPARTMENT

Fish and Wildlife Service

Endangered and threatened wildlife and plants:
- Listing the potential Sonoran Desert Bald Eagle distinct population segment as threatened under the Endangered Species Act; published 5-1-08

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for Helianthus paradoxus (Pecos Sunflower); published 4-1-08

PENSION BENEFIT GUARANTY CORPORATION

Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits; published 4-15-08

COMMENTS DUE NEXT WEEK

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Endangered and Threatened Species:
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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*.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

S. 793/P.L. 110–206

Traumatic Brain Injury Act of 2008 (Apr. 28, 2008; 122 Stat. 714)

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TABLE OF EFFECTIVE DATES AND TIME PERIODS—MAY 2008

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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.

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