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9:00 a.m.–Noon

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Conference Room, Suite 700
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Washington, DC 20002

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0247; Directorate Identifier 2008–CE–003–AD; Amendment 39–15540; AD 2008–11–17]

RIN 2120–AA64

Airworthiness Directives; Air Tractor, Inc. AT–200, AT–300, AT–400, AT–500, AT–600, and AT–800 Series Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) to supersede AD 2002–25–09, which applies to certain Air Tractor, Inc. (Air Tractor) AT–250, AT–300, AT–400, and AT–500 series airplanes. AD 2002–25–09 currently requires you to install an overturn skid plate in the cockpit area. Since we issued AD 2002–25–09, we received a report of the bolts attaching the forward end of the original design overturn skid plate to the airframe breaking in an overturn accident. This allowed the skid plate to rotate around the rear attach point and the forward end of the plate to enter the cockpit area. Consequently, this AD would require the installation of a modified skid plate kit or modification to skid plate kits that are already installed, including those already installed on AT–402B, AT–502B, AT–602, and AT–802A series airplanes during production. We are issuing this AD to prevent the front and rear connections of the overturn skid plate to the airplane from breaking, which could allow foreign debris to enter the cockpit during an airplane overturn. This condition, if not corrected, could lead to pilot injury.

DATES: This AD becomes effective on July 7, 2008.

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

ADDRESSES: For service information identified in this AD, contact Air Tractor Inc., P.O. Box 485, Olney, Texas 76374; telephone: (940) 564–5616; fax: (940) 564–5612.

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*. The docket number is FAA–2008–0247; Directorate Identifier 2008–CE–003–AD.

FOR FURTHER INFORMATION CONTACT: Andy McAnaul, Aerospace Engineer, ASW–150, FAA San Antonio MIDO–43, 10100 Reunion Place, Suite 650, San Antonio, Texas 78216, phone: (210) 308–3365, fax: (210) 308–3370.

SUPPLEMENTARY INFORMATION:

Discussion

On February 26, 2008, we issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Air Tractor, Inc. AT–200, 300, 400, 500, 600, and 800 series airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on March 3, 2008 (73 FR 11369). The NPRM proposed to supersede AD 2002–25–09, which required the installation of an overturn skid plate (part number (P/N) 11411–1–500 or an FAA-approved equivalent P/N) in some production models including Models AT–402B, AT–502B, AT–602, and AT–802A airplanes. Since we issued AD 2002–25–09, we received a report of the bolts breaking in an overturn accident where they attach the forward end of the original design overturn skid plate to the airframe. This allowed the skid plate to rotate around the rear attach point and the forward end of the plate to enter the cockpit area. We are issuing this AD to prevent the front and rear connections of the overturn skid plate to the airplane from breaking, which could allow foreign debris to enter the cockpit during an airplane overturn. This condition, if not corrected, could lead to pilot injury.

Comments

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

Conclusion

We have carefully reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed except for minor editorial corrections. We have determined that these minor corrections:

<bullet≤ Are consistent with the intent that was proposed in the NPRM for correcting the unsafe condition; and

<bullet≤ Do not add any additional burden upon the public than was already proposed in the NPRM.

Costs of Compliance

We estimate that this AD affects 2,026 airplanes in the U.S. registry.

In determining the total cost on U.S. operators, we presume that all airplanes in the U.S. fleet have a skid plate installed (as required by AD 2002–25–09), and the only cost is to incorporate the modification kit P/N 11411–1–501. We estimate the following costs to do the modification of installing the overturn skid plate modification kit P/N 11411–1–501 to those planes that currently have the overturn skid plate installed:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
2 work-hours x $80 per hour = $160	$42	$202	$409,252

This AD includes a requirement for those few, if any, airplanes that have not operated past the compliance time of AD 2002–25–09.

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 AD.

Regulatory Findings

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

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

1. Is not a ''significant regulatory action'' under Executive Order 12866;
2. Is not a ''significant rule'' under 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 summary of the costs to comply with this AD (and other information as included in the Regulatory Evaluation) and placed it in the AD Docket. You may get a copy of this summary by sending a request to us at the address listed under **ADDRESSES**. Include ''Docket No. FAA–2008–0247; Directorate Identifier 2008–CE–003–AD'' in your request.

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 Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2002–25–09, Amendment 39–12985 (67 FR 78156, December 23, 2002), and adding the following new AD:

2008–11–17 Air Tractor, Inc.: Amendment 39–15540; Docket No. FAA–2008–0247; Directorate Identifier 2008–CE–003–AD.

Effective Date

(a) This AD becomes effective on July 7, 2008.

Affected ADs

(b) This AD supersedes AD 2002–25–09, Amendment 39–12985.

Applicability

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

Models	Serial Nos.
AT–250, AT–300, AT–301, AT–302, AT–400, AT–400A, AT–401, AT–401A, AT–402, AT–402A, and AT–402B	–0001 through –1196.
AT–501, AT–502, AT–502A, and AT–502B	–0001 through –2620.
AT–602	–0337 through –1153.
AT–802A	–0003 through –0282.

Unsafe Condition

(d) Since we issued AD 2002–25–09, we received a report of the bolts that attach the forward end of the original design overturn skid plate to the airframe breaking in an overturn accident. This allowed the skid plate to rotate around the rear attach point and the forward end of the plate to enter the cockpit area. We are issuing this AD to prevent the front and rear connections of the overturn skid plate to the airplane from breaking, which could allow foreign debris to enter the cockpit during an airplane overturn. This condition, if not corrected, could lead to pilot injury.

Compliance

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

Actions	Compliance	Procedures
(1) If overturn skid plate kit part number (P/N) 11411–1–500 or an FAA-approved equivalent P/N is already installed, then install P/N 11411–1–501 modification kit.	Within the next 180 days after July 7, 2008 (the effective date of this AD).	Follow Snow Engineering Co. Service Letter ı97, revised November 7, 2007.
(2) If there is no overturn skid plate installed, then install overturn skid plate kit P/N 11411–1–502 or an FAA-approved equivalent part number.	Within the next 180 days July 7, 2008 (the effective date of this AD).	Follow Snow Engineering Co. Service Letter ı97, revised November 7, 2007.

Alternative Methods of Compliance (AMOCs)

(f) The Manager, Fort Worth Airplane Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Andy McAnaul, Aerospace Engineer, ASW–150, FAA San Antonio MIDO–43, 10100 Reunion Place, Suite 650, San Antonio, Texas 78216, phone: (210) 308–3365; fax: (210) 308–3370. 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.

Material Incorporated by Reference

(g) You must use Snow Engineering Co. Service Letter ı97, revised November 7, 2007,

to do the actions required by this AD, unless the AD specifies otherwise.

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

(2) For service information identified in this AD, contact Air Tractor Inc., P.O. Box 485, Olney, Texas 76374; telephone: (940) 564–5616; fax: (940) 564–5612.

(3) You may review copies at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, 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/code—of—federal—regulations/ibr—locations.html*.

Issued in Kansas City, Missouri, on May 20, 2008.

David R. Showers,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–11944 Filed 5–30–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0284; Directorate Identifier 2008–CE–006–AD; Amendment 39–15541; AD 2008–11–18]

RIN 2120–AA64

Airworthiness Directives; Cirrus Design Corporation Model SR20 Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Cirrus Design Corporation (CDC) Model SR20 airplanes. This AD requires you to perform an inspection and replacement as necessary of the heat exchanger. This AD results from the discovery of engine exhaust fumes in the cabin of CDC Model SR20 airplanes. We are issuing this AD to detect and correct leaks in the exhaust system, which could result in exhaust gases leaking into the cabin heating system. This condition could lead to carbon monoxide in the cabin and incapacitation of the pilot.

DATES: This AD becomes effective on July 7, 2008.

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

ADDRESSES: For service information identified in this AD, contact Cirrus Design Corporation, 4515 Taylor Circle, Duluth, Minnesota 55811, telephone: (218) 788–3000.

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*. The docket number is FAA–2008–0284; Directorate Identifier 2008–CE–006–AD.

FOR FURTHER INFORMATION CONTACT: Michael Downs, Aerospace Engineer, Chicago ACO, 2300 East Devon Avenue, Room 107, Des Plaines, Illinois 60018; telephone: (847) 294–7870; fax: (847) 294–7834.

SUPPLEMENTARY INFORMATION:

Discussion

On March 4, 2008, we issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to SR20 airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on March 12, 2008 (73 FR 13157). The NPRM proposed to require an inspection and replacement as necessary of the heat exchanger. This AD results from the discovery of engine exhaust fumes in the cabin of CDC Model SR20 airplanes. We are issuing this AD to detect and correct leaks in the exhaust system, which could result in exhaust gases leaking into the cabin heating system. This condition could lead to carbon monoxide in the cabin and incapacitation of the pilot.

Comments

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

Conclusion

We have carefully reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed except for minor editorial corrections. We have determined that these minor corrections:

<bullet≤ Are consistent with the intent that was proposed in the NPRM for correcting the unsafe condition; and

<bullet≤ Do not add any additional burden upon the public than was already proposed in the NPRM.

Costs of Compliance

We estimate that this AD affects 713 airplanes in the U.S. registry.

We estimate the following costs to do the inspection:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
1 work-hour x $80 per hour = $80	$0	$80	$57,040

We estimate the following costs to do any necessary replacement that would be required based on the results of the proposed inspection. We have no way of determining the number of airplanes that may need this replacement:

Labor cost	Parts cost	Total cost per airplane
1 work-hour x $80 per hour = $80	$848	$928

Warranty credit will be given to the extent specified in Cirrus Service Bulletin SB 2X–78–07 R1, Revision 1, dated December 18, 2007.

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 AD.

Regulatory Findings

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

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

1. Is not a ''significant regulatory action'' under Executive Order 12866;
2. Is not a ''significant rule'' under 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 summary of the costs to comply with this AD (and other information as included in the Regulatory Evaluation) and placed it in the AD Docket. You may get a copy of this summary by sending a request to us at the address listed under **ADDRESSES**. Include ''Docket No. FAA–2008–0284; Directorate Identifier 2008–CE–006–AD'' in your request.

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 Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2008–11–18 Cirrus Design Corporation: Amendment 39–15541; Docket No. FAA–2008–0284; Directorate Identifier 2008–CE–006–AD.

Effective Date

(a) This AD becomes effective on July 7, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Model SR20 airplanes, serial numbers 1005 through 1815, that are certificated in any category.

Unsafe Condition

(d) This AD results from the discovery of engine exhaust fumes in the cabin of Cirrus Design Corporation Model SR20 airplanes. We are issuing this AD to detect and correct leaks in the exhaust system, which could result in exhaust gases leaking into the cabin heating system. This condition could lead to carbon monoxide in the cabin and incapacitation of the pilot.

Compliance

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

Actions	Compliance	Procedures
(1) Perform a pressurization inspection/check on the exhaust system.	Initially within the next 25 hours time-in-service (TIS) after July 7, 2008 (the effective date of this AD) or within the next 3 months after July 7, 2008 (the effective date of this AD), whichever occurs first. Repetitively thereafter at intervals not to exceed every 100 hours TIS.	Follow Cirrus Service Bulletin SB 2X–78–07 R1, Revision 1, dated December 18, 2007.
(2) If the exhaust system is found defective during any inspection/check required in paragraph (e)(1) of this AD or an exhaust odor is detected inside the airplane cabin, replace the heat exchanger weldment and shroud with new improved heat exchanger weldment and new shroud.	Before further flight after the inspection/check in which the exhaust system is found defective or an exhaust odor is detected.	Follow Cirrus Service Bulletin SB 2X–78–07 R1, Revision 1, dated December 18, 2007.

Note: The replacement of the heat exchanger weldment and shroud may be done instead of the initial inspection but does not eliminate the 100-hour repetitive inspection.

Alternative Methods of Compliance (AMOCs)

(f) The Manager, Chicago 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: Michael Downs, Aerospace Engineer, Chicago ACO, 2300 East Devon Avenue, Room 107, Des Plaines, Illinois 60018; telephone: (847) 294–7870; fax: (847) 294–7834. 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.

Material Incorporated by Reference

(g) You must use Cirrus Service Bulletin SB 2X–78–07 R1, Revision 1, dated December 18, 2007, to do the actions required by this AD, unless the AD specifies otherwise.

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

(2) For service information identified in this AD, contact Cirrus Design Corporation, 4515 Taylor Circle, Duluth, Minnesota 55811, telephone: (218) 788–3000.

(3) You may review copies at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, 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/code—of—federal—regulations/ibr—locations.html.*

Issued in Kansas City, Missouri, on May 22, 2008.

David R. Showers,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–12047 Filed 5–30–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0598; Directorate Identifier 2008–CE–031–AD; Amendment 39–15543; AD 2008–11–20]

RIN 2120–AA64

Airworthiness Directives; Stemme GmbH & Co. KG Model S10-VT Powered Sailplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

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

AD 2007–0315–E was issued to address a possible fuel leakage in the gear compartment in front of the engine and mandated inspections and replacement of fuel plastic-made connectors by connectors made of metal. Since its publication, another fuel leakage has been reported on a S10-VT which had implemented the STEMME Service Bulletin (SB) A31–10–082 as required by AD 2007–0315–E.

It has been determined that the fuel leak may have been caused by the deformation that the originally installed clamps created on the fuel hoses and thus preventing the new clamps from being sufficiently pinched to perform a correct tightening.

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

DATES: This AD becomes effective June 23, 2008.

On June 23, 2008, the Director of the Federal Register approved the incorporation by reference of STEMME F & D Service Bulletin A31–10–083, Am-Index: 01.a, dated February 26, 2008, listed in this AD.

As of February 20, 2008 (73 FR 5733, January 31, 2008), the Director of the Federal Register approved the incorporation by reference of STEMME F & D Service Bulletin A31–10–082, AM.-Index: 01.a, dated November 30, 2007, listed in this AD.

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

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

<bullet≤ *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the instructions for submitting comments.

<bullet≤ *Fax:* (202) 493–2251.

<bullet≤ *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.

<bullet≤ *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 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: 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

On January 24, 2008, we issued AD 2008–03–06, Amendment 39–15355 (73 FR 5733, January 31, 2008). That AD required actions intended to address an unsafe condition on the products listed above.

Since we issued AD 2008–03–06, the European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued Emergency AD No. 2008–0053–E, dated March 5, 2008 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

AD 2007–0315–E was issued to address a possible fuel leakage in the gear compartment in front of the engine and mandated inspections and replacement of fuel plastic-made connectors by connectors made of metal. Since its publication, another fuel leakage has been reported on a S10-VT which had implemented the STEMME Service Bulletin (SB) A31–10–082 as required by AD 2007–0315–E.

It has been determined that the fuel leak may have been caused by the deformation that the originally installed clamps created on the fuel hoses and thus preventing the new clamps from being sufficiently pinched to perform a correct tightening.

The present Airworthiness Directive (AD) supersedes AD 2007–0315–E and requires you to check the fuel system according to the STEMME SB A31–10–083 as well as to replace single-ear clamps and plastic connectors.

The actions specified by this AD are intended to reduce the potential for a fire to ignite and which could lead to loss of control of the sailplane.

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

Relevant Service Information

STEMME F & D has issued Service Bulletin A31–10–083, Am-Index: 01.a, dated February 26, 2008. 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 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 issuing this AD because we evaluated all information provided by the State of Design Authority and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

This AD is considered an interim action because we are not including a mandatory requirement to replace STEMME part number (P/N) M476 single-ear clamps in the fuel system with P/N 10M–181 single-ear clamps on all affected sailplanes unless a leak in the fuel system is found. 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 are analyzed separately for justification to bypass prior public notice.

After issuing this AD, we may initiate further AD action (notice of proposed rulemaking followed by a final rule) to require replacing all P/N M476 single-ear clamps in the fuel system with P/N 10M–181 single-ear clamps on all affected sailplanes by a specified time. Credit will be given in any subsequent action for the replacement done under this 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 have also required different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are described in a separate paragraph of the AD. These requirements take precedence over those copied from the MCAI.

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because a leak in the area of the fuel line was found, which could result in the possibility of fuel leaking into the engine compartment. Therefore, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in fewer than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2008–0598; Directorate Identifier 2008–CE–031–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

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 39–15355 (73 FR 5733, January 31, 2008), and adding the following new AD:

2008–11–20 Stemme GmbH & Co. KG: Amendment 39–15543; Docket No. FAA–2008–0598; Directorate Identifier 2008–CE–031–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective June 23, 2008.

Affected ADs

(b) This AD supersedes AD 2008–03–06; Amendment 39–15355.

Applicability

(c) This AD applies to Model S10–VT powered sailplanes, serial numbers 11–001 through 11–112, certificated in any category.

Subject

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

Reason

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

AD 2007–0315–E was issued to address a possible fuel leakage in the gear compartment in front of the engine and mandated inspections and replacement of fuel plastic-made connectors by connectors made of metal. Since its publication, another fuel leakage has been reported on a S10–VT which had implemented the STEMME Service Bulletin (SB) A31–10–082 as required by AD 2007–0315–E.

It has been determined that the fuel leak may have been caused by the deformation that the originally installed clamps created on the fuel hoses and thus preventing the new clamps from being sufficiently pinched to perform a correct tightening.

The present Airworthiness Directive (AD) supersedes AD 2007–0315–E and requires you to check the fuel system according to the STEMME SB A31–10–083 as well as to replace single-ear clamps and plastic connectors.

The actions specified by this AD are intended to reduce the potential for a fire to ignite and which could lead to loss of control of the sailplane.

Actions and Compliance

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

(1) *For all sailplanes affected by this AD, except for serial numbers 11–036, 11–067, 11–068, and 11–090:* Before further flight after March 21, 2008 (the compliance date retained from AD 2008–03–06), replace all plastic T- and Y-connectors in the fuel system with metal connectors. Do the replacements following STEMME F & D Service Bulletin A31–10–082, AM.—Index: 01.a, dated November 30, 2007.

Note: Serial numbers 11–036, 11–067, 11–068, and 11–090 had the plastic T- and Y-connectors in the fuel system replaced with metal connectors by the manufacturer.

(2) *For all sailplanes affected by this AD:* Before further flight after June 23, 2008 (the effective date of this AD), inspect the fuel system for possible leakage. Do the inspection following STEMME F & D Service Bulletin A31–10–083, Am-Index: 01.a, dated February 26, 2008.

(3) *For all sailplanes affected by this AD:* If any leak is found during the inspection required in paragraph (f)(2) of this AD, before further flight, repair the leak following an FAA-approved repair procedure and replace all STEMME part number (P/N) M476 single-ear clamps in the fuel system with P/N 10M–181 single-ear clamps. Do the replacements following STEMME F & D Service Bulletin A31–10–083, Am-Index: 01.a, dated February 26, 2008.

(4) After June 23, 2008 (the effective date of this AD), do not install plastic ''T'' and ''Y'' shape connectors and P/N M476 single-ear clamps in the fuel system.

FAA AD Differences

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

(1) The MCAI and the service information require replacing all P/N M476 single-ear clamps in the fuel system with P/N 10M–181 single-ear clamps within the next 12 months after the effective date.

(2) This AD is considered an interim action because we are not including a mandatory requirement to replace all STEMME P/N M476 single-ear clamps in the fuel system with P/N 10M–181 single-ear clamps on all affected sailplanes unless a leak in the fuel system is found. 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 are analyzed separately for justification to bypass prior public notice.

(3) After issuing this AD, we may initiate further AD action (notice of proposed rulemaking followed by a final rule) to require replacing all P/N M476 single-ear clamps in the fuel system with P/N 10M–181 single-ear clamps on all affected sailplanes by a specified time. Credit will be given in any subsequent action for the replacement done under this AD.

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Greg Davison, 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 sailplane 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) Emergency AD No. 2008–0053–E, dated March 5, 2008; STEMME F & D Service Bulletin A31–10–082, AM.-Index: 01.a, dated November 30, 2007; and STEMME F & D Service Bulletin A31–10–083, Am-Index: 01.a, dated February 26, 2008, for related information.

Material Incorporated by Reference

(i) You must use STEMME F & D Service Bulletin A31–10–082, AM.-Index: 01.a, dated November 30, 2007, and STEMME F & D Service Bulletin A31–10–083, Am-Index: 01.a, dated February 26, 2008, to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of STEMME F & D Service Bulletin A31–10–083, Am-Index: 01.a, dated February 26, 2008, under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) On February 20, 2008 (73 FR 5733, January 31, 2008), the Director of the Federal Register previously approved the incorporation by reference of STEMME F & D Service Bulletin A31–10–082, AM.-Index: 01.a, dated November 30, 2007.

(3) For service information identified in this AD, contact STEMME GmbH & Co. KG, Flugplatzstra[beta]e F 2, Nr. 7, 15344 Strausberg, Federal Republic of Germany.

(4) 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 May 23, 2008.

David R. Showers,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–12115 Filed 5–30–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs; Butorphanol

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendment.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Lloyd, Inc. The ANADA provides for the veterinary prescription use of butorphanol tartrate injectable solution in horses for the relief of pain.

DATES: This rule is effective June 2, 2008.

FOR FURTHER INFORMATION CONTACT: John K. Harshman, Center for Veterinary Medicine (HFV–104), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–276–8197, e-mail: *john.harshman@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: Lloyd, Inc., 604 West Thomas Ave., Shenandoah, IA 51601, filed ANADA 200–332 that provides for the veterinary prescription use of BUTORPHIC (butorphanol tartrate) Injection in horses for the relief of pain associated with colic and postpartum pain. Lloyd, Inc.'s BUTORPHIC Injection is approved as a generic copy of TORBUGESIC, sponsored by Fort Dodge Animal Health, Division of Wyeth, under NADA 135–780. The ANADA is approved as of May 1, 2008, and 21 CFR 522.246 is amended to reflect the approval.

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

The agency has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

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

List of Subjects in 21 CFR Part 522

Animal drugs.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to

the Center for Veterinary Medicine, 21 CFR part 522 is amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 522 continues to read as follows:

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

§ 522.246 [Amended]

■ 2. In paragraph (b)(3) of § 522.246, remove ''057926 and 059130'' and in its place add ''057926, 059130, and 061690''.

Dated: May 21, 2008.

Bernadette Dunham,

Director, Center for Veterinary Medicine.

[FR Doc. E8–12160 Filed 5–30–08; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 801

[Docket No. FDA–2008–N–0148]

Medical Devices; Hearing Aids; Technical Data Amendments

AGENCY: Food and Drug Administration, HHS.

ACTION: Direct final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending its regulations governing hearing aid labeling to reference the most recent version of the consensus standard used to determine the technical data to be included in labeling for hearing aids. We are amending the regulations to require that manufacturers may use state-of-the-art methods to provide technical data in hearing aid labeling. FDA is also amending the regulations to update an address and remove an outdated requirement. FDA is amending the regulations in accordance with its direct final rule procedures. Elsewhere in this issue of the **Federal Register**, we are publishing a companion proposed rule under FDA's usual procedures for notice and comment rulemaking to provide a procedural framework to finalize the rule in the event we receive a significant adverse comment and withdraw this direct final rule.

DATES: This rule is effective October 15, 2008. The Director of the Office of the **Federal Register** approves the incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 of certain publications in § 801.420(c)(4) (21 CFR 801.420(c)(4)) as of October 15, 2008. Submit written or electronic comments by August 18, 2008. If we receive no significant adverse comments within the specified comment period, we intend to publish a document confirming the effective date of the final rule in the **Federal Register** within 30 days after the comment period on this direct final rule ends. If we receive any timely significant adverse comment, we will withdraw this final rule in part or in whole by publication of a document in the **Federal Register** within 30 days after the comment period ends.

ADDRESSES: You may submit comments, identified by Docket No. FDA–2008–N–0148, by any of the following methods:

Electronic Submissions

Submit electronic comments in the following way:

<bullet≤ Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.

Written Submissions

Submit written submissions in the following ways:

<bullet≤ FAX: 301–827–6870.

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

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

Instructions: All submissions received must include the agency name and Docket No. for this rulemaking. All comments received may be posted without change to *http://www.regulations.gov*, including any personal information provided. For additional information on submitting comments, see the ''Comments'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

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

FOR FURTHER INFORMATION CONTACT: Eric A. Mann, Center for Devices and Radiological Health (HFZ–460), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 240–276–4242.

SUPPLEMENTARY INFORMATION:

I. What Is the Background of the Rulemaking?

In the **Federal Register** of February 15, 1977 (the 1977 final rule) (42 FR 9286), FDA published a final rule establishing requirements for professional and patient labeling of hearing aids and governing conditions for sale of hearing aids (§ 801.420 and § 801.421 (21 CFR 801.421)). The regulations became effective on August 15, 1977. Section 801.421(b)(1) of the current regulations provides that, before the sale of a hearing aid to a prospective user, a hearing aid dispenser is to provide the prospective user with a copy of the User Instructional Brochure. Current § 801.420(c)(4) requires that technical data useful in selecting, fitting, and checking the performance of a hearing aid be provided in the brochure or in separate labeling that accompanies the device. The 1977 final rule further required that the technical data values provided in the brochure or other labeling be determined according to the test procedures established by the Acoustical Society of America (ASA) in the American National Standard ''Specification of Hearing Aid Characteristics,'' ANSI S3.22–1976 (ASA 70–1976), which was incorporated by reference in the regulation.

ANSI S3.22 (ASA 70–1976) established measurement methods and specifications for several important hearing aid characteristics. The standard provided a method of ascertaining whether a hearing aid, after being manufactured and shipped, met the specifications and design parameters stated by the manufacturer for a particular model, within the tolerance stated by the standard.

In 1982, ASA revised the standard (ANSI S3.22–1982) (ASA 70–1982). In a final rule published in the **Federal Register** of July 24, 1985 (50 FR 30153), FDA incorporated the revised standard into § 801.420(c)(4). ASA revised the standard again in 1987 (ANSI S3.22–1987) (ASA 70–1987). In a final rule published in the **Federal Register** of December 21, 1989 (54 FR 52395), FDA incorporated the revised standard into § 801.420(c)(4). In 1996, ASA revised the standard again (ANSI S3.22–1996) (ASA 70–1996). In a final rule published in the **Federal Register** of November 3, 1999 (64 FR 59618), FDA incorporated the revised standard into § 801.420(c)(4).

In 2003, ASA revised the standard again (ANSI S3.22–2003). The 1996 version of the standard was written prior to the development of digital hearing aids. Therefore, some of the test procedures described in the 1996 version of the standard, designed for assessment of analogue hearing aids, were modified to accommodate digital technology. The major differences between the two versions of the standard are as follows:

<bullet≤ In the 1996 standard, the gain control was set to a specific reference test position for automatic gain control (AGC) hearing aids and for all other types of hearing aids. In the 2003 standard, AGC hearing aids are tested in AGC mode only for those tests associated with AGC functions and are operated in non-AGC mode for all other tests.

<bullet≤ In the 2003 standard, the tolerance for setting the gain control to reference test setting (RTS) has been widened to <plus-minus≤ 1.5 dB from <plus-minus≤ 1.0 dB.

FDA is now incorporating the 2003 standard into § 801.420(c)(4). This will allow hearing aid manufacturers to use the up-to-date methods to determine the technical data values for hearing aids.

II. What Does This Direct Final Rulemaking Do?

In this direct final rule, FDA is:

<bullet≤ Amending § 801.420(c)(4) to change the identification of the standard from ''American National Standard 'Specification of Hearing Aid Characteristics,' ANSI S3.22–1996 (ASA 70–1996) (Revision of ANSI S3.22–1987)'' to ''American National Standard 'Specification of Hearing Aid Characteristics,' ANSI S3.22–2003 (Revision of ANSI S3.22–1996) (Includes April 2007 Erratum)''. FDA also is updating an address in this section, changing ''1350 Piccard Dr., rm. 240,'' to ''1350 Piccard Dr., rm. 150,''.

<bullet≤ Removing § 801.420(d). This section requires that manufacturers submit to FDA for review their User Instructional Brochure and other labeling for each type of hearing aid on or before August 15, 1977. This section was included with the initial hearing aid rule in 1977. It was intended to provide for an initial FDA review of the labeling to meet the new requirements. This section is outdated and is no longer necessary.

III. What Are the Procedures for Issuing a Direct Final Rule?

In the **Federal Register** of November 21, 1997 (62 FR 62466), FDA announced the availability of the guidance document entitled ''Guidance for FDA and Industry: Direct Final Rule Procedures'' that described when and how FDA will employ direct final rulemaking. We believe that this rule is appropriate for direct final rulemaking because it is intended to make noncontroversial changes to existing regulations. We anticipate no significant adverse comment.

Consistent with FDA's procedures on direct final rulemaking, elsewhere in this issue of the **Federal Register**, we are publishing a companion proposed rule that is identical to this direct final rule. The companion proposed rule provides a procedural framework within which the rule may be finalized in the event the direct final rule is withdrawn because of any significant adverse comment. The comment period for this direct final rule runs concurrently with the comment period of the companion proposed rule. Any comments received in response to the companion proposed rule will also be considered as comments regarding this direct final rule.

If we receive any significant adverse comment, we intend to withdraw this final rule before its effective date by publication of a notice in the **Federal Register** within 30 days after the comment period ends. A significant adverse comment is defined as a comment that explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without change. In determining whether an adverse comment is significant and warrants terminating a direct final rulemaking, we will consider whether the comment raises an issue serious enough to warrant a substantive response in a notice-and-comment process in accordance with section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553). Comments that are frivolous, insubstantial, or outside the scope of the rule will not be considered significant or adverse under this procedure. For example, a comment recommending an additional change to the rule will not be considered a significant adverse comment, unless the comment states why the rule would be ineffective without the additional change. In addition, if a significant adverse comment applies to part of a rule and that part can be severed from the remainder of the rule, we may adopt as final those parts of the rule that are not the subject of a significant adverse comment.

If we withdraw the direct final rule, all comments received will be considered under the companion proposed rule in developing a final rule under the usual notice-and-comment procedures under the APA (5 U.S.C. 552a *et seq.*). If we receive no significant adverse comment during the specified comment period, we intend to publish a confirmation document in the **Federal Register** within 30 days after the comment period ends.

IV. What is the Legal Authority for This Direct Final Rule?

This direct final rule is authorized by sections 201, 301, 501, 502, 701, and 704 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 371, and 374).

V. What is the Environmental Impact of This Direct Final Rule?

The agency has determined under 21 CFR 25.30(k) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VI. What is the Economic Impact of This Direct Final Rule?

FDA has examined the impacts of the final rule under Executive Order 12866 and 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 believes that this direct final rule is not a 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. The direct final rule amends the existing hearing aid regulation to refer to the updated consensus standard that is used to determine the technical data in hearing aid labeling. It does not impose any new requirements. Communications from manufacturers to FDA show that they are prepared to comply with this standard immediately. The agency, therefore, certifies that the direct final rule will not have a significant economic 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 proposing ''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 direct final rule to result in any 1-year expenditure that would meet or exceed this amount.

VII. How Does the Paperwork Reduction Act of 1995 Apply to This Direct Final Rule?

This final rule contains information collection provisions that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (the PRA) (44 U.S.C. 3501–3520). The collections of information addressed in the direct final rule have been approved by OMB in accordance with the PRA under the regulations governing labeling of medical devices (21 CFR part 801, OMB control number 0910–0485).

VIII. What are the Federalism Impacts of This Direct Final Rule?

FDA has analyzed this direct final rule in accordance with the principles set forth in Executive Order 13132. FDA has determined that the rule does not contain policies 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. Accordingly, the agency has concluded that the rule does not contain policies that have federalism implications as defined in the Executive order and, consequently, a federalism summary impact statement is not required.

IX. How Do You Submit Comments on This Direct Final Rule?

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding this direct final rule. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

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 through FDMS only.

List of Subjects in 21 CFR Part 801

Incorporation by reference, Labeling, Medical devices, 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 801 is amended as follows:

PART 801—LABELING

■ 1. The authority citation for 21 CFR part 801 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 360i, 360j, 371, 374.

■ 2. Section 801.420 is amended by revising the second and third sentences of and adding a new fourth sentence to paragraph (c)(4) introductory text and by removing paragraph (d) to read as follows:

§ 801.420 Hearing aid devices; professional and patient labeling.

* * * * *

(c) * * *

(4) * * * The determination of technical data values for the hearing aid labeling shall be conducted in accordance with the test procedures of the American National Standard ''Specification of Hearing Aid Characteristics,'' ANSI S3.22–2003 (Revision of ANSI S3.22–1996) (Includes April 2007 Erratum). The Director of the Office of the **Federal Register** approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies are available from the Standards Secretariat of the Acoustical Society of America, 120 Wall St., New York, NY 10005–3993, or are available for inspection at the Regulations Staff, CDRH (HFZ–215), FDA, 1350 Piccard Dr., rm. 150, Rockville, MD 20850, or at the National Archives and Records Administration (NARA). * * *

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Dated: May 19, 2008.

Jeffrey Shuren,

Associate Commissioner for Policy and Planning.

[FR Doc. E8–11910 Filed 5–30–08; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2008–0414]

RIN 1625–AA08

Special Local Regulations for Marine Events; Pasquotank River, Elizabeth City, NC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing special local regulations for the ''Carolina Cup Regatta'', a powerboat race to be held on the waters of the Pasquotank River, Elizabeth City, North Carolina. These special local regulations are necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in portions of the Pasquotank River adjacent to Elizabeth City, North Carolina during the powerboat races.

DATES: This rule is effective from 7:30 a.m. on June 6, through 6:30 p.m., June 8, 2008.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2008–0414 and are available online at *http://www.regulations.gov.* They are also available for inspection or copying at two locations: the Docket Management Facility (M–30), U.S. Department of Transportation, 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, and the Fifth Coast Guard District, Office of Prevention, Room 416, 431 Crawford Street, Portsmouth, VA 23704 between 10 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call Dennis Sens, Project Manager, Fifth Coast Guard District, Prevention Division, (757) 398–6204 or e-mail at *Dennis.M.Sens@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act

(APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule. Publishing an NPRM would be impracticable and contrary to public interest since immediate action is needed to minimize potential danger to the public during the event. The necessary information to determine whether the marine event poses a threat to persons and vessels was not provided with sufficient time to publish an NPRM. The danger posed by powerboat racing makes special local regulations necessary to provide for the safety of spectator craft and other vessels transiting the event area. For the safety concerns noted, it is in the public interest to have these regulations in effect during the event. The Coast Guard will issue broadcast notice to mariners to advise vessel operators of navigational restrictions. On scene Coast Guard and local law enforcement vessels will also provide actual notice to mariners.

Under 5 U.S.C. 553(d)(3) and for the same reasons, the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date would be contrary to public interest, because immediate action is needed to ensure the safety of the event participants, spectator craft and other vessels transiting the event area. However advance notification will be made to users of the Pasquotank River, via marine information broadcasts, Local Notice to Mariners, commercial radio stations and local area newspapers.

Background and Purpose

On June 6, 7, and 8, 2008, the Virginia Boat Racing Association will sponsor the ''Carolina Cup Regatta'', on the waters of the Pasquotank River. The event will consist of approximately 75 inboard hydroplanes racing in counter clockwise heats around an oval race course. A fleet of spectator vessels is anticipated to gather nearby to view the competition. Due to the need for vessel control during the event, vessel traffic will be temporarily restricted to provide for the safety of event participants, spectators and transiting vessels.

Discussion of Rule

The Coast Guard is establishing a special local regulation on specified waters of the Pasquotank River, Elizabeth City, North Carolina. The special local regulations include all waters from shoreline to shoreline, bound to the west by the Elizabeth City Draw Bridge and on the east by a line originating at a point along the shoreline at latitude 36[deg]17'54'' N, longitude 076[deg]12'00'' W, thence southwesterly to latitude 36[deg]17'35'' N, longitude 076[deg]12'18'' W at Cottage Point. All coordinates reference Datum NAD 1983. The special local regulation will be in effect from 7:30 a.m. to 6:30 p.m., June 6 through June 8, 2008. The effect will be to restrict general navigation in the regulated area during the power boat races. Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area during the enforcement period. The Patrol Commander will notify the public of specific enforcement times by marine band radio safety broadcast. These regulations are needed to control vessel traffic during the event to enhance the safety of event participants, spectators and transiting vessels.

Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

Although this regulation restricts vessel traffic from transiting a segment of the Pasquotank River during the event, the effect of this regulation will not be significant due to the limited duration that the regulated area will be in effect and the extensive advance notifications that will be made to the maritime community via marine information broadcasts, commercial radio stations and local area newspapers so mariners can adjust their plans accordingly.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule affects the following entities, some of which may be small entities: The owners or operators of vessels intending to transit this section of the Pasquotank River during the event.

This rule would not have a significant economic impact on a substantial number of small entities for the following reasons. This rule will be enforced for only a short period, from 7:30 a.m. to 6:30 p.m. on June 6, 7 and 8, 2008. The regulated area will apply to a segment of the Pasquotank River adjacent to Elizabeth City. Marine Traffic may be allowed to pass through the regulated area with the permission of the Coast Guard Patrol Commander. In the case where the Patrol Commander authorizes passage through the regulated area during the event, vessels will be required to proceed at the minimum speed necessary to maintain a safe course that minimizes wake near the race course. Before the enforcement period, we would issue maritime advisories so mariners can adjust their plans accordingly.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against

small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this rule under Commandant Instruction M16475.lD and Department of Homeland Security Management Directive 5100.1, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(h), of the Instruction, from further environmental documentation. Special local regulations issued in conjunction with a regatta or marine event permit are specifically excluded from further analysis and documentation under those sections.

Under figure 2–1, paragraph (34)(h), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule.

List of Subjects in 33 CFR Part 100

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

Words of Issuance and Regulatory Text

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—REGATTAS AND MARINE PARADES

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

■ 2. Add a temporary § 100.35–T05–0414 to read as follows:

§ 100.35–T05–0414 Pasquotank River, Elizabeth City, NC.

(a) *Regulated area.* The regulated area is established for the waters of the Pasquotank River, adjacent to Elizabeth City, NC, from shoreline to shoreline, bound on the west by the Elizabeth City Draw Bridge and bound on the east by a line originating at a point along the shoreline at latitude 36[deg]17'54'' N, longitude 076[deg]12'00'' W, thence southwesterly to latitude 36[deg]17'35'' N, longitude 076[deg]12'18'' W., at Cottage Point. All coordinates reference Datum NAD 1983.

(b) *Definitions:* (1) *Coast Guard Patrol Commander* means a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Sector North Carolina.

(2) *Official Patrol* means any vessel assigned or approved by Commander, Coast Guard Sector North Carolina with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(3) *Participant* includes all vessels participating in the 2008 Carolina Cup Regatta power boat race under the auspices of the Marine Event Permit issued to the event sponsor and approved by Commander, Coast Guard Sector North Carolina.

(c) *Special local regulations:* (1) Except for event participants and persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in the regulated area must: (i) Stop the vessel

immediately when directed to do so by any Official Patrol.

(ii) Proceed as directed by any Official Patrol.

(iii) When authorized to transit the regulated area, all vessels shall proceed at the minimum speed necessary to maintain a safe course that minimizes wake near the event area.

(d) *Enforcement period.* (1) This section will be enforced from 7:30 a.m. to 6:30 p.m. on June 6, 7, and 8, 2008 and if the event's daily activities should conclude prior to 6:30 p.m., enforcement of this regulation may be terminated for that day at the discretion of the Patrol Commander.

(2) The Coast Guard will publish a notice in the Fifth Coast Guard District Local Notice to Mariners and issue marine information broadcast on VHF-FM marine band radio announcing specific event dates and times.

Dated: May 21, 2008.

Fred M. Rosa, Jr.,

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

[FR Doc. E8–12154 Filed 5–30–08; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2008–0341]

RIN 1625–AA00

Safety Zone; Piscataqua River, Portsmouth, NH, and Kittery, ME; Frontier Sentinel 2008

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary moving safety zones around Coast Guard and Navy vessels as well as five fixed safety zones off to the west and south of Gerrish Island, south of Kittery Point, east of Jaffrey Point, and east of Odiornes Point during the Frontier Sentinel Exercise on the Piscataqua River, a homeland security exercise that will involve underwater equipment and operations. This rule will establish multiple fixed and moving safety zones that will be enforced from 8 a.m. to 5 p.m. daily on June 9, 2008 through June 12, 2008 from the General Sullivan Bridge, U.S. Route 16 to one mile seaward of the Red ''2KR'' buoy at the mouth of the river. This action is necessary to protect federal, state, and local assets (including unmanned underwater vehicles (UUV)) and others in the maritime community from the safety hazards that may arise from this large scale exercise.

DATES: This rule is effective from 8 a.m. on June 9, 2008 through 5 p.m. on June 12, 2008.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2008–0341 and are available online at *www.regulations.gov.* This material is also available for inspection or copying at two locations: the Docket Management Facility (M–30), U.S. Department of Transportation, 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 and at U.S. Coast Guard Sector Northern New England, 259 High Street, South Portland, ME 04106 between the hours of 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LTJG Kevin Miller at (207) 741–5431.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM. In conjunction with preparations for this exercise, the U.S. Navy and Coast Guard were not able to finalize the exercise scope, location, and timetables until April 23, 2008. Therefore, publishing of a proposed rule was not feasible. Nonetheless, the temporary establishment of the safety zones established by this rule is in the public interest.

For the same reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Immediately implementing this rule promotes the public interest by protecting the maritime public and agency participants on the Piscataqua River during Frontier Sentinel 2008.

Background and Purpose

This rule establishes five fixed safety zones as well as moving safety zones for the duration of the exercise. The rule is necessary to protect the federal, state, local, and public entities on the Piscataqua River during Frontier Sentinel 2008, a large scale mine countermeasures exercise. The exercise area will encompass all waters of the Piscataqua River from the General Sullivan Bridge, U.S. Route 16, seaward to one mile past the Red ''2KR'' buoy at the mouth of the river. Within this exercise area, there will be numerous federal, state, and local vessels participating with divers and unmanned underwater vehicles (UUV). The UUV's will be monitored by Coast Guard, Navy, or state patrol vessels, designated with the blue and white Alpha (Diver Down) Flag.

Discussion of Rule

The five fixed safety zones will be established where continuous diving operations will take place during the hours of the exercise. These fixed safety zones will be located near Gerrish Island, Kittery Point, Jaffrey Point, and Odiornes Point. The five temporary fixed safety zones will be enforced between the hours of 8 a.m. to 5 p.m. on June 9, 2008 through June 12, 2008:

All waters on the Piscataqua River enclosed by a box starting from a point located south of Kittery Point at latitude 43[deg]04'41'' N, longitude 70[deg]43'03'' W; thence to latitude 43[deg]04'36'' N, longitude 70[deg]43'02'' W; thence to latitude 43[deg]04'40'' N, longitude 70[deg]42'34'' W; thence to latitude 43[deg]04'45'' N, longitude 70[deg]42'36'' W; thence to the point of beginning.

All waters on the Piscataqua River enclosed by a box starting from a point located east of Jaffrey Point at latitude 43[deg]03'48'' N, longitude 70[deg]42'36'' W; thence to latitude 43[deg]03'15'' N, longitude 70[deg]42'39'' W; thence to latitude 43[deg]03'15'' N, longitude 70[deg]42'21'' W; thence to latitude 43[deg]03'48'' N, longitude 70[deg]42'28'' W; thence to the point of beginning.

All waters on the Piscataqua River enclosed by a box starting from a point located west of Gerrish Island at latitude 43[deg]04'32'' N, longitude 70[deg]42'09'' W; thence to latitude 43[deg]04'13'' N, longitude 70[deg]42'05'' W; thence to latitude 43[deg]03'55'' N, longitude 70[deg]42'04'' W; thence to latitude 43[deg]03'59'' N, longitude 70[deg]41'53'' W; thence to latitude 43[deg]04'15'' N, longitude 70[deg]41'56'' W; thence to the point of beginning.

All waters on the Piscataqua River enclosed by a box starting from a point located east of Odiornes Point at latitude 43[deg]03'05'' N, longitude 70[deg]42'45'' W; thence to latitude 43[deg]02'32'' N, longitude 70[deg]42'33'' W; thence to latitude 43[deg]02'40'' N, longitude

70[deg]42'34'' W; thence to latitude 43[deg]02'40'' N, longitude 70[deg]42'05'' W; thence to latitude 43[deg]02'53'' N, longitude 70[deg]42'19'' W; thence to the point of beginning.

All waters on the Piscataqua River enclosed by a box starting from a point located south of Gerrish Island at latitude 43[deg]03'21'' N, longitude 70[deg]41'24'' W; thence to latitude 43[deg]02'46'' N, longitude 70[deg]41'13'' W; thence to latitude 43[deg]02'46'' N, longitude 70[deg]39'27'' W; thence to latitude 43[deg]03'32'' N, longitude 70[deg]40'10'' W; thence to latitude 43[deg]03'27'' N, longitude 70[deg]40'28'' W; thence to the point of beginning.

All coordinates for these safety zones are North American Datum 1983 (NAD 83).

The temporary moving safety zones will be established as necessary to encompass Coast Guard, Navy, and state patrol vessels, with a radius of 100 yards, to ensure the safety of the maritime public from the hazards associated with the UUV operations. There may be as many as five simultaneous moving safety zones throughout the operation area. The establishment and enforcement of these zones will be announced via a Broadcast Notice to Mariners during the exercise timeframe. These vessels and their associated UUV's will be operating in the Piscataqua River from the General Sullivan, U.S. Route 16 bridge, seaward to the mouth of the river near one mile past the Red ''2KR'' Buoy. The vessels will be displaying an Alpha (Diver Down) Flag.

Mariners wishing to transit through the moving safety zones must contact the Captain of the Port (COTP) or the COTP's designated representative at telephone number 207–767–0303 or contact the designated Patrol Commander on VHF Channel 13 (156.7 MHz) or VHF channel 16 (156.8 MHz) to seek permission to do so. If permission is granted, all persons and vessels must comply with the instructions provided by the COTP or the COTP's designated representative.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. The Coast Guard expects the economic impact of this rule to be so minimal that a full regulatory evaluation is unnecessary. The effect of this rule will not be significant for the following reasons: The safety zone will be of limited duration. The event is designed to avoid, as much as practicable, deep draft, fishing, and recreational boating traffic routes. Vessels may be authorized to transit the zone with permission of the COTP. Additionally, maritime advisories will be broadcast during the duration of the effective period. Extensive outreach has been conducted through the Area Maritime Security Committee, the Area Committee, and the Maine and New Hampshire Port Safety Forum, as well as focused outreach to key stakeholders.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

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

This rule may affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit in the safety zone during this exercise. However, this rule will not have a significant economic impact on a substantial number of small entities due to the minimal time that vessels will be restricted from the area, the ample space available for vessels to maneuver and navigate around the zone, and advance notifications will be made to the local community by marine information broadcasts.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this temporary rule so that they can better evaluate its effects on them and participate in the rulemaking process. If this rule will affect your small business, organization or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact LTJG Kevin Miller at (207) 741–5431, Sector Northern New England, Waterways Management Division.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

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

Technical Standards

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

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

Environment

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add temporary § 165.T01–0341 to read as follows:

§ 165.T01–0341 Safety Zone; Piscataqua River, Portsmouth, NH, and Kittery, ME; Frontier Sentinel 2008.

(a) *Location.* The following areas are fixed safety zones:

(1) All waters on the Piscataqua River enclosed by a box starting from a point located south of Kittery Point at latitude 43[deg]04[min]41[sec] N, longitude 70[deg]43[min]03[sec] W; thence to latitude 43[deg]04[min]36[sec] N, longitude 70[deg]43[min]02[sec] W; thence to latitude 43[deg]04[min]40[sec] N, longitude 70[deg]42[min]34[sec] W; thence to latitude 43[deg]04[min]45[sec] N, longitude 70[deg]42[min]36[sec] W; thence to the point of beginning.

(2) All waters on the Piscataqua River enclosed by a box starting from a point located east of Jaffrey Point at latitude 43[deg]03[min]48[sec] N, longitude 70[deg]42[min]36[sec] W; thence to latitude 43[deg]03[min]15[sec] N, longitude 70[deg]42[min]39[sec] W; thence to latitude 43[deg]03[min]15[sec] N, longitude 70[deg]42[min]21[sec] W; thence to latitude 43[deg]03[min]48[sec] N, longitude 70[deg]42[min]28[sec] W; thence to the point of beginning.

(3) All waters on the Piscataqua River enclosed by a box starting from a point located west of Gerrish Island at latitude 43[deg]04[min]32[sec] N, longitude 70[deg]42[min]09[sec] W; thence to latitude 43[deg]04[min]13[sec] N, longitude 70[deg]42[min]05[sec] W; thence to latitude 43[deg]03[min]55[sec] N, longitude 70[deg]42[min]04[sec] W; thence to latitude 43[deg]03[min]59[sec] N, longitude 70[deg]41[min]53[sec] W; thence to latitude 43[deg]04[min]15[sec] N, longitude 70[deg]41[min]56[sec] W; thence to the point of beginning.

(4) All waters on the Piscataqua River enclosed by a box starting from a point located east of Odiornes Point at latitude 43[deg]03[min]05[sec] N, longitude 70[deg]42[min]45[sec] W; thence to latitude 43[deg]02[min]32[sec] N, longitude 70[deg]42[min]33[sec] W; thence to latitude 43[deg]02[min]40[sec] N, longitude 70[deg]42[min]34[sec] W; thence to latitude 43[deg]02[min]40[sec] N, longitude 70[deg]42[min]05[sec] W; thence to latitude 43[deg]02[min]53[sec] N, longitude 70[deg]42[min]19[sec] W; thence to the point of beginning.

(5) All waters on the Piscataqua River enclosed by a box starting from a point located south of Gerrish Island at latitude 43[deg]03[min]21[sec] N, longitude 70[deg]41[min]24[sec] W; thence to latitude 43[deg]02[min]46[sec] N, longitude 70[deg]41[min]13[sec] W; thence to latitude 43[deg]02[min]46[sec] N, longitude 70[deg]39[min]27[sec] W; thence to latitude 43[deg]03[min]32[sec] N, longitude 70[deg]40[min]10[sec] W; thence to latitude 43[deg]03[min]27[sec] N, longitude 70[deg]40[min]28[sec] W; thence to the point of beginning.

(6) All vessels and swimmers are restricted from entering these areas.

(b) *Location.* The following areas are moving safety zones:

(1) All waters on the Piscataqua River in a moving 100 yard radius surrounding United States Navy, Coast Guard, and state vessels displaying an Alpha (Diver Down) Flag from the General Sullivan Bridge, U.S. Route 16, to one mile past the Red ''2KR'' Buoy.

(2) All vessels and swimmers are restricted from entering these areas.

(c) *Effective Date.* This rule is effective from 8 a.m. on June 9, 2008 through 5 p.m. June 12, 2008, and will be enforced from 8 a.m. to 5 p.m. daily during that period.

(d) *Definitions.*

(1) *Designated Representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, or local law enforcement officer designated by or assisting the Captain of the Port (COTP).

(2) [Reserved]

(e) *Regulations.*

(1) In accordance with the general regulations in 165.23 of this part, entry into or movement within this zone by any person or vessel is prohibited unless authorized by the COTP, Sector Northern New England or the COTP's designated representative.

(2) Vessel operators desiring to enter or operate within the safety zones may contact the COTP or the COTP's designated representative at telephone number 207–767–0303 or designated representative on VHF Channel 13 (156.7 MHz) or VHF channel 16 (156.8 MHz)to seek permission to do so. If permission is granted, all persons and vessels must comply with the instructions provided by the COTP or the COTP's designated representative.

Dated: May 20, 2008.

J.E. Rendon,

Captain, U.S. Coast Guard, COTP Northern New England.

[FR Doc. E8–12175 Filed 5–30–08; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2007–1132; FRL–8573–3]

Approval and Promulgation of Air Quality Implementation Plans; Minnesota; Interstate Transport of Pollution

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving revisions to the Minnesota State Implementation Plan (SIP) for ozone and particulate matter (PM) which address the ''good neighbor'' provisions of the Clean Air Act (CAA). These provisions require each state to submit a SIP that prohibits emissions that adversely affect another state's air quality. The Minnesota Pollution Control Agency (MPCA) has adequately addressed the four distinct elements related to the impact of interstate transport of air pollutants. These include prohibiting significant contribution to nonattainment of the National Ambient Air Quality Standards (NAAQS) in another state, interference with maintenance of the NAAQS in another state, interference with plans in another state to prevent significant deterioration of air quality, and interference with plans in another state to protect visibility.

DATES: This rule is effective on August 1, 2008, unless EPA receives adverse written comments by July 2, 2008. If EPA receives adverse comments, EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2007–1132 by one of the following methods:

<bullet≤ *http://www.regulations.gov:* Follow the online instructions for submitting comments.

<bullet≤ *E-mail: aburano.douglas@epa.gov.*

<bullet≤ Fax: (312) 886–5824.

<bullet≤ *Mail:* Douglas Aburano, Acting Chief, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

<bullet≤ *Hand Delivery:* Douglas Aburano, Acting Chief, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R05–OAR–2007–1132. 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 docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. We recommend that you telephone Charles Hatten, Environmental Engineer, at (312) 886–6031 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Charles Hatten, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6031, *hatten.charles@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This section provides additional information by addressing the following questions:

Table of Contents

I. Background
II. What is being addressed in this document?
III. What action is EPA taking?
IV. Statutory and Executive Order Reviews

I. Background

On July 18, 1997, EPA promulgated revised NAAQS for ozone and PM. For ozone, EPA adopted a standard of 0.08 ppm over an 8-hour averaging period (62 FR 38856). For PM, EPA added new 24-hour and annual standards for particles less than or equal to 2.5 micrometers in diameter ($PM_{2.5}$) (62 FR 38652). Section 110(a)(1) of the CAA requires states to submit new SIPs that provide for the implementation, maintenance, and enforcement of a new or revised standard within three years

after promulgation of such standard, or within such shorter period as EPA may prescribe. Section 110(a)(2) lists the elements that such new SIPs must address, including section 110(a)(2)(D)(i), which applies to interstate transport of certain emissions. While section 110(a)(1) imposes the obligation upon states to make a SIP submission for a new or revised NAAQS, the contents of that submission may vary depending upon the facts and circumstances related to the specific NAAQS.

On April 25, 2005, EPA made a finding that states had failed to submit SIPs to satisfy the requirements of section 110(a)(2)(D)(i) of the CAA for the 8-hour ozone and $PM_{2.5}$ NAAQS. See 70 FR 21147. This finding started a 2-year clock for promulgation by EPA of a Federal Implementation Plan (FIP), in accordance with section 110(c)(1), for any state that did not submit a SIP meeting the requirements of section 110(a)(2)(D)(i) for both the 8-hour ozone and $PM_{2.5}$ NAAQS. If, prior to that time, a state made a submission to meet the requirements of section 110(a)(2)(D)(i) and EPA approved the submission, EPA would not be required to promulgate a FIP for that state.

II. What is being addressed in this document?

EPA is approving the SIP revision submitted by MPCA on October 23, 2007, to address the requirements of section 110(a)(2)(D)(i) of the CAA. This section requires each state to submit a SIP which prohibits emissions that could adversely affect the air quality in another state. The SIP must prevent sources in the state from emitting pollutants in amounts which will: (1) Contribute significantly to nonattainment of the NAAQS in another state, (2) interfere with maintenance of the NAAQS in another state, (3) interfere with the plans in another state to prevent significant deterioration of air quality, and (4) interfere with the plans of another state to protect visibility.

EPA issued a guidance memorandum (Interstate Transport Guidance) on August 15, 2006, relating to SIP submissions to meet the requirements of section 110(a)(2)(D)(i) for the 8-hour ozone and $PM_{2.5}$ NAAQS.[1] As discussed below, Minnesota's analysis of its SIP with respect to the statutory requirements is consistent with this guidance.

The MPCA addressed the first two elements, relating to monitor interference with attainment and maintenance of the NAAQS, by asserting that Minnesota is covered by the FIP for the Clean Air Interstate Rule (CAIR). In the CAIR, EPA concluded that states meet their section 110(a)(2)(D)(i) obligations to address the ''significant contribution'' and ''interference with the maintenance'' requirements by complying with the CAIR requirements, either by submitting an approvable CAIR SIP or relying on the CAIR FIP.[2] Consequently, Minnesota will not need to submit a separate SIP revision to satisfy the section 110(a)(2)(D)(i), since they are relying on the CAIR FIP. Minnesota is covered by the CAIR due solely to its influence on $PM_{2.5}$ nonattainment in Chicago (Illinois), and was not determined by EPA to impact ozone nonattainment in any area.

The third element MPCA addressed was prevention of significant deterioration (PSD) of air quality in another state. All new sources in Minnesota are subject to the federal PSD permitting program. Minnesota has a delegated PSD program and therefore has been given the authority by EPA to implement and enforce the federal PSD program. The PSD program satisfies the requirement of section 110(a)(2)(D)(i) prohibiting interference with measures required to meet the implementation plan for any other state related to PSD. It should be noted that the entire state of Minnesota is attaining both the 8-hour ozone and $PM_{2.5}$ NAAQS.

The fourth required element, relating to Minnesota's impact on visibility impairment in another state, will be addressed by Minnesota's regional haze SIP. MPCA concurs with EPA in concluding that it is currently premature to determine whether or not SIPs for 8-hour ozone or $PM_{2.5}$ contain adequate provisions to prohibit emissions that interfere with measures in SIPS developed by other states to address visibility impairment.[3] MPCA is currently accepting comments on a separate SIP revision that will fulfill Minnesota's requirements under EPA's regional haze rule and address the section 110(a)(2)(D)(i) requirement with respect to visibility. The State is on a schedule to submit this revision to EPA in July of 2008. Until this SIP is submitted, an accurate assessment regarding the impact of emissions and control measures on other states' SIPs cannot be made. When EPA takes action on Minnesota's regional haze SIP, EPA will also make a determination regarding the adequacy of the SIP in addressing section 110(a)(2)(D)(i) with respect to visiblilty.

Minnesota placed the section 110(a)(2)(D)(i) SIP on notice on September 4, 2007, and offered the opportunity for a public hearing. No public hearing was requested and no comments were received.

With this action, the non-regulatory text in 40 CFR 52.1220(e) is revised to reflect that MPCA addressed the elements of the CAA section 110(a)(2)(D)(i) submittal.

III. What action is EPA taking today?

EPA is approving this revision submitted by Minnesota and is revising 40 CFR 52.1220(e) to reflect that the MPCA has adequately addressed the required elements of the CAA section 110(a)(2)(D)(i) SIP. Please note that if EPA receives adverse comments on part of this rule, and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse written comments are filed. This rule will be effective August 1, 2008 without further notice unless we receive relevant adverse written comments by July 2, 2008. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. The EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. If we do not receive any comments, this action will be effective August 1, 2008.

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, 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

[1] *See* memorandum from William T. Harnett, Director, Air Quality Policy Division, Office of Air Quality Planning and Standards, U.S. EPA, entitled ''Guidance for State Implementation Plan (SIP) Submissions to Meet Current Outstanding Obligations Under Section 110(a)(2)(D)(i) for the 8-Hour Ozone and $PM_{2.5}$ National Ambient Air Quality Standards,'' dated August 15, 2006.

[2] *See* page 4 in EPA's Interstate Transport Guidance, referenced in Footnote 1.

[3] *See* pages 9 and 10 in EPA's Interstate Transport Guidance, referenced in Footnote 1.

submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

<bullet≤ 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);

<bullet≤ Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

<bullet≤ 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.*);

<bullet≤ 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);

<bullet≤ Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

<bullet≤ Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

<bullet≤ Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

<bullet≤ 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 Clean Air Act; and

<bullet≤ 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 rule 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.

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 action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Ozone, Particulate matter, and Volatile organic compounds.

Dated: May 21, 2008.

Walter W. Kovalick, Jr.

Acting Regional Administrator, Region 5.

■ For the reasons stated in the preamble, part 52, chapter I, of title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart Y—Minnesota

■ 2. In Section 52.1220 the table in paragraph (e) is amended by adding an entry in alphabetical order for ''CAA 110(a)(2)(D)(i) SIP-Interstate Transport'' to read as follows:

§ 52.1220 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED MINNESOTA NONREGULATORY PROVISIONS

Name of Nonregulatory SIP Provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approved date	Comments
* * * * * * *				
CAA 110(a)(2)(D)(i) SIP-Interstate Transport	Statewide	10/23/07	06/02/08 [insert FR page number where the document begins].	
* * * * * * *				

[FR Doc. E8–12222 Filed 5–30–08; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2005–SC–0004–200809; FRL–8573–2]

Approval and Promulgation of Implementation Plans; South Carolina; Prevention of Significant Deterioration and Nonattainment New Source Review Rules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to partially approve, disapprove, and conditionally approve revisions to the South Carolina State Implementation Plan (SIP) submitted by the State of South Carolina on July 1, 2005. The SIP revisions modify the South Carolina Prevention of Significant Deterioration (PSD) program 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''). The revisions also provide for new Nonattainment New Source Review (NNSR) regulations in the South Carolina SIP. EPA proposed action on these revisions on September 12, 2007; no comments were received on that proposal.

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

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2005–SC–0004. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information may not be publicly available, i.e., 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 South Carolina State Implementation Plan, contact Ms. Nacosta Ward, 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) 562–9140. Ms. Ward can also be reached via electronic mail at *ward.nacosta@epa.gov.* For information regarding New Source Review, contact Ms. Kelly Fortin, Air Permits Section, at the same address above. The telephone number is (404) 562–9117. Ms. Fortin can also be reached via electronic mail at *fortin.kelly@epa.gov.*

SUPPLEMENTARY INFORMATION:

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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 partially approve, disapprove, and conditionally approve revisions to the South Carolina SIP (Regulation 61–62.1, Regulation 61–62.5 Standard No. 7, and Regulation 61–62.5 Standard No. 7.1) as submitted by South Carolina Department of Health and Environmental Control (DHEC) on July 1, 2005, which include changes to South Carolina's PSD and NNSR programs. EPA is now taking the following related actions:

—Approving the entirety of South Carolina's PSD program with the exception of any references to Pollution Control Projects (PCPs) and clean units, those provisions are disapproved;
—Approving Regulation 61–61.2, regarding synthetic minor sources, which is part of the State's minor source preconstruction permitting program;
—Disapproving all rules referencing clean units and PCPs in South Carolina's NNSR program; and
—Conditionally approving South Carolina's NNSR program. As part of the current conditional approval, South Carolina has agreed to: (a) Revise the State NNSR program to include a provision that emission reductions must be surplus and are not to be used as offsets if they are otherwise required by the SIP, New Source Performance Standards (NSPS), National Emissions Standards for Hazardous Air Pollutants (NESHAP), including Maximum Achievable Control Technology (MACT) standards, or other federal requirements; (b) revise the State NNSR program to include a methodology for calculating offsets; (c) submit the required SIP revisions to EPA within twelve months; and (d) utilize the provisions of 40 CFR part 51, Appendix S to supplement the State NNSR program as necessary until the NNSR program is approved by EPA.

On September 12, 2007 (72 FR 52037), EPA published a notice of proposed rulemaking (NPR) in the **Federal Register**, proposing to partially approve, disapprove, and conditionally approve revisions to the South Carolina SIP submitted by the State of South Carolina on July 1, 2005. The September 12, 2007, NPR provides additional information about the proposed South Carolina SIP revisions and the rationale for this final action. The public comment period for the proposed action ended on October 12, 2007. No comments were received on EPA's proposed action. Consistent with section 110(k) of the Clean Air Act (CAA), EPA is now taking final action to partially approve, disapprove and conditionally approve the July 1, 2005, SIP revision from South Carolina.

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 CAA PSD and NNSR programs. On November 7, 2003 (68 FR 63021), EPA published a notice of final action on its reconsideration of the December 31, 2002, final rule changes. In that November 7, 2003, final action, EPA added the definition of ''replacement unit,'' and clarified an issue regarding plant-wide applicability limitations. Collectively, these EPA final actions are referred to as the ''2002 NSR Reform 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 PCP provisions that were vacated by the United States Court of Appeals for the District of Columbia Circuit (DC Circuit Court) on June 24, 2005. Further, on December 21, 2007, EPA took final action on the portion of the 2002 NSR Reform Rules remanded by the DC Circuit Court, regarding the reasonable possibility and

recordkeeping provision. The ''reasonable possibility'' provision 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. On December 21, 2007, EPA established that ''reasonable possibility'' exists where source emissions equal or exceed 50 percent of the CAA NSR significance levels for any pollutant (72 FR 72607). These changes became effective on January 22, 2008, and the final action on that provision explains the process that states should follow if a SIP revision is necessary.[1]

The July 1, 2005, submittal consists of changes to the South Carolina Air Pollution Control Regulations and Standards (South Carolina Regulations). Specifically, the proposed SIP revisions include changes to South Carolina Regulation 61–62.1 entitled ''Definitions and General Standards;'' Regulation 61–62.5, Standard No. 7 entitled ''Prevention of Significant Deterioration;'' and Regulation 61–62.5, Standard No. 7.1 entitled ''Nonattainment New Source Review.'' DHEC submitted this SIP revision in response to EPA's December 31, 2002, changes to the federal NSR program. EPA is now partially approving and disapproving certain portions of the July 1, 2005, SIP submittal, consistent with section 110(k)(3) of the CAA. EPA is also conditionally approving provisions of the July 1, 2005, SIP submittal consistent with section 110(k)(4) of the CAA. As part of the conditional approval, South Carolina will have twelve months from the date of EPA's final conditional approval of the SIP revisions in which to further revise its NNSR rules, as described herein, to be consistent with existing federal law.

More specifically, pursuant to section 110(k)(3), EPA is taking final action to: (1) Approve Section II of South Carolina Regulation 61–62.1 to allow for synthetic minor permits to be issued in nonattainment areas; (2) partially approve South Carolina's PSD program; and (3) disapprove all references to PCPs and clean units in South Carolina's PSD and NNSR programs. The PCP and clean unit references are all severable from the other provisions of South Carolina's PSD and NNSR programs. EPA is not approving any portion of South Carolina's rules regarding PCPs and clean units. Further, any use by South Carolina of the PCP, clean unit, or similar provisions, is, according to a federal appeals court, contrary to the CAA.

Pursuant to section 110(k)(4) of the CAA, EPA may conditionally approve a portion of a SIP revision based on a commitment from the State to adopt specific, enforceable measures no later than twelve months from the approval date of final conditional approval. If the State fails to make the changes within the twelve month period, EPA will issue a finding of disapproval. EPA is not required to propose the finding of disapproval. The necessary revisions to the South Carolina SIP will materially alter the existing SIP-approved rule, and, as a result, the State must also make a new SIP submittal to EPA for approval that includes the rule changes. As with any SIP revision, South Carolina must provide an opportunity for public notice and comment and allow for a public hearing (and any other procedures required by State law) on the proposed rule changes. If South Carolina timely revises its rules and submits the revised SIP submittal, EPA will process that SIP revision consistent with the CAA.

With regard to the conditional approval of the NNSR program, South Carolina must revise its rules to include a methodology for calculating emissions reductions to be used as offsets that includes a baseline for determining credit for emissions offsets that, at a minimum, meets the requirements set out in 40 CFR 51.165(a)(3)(i) and Appendix S section IV.C. The emission offsets provisions must also specify that the reductions must be surplus and cannot be used for offsets if they are otherwise required by the South Carolina SIP or other federal standards, such as the NSPS and NESHAP, including the MACT standards. As part of the conditional approval, South Carolina has committed to make these changes within the twelve month timeframe. Further, in the interim until the required State NNSR program changes are in effect, South Carolina has committed to utilize the requirements of the federal NNSR program outlined in 40 CFR part 51, Appendix S (see, Letter of Commitment from M. Reece, DHEC, to B. Banister, EPA, November 20, 2007, included in the docket for this action).

The September 12, 2007, 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 partially approve, disapprove, and conditionally approve changes to the South Carolina Air Pollution Control Regulation 61–62.1 entitled ''Definitions and General Standards;'' Regulation 61–62.5, Standard No. 7 entitled ''Prevention of Significant Deterioration;'' and Regulation 61–62.5, Standard No. 7.1 entitled ''Nonattainment New Source Review,'' as submitted by the State of South Carolina on July 1, 2005, as revisions to the South Carolina 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

[1] South Carolina's reasonable possibility and recordkeeping requirements, now being included in the SIP, are at least as stringent as those set forth in EPA's December 21, 2007, final rule on reasonable possibility due to language in South Carolina's PSD program requiring all source to maintain records required by federal law.

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 August 1, 2008. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See, section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: May 21, 2008.

J.I. Palmer, Jr.,

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 PP—South Carolina

■ 2. A new § 52.2119 is added to read as follows:

§ 52.2119 Identification of plan-conditional approval.

EPA is conditionally approving a revision to the South Carolina State Implementation Plan (SIP) consisting of a new Standard (South Carolina Regulation 61–62.5 Standard No. 7.1). Based upon a commitment from the State, South Carolina must:

(a) Revise the Nonattainment New Source Review (NNSR) program to include a provision that emission reductions must be surplus and are not to be used as offsets if they are otherwise required by the SIP, New Source Performance Standards and National Emissions Standards for Hazardous Air Pollutants including the Maximum Achievable Control Technology standards, or other federal requirements and submit to EPA a SIP revision with the revised rule;

(b) Revise the State NNSR program to include a methodology for calculating offsets, and submit to EPA a SIP revision with the revised rule; and

(c) Utilize the provisions of 40 CFR part 51, Appendix S to supplement its NNSR program until South Carolina's NNSR program is approved by EPA. If the State fails to meet its commitment by June 2, 2009 the approval is treated as a disapproval. Also, EPA is disapproving two provisions of South Carolina's NNSR program (submitted on July 1, 2005) that relate to provisions that were vacated from the federal program by the United States Court of Appeals for the District of Columbia Circuit on June 24, 2005. The two provisions vacated from the federal rules pertain to Pollution Control Projects (PCPs) and clean units. The PCP and clean unit references are severable from the remainder of the NNSR program. Specifically, the following sections of South Carolina Regulation 61–62.5 Standard No. 7.1 are being disapproved: (b)(5); (b)(6)—Second sentence only; (b)(8); (c)(4); (c)(6)(C)(viii); (c)(8)(C)(iii); (c)(8)(E)(v); (c)(10); (d)(1)(C)(ix); (d)(1)(C)(x); (d)(3)—Only the reference to the term ''clean unit'' is being disapproved. The remainder of this regulatory provision is being approved; (d)(4)—Only the reference to the term ''clean unit'' is being disapproved. The remainder of this regulatory provision is being approved; (f); (g) and (h).

■ 3. Section 52.2120 is amended by revising the entries under Regulation No. 62.1 for ''Section II'' and ''Regulation No. 62.5, Standard 7'' to read as follows:

§ 52.2120 Identification of plan.

* * * * *

(c) * * *

AIR POLLUTION CONTROL REGULATIONS FOR SOUTH CAROLINA

State citation	Title/subject	State effective date	EPA approval date	**Federal Register** notice
Regulation No. 62.1 Definitions and General Requirements				
* * * * * * *				
Section II	Permit Requirements	06/24/05	06/02/08	[Insert citation of publication].

AIR POLLUTION CONTROL REGULATIONS FOR SOUTH CAROLINA—Continued

State citation	Title/subject	State effective date	EPA approval date	**Federal Register** notice
	* * * * * * *			
	Standard No. 7 Prevention of Significant Deterioration [1]			
		06/24/05	06/02/08	[Insert citation of publication].
	* * * * * * *			

[1] This regulation (submitted on July 1, 2005) includes two portions of EPA's 2002 NSR Reform Rules that were vacated by the D.C. Circuit Court—Pollution Control Projects (PCPs) and clean units. As a result, EPA is disapproving all rules and/or rule sections in the South Carolina PSD rules referencing clean units or PCPs. Specifically, the following South Carolina rules are being disapproved: (a)(2)(iv)(e); (a)(2)(iv)(f) (second sentence only); (a)(2)(vi); (b)(12); (b)(30)(iii)(h); (b)(34)(iii)(b); (b)(34)(vi)(d); (b)(35); (r)(6) (only the reference to the term ''clean unit'' is being disapproved. The remainder of this regulatory provision is being approved); (r)(7) (only the reference to the term ''clean unit'' is being disapproved. The remainder of this regulatory provision is being approved); (x); (y) and (z).

* * * * *

[FR Doc. E8–12091 Filed 5–30–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[EPA–HQ–OAR–2006–0699; FRL–8568–8]

RIN 2060–AO90

Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry; Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; stay.

SUMMARY: EPA is taking direct final action on the standards of performance for equipment leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry (SOCMI) and Petroleum Refineries. On November 16, 2007, EPA promulgated amendments and established new standards for these industries. Following that action, the Administrator received a petition for reconsideration. In response to the petition, EPA granted a stay of certain provisions in the final amendments and new standards. In this action, EPA is extending the stay of the requirements under reconsideration until a final decision is reached on these issues.

DATES: This rule is effective on August 1, 2008 without further notice, unless EPA receives adverse comment by July 2, 2008 or receives a request for a public hearing. If EPA receives adverse comment or a hearing request, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2006–0699, by one of the following methods:

<bullet≤ *www.regulations.gov:* Follow the online instructions for submitting comments.

<bullet≤ E-mail: *a-and-r-docket@epa.gov.*

<bullet≤ Fax: (202) 566–1741.

<bullet≤ Mail: U.S. Postal Service, send comments to: Air and Radiation Docket (6102T), Docket No. EPA–HQ–OAR–2006–0699, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Please include a total of two copies. In addition, please mail a copy of your comments on the information collection provisions to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attn: Desk Officer for EPA, 725 17th St., NW., Washington, DC 20460.

<bullet≤ Hand Delivery: In person or by Courier, deliver comments to: Air and Radiation Docket (6102T), EPA West Building, Room B–102, 1301 Constitution Ave., NW., Washington, DC 20004. 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–HQ–OAR–2006–0699. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center home page at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the Federal Docket Management System index at *www.regulations.gov.* 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 through *www.regulations.gov* or in hard copy at the Air and Radiation Docket, EPA West Building, Room B–102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal

holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air and Radiation Docket is (202) 566–1742.

We request that you also send a separate copy of each comment to the contact persons listed below (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Ms. Karen Rackley, Coatings and Chemicals Group, Sector Policies and Programs Division, Office of Air Quality Planning and Standards (E143–01), Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–0634; fax number: 919 541–0246; e-mail address: *rackley.karen@epa.gov.*

SUPPLEMENTARY INFORMATION:

Organization of This Document. The following outline is provided to aid in locating information in this preamble.

I. Why is EPA using a direct final rule?
II. Does this action apply to me?
III. What should I consider as I prepare my comments for EPA?
IV. How do I obtain a copy of this document and other related information?
V. Background Information
VI. What action is EPA taking?
VII. Statutory and Executive Order Reviews
A. Executive Order 12866: Regulatory Planning and Review
B. Paperwork Reduction Act
C. Regulatory Flexibility Act
D. Unfunded Mandates Reform Act
E. Executive Order 13132: Federalism
F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
I. National Technology Transfer and Advancement Act
J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations
K. Congressional Review Act

I. Why is EPA using a direct final rule?

EPA is publishing the action without a prior proposed rule because we view this as a noncontroversial action and anticipate no adverse comment. However, in the ''Proposed Rules'' section of today's **Federal Register**, we are publishing a separate document that will serve as the proposed rule to extend the stay if adverse comments are received on this direct final action. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this rule, see the **ADDRESSES** section of this document. If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that this direct final rule will not take effect. We would address all public comments in any subsequent final rule based on the proposed rule.

II. Does this action apply to me?

Categories and entities potentially regulated by this action are synthetic organic chemicals manufacturers and petroleum refineries. The New Source Performance Standards (NSPS) for equipment leaks of VOC in SOCMI and petroleum refineries affect the following categories of sources:

Category	NAICS code [1]	Examples of potentially regulated entities
Industry	324110	Petroleum refiners.
	Primarily 325110, 325192, 325193, and 325199.	Synthetic organic chemical manufacturing industry (SOCMI) units, e.g., producers of benzene, toluene, or any other chemical listed in 40 CFR 60.489.

[1] North American Industrial Classification Code.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by the final amendments and new standards for equipment leaks of VOC in SOCMI and petroleum refineries. To determine whether your facility is regulated by this action, you should examine the applicability criteria in 40 CFR 60.480, 60.590, 60.480a, and 60.590a. If you have any questions regarding the applicability of the NSPS to a particular entity, contact the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

III. What should I consider as I prepare my comments for EPA?

Submitting CBI. Do not submit this information to EPA through *www.regulations.gov* or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

IV. How do I obtain a copy of this document and other related information?

Docket. The docket number for this action and the final SOCMI and petroleum refineries equipment leak NSPS (40 CFR part 60, subparts VV, VVa, GGG, and GGGa) is Docket ID No. EPA–HQ–OAR–2006–0699.

Worldwide Web (WWW). In addition to being available in the docket, electronic copies of the final amendments and this action are available on the WWW through the Technology Transfer Network Web site (TTN Web). Following signature, EPA posted a copy of this notice on the TTN's policy and guidance page for newly proposed or promulgated rules at *http://www.epa.gov/ttn/oarpg.* The TTN provides information and technology exchange in various areas of air pollution control.

V. Background Information

On November 16, 2007, EPA promulgated amendments and established new standards of performance for equipment leaks of VOC in the SOCMI and Petroleum Refineries (72 FR 64860). Following the promulgation of the final amendments and new standards for these industries, EPA received a petition for reconsideration on January 15, 2008 from the American Chemistry Council (ACC), the American Petroleum Institute (API), and the National Petrochemical and Refiners Association (NPRA) (''Petitioners''). The petitioners, pursuant to CAA section 307(d)(7)(B), requested EPA reconsider four provisions in the rules: (1) The clarification of the definition of process unit in subparts VV, VVa, GGG, and GGGa; (2) the assigning of shared storage tanks to specific process units in subparts VV, VVa, GGG, and GGGa; (3) the connecter monitoring requirements in subpart VVa; and (4) the definition of capital expenditure in subpart VVa. The

petitioners also requested that EPA stay the effectiveness of these provisions of the rule pending resolution of their petition for reconsideration. The petition can be found in the public docket (EPA–HQ–OAR–2006–0699).

On March 4, 2008, EPA sent a letter to the petitioners, through their counsel, informing them that EPA was granting their request for reconsideration on three of the issues listed above. We indicated in the letter that no action was being taken on the issue of the clarification of the definition of process unit at that time. Finally, the letter indicated that EPA was granting a 90-day stay of the provisions of the rules under reconsideration (see CAA section 307(d)(7)(B)), as well as the clarification of the definition of process unit, because of its interaction with the new provision regarding the allocation of shared storage vessels. The letter from EPA to the petitioners can be found in the public docket (EPA–HQ–OAR–2006–0699).

VI. What action is EPA taking?

Today's action extends the stay of the provisions under reconsideration and the stay of the clarification of the definition of process unit. As noted above, EPA granted a 90-day stay of these provisions under CAA section 307(d)(7)(B) on March 4, 2008. That stay expires on June 1, 2008. We are extending the stay until we have reached a final decision on all of the issues raised in the petition for reconsideration. While the Agency does not generally grant stays pending reconsideration, we believe that the unique compliance issues created by our final rule warrant a limited stay pending reconsideration. As we explained in granting the initial stay:

> We are staying the rule as it relates to the method of allocating shared storage vessels and the requirements for connector monitoring because these were first introduced in the final rule (indeed, with respect to connector monitoring, we explicitly stated in the proposal that we did not intend to address them in this rulemaking). Accordingly, certain facilities may be out of compliance with requirements for which they had no notice or time to come into compliance. We are also staying the new definition for capital expenditure in 40 CFR part 60, subpart VVa, as it relates to projects at sources occurring prior to November 16, 2007. This new definition is different than the definition in the proposed 40 CFR part 60, subpart VV, and the resulting capital expenditure value may make sources that undertook changes between the proposal and final action into affected sources even though they would not have been under the previous definition and even though they had no notice of the change. While new source performance standards are generally applicable to units modified or reconstructed after the date of the proposal, we intend to seek comment on the appropriateness of such application here.

As these reasons remain valid, we have decided to extend the limited stay for the remainder of our reconsideration process.

VII. 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 Executive Order.

B. Paperwork Reduction Act

This action does not impose any new information collection burden. This action results in no changes to the information collection requirements of the NSPS and will have no impact on the information collection estimate of project cost and hour burden made and approved by OMB. However, OMB has previously approved the information collection requirements contained in the existing regulations at 40 CFR part 60, subparts VV and GGG under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.*, and has assigned OMB control number 2060–0443, to the ICR for subpart VV and OMB control number 2060–0067, to the ICR for subpart GGG. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

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

For purposes of assessing the impacts of the equipment leak NSPS on small entities, small entity is defined as: (1) A small business according to Small Business Administration size standards by the North American Industry Classification System (NAICS) category of the owning entity; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise that is independently owned and operated and is not dominant in its field. For the SOCMI, a small business ranges from less than 500 employees to less than 1,000 employees, depending on the NAICS code. For petroleum refiners, a small business has no more than 1,500 employees.

After considering the economic impacts of this action on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This action will not impose any requirements on any entities because it does not impose any additional regulatory requirements.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act (UMRA) of 1995, Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures by state, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted.

Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that this action contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or tribal governments or the private sector. This action imposes no enforceable duty on any State, local or tribal governments or the private sector. Thus, this action is not subject to the requirements of sections 202 and 205 of the UMRA.

EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. This rule only extends the stay of certain provisions and does not impose any additional enforceable duty.

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 the various levels of government, as specified in Executive Order 13132. This action will not impose direct compliance costs on State or local governments, and will not preempt State law. Thus, Executive Order 13132 does 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 9, 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 action does not have tribal implications, as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this action.

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

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This action is not subject to Executive Order 13045 because the equipment leak NSPS for SOCMI and petroleum refineries are based on technology performance.

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

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

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (Pub. L. 104–113; 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, business practices) that are developed or adopted by one or more voluntary consensus bodies. The NTTAA directs EPA to provide Congress, through OMB, with explanations when EPA does not use available and applicable voluntary consensus standards.

EPA is not proposing to make any changes to the regulatory requirements in the final equipment leak NSPS in this action, including requirements that involve technical standards. As a result, the NTTAA discussion set forth in the November 16, 2007, final rule remains valid. The requirements of NTTAA, therefore, do not apply to this action.

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 their programs, policies, and activities on minority populations and low-income populations in the United States.

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.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective August 1, 2008.

List of Subjects in 40 CFR Part 60

Environmental protection, Administrative practice and procedure, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: May 15, 2008.

Stephen L. Johnson,

Administrator.

■ For the reasons cited in the preamble, title 40, chapter I, part 60 of the Code of Federal Regulations is amended as follows:

PART 60—[AMENDED]

■ 1. The authority citation for part 60 continues to read as follows:

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

Subpart VV—[Amended]

■ 2. Section 60.480 is amended by adding paragraph (f) to read as follows:

§ 60.480 Applicability and designation of affected facility.

* * * * *

(f) *Stay of standards.* Owners or operators are not required to comply with the definition of ''process unit'' in § 60.481 and the requirements in § 60.482–1(g) of this subpart until the EPA takes final action to require compliance and publishes a document in the **Federal Register**. While the definition of ''process unit'' is stayed, owners or operators should use the following definition:

Process unit means components assembled to produce, as intermediate or final products, one or more of the chemicals listed in § 60.489 of this part. A process unit can operate independently if supplied with sufficient feed or raw materials and sufficient storage facilities for the product.

§ 60.481 [Amended]

■ 3. In § 60.481, the definition for ''process unit'' is stayed from August 1, 2008 until further notice.

§ 60.482–1 [Amended]

■ 4. In § 60.482–1, paragraph (g) is stayed from August 1, 2008 until further notice.

Subpart VVa—[Amended]

■ 5. Section 60.480a is amended by adding paragraph (f) to read as follows:

§ 60.480a Applicability and designation of affected facility.

* * * * *

(f) *Stay of standards.* (1) Owners or operators that start a new, reconstructed, or modified affected source prior to November 16, 2007 are not required to comply with the requirements in this paragraph until EPA takes final action to require compliance and publishes a document in the **Federal Register**.

(i) The definition of ''capital expenditure'' in § 60.481a of this subpart. While the definition of ''capital expenditure'' is stayed, owners or operators should use the definition found in § 60.481 of subpart VV of this part.

(2) Owners or operators are not required to comply with the requirements in this paragraph until EPA takes final action to require compliance and publishes a document in the **Federal Register**.

(i) The definition of ''process unit'' in § 60.481a of this subpart. While the definition of ''process unit'' is stayed, owners or operators should use the following definition:

Process unit means components assembled to produce, as intermediate or final products, one or more of the chemicals listed in § 60.489 of this part. A process unit can operate independently if supplied with sufficient feed or raw materials and sufficient storage facilities for the product.

(ii) The method of allocation of shared storage vessels in § 60.482–1a(g) of this subpart.

(iii) The standards for connectors in gas/vapor service and in light liquid service in § 60.482–11a of this subpart.

§ 60.481a [Amended]

■ 6. In § 60.481a, the definitions of ''capital expenditure'' and ''process unit'' are stayed from August 1, 2008 until further notice.

§ 60.482–1a [Amended]

■ 7. In § 60.482–1a, paragraph (g) is stayed from August 1, 2008 until further notice.

§ 60.482–11a [Amended]

■ 8. Section 60.482–11a is stayed from August 1, 2008 until further notice.

Subpart GGG—[Amended]

■ 9. Section 60.590 is amended by adding paragraph (e) to read as follows:

§ 60.590 Applicability and designation of affected facility.

* * * * *

(e) *Stay of standards.* Owners or operators are not required to comply with the definition of ''process unit'' in § 60.590 of this subpart until the EPA takes final action to require compliance and publishes a document in the **Federal Register**. While the definition of ''process unit'' is stayed, owners or operators should use the following definition:

Process unit means components assembled to produce intermediate or final products from petroleum, unfinished petroleum derivatives, or other intermediates; a process unit can operate independently if supplied with sufficient feed or raw materials and sufficient storage facilities for the product.

§ 60.591 [Amended]

■ 10. In § 60.591, the definition of ''process unit'' is stayed from August 1, 2008 until further notice.

Subpart GGGa—[Amended]

■ 11. Section 60.590a is amended by adding paragraph (e) to read as follows:

§ 60.590a Applicability and designation of affected facility.

* * * * *

(e) *Stay of standards.* Owners or operators are not required to comply with the definition of ''process unit'' in § 60.590 of this subpart until the EPA takes final action to require compliance and publishes a document in the **Federal Register**. While the definition of ''process unit'' is stayed, owners or operators should use the following definition:

Process unit means components assembled to produce intermediate or final products from petroleum, unfinished petroleum derivatives, or other intermediates; a process unit can operate independently if supplied with sufficient feed or raw materials and sufficient storage facilities for the product.

§ 60.591a [Amended]

■ 12. In § 60.591a, the definition of ''process unit'' is stayed from August 1, 2008 until further notice.

[FR Doc. E8–11400 Filed 5–30–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[EPA–HQ–OAR–2006–0699; FRL–8569–1]

RIN 2060–AO90

Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry; Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final rule; stay.

SUMMARY: EPA is making an interim final determination to extend the stay of certain requirements in the standards of performance for equipment leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry (SOCMI) and Petroleum Refineries.

DATES: This interim final determination is effective on June 2, 2008 and will expire on August 1, 2008.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2006–0699. All documents in the docket are listed in the Federal Docket Management System index at *www.regulations.gov.* Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other

information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Air and Radiation Docket, EPA West Building, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air and Radiation Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Ms. Karen Rackley, Coatings and Chemicals Group, Sector Policies and Programs Division, Office of Air Quality Planning and Standards (E143–01), Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–0634; fax number: (919) 541–0246; e-mail address: *rackley.karen@epa.gov*.

SUPPLEMENTARY INFORMATION:

Regulated Entities. Categories and entities potentially regulated by this action are synthetic organic chemicals manufacturers and petroleum refineries. The New Source Performance Standards (NSPS) for equipment leaks of VOC in SOCMI and petroleum refineries affect the following categories of sources:

Category	NAICS code [1]	Examples of potentially regulated entities
Industry	324110	Petroleum refiners.
	Primarily 325110, 325192, 325193, and 325199.	Synthetic organic chemical manufacturing industry (SOCMI) units, e.g., producers of benzene, toluene, or any other chemical listed in 40 CFR 60.489.

[1] North American Industrial Classification Code.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by the final amendments and new standards for equipment leaks of VOC in SOCMI and petroleum refineries. To determine whether your facility is regulated by this action, you should examine the applicability criteria in 40 CFR 60.480, 60.590, 60.480a, and 60.590a. If you have any questions regarding the applicability of the NSPS to a particular entity, contact the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of the final rule is available on the WWW through the Technology Transfer Network (TTN). Following signature, EPA will post a copy of the final rule on the TTN's policy and guidance page for newly proposed or promulgated rules at *http://www.epa.gov/ttn/oarpg.* The TTN provides information and technology exchange in various areas of air pollution control.

Organization of This Document. The following outline is provided to aid in locating information in this preamble.

I. Background Information
II. What action is EPA taking?
III. Statutory and Executive Order Reviews
A. Executive Order 12866: Regulatory Planning and Review
B. Paperwork Reduction Act
C. Regulatory Flexibility Act
D. Unfunded Mandates Reform Act
E. Executive Order 13132: Federalism
F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
I. National Technology Transfer and Advancement Act
J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations
K. Congressional Review Act

I. Background Information

On November 16, 2007, EPA promulgated amendments and established new standards of performance for equipment leaks of VOC in the SOCMI and Petroleum Refineries (72 FR 64860). Following the promulgation of the final amendments and new standards for these industries, EPA received a petition for reconsideration on January 15, 2008 from the American Chemistry Council (ACC), the American Petroleum Institute (API), and the National Petrochemical and Refiners Association (NPRA) (''Petitioners''). The petitioners, pursuant to CAA section 307(d)(7)(B), requested EPA reconsider four provisions in the rules: (1) The clarification of the definition of process unit in subparts VV, VVa, GGG, and GGGa; (2) the assigning of shared storage tanks to specific process units in subparts VV, VVa, GGG, and GGGa; (3) the connecter monitoring requirements in subpart VVa; and (4) the definition of capital expenditure in subpart VVa. The petitioners also requested that EPA stay the effectiveness of these provisions of the rule pending resolution of their petition for reconsideration. The petition can be found in the public docket (EPA–HQ–OAR–2006–0699).

On March 4, 2008, EPA sent a letter to the petitioners, through their counsel, informing them that EPA was granting their request for reconsideration on three of the issues listed above. We indicated in the letter that no action was being taken on the issue of the clarification of the definition of process unit at that time. Finally, the letter indicated that EPA was granting a 90-day stay of the provisions of the rules under reconsideration (see CAA section 307(d)(7)(B)), as well as the clarification of the definition of process unit, because of its interaction with the new provision regarding the allocation of shared storage vessels. The letter from EPA to the petitioners can be found in the public docket (EPA–HQ–OAR–2006–0699).

In the Final Rules section of today's **Federal Register**, we have published a direct final rule extending the stay until a final decision on the reconsideration has been reached. In the Proposed Rules section of today's **Federal Register**, we have also published a parallel proposal extending the stay until a final decision on the reconsideration has been reached. Based on today's direct final and parallel proposal extending the stay, we are taking this final action, effective for 60 days, beginning on publication, to prevent facilities from being out of compliance with provisions, at least some of which, we anticipate modifying upon reconsideration.

EPA is providing the public with an opportunity to comment on the stay extension in both the direct final rule and parallel proposal. However, we are not taking comment on this final action. We believe it is appropriate to continue the stay that is currently in place until the direct final action becomes effective to avoid a lapse in the stay and create potential compliance problems with

provisions that we believe may need to be revised.

II. What action is EPA taking?

We are making an interim final determination to extend the stay for 60 days based on our concurrent direct final action and parallel proposal. EPA has determined that a stay is necessary for the provisions under reconsideration. The 90-day stay that began on March 4, 2008 expires on June 1, 2008. At that time, facilities will be required to comply with the final rules as published (72 FR 64860) unless an extension is set in place. EPA is invoking the good cause exception under the Administrative Procedure Act (APA) in not providing an opportunity for comment before this action takes effect (5 U.S.C. 553(b)(3)).

EPA believes that notice-and-comment rulemaking before the effective date of this action is impracticable and contrary to the public interest. EPA has stated in our letter to the Petitioners the reasons for granting the 90-day stay. As these reasons remain valid, we believe it is still appropriate for the stay to be in effect until we have reached a final decision on the reconsideration. Because the initial stay expires on June 1, 2008 and the direct final action would not be effective until 60 days after publication, it is not in the public's best interest to require compliance with the rules as published during the gap between the two dates. Therefore, EPA believes that it is necessary to use the interim final rulemaking process to extend the initial stay while the public has an opportunity to comment on the direct final action.

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 Executive Order.

B. Paperwork Reduction Act

This action does not impose any new information collection burden. This action results in no changes to the information collection requirements of the NSPS and will have no impact on the information collection estimate of project cost and hour burden made and approved by OMB. However, OMB has previously approved the information collection requirements contained in the existing regulations at 40 CFR part 60, subparts VV and GGG under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.*, and has assigned OMB control number 2060–0443, to the ICR for subpart VV and OMB control number 2060–0067, to the ICR for subpart GGG. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

Today's interim 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 Administrative Procedure Act (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 (UMRA) of 1995, Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures by state, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted.

Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that this action contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, or tribal governments or the private sector. This action imposes no enforceable duty on any State, local or tribal governments or the private sector. Thus, this action is not subject to the requirements of sections 202 and 205 of the UMRA.

EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. This rule only extends the stay of certain provisions and does not impose any additional enforceable duty.

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 the various levels of government, as specified in Executive Order 13132. This action will not impose direct compliance costs on State or local governments, and will not preempt State law. Thus, Executive Order 13132 does 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 9, 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 action does not have tribal implications, as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this action.

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

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This action is not subject to Executive Order 13045 because the equipment leak NSPS for SOCMI and petroleum refineries are based on technology performance.

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

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

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (Pub. L. 104–113; 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, business practices) that are developed or adopted by one or more voluntary consensus bodies. The NTTAA directs EPA to provide Congress, through OMB, with explanations when EPA does not use available and applicable voluntary consensus standards.

EPA is not proposing to make any changes to the regulatory requirements in the final equipment leak NSPS in this action, including requirements that involve technical standards. As a result, the NTTAA discussion set forth in the November 16, 2007, final rule remains valid. The requirements of NTTAA, therefore, do not apply to this action.

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 their programs, policies, and activities on minority populations and low-income populations in the United States.

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.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. 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 June 2, 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).

List of Subjects in 40 CFR Part 60

Environmental protection, Administrative practice and procedure, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: May 15, 2008.

Stephen L. Johnson,

Administrator.

■ For the reasons cited in the preamble, title 40, chapter I, part 60 of the Code of Federal Regulations is amended as follows:

PART 60—[AMENDED]

■ 1. The authority citation for part 60 continues to read as follows:

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

Subpart VV—[Amended]

■ 2. Section 60.480 is amended by adding paragraph (f) to read as follows:

§ 60.480 Applicability and designation of affected facility.

* * * * *

(f) *Stay of standards.* Owners or operators are not required to comply with the definition of ''process unit'' in § 60.481 and the requirements in § 60.482–1(g) of this subpart until August 1, 2008. While the definition of ''process unit'' is stayed, owners or operators should use the following definition:

Process unit means components assembled to produce, as intermediate or final products, one or more of the chemicals listed in § 60.489 of this part. A process unit can operate independently if supplied with sufficient feed or raw materials and sufficient storage facilities for the product.

§ 60.481 [Amended]

■ 3. In § 60.481, the definition for ''process unit'' is stayed from June 2, 2008 until August 1, 2008.

§ 60.482–1 [Amended]

■ 4. In § 60.482–1, paragraph (g) is stayed from June 2, 2008 until August 1, 2008.

Subpart VVa—[Amended]

■ 5. Section 60.480a is amended by adding paragraph (f) to read as follows:

§ 60.480a Applicability and designation of affected facility.

* * * * *

(f) *Stay of standards.* (1) Owners or operators that start a new, reconstructed, or modified affected source prior to November 16, 2007 are not required to comply with the requirements in this paragraph until August 1, 2008.

(i) The definition of ''capital expenditure'' in § 60.481a of this

subpart. While the definition of ''capital expenditure'' is stayed, owners or operators should use the definition found in § 60.481 of subpart VV of this part.

(2) Owners or operators are not required to comply with the requirements in this paragraph until August 1, 2008.

(i) The definition of ''process unit'' in § 60.481a of this subpart. While the definition of ''process unit'' is stayed, owners or operators should use the following definition:

Process unit means components assembled to produce, as intermediate or final products, one or more of the chemicals listed in § 60.489 of this part. A process unit can operate independently if supplied with sufficient feed or raw materials and sufficient storage facilities for the product.

(ii) The method of allocation of shared storage vessels in § 60.482–1a(g) of this subpart.

(iii) The standards for connectors in gas/vapor service and in light liquid service in § 60.482–11a of this subpart.

§ 60.481a [Amended]

■ 6. In § 60.481a, the definitions of ''capital expenditure'' and ''process unit'' are stayed from June 2, 2008 until August 1, 2008.

§ 60.482–1a [Amended]

■ 7. In § 60.482–1a, paragraph (g) is stayed from June 2, 2008 until August 1, 2008.

§ 60.482–11a [Amended]

■ 8. § 60.482–11a is stayed from June 2, 2008 until August 1, 2008.

Subpart GGG—[Amended]

■ 9. Section 60.590 is amended by adding paragraph (e) to read as follows:

§ 60.590 Applicability and designation of affected facility.

* * * * *

(e) *Stay of standards.* Owners or operators are not required to comply with the definition of ''process unit'' in § 60.590 of this subpart until August 1, 2008. While the definition of ''process unit'' is stayed, owners or operators should use the following definition:

Process unit means components assembled to produce intermediate or final products from petroleum, unfinished petroleum derivatives, or other intermediates; a process unit can operate independently if supplied with sufficient feed or raw materials and sufficient storage facilities for the product.

§ 60.591 [Amended]

■ 10. In § 60.591, the definition of ''process unit'' is stayed from June 2, 2008 until August 1, 2008.

Subpart GGGa—[Amended]

■ 11. Section 60.590a is amended by adding paragraph (e) to read as follows:

§ 60.590a Applicability and designation of affected facility.

* * * * *

(e) *Stay of standards.* Owners or operators are not required to comply with the definition of ''process unit'' in § 60.590 of this subpart until August 1, 2008. While the definition of ''process unit'' is stayed, owners or operators should use the following definition:

Process unit means components assembled to produce intermediate or final products from petroleum, unfinished petroleum derivatives, or other intermediates; a process unit can operate independently if supplied with sufficient feed or raw materials and sufficient storage facilities for the product.

§ 60.591a [Amended]

■ 12. In § 60.591a, the definition of ''process unit'' is stayed from June 2, 2008 until August 1, 2008.

[FR Doc. E8–11383 Filed 5–30–08; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 300 and 635

[Docket No. 080221247–8524–02]

RIN 0648–AU88

International Fisheries; Atlantic Highly Migratory Species; International Trade Permit Program; Bluefin Tuna Catch Documentation Program

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

ACTION: Final rule.

SUMMARY: NMFS is modifying permitting and reporting requirements for the Highly Migratory Species (HMS) International Trade Permit (ITP) program to improve program efficacy and enforceability, and implement the International Commission for the Conservation of Atlantic Tunas (ICCAT) bluefin tuna catch documentation (BCD) program. The modified regulations also implement the new definition of ''import'' contained in the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), and require that shark fin importers, exporters, and re-exporters obtain the HMS ITP to assist NMFS in monitoring trade of shark fins. This action is necessary to implement recommendations of ICCAT, as required by the Atlantic Tunas Convention Act (ATCA), and to achieve domestic management objectives under the Magnuson-Stevens Act.

DATES: Effective July 2, 2008.

ADDRESSES: Supporting documents, including the Regulatory Impact Review/Final Regulatory Flexibility Analysis (RIR/FRFA), are available from the Federal e-Rulemaking Portal: *http://www.regulations.gov*, or Dianne Stephan, Highly Migratory Species Management Division, Office of Sustainable Fisheries (F/SF1), NMFS, One Blackburn Dr., Gloucester, MA 01930. Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted to NMFS at the address above, and by email to *David—Rostker@omb.eop.gov*, or fax to (202) 395–7285.

FOR FURTHER INFORMATION CONTACT: Dianne Stephan, 978–281–9260.

SUPPLEMENTARY INFORMATION:

Background

The United States, which includes the Commonwealth of Puerto Rico, American Samoa, the U.S. Virgin Islands, Guam, and all other U.S. commonwealths, territories, or possessions, is a member of the International Commission for the Conservation of Atlantic Tunas (ICCAT) and the Inter-American Tropical Tuna Commission (IATTC). Under ATCA, the Secretary of Commerce is authorized to implement ICCAT recommendations, as necessary or appropriate. Likewise, the Tunas Convention Act authorizes rulemaking to carry out recommendations of the IATTC. The United States has implemented statistical document programs under the HMS ITP program regulations per recommendations of ICCAT, IATTC, and other regional fishery management organizations (RFMOs). This rule replaces the ICCAT bluefin tuna statistical document program with the initial implementation of the ICCAT BCD program recommended at the 2007 ICCAT annual meeting. Other objectives of the rule are to adjust the HMS ITP regulatory program, as informed by NMFS and industry experiences since

the program was implemented, and to adopt the new definition of import contained in the Magnuson-Stevens Act. Lastly, the rule requires permitting of shark fin traders under the HMS international trade regulations to help NMFS monitor trade of shark fins.

Background information about the need for the final rule was provided in the preamble to the proposed rule (73 FR 18473, April 4, 2008) and is not repeated here.

Changes from the Proposed Rule

A description of the alternatives for the actions in this final rule was included in the preamble of the proposed rule, and is not repeated here. Other than minor technical corrections, this final rule does not include any changes from the proposed rule. Additional information can be found in the RIR/FRFA available from NMFS (see **ADDRESSES**).

Comments and Responses

Five public hearings were announced in the proposed rule (73 FR 18473, April 4, 2008) and held during the public comment period, which ended on May 5, 2008. The public hearings were held in the following locations: Santa Rosa, CA (April 23, 2008), Long Beach, CA (April 24, 2008), Gloucester, MA (April 25, 2008), Miami, FL (April 28, 2008) and Panama City, FL (April 29, 2008). In addition, the HMS Advisory Panel was briefed about the proposed rule on April 16, 2008. The agency received five written comments and many verbal comments at the public hearings and Advisory Panel meeting. A summary of public comments, followed by NMFS' responses to each comment, is provided below.

Comment 1: Several commentors stated that shark fin traders could provide valuable information and should be required to report.

Response: The final rule requires permitting for shark fin traders without additional reporting requirements at this time. NMFS considered additional reporting requirements for shark fin traders beyond the reporting already required by other state and/or Federal agencies, but determined that permit requirements alone would be an effective initial step in achieving the rule's objective to further understand the international trade aspects of the industry. The Agency may consider additional reporting requirements at a later date, with due notice and opportunity for public comment.

Comment 2: One commenter stated that U.S. bluefin tuna re-exporters are assigned an unfair reporting burden for re-export of untagged bluefin tuna relative to the bluefin tuna trade industry in other nations. The United States is one of the few countries that tags every exported fish, which results in a reduced burden for re-exporters in other nations. The U.S. industry carries more reporting burden than industry members in other countries.

Response: The final rule requires that re-exporters of untagged bluefin tuna provide copies of completed re-export certificates and associated documentation to the ICCAT Secretariat and competent authorities of importing nations at provided addresses. NMFS included this requirement since ICCAT Recommendation 07–10 specifically requires all nations, including the United States, to conduct such reporting. However, the United States' sophisticated catch monitoring program, which includes tagging every Atlantic bluefin tuna domestically and commercially harvested, exempts U.S. industry members from certain other parts of the ICCAT Recommendation 07–10 BCD program. NMFS will continue to work with ICCAT to balance the burden of international fisheries management fairly among participating nations. Overall, the reporting requirements of the ICCAT BCD program that must be implemented by the United States have been mitigated and reduced because of the U.S. programs currently in place.

Comment 3: A commentor stated that the proposed rule and regulatory program are complex, and the public comment period should be extended and more public hearings should be held on the east coast.

Response: NMFS did not extend the public comment period for this rulemaking or add public hearings to those announced with the proposed rule. NMFS worked to balance its obligations of meeting the international implementation deadline for the ICCAT BCD program while also conducting extensive public outreach with email, direct mail, and public hearings on both the Atlantic and Pacific coasts. NMFS undertook mailings to current permit holders and shark fin importers, and held public hearings in five locations that were chosen based on industry participation during the previous ITP rulemaking (69 FR 67268, November 17, 2004). The Atlantic HMS Advisory Panel was briefed on April 16, 2008. Further, documentation associated with this rulemaking was available on NMFS websites and *www.regulations.gov*. ICCAT adopted the BCD recommendation at the end of November 2007 and required its implementation by July 1, 2008. U.S. businesses desiring to export bluefin tuna to foreign markets could be negatively impacted if the BCD program was not in place by the required implementation date.

Comment 4: One ITP holder asked what type of document would be necessary for bluefin tuna imports into the United States originating from South Africa.

Response: The type of documentation required would depend upon the species of bluefin tuna traded. Southern bluefin tuna are found through the Southern Ocean, south of 30? South latitude. The final rule requires that an ICCAT BCD accompany any shipment of Atlantic bluefin tuna into the United States. The Commission for the Conservation of Southern Bluefin Tuna's statistical document continues to be required for imports of southern bluefin tuna into the United States.

Comment 5: One commentor noted that there are ''transfer houses'' in Boston that receive product from Canadian importers, but do not appear to be required to report any information to NMFS. One permit holder stated that they had experienced a greater degree of enforcement attention from NMFS. Several permit holders requested that the ''playing field between businesses be level'' regarding reporting burden and enforcement activity. One of these permit holders stated that NMFS enforcement personnel may pay more attention to their company because of its large size.

Response: The final rule maintains the previous requirement that the importer, which is defined as the consignee as listed on entry documentation required by Customs and Border Protection, must hold an ITP and abide by reporting requirements. If a non-resident corporation is listed as the consignee, then a resident agent is required to hold the permit and fulfill reporting requirements. All permit holders are equally responsible for abiding by applicable regulations. The NOAA Fisheries Office of Law Enforcement (OLE) investigates violations of the regulations promulgated by NOAA, based on the individual facts and circumstances of each case.

Comment 6: Several ITP holders expressed concern that they would be held responsible for imports from other countries that appeared to be legal, but were later determined to be illegal, unregulated, unreported (IUU) product, or product that came with falsified statistical documents that appeared to be legal upon import.

Response: HMS ITP holders are responsible for the reporting requirements and administrative

recordkeeping articulated in the ITP regulations. Violations of the regulations promulgated by NOAA, including instances of ITP dealer non-compliance, will be examined by OLE on a case-by-case basis, based on the individual facts and circumstances of each case.

Comment 7: One commentor requested that there be internationally agreed upon methods for numbering consignment documents and for format of documents to assist importers in identifying illegal product.

Response: ICCAT Recommendation 07–10 requires that each BCD have a unique document identification number specific to the flag state. A circular from ICCAT (Circular ı569/08) dated April 14, 2008, recommended a numbering convention for BCDs that would use 8 digits which include the country code and year of capture, followed by a unique, sequentially assigned number. The final rule states at § 300.186(b): ''A nationally approved form from another country may be used for exports to the United States if that document strictly conforms to the information requirements and format of the applicable RFMO.''

Comment 8: Several permit holders stated that they were supportive of the increasing international role the United States is taking in reducing IUU fishing.

Response: One of the purposes of ICCAT's BCD program is to more accurately account for stock landings and help reduce IUU fishing. In addition, the Magnuson-Stevens Act includes several provisions to reduce IUU fishing. NMFS published an advance notice of proposed rulemaking on June 11, 2007 (72 FR 32052) and is currently drafting a proposed rule to implement these provisions.

Comment 9: Current ITP holders commented on several operational aspects of the trade monitoring program which were not addressed in this rulemaking, in reference to swordfish imports. The issues raised included the following: 1) most swordfish import statistical documents are received by fax rather than original documents, and some arrive three days after the consignment has been accepted in the United States; 2) because of the amount of swordfish imported into the United States, the trade monitoring requirements as written for swordfish are overly burdensome; and 3) flexibility is needed in the format of biweekly report forms. In addition, several comments were provided on shark and shark fin fishery management.

Response: These issues are outside the scope of this rulemaking and amendment to the ITP regulations. However, the current ITP regulations require that imports of swordfish, bluefin tuna, southern bluefin tuna, and frozen bigeye tuna be accompanied by original statistical documents which are provided to NMFS if the United States is the final point of import. Biweekly reports are required to be submitted to NMFS on forms provided by NMFS. NMFS may consider future modifications of the HMS ITP regulations, including further consideration of these comments. NMFS is in the process of coordinating with Customs and Border Protection to implement the International Trade Data System which is expected to modify NMFS import and trade-monitoring programs. An advanced notice of proposed rulemaking on this issue is expected to be published in the **Federal Register** during 2008.

Classification

The NMFS Assistant Administrator (AA) has determined that this final rule is consistent with the Consolidated HMS FMP, the Magnuson-Stevens Act, the ATCA, the TCA, and other applicable law. The AA has determined that this final rule is necessary to implement the recommendations of ICCAT and IATTC, and is necessary for the management of bluefin tuna, bigeye tuna, swordfish, and sharks.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

A final regulatory flexibility analysis (FRFA) was prepared. The FRFA incorporates the initial regulatory flexibility analysis, a summary of the significant issues raised by the public, and NMFS responses to those comments. The FRFA describes the economic impacts this final rule could have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of the preamble and the **SUMMARY** section of the preamble. A summary of the analysis follows. A copy of this analysis is available from NMFS (see **ADDRESSES**).

The actions in this final rule could affect approximately 406 Atlantic Tunas Dealer Permit (ATDP) holders, 230 HMS ITP holders, and approximately 100 individuals who participate in international trade of shark fins, all of which are considered small entities. According to the RFA, a wholesale fish business is defined as a small entity if it employs 100 or fewer. Impacts to these entities could occur in two areas - permitting and reporting. NMFS expects only minor negative economic impacts from the final rule because the final measures only involve adjusting the permitting and reporting requirements. A description of the alternatives, associated requirements, and estimated costs follows.

The issues addressed in the final rule are subdivided into three categories: ''permitting,'' ''reporting'' and ''regulatory structure and clarification.'' Only two of the issues under the category of ''permitting'' include alternatives that could have economic impacts. For the issue of identification of the entity responsible for obtaining the HMS ITP in importing situations, and thus for fulfilling subsequent reporting requirements, the ''No Action'' alternative is the final action. The final rule continues to require the consignee as indicated in CBP import documentation to be the responsible party for obtaining the ITP. This alternative was chosen to for enforcement purposes since the consignee would be the actual receiver of the consignment, and would have an address within the United States. The annual costs associated with this action are the costs associated with permitting (including the cost of the permit, mailing costs and time for filling out the application – estimated at $26.75 per applicant) and the cost of reporting (including filling out and submitting the report forms – estimated at $102 per dealer for biweekly reports and $94 per dealer for trade tracking documentation, for a total of $196 per dealer). Alternative Two would require that the consignee on the bill of lading obtain an HMS ITP in addition to the consignee on CBP entry documentation, and was not chosen because it would have resulted in duplicative reporting. The overall negative economic impact for this alternative would increase based on the number of consignees identified on import bills of lading that differ from consignees on CBP documentation. NMFS estimates the cost of this alternative to be twice that of the final action, assuming that there is one additional permit holder for each current permit holder. Costs per dealer would be the same as for the final action. For Alternative Three, which would require the importer of record to obtain the HMS ITP, economic impacts are estimated to be approximately the same as the final action, using the assumption that there would be approximately the same number of importers of record identified on CBP entry documentation as consignees for consignments of products addressed under HMS ITP regulations. This alternative was not selected because importers of record can be foreign-based

companies, which could impede enforcement.

The second permitting issue with alternatives that could have economic impacts is shark fin trader permitting. The final action requires that shark fin traders obtain an HMS ITP. This alternative was chosen to obtain information on the shark fin trade industry and support regulatory enforcement. NMFS anticipates that approximately 100 entities are expected to require the HMS ITP for shark fin trading. Since there would be no reporting requirements associated with this permit, the only annual costs are for obtaining the permit ($26.75 per dealer). The other alternative considered for this issue was the ''No Action'' Alternative, with neither permitting nor reporting costs for shark traders. This alternative was not selected because it would not provide the information needed on shark fin trading or support regulatory enforcement.

The second category of issues addressed in the final rule is under the heading of ''Reporting.'' None of the alternatives for these issues would change the number of entities required to obtain an HMS ITP, so there would be no permitting-related costs for any of these issues.

The first issue under the category of ''Reporting'' that has reporting-associated economic impacts includes alternatives that would adjust reporting requirements for when and how report submission would be required. Alternative One is the ''No Action'' alternative, and would not change any reporting regulations or associated annual costs, which are estimated at $196 per dealer. This alternative was not chosen because the current use of a postmark does not ensure that NMFS has received the report in a timely fashion. Alternative Two would rescind the requirement for copies of import statistical documents to be faxed to NMFS within 24 hours of receipt by an importer. This alternative was not selected because NMFS requires the opportunity to review import statistical documents as close to the time of import as possible. The regulation requiring the permit holder to fax the document to NMFS within 24 hours balances the need for NMFS to be promptly notified of the import with providing the permit holder a reasonable amount of time to complete the document.

This alternative would provide a slightly positive economic benefit in the form of a slightly reduced time burden for import reporting. Dealers would still be required to fill out and mail import statistical documents twice per month. The final action (Alternative 3) would adjust HMS ITP and ATDP reporting regulations to use a ''received-by'' date rather than a postmark date for determining dealer compliance with required report submittal schedules. The ITP regulations would also be clarified to indicate when use of a fax machine would be an acceptable method for submitting a report. This alternative was chosen because it establishes consistency within HMS regulations by using the ''received-by'' date to ensure NMFS receives the report by a date certain, and provides for all report submission alternatives, including faxes. It also retains the 24-hour reporting requirement for enforcement purposes. This alternative is expected to have no economic consequences, since it would not impact reporting frequency.

The second reporting-related issue considers alternatives to initially implement ICCAT Recommendation 07–10 and the new BCD program. The final action implements the program for commercial U.S. Atlantic bluefin tuna fisheries and bluefin tuna imports, exports and re-exports as part of a program that will apply to all ICCAT member nations. This alternative was chosen to keep the United States in compliance with the ICCAT Recommendation, and ensure that U.S. product would be accepted for import by other ICCAT member nations. The BCD program requires the use of new forms with fields similar to the ICCAT bluefin tuna statistical document that was in place before the BCD program was implemented. The change in reporting burden will only affect HMS ITP holders that re-export untagged bluefin tuna. When re-exporting an untagged bluefin tuna, the HMS ITP holder is required to send a copy of the re-export certificate to the ICCAT Secretariat and importing nation within five working days via addresses and information provided by NMFS. The costs per transaction could range from zero for electronic transmission of the documents, to approximately $100 for mailing, for an average of $50 per transaction. In 2006, 17 consignments would have been subject to this additional cost. In addition, a time burden of .25 hours per consignment would have resulted in an additional 4.25 aggregate hours for a total annual cost of $64, or $3.75 per transaction. There would be no additional costs for the No Action alternative, with current annual average costs for statistical document program reporting at $196 per dealer. The No Action alternative was not selected because it would result in the United States being out of compliance with ICCAT recommendations, and would hinder export of U.S. product to ICCAT member nations.

The last issue under this category addresses reporting of Atlantic bluefin tuna exports. The final action provides a positive economic impact, reducing the current reporting burden for individuals who hold both an ATDP and HMS ITP by clarifying that bluefin tuna exports would only need to be reported on one biweekly report. This alternative was chosen because it ensures the reporting burden for export of domestically landed Atlantic bluefin tuna is not duplicative with landing reporting requirements. This action could positively affect the 64 individuals who concurrently hold an ATDP and HMS ITP and could save an estimated $51 per dealer per year. In addition, the final action could reduce the reporting burden for HMS ITP holders who purchase bluefin tuna from an ATDP holder, with an estimated savings similar to those for individuals holding both permits. Alternative One, the ''No Action'' alternative, would continue to require reporting for both permits, and is estimated to cost each impacted dealer approximately $102 per year. Alternative Two would require that operational procedures were adjusted to mirror the current regulations. Neither of these alternatives were selected because each had a higher overall reporting burden than the final action. The economic impact of Alternative Two would be the same as that estimated for the ''No Action'' alternative.

The last category of issues addressed in the final rule is ''Regulatory Structure and Clarification,'' and includes two issues that could have economic consequences. The first issue is the implementation of the new definition of ''import'' included in the Magnuson-Stevens Act as amended by the Magnuson-Stevens Reauthorization Act. Both the ''No Action'' Alternative and the final action would have the same economic consequences, which would be the permitting and reporting costs associated with the current HMS ITP program, averaged at $222.75 per dealer per year. The final action was selected because it is consistent with the Magnuson-Stevens Act, and continues to clearly articulate the applicability of HMS ITP program regulations to shipments between the United States and its insular possessions. The ''No Action'' Alternative was not selected because it is not consistent with the Magnuson-Stevens Act. The second alternative would adopt the Magnuson-Stevens Act definition of ''import,''

without distinguishing that consignments between the United States and its insular possessions with separate customs territories would be considered domestic interactions, as intended by RFMO consignment programs. This alternative was not selected because it would unnecessarily increase reporting burdens. If such consignments required permitting and reporting under the HMS ITP program, negative economic consequences would occur which are currently unknown but, based in part on the amount of product and number of participating dealers, are expected to be minor in nature. For example, an average of four consignments from Guam to ports under U.S. Customs authority have occurred each year from 2002 through 2007. The estimated annual impact per dealer (approximately four dealers) would be $223.

The last issue considered in this final rule that could have economic impacts addresses the verification of foreign validating officials for imports. The final rule includes no regulatory changes for this issue. Under the Preferred Alternative, NMFS would pursue further international coordination on this issue, and there would be no economic related consequences. This alternative was selected to mitigate reporting burden for U.S. businesses and further coordinate international action for this issue. Likewise, the ''No Action'' Alternative would not have economic consequences since it does not require any current or additional action. This alternative was not selected because it would not provide a way to verify validating authorities. Alternative Two could have considerable negative economic consequences since it would require that importers check the password-protected ICCAT website to determine whether validating officials are authorized government representatives. This alternative would require computer hardware and software with Internet access. Alternative Two was not selected because it is unclear whether it is consistent with the intent of the ICCAT statistical document program.

Fishermen, fish dealer permit holders, and fishery managers involved in these fisheries must comply with a number of international agreements, domestic laws, regulations and FMPs. These include, but are not limited to, ICCAT, the Magnuson-Stevens Act, ATCA, the High Seas Fishing Compliance Act, the Marine Mammal Protection Act, the Endangered Species Act, the National Environmental Policy Act, the Paperwork Reduction Act, and the Coastal Zone Management Act. NMFS strives to ensure consistency among the regulations with Regional Fishery Management Councils and other relevant agencies. NMFS does not believe that the final rule would conflict with any relevant regulations, federal or other.

One of the requirements of FRFA is to describe any alternatives to the proposed rule which accomplish the stated objectives and which minimize any significant economic impacts. Economic impacts are discussed above and below. Additionally, the RFA Section 603(c)(1)-(4)) lists four categories of options which should be discussed. These categories are: (1) establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) use of performance rather than design standards; and (4) exemptions from coverage of the rule for small entities.

Under the first and fourth categories listed above, NMFS considers all dealers to be ''small entities.'' Thus, in order to meet the objectives of this final rule and address management concerns, NMFS cannot exempt small entities or change the reporting requirements for small entities.

Category Two includes options for clarifying, simplifying, and consolidating compliance and reporting requirements for small entities. Many of the measures in this final rule satisfy the goal of Category Two by simplifying or clarifying the existing dealer permitting or reporting structure in several instances, and by seeking further international clarity for several issues that cannot be implemented under the current program. Specifically, the final rule clarifies who is the entity responsible for obtaining the HMS ITP in cases involving foreign importers and would synchronize requirements between HMS ITPs and NMFS regional permits. Although alternatives are considered for modifying the entity responsible for obtaining a permit based on CBP entry documentation, the final rule does not modify the current regulations, which is the simplest of the alternatives considered.

The final rule reduces and simplifies reporting requirements so that reporting may be combined in certain instances when an individual holds both the HMS ITP and the ATDP, which have similar reporting requirements. A dealer holding one of these permits can also coordinate with a dealer who handles the same individual bluefin tuna but holds the other corresponding permit. The final rule also clarifies the use of faxes for report submission and would further consistency with other HMS regulations by establishing the ''received by'' date as the date used for compliance determinations. There would be some increase in reporting burden and cost because of the requirement for international communication of consignment documents directly to the ICCAT secretariat and importing nation's government agency, however costs should be minimized since affected businesses are encouraged to submit the required documentation electronically.

The final rule also directly addresses issues of regulatory structure and clarification. The final rule updates certain HTS codes and serves in part to clarify reporting. The final rule also adopts the Magnuson-Stevens Act definition of import, with a clarifying caveat that consignments of affected product between insular possessions and the United States are not considered imports. Finally, the final rule clarifies that the regulatory requirements in 50 CFR part 300 subpart M apply to all entities engaging in covered activities, rather than just those who obtain the required permit. Alternatives for verification of validating authorities are also considered, but because of technical difficulties, no action requiring verification of validation is included in the final rule.

The third category identified in the RFA, ''use of performance rather than design standards,'' is not applicable, since ICCAT has very specific requirements for implementation of the trade tracking programs addressed in this action. Although the shark fin trade is not currently covered by an ICCAT recommendation, in order to address Category Two and maintain a simple structure for HMS trade permits, shark fin traders are required to obtain an HMS ITP under the final rule.

This final rule contains revisions to collection-of-information requirements subject to the Paperwork Reduction Act which have been previously approved by OMB under the HMS Permitting Family of Forms (0648–0327) and the HMS Dealer Reporting Family of Forms (0648–0040). In the HMS Permitting Family of Forms, the instrument being revised is the application for the HMS ITP for Atlantic coast dealers that import, export, or re-export bluefin tuna, southern bluefin tuna, frozen bigeye tuna, and swordfish, the public reporting burden for which is estimated at 0.08 hours (5 minutes) per response. In the HMS Dealer Reporting Family of Forms, the instruments being revised

are the bluefin tuna statistical document and re-export certificate, the public reporting burden for which is estimated at .08 hours (5 minutes) per form. The statistical document will be replaced by a catch document with an equivalent reporting burden. The reporting burden for re-exports of untagged bluefin tuna is estimated to be an additional .25 hours (15 minutes) per form. These estimates include 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 these burden estimates or any other aspect of this data collection, including suggestions for reducing the burden to NMFS (see **ADDRESSES**) and by email 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.

List of Subjects

50 CFR Part 300

Administrative practice and procedure, Exports, Fish, Fisheries, Fishing, Imports, Reporting and recordkeeping requirements, Treaties.

50 CFR Part 635

Fisheries, Fishing, Fishing vessels, Imports, Reporting and recordkeeping requirements, Treaties.

Dated: May 27, 2008.

Samuel D. Rauch III

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

■ For reasons set out in the preamble, 50 CFR part 300 subpart M and part 635 are amended as follows:

Chapter III

PART 300—INTERNATIONAL FISHERIES REGULATIONS

Subpart M—International Trade Documentation and Tracking Programs for Highly Migratory Species

■ 1. The authority citation for subpart M of part 300 continues to read as follows:

Authority: 16 U.S.C. 951–961 and 971 *et seq.*; 16 U.S.C. 1801 *et seq.*

■ 2. In § 300.181, the definitions for ''Fish or fish products regulated under this subpart'', ''Import'', and ''Tag'' are revised, and the definitions of ''BCD tag'', ''Bluefin Tuna Catch Document (BCD)'', ''Consignment document'', ''Consignment documentation programs'', ''Shark fin'', ''Statistical document'', and ''Statistical document program'' are added in alphabetical order to read as follows:

§ 300.181 Definitions.

* * * * *

BCD tag means a numbered tag affixed to a bluefin tuna issued by any country in conjunction with a catch statistics information program and recorded on a BCD.

* * * * *

Bluefin Tuna Catch Document (BCD) means a bluefin tuna catch document issued by a nation implementing the ICCAT bluefin tuna catch documentation program.

* * * * *

Consignment document means either an ICCAT Atlantic BCD or a catch document issued by a nation to comply with the ICCAT BCD program; or an ICCAT, IATTC, IOTC, or CCSBT statistical document or a statistical document issued by a nation to comply with such statistical document programs.

Consignment documentation programs means the ICCAT, IOTC, IATTC or CCSBT catch document or statistical document programs.

* * * * *

Fish or fish products regulated under this subpart means bluefin tuna, frozen bigeye tuna, southern bluefin tuna and swordfish and all such products of these species, except parts other than meat (e.g., heads, eyes, roe, guts, and tails), and shark fins.

* * * * *

Import means to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, whether or not such landing, bringing or introduction constitutes an importation within the meaning of the customs laws of the United States. Import, for purposes of this subpart, does not include any activity described in the previous sentence with respect to fish caught in the exclusive economic zone or by a vessel of the United States. For purposes of this subpart, goods brought into the United States from a U.S. insular possession, or vice–versa, are not considered imports.

* * * * *

Shark fin, for purposes of this subpart, means any fin removed from a shark, which is an animal of the Linnaean taxonomic superorder Selachimorpha, subclass Elasmobranchii, class Chondrichthyes.

* * * * *

Statistical document means an ICCAT, IATTC, IOTC, or CCSBT statistical document, or a statistical document issued by a nation to comply with such statistical document programs.

Statistical document program means either the ICCAT, IOTC, IATTC or CCSBT statistical document program.

* * * * *

Tag means either a dealer tag or a BCD tag.

* * * * *

■ 3. In § 300.182, paragraphs (a), (b) and (c) are revised to read as follows:

§ 300.182 HMS international trade permit.

(a) *General.* An importer, entering for consumption fish or fish products regulated under this subpart from any ocean area into the United States, or an exporter exporting or re–exporting such product, must possess a valid trade permit issued under this section. Importation of fish or fish products regulated under this subpart by nonresident corporations is restricted to those entities authorized under 19 CFR 141.18. A resident agent or resident corporate surety provider, as specified under 19 CFR 141.18, must possess a valid trade permit when acting on behalf of a nonresident corporation when entering for consumption, exporting, or re–exporting fish or fish products regulated under this subpart from any ocean area.

(b) *Application.* A person must apply for a permit in writing on an appropriate form obtained from NMFS. The application must be completed, signed by the applicant, and submitted with required supporting documents, at least 30 days before the date on which the applicant wants to have the permit made effective. Application forms and instructions for their completion are available from NMFS.

(c) *Issuance.* NMFS will notify the applicant of any deficiency in the application, including failure to provide information or reports required under this subpart. If the applicant fails to correct the deficiency within 30 days following the date of notification, the application will be considered abandoned.

* * * * *

■ 4. Section 300.183 is revised to read as follows:

§ 300.183 Permit holder reporting and recordkeeping requirements.

(a) *Biweekly reports.* Any person required to obtain a trade permit under § 300.182 must submit to NMFS, on forms supplied by NMFS, a biweekly report of entries for consumption,

exports and re-exports of fish and fish products regulated under this subpart except shark fins.

(1) The report required to be submitted under this paragraph (a) must be received within 10 days after the end of each biweekly reporting period in which fish or fish products regulated under this subpart except shark fins were entered for consumption, exported, or re-exported. The bi-weekly reporting periods are the first day to the 15th day of each month, and the 16th day to the last day of each month.

(2) Each report must specify accurately and completely the requested information for each consignment of fish or fish products regulated under this subpart, except shark fins, that is entered for consumption, exported, or re-exported.

(3) A biweekly report is not required for export consignments of bluefin tuna when the information required on the biweekly report has been previously supplied on a biweekly report submitted under § 635.5(b)(2)(i)(B) of this title, provided the person required to obtain a trade permit under § 300.182 retains, at his/her principal place of business for a period of 2 years from the date on which each report was submitted to NMFS, a copy of the biweekly report which includes the required information and is submitted under § 635.5(b)(2)(i)(B) of this title.

(b) *Recordkeeping.* Any person required to obtain a trade permit under § 300.182 must retain, at his/her principal place of business, a copy of each biweekly report and all supporting records for a period of 2 years from the date on which each report was submitted to NMFS.

(c) *Other requirements and recordkeeping requirements.* Any person required to obtain a trade permit under § 300.182 is also subject to the reporting and recordkeeping requirements identified in § 300.185.

(d) *Inspection.* Any person authorized to carry out the enforcement activities under the regulations in this subpart (authorized person) has the authority, without warrant or other process, to inspect, at any reasonable time: fish or fish products regulated under this subpart, biweekly reports, statistical documents, catch documents, re-export certificates, relevant sales receipts, import and export documentation, and any other records or reports made, retained, or submitted pursuant to this subpart. A permit holder must allow NMFS or an authorized person to inspect and copy, for any fish or fish products regulated under this subpart, any import and export documentation and any reports required under this subpart, and the records, in any form, on which the completed reports are based, wherever they exist. Any agent of a person issued a trade permit under this part, or anyone responsible for importing, exporting, storing, packing, or selling fish or fish products regulated under this subpart, shall be subject to the inspection provisions of this section.

(e) *Applicability of reporting and recordkeeping requirements.* Reporting and recordkeeping requirements in this subpart apply to any person engaging in activities that require a trade permit, as set forth in § 300.182(a), regardless of whether a trade permit has been issued to that person.

■ 5. In § 300.184, the section heading, introductory text, and paragraphs (a)(1) introductory text, (b)(1) introductory text, (c)(1) introductory text, and (d)(1) are revised and paragraph (e) is added to read as follows:

§ 300.184 Species subject to permitting, documentation, reporting, and recordkeeping requirements.

The following fish or fish products are subject to the requirements of this subpart, regardless of ocean area of catch.

(a) * * *

(1) The requirements of this subpart apply to bluefin tuna products including those identified by the following subheading numbers from the Harmonized Tariff Schedule of the United States (HTS):

* * * * *

(b) * * *

(1) The requirements of this subpart apply to southern bluefin tuna products including those identified by the following subheading numbers from the HTS:

* * * * *

(c) * * *

(1) The requirements of this subpart apply to frozen bigeye tuna products including those identified by the following subheading numbers from the HTS:

* * * * *

(d) * * *

(1) The requirements of this subpart apply to swordfish products including those identified by the following subheading numbers from the HTS:

(i) Fresh or chilled swordfish, steaks (No. 0302.67.00.10).

(ii) Fresh or chilled swordfish (No. 0302.67.00.90), excluding fish fillets, steaks, and other fish meat of HTS heading 0304.

(iii) Frozen swordfish, steaks (No. 0303.61.00.10).

(iv) Frozen swordfish (No. 0303.61.00.90), excluding fillets, steaks and other fish meat of HTS heading 0304.

(v) Fresh, or chilled swordfish, fillets and other fish meat (No. 0304.11.00.00).

(vi) Frozen swordfish, fillets (No. 0304.21.00.00).

(vii) Swordfish in bulk or in immediate containers weighing with their contents over 6.8 kg each (No. 0304.91.10.00).

(viii) Swordfish, other (No. 0304.91.90.00).

* * * * *

(e) *Shark fin.* The permitting requirements of this subpart apply to shark fin products including those identified by the following subheading number from HTS: No. 0305.59.20.00.

■ 6. In § 300.185:

A. The section heading and paragraphs (a)(1), (a)(2)(i) through (iv), (a)(3), (b)(1), (b)(2), (b)(3), (c)(1), (c)(2)(i), (c)(2)(ii), (c)(3) and (d) are revised.

B. Paragraph (e) is redesignated as paragraph (f).

C. New paragraphs (a)(2)(v) through (a)(2)(ix) and (e) are added.

The revisions and additions read as follows:

§ 300.185 Documentation, reporting and recordkeeping requirements for consignment documents and re-export certificates.

(a) * * *

(1) *Applicability of requirements.* The documentation requirements in paragraph (a)(2) of this section apply to all imports of fish or fish products regulated under this subpart, into the Customs territory of the United States, except shark fins, or except when entered as a product of an American fishery landed overseas (HTS heading 9815). For insular possessions with customs territories separate from the Customs territory of the United States, documentation requirements in paragraph (a)(2) of this section apply only to entries for consumption. The reporting requirements of paragraph (a)(3) of this section do not apply to fish products destined from one foreign country to another which transit the United States or a U.S. insular possession and are designated as an entry type other than entry for consumption as defined in § 300.181.

(2) * * *

(i) All fish or fish products except for shark fins, regulated under this subpart, imported into the Customs territory of the United States or entered for consumption into a separate customs territory of a U.S. insular possession, must, at the time of presenting entry documentation for clearance by customs authorities (e.g., CBP Forms 7533 or 3461 or other documentation required

by the port director) be accompanied by an original, completed, approved, validated, species-specific consignment document.

(ii) Imports of bluefin tuna which were re-exported from another nation, must also be accompanied by an original, completed, approved, validated, species-specific re-export certificate.

(iii) Imports of fish or fish products regulated under this subpart, other than shark fins, that were previously re-exported and were subdivided or consolidated with another consignment before re-export, must also be accompanied by an original, completed, approved, validated, species-specific re-export certificate.

(iv) All other imports of fish or fish products regulated under this subpart, except shark fins, that have been previously re-exported from another nation, should have the intermediate importers certification of the original statistical document completed.

(v) Consignment documents must be validated as specified in § 300.187 by a responsible government official of the flag country whose vessel caught the fish (regardless of where the fish are first landed). Re-export certificates must be validated by a responsible government official of the re-exporting country.

(vi) A permit holder may not accept an import without the completed consignment document or re-export certificate as described in paragraphs (a)(2)(i) through (a)(2)(v) of this section.

(vii) For fish or fish products except shark fins regulated under this subpart that are entered for consumption, the permit holder must provide on the original consignment document that accompanied the consignment the correct information and importer's certification specified in § 300.186, and must note on the top of the consignment document the entry number assigned at the time of filing an entry summary (e.g., CBP Form 7501 or electronic equivalent) with customs authorities.

(viii) Bluefin tuna, imported into the Customs territory of the United States or entered for consumption into the separate customs territory of a U.S. insular possession, from a country requiring a BCD tag on all such bluefin tuna available for sale, must be accompanied by the appropriate BCD tag issued by that country, and said BCD tag must remain on any bluefin tuna until it reaches its final destination. If the final import destination is the United States, which includes U.S. insular possessions, the BCD tag must remain on the bluefin tuna until it is cut into portions. If the bluefin tuna portions are subsequently packaged for domestic commercial use or re-export, the BCD tag number and the issuing country must be written legibly and indelibly on the outside of the package.

(ix) Customs forms can be obtained by contacting the local CBP port office; contact information is available at *www.cbp.gov*. For a U.S. insular possession, contact the local customs office for any forms required for entry.

(3) *Reporting requirements.* For fish or fish products regulated under this subpart, except shark fins, that are entered for consumption and whose final destination is within the United States, which includes U.S. insular possessions, a permit holder must submit to NMFS the original consignment document that accompanied the fish product as completed under paragraph (a)(2) of this section, to be received by NMFS along with the biweekly report as required under § 300.183(a). A copy of the original completed consignment document must be submitted by said permit holder, to be received by NMFS, at an address designated by NMFS, within 24 hours of the time the fish product was entered for consumption into the Customs territory of the United States, or the separate customs territory of a U.S. insular possession.

(b) * * *

(1) *Applicability of requirements.* The documentation and reporting requirements of this paragraph (b) apply to exports of fish or fish products regulated under this subpart, except shark fins, that were harvested by U.S. vessels and first landed in the United States, or harvested by vessels of a U.S. insular possession and first landed in that possession. This paragraph (b) also applies to products of American fisheries landed overseas.

(2) *Documentation requirements.* A permit holder must complete an original, approved, numbered, species-specific consignment document issued to that permit holder by NMFS for each export referenced under paragraph (b)(1) of this section. Such an individually numbered document is not transferable and may be used only once by the permit holder to which it was issued to report on a specific export consignment. A permit holder must provide on the consignment document the correct information and exporter certification. The consignment document must be validated, as specified in § 300.187, by NMFS, or another official authorized by NMFS. A list of such officials may be obtained by contacting NMFS. A permit holder requesting U.S. validation for exports should notify NMFS as soon as possible after arrival of the vessel to avoid delays in inspection and validation of the export consignment.

(3) *Reporting requirements.* A permit holder must ensure that the original, approved, consignment document as completed under paragraph (b)(2) of this section accompanies the export of such products to their export destination. A copy of the consignment document must be received by NMFS, at an address designated by NMFS, within 24 hours of the time the fish product was exported from the United States or a U.S. insular possession.

(c) * * *

(1) *Applicability of requirements.* The documentation and reporting requirements of this paragraph (c) apply to exports of fish or fish products regulated under this subpart, except shark fins, that were previously entered for consumption into the Customs territory of the United States or the separate customs territory of a U.S. insular possession, through filing the documentation specified in paragraph (a) of this section. The requirements of this paragraph (c) do not apply to fish or fish products destined from one foreign country to another which transit the United States or a U.S. insular possession and which are designated as an entry type other than entry for consumption as defined in § 300.181.

(2) * * *

(i) If a permit holder re-exports a consignment of bluefin tuna, or subdivides or consolidates a consignment of fish or fish products regulated under this subpart, other than shark fins, that was previously entered for consumption as described in paragraph (c)(1) of this section, the permit holder must complete an original, approved, individually numbered, species-specific re-export certificate issued to that permit holder by NMFS for each such re-export consignment. Such an individually numbered document is not transferable and may be used only once by the permit holder to which it was issued to report on a specific re-export consignment. A permit holder must provide on the re-export certificate the correct information and re-exporter certification. The permit holder must also attach the original consignment document that accompanied the import consignment or a copy of that document, and must note on the top of both the consignment documents and the re-export certificates the entry number assigned by CBP authorities at the time of filing the entry summary.

(ii) If a consignment of fish or fish products regulated under this subpart, except bluefin tuna or shark fins, that was previously entered for consumption

as described in paragraph (c)(1) of this section is not subdivided into sub-consignments or consolidated, for each re-export consignment, a permit holder must complete the intermediate importer's certification on the original statistical document and note the entry number on the top of the statistical document. Such re-exports do not need a re-export certificate and the re-export does not require validation.

* * * * *

(3) *Reporting requirements.* For each re-export, a permit holder must submit the original of the completed re-export certificate (if applicable) and the original or a copy of the original consignment document completed as specified under paragraph (c)(2) of this section, to accompany the consignment of such products to their re-export destination. A copy of the completed consignment document and re-export certificate (if applicable) must be submitted to NMFS, at an address designated by NMFS, and received by NMFS within 24 hours of the time the consignment was re-exported from the United States. For re-exports of untagged Atlantic bluefin tuna, the permit holder must email, fax, or mail a copy of the completed consignment document and re-export certificate to the ICCAT Secretariat and the importing nation, at addresses designated by NMFS, to be received by the ICCAT Secretariat and the importing nation, within five days of export.

(d) *Document completion.* To be deemed complete, a consignment document or re-export certificate must be filled out according to the corresponding instructions for each document with all requested information provided.

(e) *Recordkeeping.* A permit holder must retain at his or her principal place of business, a copy of each consignment document and re-export certificate required to be submitted to NMFS pursuant to this section, and supporting records for a period of 2 years from the date on which it was submitted to NMFS.

■ 7. In § 300.186 the section heading and paragraphs (a) and (b) are revised and paragraphs (c) through (h) are removed to read as follows:

§ 300.186 Completed and approved documents.

(a) *NMFS-approved consignment documents and re-export certificates.* A NMFS-approved consignment document or re-export certificate may be obtained from NMFS to accompany exports of fish or fish products regulated under this subpart from the Customs territory of the United States or the separate customs territory of a U.S. insular possession.

(b) *Nationally approved forms from other countries.* A nationally approved form from another country may be used for exports to the United States if that document strictly conforms to the information requirements and format of the applicable RFMO documents. An approved consignment document or re-export certificate for use in countries without a nationally approved form to accompany consignments to the United States may be obtained from the following websites, as appropriate: *www.iccat.org*, *www.iattc.org*, *www.ccsbt.org*, or *www.iotc.org*.

■ 8. In § 300.187, paragraphs (a), (b), and (d) through (f) are revised to read as follows:

§ 300.187 Validation requirements.

(a) *Imports.* The approved consignment document accompanying any import of any fish or fish product regulated under this subpart must be validated by a government official from the issuing country, unless NMFS waives this requirement pursuant to an applicable RFMO recommendation. NMFS will furnish a list of countries for which government validation requirements are waived to the appropriate customs officials. Such list will indicate the circumstances of exemption for each issuing country and the non-government institutions, if any, accredited to validate statistical documents and re-export certificates for that country.

(b) *Exports.* The approved consignment document accompanying any export of fish or fish products regulated under this subpart must be validated, except pursuant to a waiver described in paragraph (d) of this section. Validation must be made by NMFS or another official authorized by NMFS.

* * * * *

(d) *Validation waiver.* Any waiver of government validation will be consistent with applicable RFMO recommendations concerning validation of consignment documents and re-export certificates. If authorized, such waiver of government validation may include exemptions from government validation for Pacific bluefin tuna with individual BCD tags affixed pursuant to paragraph (f) of this section or for Atlantic bluefin tuna with tags affixed pursuant to § 635.5(b) of this title. Waivers will be specified on consignment documents and re-export certificates or accompanying instructions, or in a letter to permit holders from NMFS.

(e) *Authorization for non-NMFS validation.* An official from an organization or government agency seeking authorization to validate consignment documents or re-export certificates accompanying exports or re-exports from the United States, which includes U.S. commonwealths, territories, and possessions, must apply in writing, to NMFS, at an address designated by NMFS for such authorization. The application must indicate the procedures to be used for verification of information to be validated; list the names, addresses, and telephone/fax numbers of individuals to perform validation; procedures to be used to notify NMFS of validations; and an example of the stamp or seal to be applied to the consignment document or re-export certificate. NMFS, upon finding the applicant capable of verifying the information required on the consignment document or re-export certificate, will issue, within 30 days, a letter specifying the duration of effectiveness and conditions of authority to validate consignment documents or re-export certificates accompanying exports or re-exports from the United States. The effective date of such authorization will be delayed as necessary for NMFS to notify the appropriate RFMO of other officials authorized to validate consignment document or re-export certificates. Non-government organizations given authorization to validate consignment documents or re-export certificates must renew such authorization on a yearly basis.

(f) *BCD tags*—(1) *Issuance.* NMFS will issue numbered BCD tags for use on Pacific bluefin tuna upon request to each permit holder.

(2) *Transfer.* BCD tags issued under this section are not transferable and are usable only by the permit holder to whom they are issued.

(3) *Affixing BCD tags.* At the discretion of permit holders, a tag issued under this section may be affixed to each Pacific bluefin tuna purchased or received by the permit holder. If so tagged, the tag must be affixed to the tuna between the fifth dorsal finlet and the keel.

(4) *Removal of tags.* A tag, as defined in this subpart and affixed to any bluefin tuna, must remain on the tuna until it is cut into portions. If the bluefin tuna or bluefin tuna parts are subsequently packaged for transport for domestic commercial use or for export, the number of each dealer tag or BCD tag must be written legibly and indelibly on the outside of any package containing the bluefin tuna or bluefin tuna parts. Such tag number also must

be recorded on any document accompanying the consignment of bluefin tuna or bluefin tuna parts for commercial use or export.

(5) *Labeling.* The number of a BCD tag affixed to each Pacific bluefin tuna under this section must be recorded on NMFS reports required by § 300.183, on any documents accompanying the consignment of Pacific bluefin tuna for domestic commercial use or export as indicated in § 300.185, and on any additional documents that accompany the consignment (e.g., bill of lading, customs manifest, etc.) of the tuna for commercial use or for export.

(6) *Reuse.* BCD tags issued under this section are separately numbered and may be used only once, one tag per Pacific bluefin tuna, to distinguish the purchase of one Pacific bluefin tuna. Once affixed to a tuna or recorded on any package, container or report, a BCD tag and associated number may not be reused.

■ 9. Section 300.188 is revised to read as follows:

§ 300.188 Ports of entry.

NMFS shall monitor the importation of fish or fish products regulated under this subpart into the United States. If NMFS determines that the diversity of handling practices at certain ports at which fish or fish products regulated under this subpart are being imported into the United States allows for circumvention of the consignment document requirement, NMFS may undertake a rulemaking to designate, after consultation with the CBP, those ports at which fish or fish products regulated under this subpart from any ocean area may be imported into the United States.

■ 10. In § 300.189, paragraphs (h) through (j), and (m) are revised and paragraph (n) is added to read as follows:

§ 300.189 Prohibitions.

* * * * *

(h) Validate consignment documents or re-export certificates without authorization as specified in § 300.187.

(i) Validate consignment documents or re-export certificates as provided for in § 300.187 with false information.

(j) Remove any NMFS-issued numbered tag affixed to any Pacific bluefin tuna or any tag affixed to a bluefin tuna imported from a country with a BCD tag program before removal is allowed under § 300.187; fail to write the tag number on the shipping package or container as specified in § 300.187; or reuse any NMFS-issued numbered tag affixed to any Pacific bluefin tuna, or any tag affixed to a bluefin tuna imported from a country with a BCD tag program, or any tag number previously written on a shipping package or container as prescribed by § 300.187.

* * * * *

(m) Fail to provide a validated consignment document for imports at time of entry into the Customs territory of the United States of fish or fish products regulated under this subpart except shark fins, regardless of whether the importer, exporter, or re-exporter holds a valid trade permit issued pursuant to § 300.182 or whether the fish products are imported as an entry for consumption.

(n) Import or accept an imported consignment of fish or fish products regulated under this subpart, except shark fins, without an original, completed, approved, validated, species-specific consignment document and re-export certificate (if applicable) with the required information and exporter's certification completed.

Chapter VI

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

■ 11. The authority citation for 50 CFR part 635, continues to read as follows:

Authority: 16 U.S.C. 971 *et seq.*; 16 U.S.C. 1801 *et seq.*

§ 635.2 [Amended]

■ 12. In § 635.2, the definition of ''Import'' is removed.

■ 13. In § 635.5, paragraph (b)(2)(i)(B) is revised to read as follows:

§ 635.5 Recordkeeping and reporting.

* * * * *

(b) * * *

(2) * * *

(i) * * *

(B) *Bi-weekly reports.* Each dealer with a valid Atlantic tunas permit under § 635.4 must submit a complete bi-weekly report on forms available from NMFS for BFT received from U.S. vessels. For BFT received from U.S. vessels on the 1st through the 15th of each month, the dealer must submit the bi-weekly report form to NMFS, to be received by NMFS, not later than the 25th of that month. Reports of BFT received on the 16th through the last day of each month must be received by NMFS not later than the 10th of the following month.

* * * * *

[FR Doc. E8–12232 Filed 5–30–08; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 73, No. 106
Monday, June 2, 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.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 801

[Docket No. FDA–2008–N–0148]

Medical Devices; Hearing Aids; Technical Data Amendments

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend its regulations governing hearing aid labeling to reference the most recent version of the consensus standard used to determine the technical data to be included in labeling for hearing aids. We are proposing to amend the regulations to require manufacturers to use state-of-the-art methods to provide technical data in hearing aid labeling. FDA is also proposing to amend the regulations to update an address and remove an outdated requirement. This proposed rule is a companion document to the direct final rule published elsewhere in this issue of the **Federal Register**.

DATES: Submit written or electronic comments by August 18, 2008. The Director of the Office of the **Federal Register** approves the incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 of certain publications in § 801.420(c)(4) (21 CFR 801.420(c)(4)) as of October 15, 2008.

ADDRESSES: You may submit comments, identified by Docket No. FDA–2008–N–0148, by any of the following methods:

Electronic Submissions

Submit electronic comments in the following way:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.

Written Submissions

Submit written submissions in the following ways:

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

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

Instructions: All submissions received must include the agency name and Docket No. for this rulemaking. All comments received may be posted without change to *http://www.regulations.gov*, including any personal information provided. For additional information on submitting comments, see the ''Comments'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

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

FOR FURTHER INFORMATION CONTACT: Eric A. Mann, Center for Devices and Radiological Health (HFZ–460), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 240–276–4242.

SUPPLEMENTARY INFORMATION:

I. Why Is This Proposed Rule Being Issued as a Companion Proposed Rule?

This proposed rule is a companion to the direct final rule that is published in the final rules section of this issue of the **Federal Register**. The direct final rule amends the regulations governing hearing aid labeling to reference the most recent version of the consensus standard used to determine the technical data to be included in labeling for hearing aids. We are amending this rule to require manufacturers to use state-of-the-art methods to provide technical data in hearing aid labeling. FDA also is amending the rule to update an address and eliminate an outdated provision. The direct final rule and this companion proposed rule are identical. We are publishing the direct final rule because we believe the rule contains noncontroversial changes and we anticipate that it will receive no significant adverse comment. A detailed discussion of the rule is set forth in the preamble of the direct final rule. If no significant adverse comment is received in response to the direct final rule, no further action will be taken related to this proposed rule. Instead, we will publish a confirmation document within 30 days after the comment period ends confirming when the direct final rule will go into effect.

You can find additional information about FDA's direct final rulemaking procedures in the guidance document entitled ''Guidance for FDA and Industry: Direct Final Rule Procedures'' (62 FR 62466, November 21, 1977). This guidance document may be accessed at *http://www.fda.gov/opacom/morechoices/industry/guidance.htm*.

If we receive any significant adverse comment regarding the direct final rule, we will withdraw the direct final rule within 30 days after the comment period ends and proceed to respond to all of the comments under this companion proposed rule using usual notice-and-comment rulemaking procedures under the Administrative Procedure Act (APA) (5 U.S.C. 552a *et seq.*). The comment period for this companion proposed rule runs concurrently with the direct final rule's comment period. Any comments received under this companion proposed rule will also be considered as comments regarding the direct final rule.

A significant adverse comment is defined as a comment that explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. In determining whether an adverse comment is significant and warrants terminating a direct final rulemaking, we will consider whether the comment raises an issue serious enough to warrant a substantive response in a notice-and-comment process in accordance with section 553 of the APA (5 U.S.C. 553). Comments that are frivolous, insubstantial, or outside the scope of the rule will not be considered adverse

under this procedure. For example, a comment recommending an additional change to the rule will not be considered a significant adverse comment, unless the comment states why the rule would be ineffective without the additional change. In addition, if a significant adverse comment applies to part of a rule and that part can be severed from the remainder of the rule, we may adopt as final those parts of the rule that are not the subject of a significant adverse comment.

II. What Is the Background of the Rulemaking?

In the **Federal Register** of February 15, 1977 (the 1977 final rule) (42 FR 9286), FDA published a final rule establishing requirements for professional and patient labeling of hearing aids and governing conditions for sale of hearing aids (§ 801.420 and § 801.421 (21 CFR 801.421)). The regulations became effective on August 15, 1977. Section 801.421(b)(1) of the current regulations provides that, before the sale of a hearing aid to a prospective user, a hearing aid dispenser is to provide the prospective user with a copy of the User Instructional Brochure. Current § 801.420(c)(4) requires that technical data useful in selecting, fitting, and checking the performance of a hearing aid be provided in the brochure or in separate labeling that accompanies the device. The 1977 final rule further required that the technical data values provided in the brochure or other labeling be determined according to the test procedures established by the Acoustical Society of America (ASA) in the American National Standard ''Specification of Hearing Aid Characteristics,'' ANSI S3.22–1976 (ASA 70–1976), which was incorporated by reference in the regulation.

ANSI S3.22 (ASA 70–1976) established measurement methods and specifications for several important hearing aid characteristics. The standard provided a method of ascertaining whether a hearing aid, after being manufactured and shipped, met the specifications and design parameters stated by the manufacturer for a particular model, within the tolerance stated by the standard.

In 1982, ASA revised the standard (ANSI S3.22–1982) (ASA 70–1982). In a final rule published in the **Federal Register** of July 24, 1985 (50 FR 30153), FDA incorporated the revised standard into § 801.420(c)(4). ASA revised the standard again in 1987 (ANSI S3.22–1987) (ASA 70–1987). In a final rule published in the **Federal Register** of December 21, 1989 (54 FR 52395), FDA incorporated the revised standard into § 801.420(c)(4). In 1996, ASA revised the standard again (ANSI S3.22–1996) (ASA 70–1996). In a final rule published in the **Federal Register** of November 3, 1999 (64 FR 59618), FDA incorporated the revised standard into § 801.420(c)(4).

In 2003, ASA revised the standard again (ANSI S3.22–2003). The 1996 version of the standard was written prior to the development of digital hearing aids. Therefore, some of the test procedures described in the 1996 version of the standard, designed for assessment of analogue hearing aids, were modified to accommodate digital technology. The major differences between the two versions of the standard are as follows:

- In the 1996 standard, the gain control was set to a specific reference test position for automatic gain control (AGC) hearing aids and for all other types of hearing aids. In the 2003 standard, AGC hearing aids are tested in AGC mode only for those tests associated with AGC functions and are operated in non-AGC mode for all other tests.
- In the 2003 standard, the tolerance for setting the gain control to reference test setting (RTS) has been widened to ± 1.5 dB from ± 1.0 dB.

FDA is now incorporating the 2003 standard into § 801.420(c)(4).

III. What Does This Companion Proposed Rule Do?

In this rule, FDA is proposing to:

- Amend § 801.420(c)(4) to change the identification of the standard from ''American National Standard 'Specification of Hearing Aid Characteristics,' ANSI S3.22–1996 (ASA 70–1996) (Revision of ANSI S3.22–1987)'' to ''American National Standard 'Specification of Hearing Aid Characteristics,' ANSI S3.22–2003 (Revision of ANSI S3.22–1996)''. FDA is also proposing to update an address in this section, changing ''1350 Piccard Dr., rm. 240,'' to ''1350 Piccard Dr., rm. 150,''.
- Remove § 801.420(d). This section requires that manufacturers submit to FDA for review their User Instructional Brochure and other labeling for each type of hearing aid on or before August 15, 1977. This section was included with the initial hearing aid rule in 1977. It was intended to provide for an initial FDA review of the labeling to meet the new requirements. This section is outdated and is no longer necessary.

IV. What is the Legal Authority for This Proposed Rule?

This proposed rule is authorized by sections 201, 301, 501, 502, 701, and 704 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 371, and 374).

V. What is the Environmental Impact of This Proposed Rule?

The agency has determined under 21 CFR 25.30(k) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VI. What is the Economic Impact of This Proposed Rule?

FDA has examined the impacts of the proposed rule under Executive Order 12866 and 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 believes that this proposed rule is not a 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. The proposed rule would amend the existing hearing aid regulation to refer to the updated consensus standard that is used to determine the technical data in hearing aid labeling. It does not impose any new requirements. Communications from manufacturers to FDA show that they are prepared to comply with this standard immediately. The agency, therefore, certifies that the proposed rule will not have a significant economic 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 proposing ''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 proposed rule to result in any 1-year expenditure that would meet or exceed this amount.

VII. How Does the Paperwork Reduction Act of 1995 Apply to This Proposed Rule?

This proposed rule contains information collection provisions that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (the PRA) (44 U.S.C. 3501–3520). The collections of information addressed in the companion direct final rule have been approved by OMB in accordance with the PRA under the regulations governing labeling of medical devices (21 CFR part 801, OMB control number 0910–0485).

VIII. What Are the Federalism Impacts of This Proposed Rule?

FDA has analyzed this proposed rule in accordance with the principles set forth in Executive Order 13132. FDA has determined that the rule does not contain policies 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. Accordingly, the agency has concluded that the rule does not contain policies that have federalism implications as defined in the Executive order and, consequently, a federalism summary impact statement is not required.

IX. How Do You Submit Comments on This Proposed Rule?

Interested persons may submit to the Division of Dockets Management (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, written or electronic comments on this recommendation. Submit electronic comments to *http://www.regulations.gov*. Two copies of any written comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the name of the device and the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

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*.

List of Subjects in 21 CFR Part 801

Incorporation by reference, Labeling, Medical devices, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 801 be amended as follows:

PART 801—LABELING

1. The authority citation for 21 CFR part 801 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 360i, 360j, 371, 374.

2. Section 801.420 is amended by revising the second and third sentences of and adding a new fourth sentence to paragraph (c)(4) introductory text and by removing paragraph (d) to read as follows:

§ 801.420 Hearing aid devices; professional and patient labeling.

* * * * *

(c) * * *

(4) * * * The determination of technical data values for the hearing aid labeling shall be conducted in accordance with the test procedures of the American National Standard ''Specification of Hearing Aid Characteristics,'' ANSI S3.22–2003 (Revision of ANSI S3.22–1996) (Includes April 2007 Erratum). The Director of the Office of the **Federal Register** approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies are available from the Standards Secretariat of the Acoustical Society of America, 120 Wall St., New York, NY 10005–3993, or are available for inspection at the Regulations Staff, CDRH (HFZ–215), FDA, 1350 Piccard Dr., rm. 150, Rockville, MD 20850, or at the National Archives and Records Administration (NARA). * * *

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Dated: May 19, 2008.

Jeffrey Shuren,

Associate Commissioner for Policy and Planning.

[FR Doc. E8–11909 Filed 5–30–08; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 950

[SATS No. WY–036–FOR; Docket ID OSM–2008–0008]

Wyoming Abandoned Mine Land Reclamation Plan

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; opening of public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSM), are announcing receipt of a proposed amendment to the Wyoming Abandoned Mine Land Reclamation (AMLR) Plan (hereinafter, the Wyoming Plan) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Wyoming intends to revise its Plan by submitting a revision to correct an inadvertent error in the statute amendment passed in the 2007 Legislative Session.

DATES: Comments on the proposed rule must be received by 4 p.m., m.d.t., July 2, 2008 to ensure our consideration. If requested, we will hold a public hearing on the amendment on June 27, 2008. We will accept requests to speak until 4 p.m., m.d.t., June 17, 2008.

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

- Federal e-Rulemaking Portal: *http://www.regulations.gov*. The notice is listed under the agency name ''Office of Surface Mining Reclamation and Enforcement'' and has been assigned Docket ID: OSM–2008–0008.
- *Mail/Hand Delivery:* Jeffrey Fleischman, Director, Casper Field Office; Office of Surface Mining Reclamation and Enforcement; 150 East ''B'' Street, Room 1018, Casper, Wyoming 82601. Please include the Docket ID (OSM–2008–0008) with your comments.

If you would like to submit comments through the Federal e-Rulemaking Portal, go to *http://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–2008–0008 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–2008–0008, you can view the proposed rule and submit a comment. You can also

view supporting material and any comments submitted by others.

We cannot ensure that comments received after the close of the comment period (see **DATES**) or sent to an address other than the two listed above will be included in the docket for this rulemaking and considered.

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.

You may receive one free copy of this amendment by contacting OSM's Casper Field Office. You may access this amendment's docket, review copies of the Wyoming Plan and this amendment, find a listing of any scheduled public hearings, and review all written comments received in response to this document during normal business hours, Monday through Friday, excluding holidays, at the following addresses:

Federal e-Rulemaking Portal: http://www.regulations.gov. The notice has been assigned Docket ID: OSM–2008–0008.

Jeffrey Fleischman, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, 150 East ''B'' Street, Room 1018, Casper, Wyoming 82601, (307) 261–6550, *jfleischman@osmre.gov.*

Rick Chancellor, AML Administrator, Department of Environmental Quality, Herschler Building, 122 West 25th Street, Cheyenne, Wyoming 82002, 307–777–7062.

FOR FURTHER INFORMATION CONTACT: Jeffrey Fleischman, Casper Field Office Director, Telephone: (307) 261–6550, Internet address: *jfleischman@osmre.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on the Wyoming Plan
II. Description of the Proposed Amendment
III. Public Comment Procedures
IV. Procedural Determinations

I. Background on the Wyoming Plan

The AMLR Program was established by Title IV of the Act (30 U.S.C. 1201 *et seq.*) in response to concerns over extensive environmental damage caused by past coal mining activities. The program is funded by a reclamation fee collected on each ton of coal that is produced. The money collected is used to finance the reclamation of abandoned coal mines and for other authorized activities. Section 405 of the Act allows States and Indian tribes to assume exclusive responsibility for reclamation activity within the State or on Indian lands if they develop and submit to the Secretary of the Interior for approval, a program (often referred to as a plan) for the reclamation of abandoned coal mines.

On February 14, 1983, the Secretary of the Interior approved Wyoming's AMLR Plan. You can find general background information on the Wyoming Plan, including the Secretary's findings and the disposition of comments, in the February 14, 1983, **Federal Register** (48 FR 6536). OSM announced in the May 25, 1984, **Federal Register** (49 FR 22139), the Director's decision accepting certification by Wyoming that it had addressed all known coal-related impacts in the State that were eligible for funding under the Wyoming Plan. Wyoming could then proceed in reclaiming low priority non-coal projects. The Director accepted Wyoming's proposal that it would seek immediate funding for reclamation of any additional coal-related problems that occur during the life of the Wyoming Plan. You can find later actions concerning Wyoming's Plan and plan amendments at 30 CFR 950.35.

II. Description of the Proposed Amendment

By letter dated March 21, 2008, Wyoming submitted a proposed amendment to the Wyoming Reclamation Plan. Wyoming submitted the amendment in response to a letter sent to the State dated January 18, 2008, from the Regional Director, Western Region of OSM. Pursuant to 30 CFR 884.11, OSM directed Wyoming to resolve a conflict in Wyoming accounts established to receive funds from the Federal Government pursuant to the SMCRA program.

Specifically OSM stated it appears that Wyoming's new statute, WS–35–11–1210 conflicts with existing WS–35–11–1203. WS–35–11–1210 was passed in 2007 and established an account to receive funding under new section 411(h) of SMCRA. These funds are not required to be spent on reclamation projects.

Wyoming's proposed amendment clarifies that the account established by WS–35–11–1210 is for the purpose of receving funds from the Federal Government pursuant to SMCRA Section 411(h) and that these funds are separate and in addition to funds distributed to the account established by WS–35–11–1203. The WS–35–11–1203 account remains to receive funds to carry out the Reclamation Plan including coal reclamation.

The full text of the plan amendment is available for you to read at the locations listed above under **ADDRESSES.**

III. Public Comment Procedures

Under the provisions of 30 CFR 884.15(a), OSM requests your comments on whether the amendment satisfies the applicable State reclamation plan approval criteria of 30 CFR 884.14. If we approve the amendment, it will become part of the Wyoming Plan.

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 Federal laws or regulations, technical literature, or other relevant publications.

We cannot ensure that comments received after the close of the comment period (see **DATES**) or sent to an address other than those listed above (see **ADDRESSES**) will be included in the docket for this rulemaking and considered.

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 in the electronic docket for this rulemaking at *http://www.regulations.gov.* 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 Hearing: If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m., m.d.t., on June 17, 2008. If you are disabled and need reasonable accommodation to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT.** We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak, we will not hold the hearing. If there is only limited interest in participating in a public hearing, a public meeting rather than a hearing may be held, and a summary of the meeting will be included in the docket for this rulemaking.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at a public hearing provide us with a written copy

of his or her comments. The public hearing will continue on the specified date until everyone scheduled to speak has been given an opportunity to be 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 everyone scheduled to speak and others present in the audience who wish to speak, have been heard.

IV. Procedural Determinations

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, we have evaluated the potential effects on federally recognized Indian Tribes and have determined that the proposed amendment does not have substantial direct effects 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. The proposal does not affect Indian Tribes in any way.

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis of the amendment submitted by Wyoming.

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of Tribe or State AMLR plans and revisions since each such plan is drafted and promulgated by a specific Tribe or State, not by OSM. Decisions on proposed Tribe or State AMLR plans and revisions submitted by a Tribe or State are based on a determination of whether the submittal meets the requirements of Title IV of SMCRA (30 U.S.C. 1231–1243) and the applicable Federal regulations at 30 CFR parts 884 and 888.

Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

No environmental impact statement is required for this rule since agency decisions on proposed Tribe or State AMLR plans and revisions thereof are categorically excluded from compliance with the National Environmental Policy Act (42 U.S.C. 4332) by the Manual of the Department of the Interior at 516 DM 13.5.B(29).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.).*

Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This determination is based upon the nature of the amendment submitted by Wyoming as discussed above.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), of the Small Business Regulatory Enforcement Fairness Act. Based on the nature of the amendment submitted by Wyoming, we have determined that the rule:

a. Does not have an annual effect on the economy of $100 million.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates

This rule will not impose an unfunded mandate on State, local, or Tribal governments or the private sector of $100 million or more in any given year. This determination is based on the nature of the amendment submitted by Wyoming.

List of Subjects in 30 CFR Part 950

Intergovernmental relations, Surface mining, Underground mining.

Dated: May 13, 2008.

James Fulton,

Acting Regional Director, Western Region.

[FR Doc. E8–12199 Filed 5–30–08; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2008–0392]

RIN 1625–AA08

Special Local Regulations for Marine Events; Patapsco River, Inner Harbor, Baltimore, MD

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish special local regulations during the ''Pride of Baltimore Recycled Regatta'', a marine event to be held August 2, 2008 on the waters of the Patapsco River, Inner Harbor, Baltimore, MD. These special local regulations are necessary to provide for the safety of life on navigable waters during the event. This action is intended to temporarily restrict vessel traffic in a portion of the Baltimore Inner Harbor during the event.

DATES: Comments and related material must reach the Coast Guard on or before July 2, 2008.

ADDRESSES: You may submit comments identified by Coast Guard docket number USCG–2008–0392 to the Docket Management Facility at the U.S. Department of Transportation. To avoid duplication, please use only one of the following methods:

(1) *Online: http://www.regulations.gov.*

(2) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

(3) *Hand delivery:* Room W12–140 on the Ground Floor of the West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(4) *Fax:* 202–493–2251.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call Dennis Sens, Project Manager, Fifth Coast Guard District, Inspections and Investigations Branch, at (757) 398–6204. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change, to *http://www.regulations.gov* and will include any personal information you have provided. We have an agreement with the Department of Transportation (DOT) to use the Docket Management Facility. Please see DOT's ''Privacy Act'' paragraph below.

Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2008–0392), indicate the specific section of this document to which each comment applies, and give the reason for each comment. We recommend that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission. You may submit your comments and material by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov* at any time. Enter the docket number for this rulemaking (USCG–2008–0392) in the Search box, and click ''Go >>.'' You may also visit either the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays; or the Fifth Coast Guard District, Prevention Division, 431 Crawford Street, Portsmouth, VA, 23704 between 10 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the Department of Transportation's Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit *http://DocketsInfo.dot.gov.*

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one to the Docket Management Facility at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

On August 2, 2008, Pride of Baltimore, Inc. will sponsor ''Pride of Baltimore Recycled Regatta'' at the Inner Harbor in Baltimore, MD. The event will consist of approximately 30 boats built from recycled materials attempting to traverse a designated course that extends over the water immediately adjacent to the southwest corner of the promenade surrounding the Baltimore Inner Harbor. The regulated area originates at the southwest corner of the Inner Harbor adjacent to the Maryland Science Center and extends outward over the water within an approximately 150 yard arc. Due to the need for vessel control during the event, the Coast Guard will temporarily restrict vessel traffic in the event area to provide for the safety of participants, spectators and other transiting vessels.

Discussion of Proposed Rule

The Coast Guard proposes to establish temporary special local regulations on specified waters of the Patapsco River, Inner Harbor, Baltimore, MD. The regulations will be in effect from 2:30 p.m. to 9:30 p.m. on August 2, 2008. The effect will be to restrict general navigation in the regulated area during the event. Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area. Vessel traffic may be allowed to transit the regulated area at slow speed when event activity is halted, and when the Coast Guard Patrol Commander determines it is safe to do so. These regulations are needed to control vessel traffic during the event to enhance the safety of participants, spectators and transiting vessels.

Regulatory Evaluation

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation is unnecessary.

Although this regulation will prevent traffic from transiting a portion of the Baltimore Inner Harbor during the event, the effect of this regulation will not be significant due to the limited duration that the regulated area will be in effect and the extensive advance notifications that will be made to the maritime community via the Local Notice to Mariners, marine information broadcasts, and area newspapers, so mariners can adjust their plans accordingly. Additionally, the regulated area has been narrowly tailored to impose the least impact on general navigation yet provide the level of safety deemed necessary. Vessel traffic may be able to transit the regulated area at slow speed when event activity is halted, when the Coast Guard Patrol Commander deems it is safe to do so.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently

owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. This proposed rule would affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit or anchor in the affected portion of the Baltimore Inner Harbor during the event.

Although this regulation prevents traffic from transiting a small segment of the Baltimore Inner Harbor during the event, this proposed rule would not have a significant economic impact on a substantial number of small entities for the following reasons. This proposed rule would be in effect for only a limited period. Vessel traffic may be able to transit the regulated area when event activity is halted, when the Coast Guard Patrol Commander deems it is safe to do so. Before the enforcement period, we will issue maritime advisories so mariners can adjust their plans accordingly.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the address listed under **ADDRESSES**. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this proposed rule under Commandant Instruction M16475.lD which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is not likely to have a significant effect on the human environment. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 100

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

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

PART 100—REGATTAS AND MARINE PARADES

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

2. Add a temporary § 100.35–T05–0392 to read as follows:

§ 100.35–T05–0392 Patapsco River, Inner Harbor, Baltimore, MD.

(a) *Definitions:* The following definitions apply to this section: (1) *Coast Guard Patrol Commander* means a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Sector Baltimore.

(2) *Official Patrol* means any vessel assigned or approved by Commander, Coast Guard Sector Baltimore with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(3) *Participant* includes all vessels participating in the Pride of Baltimore Recycled Regatta under the auspices of a Marine Event Permit issued to the event sponsor and approved by Commander, Coast Guard Sector Baltimore.

(4) *Regulated area* includes the waters of the Patapsco River, Baltimore, MD, Inner Harbor within the immediate vicinity of the southwest corner of the harbor adjacent to the Maryland Science Center. The area is bounded on the south and west by the shoreline promenade, bounded on the north by a line drawn along latitude 39°16′58″ North and bounded on the east by a line drawn along longitude 076°36′36.5″ West. All coordinates reference Datum NAD 1983.

(b) *Special local regulations:* (1) Except for event participants and persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in the regulated area shall: (i) Stop the vessel immediately when directed to do so by any Official Patrol.

(ii) Proceed as directed by any Official Patrol.

(iii) When authorized to transit the regulated area, all vessels shall proceed at the minimum speed necessary to maintain a safe course that minimizes wake near the event area.

(c) *Effective period.* This section will be enforced from 2:30 p.m. to 9:30 p.m. on August 2, 2008.

Dated: May 20, 2008.

Fred M. Rosa, Jr.,

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

[FR Doc. E8–12151 Filed 5–30–08; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2008–0112]

RIN 1625–AA11

''Gasco'' Regulated Navigation Area, Willamette River, Portland, OR

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is establishing a Regulated Navigation Area on the Willamette River Portland Oregon Captain of the Port Zone. This action is necessary to preserve the integrity of the clean engineered pilot cap placed over a portion of the NW Natural ''Gasco'' site (Site) remediation area as part of the Environmental Protection Agency (EPA) Superfund clean up action. This proposed rule is needed to prohibit activities that would cause disturbance of pilot cap material which was placed to isolate and contain underlying contaminated sediment.

DATES: Comments and related material must reach the Coast Guard on or before July 2, 2008.

ADDRESSES: You may submit comments identified by Coast Guard docket number USCG–2008–0112 to the Docket Management Facility at the U.S. Department of Transportation. To avoid duplication, please use only one of the following methods:

(1) *Online: http://www.regulations.gov.*

(2) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

(3) *Hand delivery:* Room W12–140 on the Ground Floor of the West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(4) *Fax:* 202–493–2251.

FOR FURTHER INFORMATION CONTACT: MST1 Lucia Mack, Waterways Division, Sector Portland, OR at 503–240–9301. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change, to *http://www.regulations.gov* and will include any personal information you have provided. We have an agreement with the Department of Transportation (DOT) to use the Docket Management Facility. Please see DOT's ''Privacy Act'' paragraph below.

Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2008–0112), indicate the specific section of this document to which each comment applies, and give the reason for each comment. We recommend that you include your name and mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission. You may submit your comments and material by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov* at any time. Enter the docket number for this rulemaking (USCG–2008–0112) in the Search box, and click ''Go>>.'' You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on

behalf of an association, business, labor union, etc.). You may review the Department of Transportation's Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit *http://DocketsInfo.dot.gov.*

Public Meeting

We do not plan to hold a public meeting. But you may submit a request for one to the Docket Management Facility at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

On April 28, 2004, NW Natural entered into an Administrative Order with the U.S. Environmental Protection Agency to perform a number of actions in association with removing a tar body at the surface of the near shore sediment adjacent to the Site. The Site is located in the Portland Harbor Superfund site at approximately river mile 6.5 on the Willamette River. As part of these actions, a pilot cap was designed and constructed to cap over a portion of the removal area. The purpose of the pilot cap is to place a barrier over a portion of the removal area and monitor the performance of the pilot cap until the Portland Harbor Superfund Site Remedial Investigation/Feasibility Study is completed and a final remedy is evaluated for the Site. The information collected during the interim will be used to help evaluate contamination loading through the pilot cap due to residual contamination in sediments and/or potential ground water migration through the pilot cap, and to help determine whether capping might be an effective remedy for future remediation at the Site. Accordingly, a regulated navigation area is needed to limit disturbances to the pilot cap reducing a potential hazardous release into the Willamette River,

Discussion of Proposed Rule

This proposed rule would create a regulated navigation area (RNA) on all waters of the Willamette River encompassed by a line commencing at 45°34′47″ N, 122°45′28″ W along the shoreline to 45°34′47″ N, 122°45′30″ W thence to 45°34′47″ N, 122°45′30″ W thence to 45°34′48″ N, 122°45′30″ W thence to 45°34′48″ N, 122°45′30″ W thence to 45°34′48″ N, 122°45′28″ W thence to 45°34′47″ N, 122°45′28″ W and back to the point of origin. Vessels are prohibited from motoring, anchoring, dragging, dredging, and trawling directly over or adjacent to the pilot cap area, except as required for ongoing operations at the adjacent refueling pipeline.

Violations of the RNA regulations are punishable by civil penalties (not to exceed $32,500 per violation), criminal penalties (imprisonment for not more than 10 years and a fine of not more than $250,000), and in rem liability against the offending vessel.

Regulatory Evaluation

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation is unnecessary.

The effect of this regulation will not be significant based on the fact there will be minimal, if any, effect on the navigable waterway around the proposed regulated area due to the regulated navigation area's proximity to the shore.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule will not have a significant economic impact on a substantial number of small entities. This proposed rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in a portion of the Willamette River. This proposed rule will not have a significant economic impact on a substantial number of small entities because the regulated navigation area is limited in size leaving ample room for vessels to navigate around the area. Vessels engaged in commerce with the existing refueling pipeline located within the site should not be affected by this regulation in those activities but are advised to minimize potential impacts such as anchoring, wake scouring, and dragging in the vicinity of the pilot cap.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact MST1 Lucia Mack, Waterways Division, Sector Portland, at 503–240–9301. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Constitutionally Protected Property Rights.

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this proposed rule under Commandant Instruction M16475.1D which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f) and have made a preliminary determination that this action is not likely to have a significant effect on the human environment. A preliminary ''Environmental Analysis Check List'' supporting this determination is available in the docket under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR Part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. Add § 165.1322 to read as follows:

§ 165.1322 Regulated Navigation Area: Willamette River Portland, Oregon Captain of the Port Zone.

(a) *Location.* The following is a regulated navigation area (RNA): All waters of the Willamette River encompassed by a line commencing at 45°34′47″ N, 122°45′28″ W along the shoreline to 45°34′47″ N, 122°45′30″ W thence to 45°34′47″ N, 122°45′30″ W thence to 45°34′48″ N, 122°45′30″ W thence to 45°34′48″ N, 122°45′30″ W thence to 45°34′48″ N, 122°45′28″ W thence to 45°34′47″ N, 122°45′28″ W and back to the point of origin. All coordinates reference 1983 North American Datum (NAD 83).

(b) *Regulations.* (1) Motoring, anchoring, dragging, dredging, or trawling are prohibited in the regulated area. (2) All vessels transiting or accessing the regulated area shall do so at a no wake speed or at the minimum speed necessary to maintain steerage.

Dated: May 6, 2008.

J.P. Currier,

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

[FR Doc. E8–12149 Filed 5–30–08; 8:45 am]

BILLING CODE 4910–15–P

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201

[Docket No. 2005–5]

Retransmission of Digital Broadcast Signals Pursuant to the Cable Statutory License

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Copyright Office is seeking comment on proposed regulatory changes to accommodate the retransmission of digital television broadcast signals by cable operators under Section 111 of the Copyright Act.

DATES: Written comments are due July 17, 2008. Reply comments are due September 2, 2008. June 2, 2008.

ADDRESSES: If hand delivered by a private party, an original and five copies of a comment or reply comment should be brought to the Library of Congress, U.S. Copyright Office, Room LM–401, James Madison Building, 101 Independence Ave., SE, Washington, DC 20559, between 8:30 a.m. and 5 p.m. The envelope should be addressed as follows: Office of the General Counsel, U.S. Copyright Office.

If delivered by a commercial courier, an original and five copies of a comment or reply comment must be delivered to the Congressional Courier Acceptance Site (''CCAS'') located at 2nd and D Streets, NE, Washington, DC between 8:30 a.m. and 4 p.m. The envelope should be addressed as follows: Office of the General Counsel, U.S. Copyright Office, LM–403, James Madison Building, 101 Independence Avenue, SE, Washington, DC 20559. Please note that CCAS will not accept delivery by means of overnight delivery services such as Federal Express, United Parcel Service or DHL.

If sent by mail (including overnight delivery using U.S. Postal Service Express Mail), an original and five copies of a comment or reply comment should be addressed to U.S. Copyright

Office, Copyright GC/I&R, P.O. Box 70400, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Ben Golant, Assistant General Counsel, and Tanya M. Sandros, General Counsel, Copyright GC/I&R, P.O. Box 70400, Washington, DC 20024. Telephone: (202) 707–8380. Telefax: (202) 707–8366.

SUPPLEMENTARY INFORMATION: Section 111 of the Copyright Act (''Act''), title 17 of the United States Code (''Section 111''), provides cable operators with a statutory license to retransmit a performance or display of a work embodied in a primary transmission made by a television station licensed by the Federal Communications Commission (''FCC''). Cable systems that retransmit broadcast signals in accordance with the provisions governing the statutory license set forth in Section 111 are required to pay royalty fees to the Copyright Office. Payments made under the cable statutory license are remitted semi–annually to the Copyright Office which invests the royalties in United States Treasury securities pending distribution of these funds to those copyright owners who are entitled to receive a share of the fees.

In 2005, the Motion Picture Association of America, Inc. (''MPAA''), its member companies and other producers and/or distributors of movies, series and specials broadcast by television stations (''Program Suppliers'') and the Joint Sports Claimants (''JSC'')[1] (collectively, ''Copyright Owners'') filed a Petition for Rulemaking (''Petition'') seeking to clarify the applicability of existing Copyright Office regulations to the retransmission of digital broadcast signals under the statutory license set forth in Section 111 of the Copyright Act.

The Copyright Office released a Notice of Inquiry (''NOI'') to address the matters raised in the Copyright Owners' Petition and to solicit comment on possible clarifications to the Copyright Office's existing rules and cable Statement of Account (''SOA'') forms. *See Retransmission of Digital Broadcast Signals Pursuant to the Cable Statutory License*, 71 FR 54948 (Sept. 20, 2006). In the NOI, the Copyright Office stated that there is nothing in the Act, its legislative history, or the implementing rules, which limits the cable statutory license to analog broadcast signals. Instead, the Office found that the language of Section 111 broadly states that the statutory license applies to any broadcast stations licensed by the FCC or any of the signals transmitted by such stations. As such, the Copyright Office held that the use of the statutory license for the retransmission of digital signals would not be precluded merely because the technological characteristics of a digital signal differ from the traditional analog signal format. Even so, the Copyright Office noted that questions remain regarding the application and operation of the cable statutory license structure in the digital television context. For that reason, the Office sought comment on the issues raised by the Copyright Owners' Petition and on additional issues.

The following parties filed comments in response to the NOI: (1) Copyright Owners (including the Motion Picture Association of America; Joint Sports Claimants; Public Television Claimants; National Association of Broadcasters; Canadian Claimants; Music Claimants (ASCAP–BMI–SESAC); and Devotional Claimants); (2) National Cable Television Association (''NCTA''); (3) National Public Radio (''NPR''); and (4) Capitol Broadcasting Company (''CBC''). The following parties filed reply comments: (1) Copyright Owners; (2) NCTA; (3) NPR; (4) American Cable Association (''ACA''); and (5) Philip Marano–Villanova University School of Law.

This Notice of Proposed Rulemaking (''NPRM'') addresses the arguments raised by commenters and seeks public comment on proposals and policy recommendations on issues related to the retransmission of digital television signals by cable operators under Section 111. Proposed rule amendments are found at the end of the NPRM.

I. Digital Broadcast Signal Retransmission Issues

A. Digital Television

Digital television technology enables an FCC licensed television broadcast station to provide, over–the–air, a mix of high–definition digital television signals (''HDTV''), standard–definition digital television signals (''SDTV''), and many different types of ancillary programming and data services. In 1997, the FCC adopted its initial rules governing the transition of the broadcast television industry from analog to digital technology and authorized each individual television station licensee to broadcast in a digital format. Since that time, hundreds of television stations have been transmitting both analog and digital signals from their broadcast facilities and television stations may choose to broadcast in a ''digital–only'' mode of operations, pursuant to FCC authorization. A significant number of cable operators have agreed to voluntarily carry both analog and digital broadcast signals in local and distant television markets. After February 17, 2009, full power television stations will no longer be permitted to broadcast in an analog format and must thereafter transmit in a digital format.[2]

At present, cable operators are retransmitting the analog and digital signals of the same television station under the FCC's local broadcast signal carriage rules[3] and under Section 111 of the Copyright Act. In most cases, the program content transmitted on the primary digital signal is the same as that found on the analog signal, except that the picture quality of a digital television signal is vastly improved. When a digital broadcast signal replicates the analog signal, it is called simulcasting. The signal, or digital stream as it is now called, could be in a high definition digital format or a lower quality standard definition digital format.

Multicasting, on the other hand, is the process by which multiple streams of digital television programming are transmitted at the same time over a single broadcast channel by a single

[1]JSC is composed of the Office of the Commissioner of Baseball, the National Basketball Association, the National Football League, the National Collegiate Athletic Association, the National Hockey League and the Women's National Basketball Association.

[2]Congress established February 17, 2009, as the date for the completion of the transition from analog to digital broadcast television. *See* Pub. L. No. 109–171, Section 3002(a), 120 Stat. 4 (2006). We note that Canada is planning a digital television transition in 2011 and Mexico is planning for a transition in 2021. *See, e.g.*, Associated Press, *Digital Switch Raises Alarm Near Border*, http://www.siliconvalley.com (Last accessed on January 14, 2008). These developments are important because Section 111 covers the secondary retransmissions of distant broadcast signals from Mexico as well as Canada. *See* 17 U.S.C. 111(c)(1).

[3]*See Carriage of Digital Television Broadcast Signals*, 16 FCC Rcd 2598, 2618 (2001). We note that the FCC recently adopted new rules for the retransmission of local digital signals by satellite carriers under Section 338 of the Communications Act. Recognizing satellite capacity limitations, the FCC promulgated carriage requirements phased in over a course of four years. Satellite carriers must provide carriage of local stations' HD signals if any local station in the same market is carried in HD, pursuant to the following schedule: (1) In at least 15% of the markets in which they carry any station pursuant to the statutory copyright license in HD by February 17, 2010; (2) In at least 30% of the markets in which they carry any station pursuant to the statutory copyright license in HD no later than February 17, 2011; (3) In at least 60% of the markets in which they carry any station pursuant to the statutory copyright license in HD no later than February 17, 2012; and (4) In 100% of the markets in which they carry any station pursuant to the statutory copyright license in HD by February 17, 2013. Implementation of the Satellite Home Viewer Improvement Act of 1999: *Local Broadcast Signal Carriage Issues and Retransmission Consent Issues,* Second Report and Order, CS Docket No. 00–96 (rel. March 27, 2008).

broadcast licensee. Currently, broadcast stations offer multicast streams carrying news, weather, sports, religious material, as well as foreign language programming (especially, but not limited to, Spanish programming).[4] For example, Station WRAL in Raleigh, North Carolina, (owned by Capitol Broadcasting Corporation or ''CBC'') transmits its analog signal (WRAL–TV) on channel 5 and its primary digital signal (WRAL–DT) on channel 5.1, which simulcasts (in both standard definition and high definition) the analog programming schedule. It is also engaged in multicasting by transmitting a 24–hour news channel (WRAL–NC) on channel 5.2 and locally–produced programming on channels 5.3 (WRAL–DT3) and 5.4 (WRAL–DT4). *See* http://www.wral.com/ These digital programming streams are broadcast from a single transmitter.

B. Royalties for the retransmission of non–network programming

Copyright Owners' Petition. In their Petition, Copyright Owners acknowledge that some cable systems are separately reporting carriage of digital and analog broadcast signals and, in their view, doing so appropriately. However, they stated that it was unclear whether all cable systems are identifying carriage of both types of signals or are doing so in a consistent and uniform manner. According to Copyright Owners, the lack of uniformity in reporting the carriage of both analog and digital broadcast signals necessitates clarification of the Copyright Office's existing regulations.

Copyright Owners therefore have asked the Copyright Office to clarify that, if a cable operator chooses to carry a television broadcast station's analog and digital signals, it should identify those signals separately in Space G on its Statement of Account form (e.g., as WRC–TV on channel 4 and WRC–DT on channel 48). Copyright Owners asserted that separate designation provides notice that a cable operator is carrying digital signals and may be charging subscribers additional fees that should be included in the gross receipts calculation. Moreover, in the context of distant signal carriage, Copyright Owners argued that separate reporting of both the digital and the analog signal is necessary because such carriage may trigger an additional royalty obligation.

Copyright Owners have also asked the Copyright Office to clarify that a cable operator carrying multicast signals must identify those signals separately in Space G on its SOA form. They state that a cable operator choosing to carry all of the digital channels transmitted by WRAL, for example, should state in Space G of its SOA that it carried WRAL–DT on channel 5.1; WRAL–NC on channel 5.2; WRAL–DT3 on channel 5.3; and WRAL–DT4 on channel 5.4. Copyright Owners asserted that separate reporting is necessary in the case of carriage of multiple digital channels, where the copyright owners of the programming on such separate channels may be wholly different from the copyright owners of the programming on the primary digital stream.

For purposes of ascertaining the royalties owed, Copyright Owners suggested that where the programming is identical, the DSE values for carriage of a distant analog and a digital signal would be the same. However, Copyright Owners have urged the Copyright Office to require separate calculation of DSE values and royalty payments for carriage of multiple streams of a distant digital station. If, for example, a cable operator chose to retransmit two streams from a particular station that is engaging in multicasting, one of which contained network programming and the other of which did not, they believe that the operator should be considered as retransmitting 1.25 DSEs (1.00 DSE for the independent programming stream plus .25 DSE for the network programming stream).

NOI. In the NOI, the Office asked whether a cable operator must pay separately for the retransmission of a digital signal and an analog signal where the signals carry identical programming to the subscriber. Alternatively, the Office asked whether the statutory license allowed for a single payment for the delivery of the same programming albeit in two different formats. The Office also asked whether the determination would be different if the digital signal included only a subset of the programming from the analog signal or if the digital signal was broadcast in a high definition format. It also sought comment on Copyright Owners' regulatory treatment of digital multicast signals under Section 111. 71 FR at 54950–51.

Comments. NCTA argues that no additional liability attaches on account of carriage of a digital signal where the cable operator is already paying for carriage of its analog counterpart. In support of its argument, NCTA relies upon the definition of a ''primary transmission'' in 17 U.S.C. 111(f). It further argues that since this provision used the term ''signals'' as opposed to just ''signal,'' Congress had already contemplated the retransmission of multiple signals, each with different distant digital programming, at a single DSE value. It states that a cable operator's royalty payment should not be increased based on carriage of multiple signals from the same primary transmitter. NCTA Comments at 4–5.

NCTA asserts that the amount a cable operator pays for distant signal carriage under Section 111 is based on the number and type of 'stations' carried, not the number of signals transmitted by each station. NCTA notes that a DSE is defined as the ''secondary transmission of any nonnetwork television programming carried by a cable system in whole or in part beyond the local service area of the primary transmitter of such programming.'' It remarks that the DSE value depends on whether the station engaged in the primary transmission is considered to be an ''independent,'' ''network,''or ''noncommercial educational'' station. NCTA comments that a ''network station'' is only assigned a single DSE (.25) even if a station is affiliated with ''one or more television networks in the United States providing nationwide transmissions.'' Based on the foregoing, NCTA concludes that nothing in the Act indicates that a single ''station,'' for Section 111 purposes, must transmit only one signal. *Id*. at 5.

With regard to multicasting, NCTA states that in a small number of cases, a cable operator may be importing a digital multicast stream from a distant station that differs from the programming on the analog version of the station already carried on a distant basis. NCTA argues that the Act does not provide a mechanism for assigning additional DSE values in such a case, and the Copyright Office should refrain from doing so without explicit statutory authority. NCTA Comments at 6. NCTA believes that Section 111 does not require cable operators to pay additional royalties for the retransmission of additional signals being transmitted by a single station.

Specifically, NCTA asserts that the carriage of a separate digital multicast signal would be no different, from the standpoint of royalty calculations, than carriage of a separate copyrighted work

[4] *See* Allison Romano, *Local Stations Multiply*, Broadcasting & Cable, March 10, 2008 (noting that local television stations plan to launch several new multicast programming streams in the months ahead. Some possible streams include: LATV (bilingual Spanish–English entertainment), Retro Television Network (classic television shows); .2 Network (movies from the last decade); Weather Plus (weather stream co–owned by NBC and its affiliates); Blue Highway TV (gospel and country music programming); CoLours TV (programming for minority and ethnic communities); Fan Vision (local sports); Funimation (Anime and Japanese cartoons); Mexicanal (Spanish–language entertainment); Motor Trend TV (automotive–related programming); and World Championship Sports Network (sports programming).

transmitted by a station along with its main broadcast programming transmission. NCTA states, for example, that if a cable system were to retransmit closed captioning or other material, program–related or not, that might be in the vertical blanking interval of an analog television signal, no additional copyright payment would be owed. NCTA notes that so long as the additional material constitutes a ''primary transmission'' service, it would be covered by Section 111 and no additional DSE value would be assigned. It further notes that, for Section 111 purposes, the DSE value would not change, regardless of its status as ''program–related'' material for FCC purposes. NCTA argues that the same principle would apply where a cable operator retransmits multiple streams of digital programming transmitted by the same station. *Id.* at 6.

NCTA also argues that a separate payment mechanism for digital transmissions was not intended by Congress, pointing to Section 119 of the Act for comparison. NCTA asserts that in 2004, Congress expressly amended Section 119 to require separate payments for a satellite carrier's secondary transmission of the primary digital transmissions of network stations and superstations *See* NCTA Comments at 6–7 citing 17 U.S.C. 119(c)(2). Absent a similar amendment to Section 111, NCTA argues that no separate DSE should be calculated for ''distant digital signal carriage when the operator already pays for carriage of that primary transmitter's analog signal.'' NCTA Comments at 7.

NCTA concludes that a cable operator should not have to pay more than once to import any number of signals (even if the programming differs) transmitted by a single broadcaster. NCTA argues that the plan devised by Copyright Owners ''would lead to inflated and unfair copyright fees.'' NCTA asserts that the Copyright Office should not impugn additional royalties under Section 111 when the language of the Act does not require it. NCTA Reply Comments at 2–4.

Copyright Owners are principally concerned with the retransmission of multicast streams by cable operators under Section 111. They state that Section 111(f) assigns a DSE ''value of one to each independent *station* and the value of one–quarter to each network station and noncommercial educational *station* for the nonnetwork programming so carried pursuant to the rules, regulations, and authorizations of the Federal Communications Commission.'' Copyright Owners Reply Comments at 19–20 (emphasis in original). According to Copyright Owners, the meaning of the term''signals'' is not the linchpin in this debate, rather the focus should be on the meaning of the term ''station'' as it is used in Section 111(f). That is, whether all multicast channels from a single broadcaster should be treated as one ''station'' for purposes of assigning a DSE value (NCTA's position), or whether each channel transmitting separate programming should be treated as a separate ''station'' (Copyright Owners position). *Id.*

Copyright Owners note that although Congress defined ''independent station,'' ''network station'' and ''noncommercial station'' in Section 111(f), it did not define the general term ''station'' in Section 111. They comment that in 1976, a television station had broadcast programming on a single analog channel only. *Id.* at 21, citing *Carriage of Digital Television Broadcast Signals*, 16 FCC Rcd 2598, 2618 (2001). They state that it was not until the early 1990s that a ''common understanding'' began to develop that a digital televison station might engage in multicasting. Copyright Owners argue that there is no evidence that when Congress adopted the DSE definition in 1976, it contemplated that a television station would broadcast programming on more than a single channel, or that if a station did so, a single DSE value would encompass those multiple channels. They remark that this result is not surprising given that no station engaged in any type of multicasting until twenty years after Section 111 was enacted. Copyright Owners assert that these facts undercut NCTA's effort to encompass as many as six multicast streams within a single DSE value for purposes of calculating the Section 111 royalty payment. *Id.*

Copyright Owners state that there are several reasons why the Copyright Office should decide that each multicast stream should be considered a separate ''station'' for purposes of the Section 111(f) definition of DSE. First, they argue that copyright owners should be compensated for all programming being retransmitted by Form 3 cable operators under Section 111, regardless of format. They state that a central principle underlying Section 111 was that royalties should increase, at least for larger systems, as the amount of distant programming increased.

Next, Copyright Owners assert that a cardinal rule of statutory construction is that a statutory provision must be interpreted as a whole. In this case, they state that NCTA's proposed interpretations of Section 111(f) should be considered in light of Section 801(b)(2)(B), which arguably reflects a Congressional policy that Form 3 cable operators should pay a separate royalty for the carriage of non–network programming that they were not authorized to carry under the FCC's 1976 rules. They state that NCTA's proposal would subvert that policy by allowing cable operators to retransmit substantial amounts of non–permitted programming without paying a separate royalty, as long as that programming was contained on a multicast stream broadcast by a ''permitted'' station.

Third, Copyright Owners assert that an examination of some of the practical consequences of NCTA's suggested interpretation underscores its incompatibility with Congressional intent. They state that the DSE definition specifies certain circumstances where a cable operator may reduce or prorate a DSE value, such as when an operator retransmits a distant signal on a ''part–time'' basis because of the ''lack of activated channel capacity.'' According to Copyright Owners, in such cases, the cable operator is able to pay a fraction of the DSE value, using ''the values for independent, network, and noncommercial educational stations, as the case may be, to be multiplied by a fraction which is equal to the ratio of the broadcast hours of such station carried by the cable system to the total broadcast hours of the station.'' *Id.* at 24, citing 17 U.S.C. 111(f). Copyright Owners argue that if NCTA's interpretation were to be adopted, a cable system that otherwise qualified for part time carriage could cut in half the DSE value it had been assigning to a distant network affiliate simply by not carrying the affiliate's 24 hour weather multicast channel. They assert that a cable system could pay as little as one–sixth of its prior royalty for carriage of the same affiliate simply because the affiliate added five multicast channels that the system did not retransmit. *Id.* at 25.

Copyright Owners state a similar problem would arise under the ''network station'' definition that requires a ''station'' to transmit network programming ''for a substantial part of that station's typical broadcast day.'' Copyright Owners argue that if NCTA's position were accepted, such affiliates' classification as network stations might be questioned if they multicast any significant amount of nonnetwork programming on additional channels, so that the network programming would no longer occupy a substantial part of the station's typical broadcast day; in short, acceptance of NCTA's theory could lead to the conclusion that network affiliates

choosing to multicast no longer qualified as ''network stations.'' Copyright Owners conclude that this would not be the result that Congress intended. *Id.* at 22–25.

Discussion. As seen in the commenters' discussion, a critical step in the analysis is choosing the proper statutory construct for assessing copyright liability for the retransmission of distant digital television signals under the Act. Section 111 uses various terms, such as ''stations,'' ''signals,'' ''distant signal equivalents,'' and ''nonnetwork television programming,'' to delineate the ''product'' being carried by cable operators and for which royalty fees must be paid. While the statute contains specific definitions of ''network station,'' ''independent station,'' and ''noncommercial station,'' the general term ''station'' is not defined in Section 111.

There are certain terms that Congress did elaborate upon in Section 111's legislative history. Congress stated that in any particular case, the ''primary'' transmitter is the one whose signals are being picked up and further transmitted by a ''secondary'' transmitter which, in turn, is someone engaged in ''the further transmitting of a primary transmission simultaneously with the primary transmission.'' H. Rep. No. 94–1476, 94th Cong., 2d Sess., at 91. In this instance, it mentioned the term ''signal'' in the plural form, but this is far from supporting NCTA's interpretation.

Congress also explained that a ''distant signal equivalent'' is assigned to all ''distant'' signals. It stated that distant signals are defined as signals retransmitted by a cable system, in whole or in part, outside the local service area of the primary transmitter. It noted that different values are assigned to independent, network, and educational stations because of the different amounts of viewing of ''non–network programming'' carried by such stations. *Id.* at 90. While Congress discussed the meaning of the term, ''distant signals,'' it did not explain the meaning and significance of the term ''signal,'' or how it is different from the term ''station,'' for cable copyright purposes.

It is axiomatic that Section 111 is not a model of statutory clarity.[5] The terms ''station'' and ''signal'' are used, interchangeably, dozens of times throughout the provision. It may have been that Congress did not find it necessary to clarify such terms in 1976 because there was no confusion as to the subject being transmitted by cable operators at that time. However, for our purposes here, we must parse out what the terms mean, so that we can effectuate the intent of Congress when it enacted Section 111. In the absence of clarifying language in the Copyright Act, reference to the Communications Act of 1934 may help.

Under the Communications Act, the term ''broadcast station'', ''broadcasting station'', or ''radio broadcast station'' means a radio station equipped to engage in broadcasting. 47 U.S.C. 153(5).[6] This is the physical facility used to transmit radio signals. The term ''broadcasting,'' in turn, means the dissemination of radio communications intended to be received by the public, directly or by the intermediary of relay stations. 47 U.S.C. 153(6). Broadcasting, then, is the act of transmitting radio signals. The term ''station license,'' ''radio station license,'' or ''license'' means that instrument of authorization required by the Communications Act or the FCC for the use or operation of apparatus for transmission of energy, or communications, or signals by radio, by whatever name the instrument may be designated by the Commission. 47 U.S.C. 153(42). A broadcast licensee is a holder of a broadcast license and has the authority under law to engage in broadcasting.[7] Each of these terms were part of the Communications Act when Congress amended Title 17 in 1976 to include Section 111. And, each of these terms relates to the act of broadcasting and the dissemination of radio signals. None of the terms define the content of the transmission for either communications law or copyright law purposes. As such, when Congress used the term ''station,'' in either the singular or the plural, in Section 111, it is reasonable to conclude that it did not intend for the term to define the scope of the cable operator's statutory royalty obligations.

Congress did not define the singular term ''signal'' in the Communications Act. However, it did define the term ''radio communication'' as the transmission by radio of writing, signs, signals, pictures, and sounds of all kinds, including all instrumentalities, facilities, apparatus, and services (among other things, the receipt, forwarding, and delivery of communications) incidental to such transmission. 47 U.S.C. 153(33). Signals, as seen above, are a particular kind of radio communication transmitted by a broadcast station. Again, however, the Communications Act does not delineate the specific type of programming carried by the signal transmission.

To further elucidate the meaning of the term ''signal,'' it is useful to examine the history of the retransmission consent provisions of the Communications Act. Prior to 1992, cable operators were not required to seek the permission of a local broadcast station before carrying its signal nor were they required to compensate the broadcaster for the value of its signal. Congress found that a broadcaster's lack of control over its signal created a ''distortion in the video marketplace which threatens the future of over–the–air broadcasting.'' *See* S. Rep. No. 102–92, 102d Cong., 1st Sess. (1991) at 35. In 1992, Congress acted to remedy the situation by giving a commercial broadcast station control over the use of its signal through statutorily–granted retransmission consent rights. Retransmission consent effectively permits a commercial broadcast station to seek compensation from a cable operator for carriage of its signal. Congress noted that some broadcasters might find that carriage itself was sufficient compensation for the use of their signal by a multichannel video programming distributor (''MVPD'') while other broadcasters might seek monetary compensation, and still others might negotiate for in–kind consideration such as joint marketing efforts, the opportunity to provide news inserts on cable channels, or the right to program an additional channel on a cable system. Congress emphasized that it intended ''to establish a marketplace for the disposition of the rights to retransmit broadcast signals'' but did not intend ''to dictate the outcome of the ensuing marketplace negotiations.'' *Id.* at 36.

With regard to copyright issues, the legislative history accompanying Section 325 indicates that Congress was

[5] *See* Daniel L. Brenner, Monroe E. Price, Michael Myerson, *Present Rate Structure.* Cable Television and Other Nonbroadcast Video, § 9.9 (Database updated April 2007) (''The rate structure governing cable copyright payments is complex. It reflects the tremendous pressures exerted on Congress by the industries affected by the legislation. As all parties sought to fashion regulations that favored their own financial interests, they preferred ambiguity or possible inconsistency to potentially unfavorable clarity.'')

[6] The Communications Act was amended in 1996 to include new definitions applicable to television broadcast licensees. Under the Act, the term ''analog television service '' means television service provided pursuant to the transmission standards prescribed by the Commission in Section 73.682(a) of its regulations (47 CFR 73.682(a)). 47 U.S.C. 153(49)(A). The term ''digital television service '' means television service provided pursuant to the transmission standards prescribed by the Commission in Section 73.682(d) of its regulations (47 CFR 73.682(d)). 47 U.S.C. 153(49)(B).

[7] In 1997, the FCC determined that the analog and digital facilities of a station are to be licensed under a single paired license. *See Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service*, Fifth Report and Order, 12 FCC Rcd 12809 (1997).

concerned with the effect retransmission consent may have on the Section 111 license stating that ''the Committee recognizes that the environment in which the compulsory copyright [sic] operates may change because of the authority granted broadcasters by section 325(b)(1).'' *Id.* The legislative history later stated that cable operators would continue to have the authority to retransmit programs carried by broadcast stations under Section 111. *Id.*

In 2001, the FCC established a new policy permitting a broadcast station to treat its analog and digital signals differently for retransmission consent purposes. Under this paradigm, a television station would be allowed to choose must carry or retransmission consent for its analog signal and retransmission consent for its digital signal during the DTV transition period. The FCC also concluded that a broadcaster and a cable operator may negotiate for partial carriage of a local digital television signal. The FCC believed that this policy, which would apply to digital–only television stations and television stations with both analog and digital signals, would benefit both parties and help to accomplish the Congressional goal of smooth DTV transition. To the point, the FCC noted that the broadcaster gained access to cable subscribers for some fraction of its signal, and the cable operator could conserve channel capacity and carry that programming stream which it believes subscribers would want. The FCC stated that cable operators were likely to negotiate retransmission consent agreements with more stations if carriage of something less than the full complement of a broadcaster's digital signal is permitted. *Carriage of Digital Television Broadcast Signals*, 16 FCC Rcd at 2610–11.

This discussion shows that Congress specifically intended to provide a broadcast ''station'' with a mechanism to extract the value of its ''signal'' when being retransmitted by a cable operator or other multichannel video programming distributor.[8] This was a ''right'' that was clearly lacking in the copyright law. The legislative history of Section 325 of the Communications Act supports the notion that Congress was concerned about compensating a broadcast station for the retransmission of its signal by a cable operator, not the content carried on the signal.[9] The FCC later allowed a broadcast station to segregate its digital signal to further realize the value of specific programming streams in the marketplace.

So, it appears that the terms ''station'' and ''signal,'' are not necessarily controlling in our analysis here. In contrast, Section 111 explicitly discusses the value of the nonnetwork programming carried by a broadcast station. Congress has used the term ''nonnetwork programming'' throughout the legislative history accompanying the Act. For example, Congress found that the retransmission of distant ''non–network programming'' by cable systems causes damage to the copyright owner by distributing the program in an area beyond which it has been authorized. Congress also stated that such retransmission adversely affects the ability of the copyright owner to exploit the work in the distant market. For these reasons, Congress concluded that the copyright liability of cable television systems under the statutory license should be limited to the retransmission of distant ''nonnetwork programming.'' H. Rep. No. 94–1476, 94th Cong., 2d Sess., at 90.

Further, when discussing copyright royalty distributions, Congress noted that copyright royalty fees should be made only for the retransmission of distant ''nonnetwork programming,'' and that the claimants were limited to (1) copyright owners whose works were included in a secondary transmission made by a cable system of a distant ''nonnetwork television program''; (2) any copyright owner whose work is included in a secondary transmission identified in a statement of account deposited under Section 111(d)(2)(A); and (3) any copyright owner whose work was included in distant ''nonnetwork programming'' consisting exclusively of aural signals. *Id.* at 97.

The statutory definition of distant signal equivalents, and accompanying legislative history, also emphasize the term ''nonnetwork programming.'' For cable copyright royalty purposes, a ''distant signal equivalent'' is the value assigned to the *secondary transmission of any nonnetwork television programming* carried by a cable system in whole or in part beyond the local service area of the primary transmitter of such programming. It is computed by assigning a value of one to each independent station and a value of one–quarter to each network station and noncommercial educational station for the nonnetwork programming so carried pursuant to the rules, regulations, and authorizations of the Federal Communications Commission in effect in 1976. 17 U.S.C. 111(f) (emphasis added). The emphasis on DSEs is reinforced by Section 801(b)(2)(B), which, as noted by Copyright Owners, reflects the legislative policy that cable operators should pay a separate royalty for the carriage of non–network programming that they were not authorized to carry under the FCC's 1976 rules.[10]

Congress noted that the definition of a ''distant signal equivalent''' is central to the computation of the royalty fees payable under the statutory license. According to the legislative history, it is the value assigned to the secondary transmission of any nonnetwork television programming carried by a cable system, in whole or in part, beyond the local service area of the primary transmitter of such programming. It is computed by assigning a value of one (1) to each distant independent station and a value of one–quarter (1/4) to each distant network station and distant noncommercial educational station carried by a cable system, pursuant to the rules and regulations of the FCC. The legislative history states, for example, that a cable system carrying two distant independent stations, two

[8]For retransmission consent purposes, the term ''television broadcast station '' means an over–the–air commercial or noncommercial television broadcast station licensed by the Commission under subpart E of part 73 of title 47, Code of Federal Regulations, except that such term does not include a low–power or translator television station. 47 U.S.C. 325(b)((7).

[9]Prior FCC statements on this matter support our view. When implementing the Communications Act's new must carry and retransmission consent provisions in 1993, the FCC stated that ''the legislative history of the 1992 Act suggests that Congress created a new communications right in the broadcaster's signal, completely separate from the programming contained in the signal. Congress made clear that copyright applies to the programming and is thus distinct from signal retransmission rights.'' The FCC interpreted Section 325 as meaning that the new right may be bargained away by broadcasters in future contracts and conceivably could have been bargained away in some existing contracts. In so holding, the FCC stressed that ''retransmission consent is a right created by the Communications Act that vests in a broadcaster 's signal; hence, the parties to any contract must have bargained over this specific right, not a copyright interest.'' The FCC then stated that ''Just as Congress made a clear distinction between television stations' rights in their signals and copyright holders' rights in programming carried on that signal, we intend to maintain that distinction as we implement the retransmission consent rules.'' *See Broadcast Signal Carriage Issues*, 8 FCC Rcd 2965, 3004 (1993).

[10]This provision states, in relevant part: ''In the event that the rules and regulations of the Federal Communications Commission are amended at any time after April 15, 1976, to permit the carriage by cable systems of additional television broadcast signals beyond the local service area of the primary transmitters of such signals, the royalty rates established by section 111(d)(1)(B) may be adjusted to ensure that the rates for additional distant signal equivalents resulting from such carriage are reasonable in light of the changes effected by the amendment to such rules and regulations.'' 17 U.S.C. 801(b)(2)(B).

distant network stations and one distant noncommercial educational station would have a total of 2.75 distant signal equivalents. H. Rep. No. 94–1476, 94th Cong. 2d Sess., at 100.

We are confronted with an archaic and arcane statute and a burgeoning new technology that was never contemplated by Congress in 1976. Both NCTA and Copyright Owners have submitted reasonable interpretations of the existing statutory language and its application to the retransmission of digital television streams. Our task here is to read Section 111 in a manner that keeps the statute functioning and in a way to avoid regulatory chaos. As such, the most reasonable interpretation, and one that is fully supportable by language and history of the Copyright Act (as well as the Communications Act), is one that best compensates copyright holders for the public performance of their works. We therefore propose that the statutory linchpins in this discussion are not ''signals,'' as proffered by NCTA, nor ''stations,'' as noted by Copyright Owners, but ''DSEs'' and ''nonnetwork television programming.'' While the Copyright Act is silent on the treatment of duplicative distant signals in Section 111, the DSE definition does not require cable operators to pay additional royalties for the digital simulcast of a distant television station's analog signal. In this case, there is no unique nonnetwork television programming retransmitted by the cable system. The copyright owner, in this instance, is already being compensated for the value of the work through the payment of royalties for the analog signal. Therefore, if the programming carried on the primary digital signal is duplicative of the programming carried on the analog signal, double payment of royalties for the retransmission of both by cable operators is not required. In practical terms, if a cable operator lists an analog signal and a digital simulcast signal on its statement of account, it only has to pay a single DSE.

However, we propose that a cable operator must pay royalties on each retransmitted distant digital multicast stream carrying different programming from the channel line–up on other streams. Each multicast stream should be treated as a separate DSE for Section 111 purposes. It is important to note here that in 1976, an analog television station was limited by technology to being able to transmit a single channel of programming during a typical broadcast day. Currently, because of digital technology, a digital television station is able to transmit multiple channels of programming during a broadcast day. To the licensee, that is like having the ability to program multiple stations. To the cable subscriber, each multicast stream is received as, and appears to be, a separate ''station'' with different programming schedules. This is a critical distinction from program–related material embedded in the analog station's vertical blanking interval that cannot be seen nor has any instrinsic value to cable subscribers.

In this instance, we propose that copyright owners must be compensated because there is new nonnetwork programming being carried by the cable operator regardless of whether multiple digital signals are broadcast from a single transmitter. Thus, if there is any original, non–duplicative programming on a multicast stream, then royalties must be paid according to the DSE value that would be assigned to that signal based upon its classification as either a network, independent, or noncommercial station. A cable operator must report the retransmission of each multicast programming stream it carries on its SOA. So, if an operator retransmits a distant network station analog signal, a digital simulcast of the network, and two separate digital multicast network station streams, the DSE would equal .75 (.25 for the analog, 0 for the digital simulcast, .25 for the first stream and .25 for the second stream).[11] In accordance with the rules proposed below, a cable operator shall identify the types of digital streams retransmitted on its Statement of Account so that examiners are able to process the forms submitted to the Copyright Office. While Congress certainly did not contemplate the advent of multicasting when it enacted Section 111 thirty years ago, our proposal comports with the language, intent, and goals of the Act.[12] We believe that the Copyright Office has the statutory authority to effectuate this policy outcome without legislative action.[13]

When discussing DSEs here, it is also important to recognize that under Section 111(f) of the Copyright Act, the values for independent, network, and noncommercial educational stations are subject to some limitations. For example, where the FCC's rules require a cable system to omit the further transmission of a particular program, and the rules also permit program substitution, no value is assigned to the substituted or additional program. Further, where the FCC's rules permit a cable system, at its election, to omit the further transmission of a particular program and permit the substitution of another program, the value assigned for the substituted or additional program shall be, in the case of a live program, the value of one full distant signal equivalent multiplied by a fraction that has as its numerator the number of days in the year in which such substitution occurs and as its denominator the number of days in the year. Also, in the case of a station carried pursuant to the FCC's late–night or specialty programming rules, or a station carried on a part–time basis where full–time carriage is not possible because the cable system lacks the activated channel capacity to retransmit on a full–time basis all signals which it is authorized to carry, the values for independent, network, and noncommercial educational stations are multiplied by a fraction which is equal to the ratio of the broadcast hours of such station carried by the cable system to the total broadcast hours of the station. These exceptions are important to recognize because they demonstrate that Congress explicitly limited the value of certain nonnetwork programs, for royalty purposes, when the situation so warranted.[14] There are no such exceptions for digital signals retransmitted under Section 111.

[11]This does not include the possibility of the 3.75% fee, or syndicated exclusivity surcharge, which may or may not apply.

[12]The FCC has recognized the value of multicasting and its ability to reach audiences with different programming on different streams. For example, in 2004, the FCC amended its children's television rules and policies to ensure that they continue to serve the interests of children during and after the DTV transition. Among other things, the FCC revised its three–hour core programming processing guideline (where a television broadcast licensee is required to air three hours per week of programming ''specifically designed'' to serve the educational and informational needs of children ages 16 and under) as it applies to DTV signals. For those broadcasters that engage in multicasting, the rule generally provides that a broadcaster's core programming obligation increases in proportion to the amount of free programming being offered. That is, a digital television station must provide additional children's programming on each multicast it offers. *See Children's Television Obligations of Digital Television Broadcasters*, 19 FCC Rcd 22943 (2004).

[13]In the 2004 SHVERA, Congress was principally concerned with the reauthorization of Section 119 that was to expire without legislative action. Section 111, which is permanent, was not the subject of discussion at that time and any attempt to have amended the cable statutory license would have unduly delayed the Section 119 renewal process.

[14]The legislative history accompanying this provision states that this ''discretionary exception is limited to those FCC rules in effect on the date of enactment of this legislation. If subsequent FCC rule amendments or individual authorizations enlarge the discretionary ability of cable systems to delete and substitute programs, such deletions and substitutions would be counted at the full value assigned the particular type of station provided above.'' H. Rep. No. 94–1476, 94th Cong., 2d sess., at 100.

C. Ancillary and Supplementary Streams

Background. DTV technology allows television stations to use part of their digital bandwidth for new ancillary programming and data services. These adjunct services can be provided simultaneously with high definition or standard definition DTV programs, and can deliver virtually any type of data, audio or video, including text, graphics, software, web pages, video–on–demand, and niche programming. Some of the content produced and distributed by the television station may be related to the program being broadcast (*i.e.*, ''program–related material''). For example, a television station may transmit interactive sports statistics along with the local major league baseball game being digitally broadcast.

Copyright Owners did not directly discuss the retransmission of digital program–related material under Section 111 in their Petition for Rulemaking. However, they did suggest that if one digital broadcast stream contained only material that was part of the copyrighted programming on the other digital broadcast stream, the cable operator would report only a single DSE (or .25 DSE if the stream qualified as a ''network station'' as defined in the Copyright Act). Copyright Owners cited to *WGN v. United Video*, 693 F.2d 622 (7th Cir. 1982) in support. We sought comment on Copyright Owners' recommendation in the NOI and also asked whether the 1982 *WGN* case, decided in an analog context, is applicable in this context. 71 FR at 54951.[15] No party filed comments in response to this specific inquiry. However, as seen above, NCTA raises arguments about program–related material and multicasting that allude to this case. *See, supra*, at 11.

We also must recognize that NAB, in its comments filed in response to the Copyright Office's Section 109 Notice of Inquiry, argues that separate rules for the retransmission of digital broadcast signals are unnecessary; instead, some relatively minor clarifications and amendments should clarify that the existing rules apply without regard to the broadcast format of a signal. According to NAB, each separate broadcast signal with a stream of programming retransmitted by a cable system to subscribers should be reported and considered separately for purposes of calculating Section 111 royalties. It comments that if the material on one channel consists entirely of material that is identical to or related to the copyrighted material on another channel, within the meaning of *WGN v. United Video, Inc.*, 693 F.2d 622 (7 th Cir. 1982), only one DSE value would be assigned to both channels. Based on the preceding comments, a discussion of *WGN* is important in both the royalty treatment of distant digital multicast signals and how the Office should examine ''program–related'' material for Section 111 purposes.

In *WGN*, an independent television station in Chicago sought an injunction against United Video, a telecommunications common carrier, to prohibit it from retransmitting its copyrighted television program to the carrier's cable television system customers after stripping the vertical blanking interval (''VBI'') of teletext information. The 7th Circuit held that the teletext was covered by the underlying copyright on the news program where it was intended to be seen by the same viewers that were watching the nine o'clock news on WGN, during same interval in which that news was broadcast, and it was an integral part of the news program. The teletext portion of the program itself, was encoded in vertical blanking interval of the television signal. The Court held that this was the case even though the teletext could not be viewed simultaneously with the news program and was intended to be seen as if it were on a different channel, even though it was part of the same signal. The Court concluded that the television station's copyright in its news program was infringed by the deletion of the teletext portion of the broadcast by United Video.

Discussion. As an initial matter, we must note that digital multicasting is different than the teletext provided in the vertical blanking interval of WGN's analog broadcast signal for a variety of reasons. From a technical standpoint, there is no VBI in the digital television context. Rather, there are digital streams of data that can be dynamically tailored to transmit any type of programming within the bandwidth constraints of the digital television signal. There are also significant differences in the manner by which multicasting is presented. First, multicast streams are not intended by television stations to be seen by the same viewers. One of the benefits of multicasting is that a broadcaster can reach different audiences with different programs than the kind broadcast on the primary digital stream. Second, multicast streams exist independent of each other, at least from the viewers' perspective. While the streams are transmitted simultaneously by a digital television station, the programming streams are generally not entwined with each other. For example, a single digital television station may be multicasting separate digital programming streams of ABC, NBC, and Fox programming at the same time and be seen separately by viewers at home. Finally, each multicasting stream in the example given is not anchored to, or is an integral part of, the video programming of the main video stream (as designated by the broadcaster). Multicasts are more like separate ''stations'' rather than one station with programming streams orbiting around it. As such, most multicast streams would not be considered program–related for Section 111 purposes, and therefore, should not be bundled together for DSE determinations. Rather, each stream should have its own distinct DSE value in line with the points noted elsewhere in this NPRM.

There are certain exceptions to this general rule. For example, a multiple camera angle sporting event may be considered a program–related event under the *WGN* factors. In this instance, this programming is intended to be seen by the same viewers, they are related to each other since they are different perspectives of the same event, and they are an integral part of the same broadcast. As such, the retransmission of such nonnetwork programming would be assigned a value of a single DSE.

It is important to note that FCC has determined that, to avoid inconsistency with copyright law, the factors enumerated by the 7th Circuit in *WGN* should be used in deciding whether material in the vertical blanking interval of local television stations is program–related and therefore entitled to mandatory cable carriage.[16] The FCC noted that there could also be instances in which material that does not fit squarely within the factors listed in WGN would be program–related. *See Broadcast Signal Carriage Issues*, 8 FCC

[15] Satellite carriers and copyright owners have agreed that no separate copyright royalty payment would be due for any program–related material contained on the digital broadcast stream within the meaning of *WGN. See Rate Adjustment for the Satellite Carrier Compulsory License*, 70 FR 39178, 39179 (July 7, 2005).

[16] Pursuant to Section 614 of the Communications Act, and implementing rules adopted by the FCC, a broadcast station is entitled to assert mandatory carriage rights on cable systems located within the station's market. Specifically, cable operators are required to carry the primary video, accompanying audio, and closed captioning information in line 21 of the VBI, in its entirety, of local commercial stations in fulfilling their must carry obligations. Cable operators also are required, to the extent technically feasible, to retransmit program–related material carried in the VBI. Carriage of other non–program–related material in the VBI (including teletext and other subscription and advertiser–supported information services) is at the discretion of the cable operator. *See* 47 U.S.C. 534(b)(3).

Rcd 2985 n.235 (1993); *Broadcast Signal Carriage Issues*, Reconsideration Order, 9 FCC Rcd 6723, 6732 n.128. 614. *See also In re Gemstar International Group., Ltd.*, 16 FCC Rcd 21531 (2001) (holding that an electronic program guide developed by Gemstar International, and carried in the VBI of local broadcast stations, was not covered by the signal carriage obligations of Section 614).

Therefore, unique audio and visual material that is related to a program being transmitted by a digital broadcast television signal is considered covered under Section 111 of the Act. If such material is embedded in the digital programming stream, such as new interactive content like multiple camera angles, then a cable operator should not have to pay separate royalties for the additional material. However, if the distant digital broadcast station multicasts unique and separate streams of programming, and they are retransmitted pursuant to Section 111, then a cable operator must pay royalties for each stream.

WGN provides support for our interpretations here. In reviewing the facts and law presented in *WGN*, the 7th Circuit stated that ''Congress probably wanted the courts to interpret the definitional provisions of the new act flexibly, so that it would cover new technologies as they appeared, rather than to interpret those provisions narrowly and so force Congress periodically to update the act.'' 693 F.2d at 628. The Court comments that the House Report states: ''Authors are continually finding new ways of expressing themselves, but it is impossible to foresee the forms that these new expressive methods will take. The bill does not intend either to freeze the scope of copyrightable technology or to allow unlimited expansion to areas completely outside the present congressional intent. Section 102 [a lengthy enumeration of copyrightable works of authorship, including audiovisual works] implies neither that the subject matter is unlimited nor that new forms of expression within that general area of subject matter would necessarily be unprotected.'' *Id.* citing H.R. Rep. No.1476, 94th Cong., 2d Sess. at 51 (1976) (emphasis added). The Court then states, ''We take this passage, despite its hedging language, as some warrant for the method of interpretation employed in this opinion, which allows new types of ''audiovisual work'' to be recognized by analogy to the old.'' *Id.* at 629.[17] No party filed comments disagreeing with this general principle.

D. Application of Section 111 to Digital Signals

In the NOI, we stated that the retransmission of digital signals was not expressly excluded under the cable statutory license, however, we sought comment on a number of practical problems associated with their retransmission under the existing Section 111 regulatory structure. At the outset, it is important to note that in their comments, Copyright Owners stress that separate rules for retransmission of digital broadcast signals are unnecessary. Instead, they ask the Copyright Office to clarify that the existing rules in Section 201.17 (Title 37 of the CFR) apply without regard to the broadcast format of a signal. Copyright Owners Comments at 3. As seen below, it is difficult to make such a broadbrush conclusion as Copyright Owners envision. Rather, a careful analysis of several cable copyright factors is necessary.

1. Local service areas and television markets

Background. Under Section 111(f) of the Act, the ''local service area of a primary transmitter,'' in the case of a television broadcast station, comprises the area in which such station is entitled to insist upon its signal being retransmitted by a cable system pursuant to the rules, regulations, and authorizations of the Federal Communications Commission in effect on April 15, 1976, or such station's television market as defined in Section 76.55(e) of title 47, Code of Federal Regulations (as in effect on September 18, 1993), or any modifications to such television market made, on or after September 18, 1993, pursuant to section 76.55(e) or 76.59 of title 47 of the Code of Federal Regulations. This is important because it determines whether a station is local or distant under Section 111.

In the NOI, we asked whether a digital broadcast station's television market for Section 111 purposes would be the same as the broadcast station's television market for the analog signal. This question was directed at digital–only stations and those stations that broadcast in an analog and digital format during the transition period. We also sought comment on whether a digital signal could ever be considered local if the analog signal is considered distant, or vice versa. 71 FR at 54950. On this matter, Copyright Owners state that the television market for digital broadcast signals should again be determined by relying on the Section 111(f) definition of the 'local service area of a primary transmitter,' which refers to FCC rules to determine the market of a broadcast station. Again, Copyright Owners argue that broadcast format is irrelevant for this purpose. As for significantly viewed signals, Copyright Owners state that if the analog signal has ''significantly viewed'' status in a specific community, its digital counterpart should have the same status for that community. *See* Copyright Owners Comments at 4. CBC states that if a station's analog signal is considered local to a market for Section 111 purposes, then the station's digital signals (including any multicast streams) should also be considered local to the market and therefore should be free from copyright liability under the statutory license. CBC Comments at 3.

Discussion. A key element in calculating the appropriate royalty fee involves identifying subscribers of the cable system located outside the local service area of a primary transmitter. As seen above, this determination is predicated upon two sets of FCC regulations: the broadcast signal carriage rules in effect on April 15, 1976, and a station's television market as currently defined by the FCC. In general, a broadcast station is considered distant vis–a–vis a particular cable system where subscribers served by that system are located outside that broadcast station's specified 35 mile zone (a market definition concept arising under the FCC's old rules), its Area of Dominant Influence (''ADI'') (under Arbitron's defunct television market system), or Designated Market Area (''DMA'') (under Nielsen's current television market system). However, there are other sets of rules and criteria, such as Grade B contour coverage and ''significantly viewed'' status, that also apply in certain situations when assessing the local or distant status of a station–even when subscribers are located outside its zone, ADI and DMA for copyright purposes.

We note that the FCC has adopted a Table of Allocations for digital television stations, defining the frequency allocations for channels in individual communities, that is intended to mirror its Table of Allocations for analog television stations. The FCC's policy goal was to ensure that a digital television station's

[17] Digital television applications are developing at a rapid pace and it is impossible to prognosticate future developments. In any event, broadcasters are currently working on technologies that would allow digital television station licensees to offer near on–demand news and weather, target ads at individual viewers, and transmit downloadable programming, games, and music. *See* TVNEWSDAY, *Digital TV Opens Up Two–Way Opportunities*, http://tvnewsday.com/articles/2008/02/28/daily.4/ (Last accessed on February 28, 2008). We are not in a position here to decide whether the retransmission of such material would be covered by Section 111.

coverage area would replicate the analog television station's coverage area so that no one would lose over–the–air broadcasting service once the digital transition period ends. Plainly, the coverage areas of digital television signals are in a state of flux at the present time because of the FCC's various DTV service requirements and related exceptions and waivers. Some stations are operating on their pre–transition digital channel assignment and some are operating on their post–transition digital channel assignment. Some digital television stations are operating at full power and are replicating their analog service area and some are operating at less than full power. And, some stations will be permitted, once the transition is over, to extend their coverage areas a small degree farther than their current analog signal. These various permutations may have a significant effect on the Office's SOA examination practices. *See Third Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*, MB Docket No. 07–91, FCC 07–228, et. seq. (rel. Dec. 31, 2008).

At the outset then, we must address the technical requirements the FCC has adopted for digital television stations. While these technical changes will not disrupt 35 mile zones, as defined by the Act, or local television markets for commercial television stations, as defined by Nielsen, they may have some bearing on the continuing validity of using analog Grade B contours in determining local service areas of digital signals. It is important to recognize that digital signal coverage is defined by ''noise limited service contours,'' not Grade B contours. This is especially critical for noncommercial television stations because their ''local'' status is currently determined by Grade B contours.[18] The conundrum here is that the new DTV contour parameters did not exist in 1976 (like Grade B contours) nor are they used by the FCC in Sections 76.55(e) and 76.59 to define television markets. As such, there is no statutory basis for us to incorporate the new contour into our rules for purpose of defining markets. Thus, we propose that the Office must either use 35 mile zones or Nielsen's DMAs for purposes of examining SOAs where full power digital signals are reported. This approach is consistent with the operating definitions found in Section 111 of the Act and the Copyright Office's rules and forms.

With regard to ''significantly viewed'' stations, we note that the FCC has stated that the significant viewing standard supplements other ''local'' market definitions by permitting stations that would otherwise be considered ''distant,'' for program exclusivity purposes, to be considered local based on viewing surveys directly demonstrating that over–the–air viewers have access to the signals in question. After taking the complexities of the DTV transition into account, the FCC believed that the public interest was best served by according the digital signal of a television broadcast station the same significantly viewed status accorded the analog signal. The FCC noted, however, that new DTV–only television stations must petition the Commission for significantly viewed status under the same requirements for analog stations in Section 76.54 of the Commission's rules. 16 FCC Rcd at 2642. The FCC did not explicitly discuss whether all new multicast programming streams broadcast from a single transmitter would inherit the significantly viewed status of the analog station.

Based upon the preceding, we propose that a digital simulcast television signal should have the same ''significantly viewed'' status assigned by the FCC to its analog counterpart. These types of determinations, we believe, are unaffected by the switch to digital television. As for new multicast streams from a station that had originally been accorded ''significantly viewed'' status, we will decline to consider them permitted for Section 111 purposes until the time that the FCC makes a determination on this matter. This policy is in accord with our overall finding that new multicast streams should be treated as new stations for cable copyright purposes. We seek comment on these proposals, noting that no amendments to current rules are needed under this approach.

2. Permitted or non–permitted signals and the 3.75% fee

Background. Broadcast station signals retransmitted pursuant to the FCC's 1976–era market quota rules are considered permitted stations and are not subject to a higher royalty rate. Under these rules, a cable system in a smaller television market (as defined by the FCC) is permitted to retransmit only one independent television station signal. A cable system located in the top 50 television market or second 50 market (as defined by the FCC), is permitted to carry two independent station signals. The former market quota rules did not apply to cable systems located ''outside of all markets,'' and these systems under Section 111 are currently permitted to retransmit an unlimited number of television station signals without incurring the 3.75% fee (although these systems still pay at least a minimum copyright fee or base rate fee for those signals).

In the NOI, we asked how the Copyright Office could determine whether a distant digital broadcast signal is permitted or non–permitted for DSE purposes. 71 FR at 54950. Copyright Owners assert that no distinction should be made in the application of the existing rules based on broadcast format; rather, each signal and each stream of a multicast signal should be evaluated separately to determine if it would have been permitted under Commission rules in effect on June 24, 1981. They state, for example, that if a cable operator carries two different streams of a distant digital signal (neither of which contains any network programming) and only one distant independent station could have been carried by that system under the former FCC rules, one stream would be permitted and the other would not. Copyright Owner Comments at 4.

NCTA criticizes this approach stating that most cable systems have reached their FCC market quota of permitted distant signals with distant analog signals. The result then, would be to deem non–permitted (and therefore subject to the 3.75% fee) all distant digital signals during the DTV transition in cases where analog signals already make up the quota of permitted signals. NCTA asserts that, under the Copyright Owners' plan, royalty fees of 3.75% of gross receipts would attach to carriage of each separate digital stream. NCTA argues that this would be an ''extreme and punitive'' approach, not warranted by the language of the Act of the Copyright Office's existing rules. NCTA Reply Comments at 3.

Discussion. The retransmission of a duplicative distant digital television signal shall be considered ''permitted'' for Section 111 purposes. As explained above, the carriage of such signals does not require additional compensation under the statute. However, we propose that each unique multicast stream retransmitted by a cable operator above the FCC market quota limitations as referenced in (or applied pursuant to) Section 111 shall be treated as a separate ''DSE'' and subject to the 3.75% fee, assuming no other legitimate

[18]The Grade B contour may be used to determine the local status of network and independent stations, but only if the cable communities are located ''outside all markets.'' *See* 47 CFR 76.59 (1981). The Grade B contour may also be used to determine the ''permitted'' status of a commercial UHF station to avoid the 3.75% fee in Part 6 of the DSE schedule. *See* 47 CFR 76.59, 76.61, and 76.63 (1981).

basis of permitted carriage applies. We seek comment on this approach.

3. Basis of carriage

Background. There are several bases of permitted carriage under the current copyright scheme that are tied to the FCC's former carriage requirements and the retransmission of which will not trigger the 3.75% fee. They include: (1) specialty stations; (2) grandfathered stations; (3) commercial UHF stations placing a Grade B contour over a cable system; (4) noncommercial educational stations; (5) part time or substitute carriage; and (6) a station carried pursuant to an individual waiver of FCC rules. If none of these permitted bases of carriage are applicable, then the cable system pays a relatively higher royalty fee for the retransmission of that station's signal.

In the NOI, we asked how the Copyright Office could determine the basis of carriage for a distant digital signal. 71 FR at 54950. Copyright Owners state that the rules already in place should be applied without reference to broadcast format. They argue that each signal and each stream of a multicast signal should be evaluated separately to determine the basis of carriage. Copyright Owner Comments at 5.

Discussion. We agree with Copyright Owners that the basis of carriage for retransmitted digital television signals should generally be the same as those for analog television signals, but the circumstances dictate the outcome in some instances. With regard to the market quota rules, the most commonly used permitted basis of carriage, we reiterate that the most significant change resulting from the retransmission of digital signals will be the amount of royalties that may have to be paid by the cable operator. For example, if an operator decides to retransmit each of the five or six (possible) multicast programming streams offered by a single distant digital broadcast signal, and each stream is a separately calculated DSE, then it may instantly reach its market quota and would have to pay a 3.75% fee for each stream over the quota. We seek comment on this result.

Next, we believe that the specialty station status of an existing analog signal may be claimed by a companion digital signal if it transmits the same programming. However, a multicast signal emanating from the same station and carrying different programming cannot take advantage of the analog signal's specialty station status because it is ''new'' for DSE purposes. Thus, the owner or the licensee of the station that transmits a multicast stream would need to submit a separate affidavit to be placed on the specialty station list. *See* 72 FR 60029 (Oct. 23, 2007). We seek comment on this approach.

Likewise, a new digital multicast stream transmitted by a television station whose analog signal has ''grandfathered'' status should not be able to claim the latter's status because it was not in existence prior to March 31, 1972. The FCC originally adopted its grandfathering policy so that cable operators could avoid the difficulty of withdrawing signals to which the public has been accustomed.[19] This rationale is inapt in the case of new digital signals and streams because subscribers have not come to rely upon such signals. As such, an operator who carries such a distant digital signal or stream should have to pay the 3.75% fee if that signal is above the market quota (and no other permitted bases for carriage apply) for that particular system even though the licensee's analog signal may have qualified for ''grandfather status.'' Also, the multicast digital signal or stream, as well as new digital stations, should not be exempt from the syndicated exclusivity surcharge like true ''grandfathered'' stations. We seek comment on this approach.

As for commercial UHF stations placing a Grade B contour over a cable system, we encounter the same issues that arise in determining the appropriate market area using that coverage dynamic. In this case, we again find that the Grade B contour cannot be replaced by the noise limited service contour as the appropriate measurement to determine whether a commercial UHF station is ''permitted'' for copyright purposes because the new predictive standard was not in existence at the time Section 111 was enacted. The practical effect of this determination is that a cable operator cannot rely upon any type of contour to determine whether a UHF signal is permitted for Section 111 purposes. We seek comment on this result.

The transition to digital television likely will not disturb the permitted basis for carriage of noncommercial educational stations or implicate part time or substitute carriage rationale for permitted signals. Further, the Office's current policy of treating stations with an FCC waiver as ''permitted'' may be unaffected as well. For example, in 1972, the FCC granted a waiver (under its former carriage rules) permitting all present and future New Jersey television stations to be carried on all New Jersey cable systems. For cable copyright purposes, then, a New Jersey cable operator may retransmit all New Jersey televisions stations without incurring the 3.75% fee for carriage of signals above the market quota. *See* letter from Dorothy Schrader, U.S. Copyright Office to David Wittenstein, Dow Lohnes & Albertson, dated February 6, 1986. The FCC waiver, which was explicitly prospective, would apply to all digital television stations with their community of license in New Jersey, and by extension, all multicasts streamed from each of those stations. We recognize that this result runs contrary to our newly stated policy that operators should pay additional royalties for the retransmission of new digital multicast streams, but this is how Section 111 operates. This example highlights the friction between an antiquated licensing system and the rights of copyright owners. We seek comment on these interpretations.

4. DSE values

Background. In the NOI, we asked what DSE values (for network, educational, independent) should be assigned to digital signals. 71 FR at 54950. Copyright owners state that DSE values should be based on the definition of station types found in Section 111(f) regardless of format. They add that where a digital signal includes multiple program streams, each stream's DSE value should be based on its individual station type. Copyright Owner Comments at 5.

Discussion. As stated earlier, under Section 111 of the Copyright Act, distant independent television stations are assigned a DSE value of 1.00 and network and educational television stations are assigned a value of .25. The transition to digital television does not generally affect these DSE values. Thus, retransmitted digital television signals should carry the same value as those for analog signals. This is of no concern for duplicative digital signals, however, this is an issue for multicast digital signals. There may be instances where a single station transmits separate multicast streams of independent and network programming (*e.g.*, an Ion Media television stream and an ABC stream). In such a case, we propose that a cable operator should separately report the DSE value of each individual stream on its SOA, identify each stream as a network, independent, or noncommercial station, and pay accordingly. The proposed rules have been amended to reflect this approach. We seek comment on this proposal.

5. New digital stations

Background. In the NOI, we asked how new digital television stations, without a pre–existing analog counterpart, should be treated for cable

[19] *See Cable Television Report and Order*, 36 FCC 2d 143, para. 107 (1972).

royalty purposes. 71 FR at 54950. In response to our inquiry, NCTA comments that if the new digital television station is carried on a distant basis, additional payment would be required since this newly added station would be considered a new ''primary transmitter,'' just as if a new analog station were added to a cable system line–up on a distant basis. NCTA Comments at 4, n. 7. Copyright Owners state that all existing rules should be applied even if the digital signal never had an analog counterpart. Copyright Owner Comments at 6–7. On a separate, but related subject, Copyright Owners state that a new digital station could petition the FCC for significantly viewed status and therefore be considered a local station for cable copyright purposes. Copyright Owners Comments at 6.

Discussion. We propose that the rules and regulations applicable to the retransmission of existing analog television stations under Section 111 should apply in the same manner to the retransmission of new digital–only television stations. However, as discussed above with regard to new stations and multicast streams, there are certain practices and rules that would not necessarily apply because of their status as new television stations. For example, a new digital station (without a prior analog counterpart) or a new multicast stream, cannot have grandfathered status because they did not exist prior to March 31, 1972, and the concerns about viewing expectations that motivated the FCC to grant grandfather status to certain stations under its former rules are inapplicable to new programming. Further, there can be no market determination based on Grade B contours because they have been rendered moot by the transition to DTV and a digital station's coverage area is now determined by noise limited service contours. One last question that must be addressed is whether new digital stations ''create'' television markets, as that concept has been defined by the FCC, and incorporated into the cable royalty scheme.[20] These ''markets'' have been used to determine the local or distant status of analog commercial television station for cable copyright purposes. However, the FCC no longer assigns specified zones as it did when the old local and distant carriage rules were in effect. Thus, there is no regulatory basis upon which we can rely to state that new digital stations create their own markets. We seek comment on these proposals and other tentative conclusions outlined above.

6. Digital signal downconverted to analog

Background. In the NOI, we asked how a cable operator should report carriage of a digital signal that has been downconverted to an analog signal at the cable system's headend. 71 FR at 54950. This action is necessary so that those cable households without a digital television set are able to receive and view the programming carried by the station. NCTA states that a cable operator would be engaged in the secondary transmission of a primary transmission and that Section 111 would still be applicable. NCTA asserts that the statute does not depend on the technical format of the transmission. NCTA Comments at 4, n. 7.

Discussion. Our current view is that the downconversion of a digital signal into an analog format is inconsequential to the royalty structure under Section 111. The technical format of the retransmission in the subscriber's home has no bearing on the status of the signal for royalty purposes. As such, as long as the operator reports the digital station's call letters and type (independent, network, or educational) on its SOA, there is no rationale for requiring a separate statement indicating the downconversion status of a distant digital signal or an obligation to pay additional royalties (unless it is a new multicast signal). We seek comment on this approach.

E. Retransmission of Digital Audio Broadcast Signals

Background. Section 111 permits cable systems to retransmit radio station signals in addition to television station signals. The Office had codified rules concerning the secondary retransmission of radio signals and determined how such signals should be identified on cable Statements of Account. *See* 37 CFR 201.17(e)(10). Terrestrial radio station licensees have been converting to a digital format over the last few years. Using in band on channel (''IBOC'') technology, radio stations have initiated a service known as digital audio broadcasting (''DAB''). DAB provides for enhanced sound fidelity and improved reception while giving radio stations the capability to multicast audio programming as well as offer new data services to the public. This technology allows broadcasters to use their current radio spectrum to transmit AM and FM analog signals simultaneously with new higher quality digital signals. There is no government mandated transition for radio station licensees as there is for television station licensees, but the FCC has encouraged radio stations to convert to a digital format. *See Digital Audio Broadcasting Systems and Their Impact on the Terrestrial Radio Broadcast Service*, 22 FCC Rcd 10344 (2007).[21]

In the NOI, we sought comment on what changes in our rules and the SOAs would be necessary to accommodate the retransmission of digital audio signals by cable systems. We asked how cable systems should report the retransmission of digital audio multicast streams. We also asked whether cable subscribers would need specialized equipment or set top boxes to receive these digital radio signals, and if so, how this may affect a cable operator's gross receipts calculations. 71 FR at 54951.

Comments. NPR argues that digital television and digital radio stations are so similar that they should both be covered by Section 111. It asserts that both can and do transmit digital simulcasts and multicast digital signals and simulcast analog services and both can offer ancillary services, such as program–related textual material. NPR comments that the Copyright Office may generally follow the same approach as it does for television in revising its rules to accommodate the digital radio transition. NPR states that while the equipment to process individual digital radio signals is not yet available, the basic technology exists, and until such equipment is developed, retransmission on an all–band basis would permit the pass through of digital multicast signals. NPR Comments at 3–4.

With regard to specific policy recommendations, NPR suggests that: (1) cable systems should continue to state whether radio station signals are carried on an all–band retransmission basis or as separate and discrete signals; (2) distinct digital radio signals should be treated as separate retransmissions under the Copyright Office's regulations; and (3) cable systems should include in their gross receipts any revenue associated with the retransmission of digital radio signals, including any equipment a subscriber must rent or purchase to receive such services. NPR concludes that for present purposes, ''it is sufficient to clarify that retransmission of digital radio signals is covered by the Section 111 license and to confirm the applicability of the rules

[20] In the analog context, when the FCC licensed a network or independent station in the 1970s, it assigned a circular 35 mile specified zone to each station and then determined the type of market it created.

[21] Industry reports forecast that there will be 30 million DAB listeners by 2012. *See Researcher Sees Growth for Satellite, but Even More for HD Radio*, Radio World Newsbytes, http://www.rwonline.com (Last accessed January 14, 2008).

governing the reporting of such retransmissions.'' *Id.* at 4.

CBC disagrees that DAB should be subject to the Section 111 license. It urges the Copyright Office to forego creating a new regulatory framework for DAB ''until the service further evolves and is more widely available in the marketplace.'' CBC Comments at 4.

NPR disagrees with CBC and states that DAB service is widely available across the United States with over 1500 stations broadcasting digital signals. It adds that since a given station's digital service area is comparable to its analog service coverage area, the advent of DAB does not require a fundamentally new regulatory framework. According to NPR, it is sufficient and appropriate for the Copyright Office to require the reporting of all such retransmissions of analog and digital radio broadcast signals. *See* NPR Reply Comments at 3–4.

Discussion. We find that DAB is a burgeoning new type of over–the–air radio service that warrants consideration here. DAB amounts to a change in format that appears to have no effect on its carriage under Section 111. Consequently, digital radio stations would be treated in the same manner as analog radio stations when retransmitted by cable operators in accordance with existing Office regulations. A cable operator should report the retransmission of digital audio signals in Space H of the SOA and the fees associated with these signals in Space K of the SOA. We seek comment on this approach.

We are not instituting a new regulatory framework for the carriage of digital radio signals here. Thus, any concerns CBC may have had about DAB and Section 111 will likely not materialize. However, we stand ready to entertain any novel questions about the application of Section 111 to digital radio signals in a future proceeding.

F. Marketing of Digital Broadcast Signals and the Cable Statutory License

Background. The Copyright Office's regulations require reporting of gross receipts, as defined in Section 201.17(b), for any tier of service that must be purchased in order to access the tier which contains the broadcast signals. *Compulsory License for Cable Systems: Reporting of Gross Receipts*, 53 FR. 2493, 2495 (Jan. 28, 1988); *see also* 37 CFR 201.17(b)(1); Form SA 1–2, General Instructions, p. v; Form SA 3, General Instructions, p. vi.

In their Petition for Rulemaking, Copyright Owners stated that cable operators often carry digital broadcast signals on a digital service tier, but for subscribers to access such signals, they must purchase other tiers of service. Accordingly, Copyright Owners requested that the Copyright Office clarify that a cable operator must include in its gross receipts any revenues from the tiers of service consumers must purchase in order to receive digital broadcast signals – notwithstanding that the operator may market its offering of such signals as ''free.'' Copyright Owners also recommended that the Copyright Office include in Space E of the cable SOAs a specific reference to ''Digital and HDTV Tiers,'' and explain that such reference includes all service tiers that a consumer must purchase in order to receive digital broadcast signals. We sought comment on these proposals in the NOI and also asked interested parties to submit other examples of cable industry marketing practices that require subscribers to purchase tiers, services, or gateways, in order to access digital broadcast signals. 71 FR at 54951.

Comments. NCTA states that cable operators offer digital broadcast signals on their (lowest priced) basic tier of service and so the issue of paying royalties on the sale of other upper tiers is irrelevant in this instance. NCTA Comments at 7. It states that this signal placement practice follows Section 623(b)(7) of the Communications Act, which requires cable operators to include on the basic service tier ''any signal of any television broadcast station that is provided by the cable operator to any subscriber [other than a superstation signal].'' NCTA Comments at 8, citing 47 U.S.C. 543(b)(7). NCTA further comments that in its 2001 *Digital Must Carry Order*, 16 FCC Rcd 2598 (2001), the FCC stated that, ''[i]n the context of the new digital carriage requirements, it is consistent with the statutory language to require that a broadcaster's digital signal must be available on a basic tier such that all broadcast signals are available to all cable subscribers at the lowest priced tier of service, as Congress envisioned.'' *See id.* NCTA asserts that cable subscribers with a digital television set capable of receiving digital broadcast signals, who purchase only the basic service tier, will receive both the analog and digital versions of broadcast signals, along with all other services on the basic tier. NCTA asserts that these customers do not need to purchase an intermediate ''expanded basic'' analog tier nor are they required to buy a digital tier to obtain those digital signals. NCTA also states that the Copyright Owners' assumptions about cable marketing practices for digital broadcast signals are not supported by their selected references to certain material, which in any instance, NCTA believes have been taken out of context. NCTA Reply Comments at 4.

Copyright Owners argue that cable operators are not required to place digital signals in the basic tier of service, despite NCTA's protestations to the contrary. They specifically note that ''for any system that faces 'effective competition' under the four statutory tests in the Communications Act, and is deregulated pursuant to a Commission order, the cable operator is free to place a broadcaster's digital signal on upper tiers of service or on a separate digital services tier.'' *See* Copyright Owners Reply Comments at 2–3. Copyright Owners further state that Section 623(b)(7) of the Communications Act does not restrict the carriage of superstations to the basic service tier. *Id.* at 4, citing 47 U.S.C. 543(b)(7)(A)(iii) (Section does not apply to any 'signal which is secondarily transmitted by a satellite carrier beyond the local service area of such station'). Accordingly, they argue that nothing in the law prevents cable operators from placing such satellite–delivered digital signals on any tier they choose. *See id.*, citing 47 U.S.C. 325(b)(2)(D) (exempting the carriage of certain superstations from the Communications Act's retransmission consent requirement).'' *See id.*

According to NCTA, those operators who provide digital broadcast signals as an extension of the basic tier are ''wholly justified under long–standing Copyright Office precedent'' in reporting only revenues from that tier in determining gross receipts for copyright purposes. NCTA Comments at 8–9. NCTA states that the Copyright Office should clarify that cable operators need not incur an additional payment for carriage of distant digital signals where they already pay royalties on account of carriage of that station's analog signal. *See id.* at 13. NCTA adds that if the Copyright Office adopts rules that impose additional royalty fees based on how digital signals are marketed, it must avoid giving the rules a retroactive effect. NCTA Reply Comments at 6.

Copyright Owners agree that a cable system need include only basic service revenues in its ''gross receipts'' calculation if it is true that analog and digital signals are offered on the lowest–priced tier without additional charges. Copyright Owners Reply Comments at 7. They note, however, that many cable operators make cable subscribers buy through other tiers of services before they can receive digital broadcast signals and that such charges must be

included in gross receipts calculation. *See id.* at 7–8. Further, Copyright Owners assert that NCTA has not provided any examples of cable operators that offer digital broadcast signals without imposing additional charges. Copyright Owners Reply Comments at 5. Copyright Owners urge the Copyright Office to amend the cable SOAs so that cable operators are required to: (1) identify clearly each of the fees that its subscribers must pay to receive analog and digital broadcast television signals; (2) certify that each of those fees was included in its calculation of gross receipts; and (3) state where the cable operator must inform subscribers that these are the only fees necessary to receive analog and digital broadcast signals. Copyright Owners Comments at 8.

Discussion. The Copyright Office's regulations require reporting of the gross receipts, as defined in Section 201.17(b), for any tier of service that must be purchased in order to access the tier which contains the broadcast signals. The Office's gross receipts definition is not contingent upon the type of station that is retransmitted. We have never wavered from this policy and it has been understood by both cable operators and copyright owners for years.

We believe that our existing policies need not be changed as a result of the digital television transition. A tier is a tier regardless of the type of broadcast signals carried on it. As such, a cable operator must include in its gross receipts calculation all sales of services or tiers that must be purchased in order for subscribers to access any type of digital broadcast signals, whether they are duplicative digital broadcast signals or unique multicast signals. A cable operator should clearly identify on its SOA each of the fees that its subscribers must pay to receive digital television signals.

To clarify our interpretation, we will use Comcast's West Palm Beach, Florida system as an example. Here, the operator charges $15.95 for the Basic Service Tier, $50.95 for the expanded service tier, and an additional $6.95 for the digital tier of service that includes high definition television signals. A subscriber who wants to receive digital television programming would pay a fee of $57.90 (expanded basic tier + digital broadcast tier, excluding franchise fees and any equipment rentals). *See* http://www.comcast.com/shop/buyflow/default.ashx (Input zip code 33407 when prompted). In this example, it appears that the digital television signals are not available as part of the lowest priced tier of service. Thus, Comcast should be reporting, as part of its gross receipts, all monies collected for the sale of the expanded service tier, the digital broadcast tier, as well as rental fees for equipment needed to access such tiers of service.[22]

Given the disparate descriptions of communications law precedent in the comments, we believe that it is useful to provide an overview of FCC precedent here. Specifically, Section 623(b)(7)(A) of the Communications Act requires that the basic tier on a rate regulated system include all signals carried to fulfill the must carry requirements of Sections 614 and 615 and ''any signal of any television broadcast station that is provided by the cable operator to any subscriber...'' In the context of the analog broadcast signal carriage requirements, it has been the FCC's view that the Communications Act contemplates there be one basic service tier. The FCC believed that in the context of its digital broadcast signal carriage requirements, it was consistent with the statutory language to require that a broadcaster's digital signal must be available on a basic tier such that all broadcast signals are available to all cable subscribers at the lowest priced tier of service, as Congress envisioned. The FCC stated that the basic service tier, including any broadcast signals carried, will continue to be under the jurisdiction of the local franchising authority, and as such, will be rate regulated if the local franchising authority has been certified under Section 623 of the Act. The FCC noted, however, that if a cable system faces effective competition under one of the four statutory tests, and is deregulated pursuant to a Commission order, the cable operator is free to place a broadcaster's digital signal on upper tiers of service or on a separate digital service tier. The FCC stated that its finding was based upon the belief that Section 623(b)(7) of the Communications Act is one of those rate regulation requirements that sunsets once competition is present in a given franchise area. 16 FCC Rcd at 2643.[23]

Copyright Owners recommend that the Office revise the SOAs and require cable operators to specifically certify that each of the subscriber fees associated with the purchase of tiers with digital signals is included in its calculation of gross receipts. They also suggest that a cable operator should be required to inform its subscribers that these are the fees necessary to receive analog and digital broadcast signals. In this instance, Copyright Owners have not demonstrated that their suggested revisions advance a relevant public policy goal associated with the proper administration of the cable statutory license. As such, we find that these proposed changes are unnecessary at this time and we will not further consider such recommendations.

G. Equipment Issues Under Section 111

1. Reception Devices

Background on Set Top Boxes. Under the Copyright Office's rules, any fees charged for converters necessary to receive broadcast signals must be included in the cable system's gross receipts used to calculate its Section 111 royalty payment. (Emphasis added). 37 CFR 201.17(b)(1); Form SA 1–2, General Instructions, p. v; Form SA 3, General Instructions, p. vi. As the Copyright Office stated nearly thirty years ago: ''[A] subscriber must have a converter to receive, in usable form, the signals of all of the television stations that constitute the cable system's 'basic service of providing secondary transmissions of primary broadcast transmitters.' Subscriber fees associated with converters, therefore, are clearly amounts paid for the system's secondary transmission service and are included in that system's 'gross receipts.''' *Compulsory License for Cable Systems*, 43 FR 27827–27828 (June 27, 1978).

Currently, most cable subscribers are unable to receive digital (including broadcast) signals offered by their cable operator unless they obtain a special converter, *i.e.* digital set top box,

[22]Comcast recently adopted a marketing policy for its Michigan customers who will now be able to receive high definition channels without having to pay through a digital service tier. In the past, high definition service only was available to customers who purchased the more extensive and expensive ''preferred'' cable service. *See* Sofia Kosmetatos, *Comcast Puts HD on Basic Access*, Detroit News, November 20, 2007. This example, and the one above, appear to support Copyright Owners' argument concerning the purchase of additional tiers to reach broadcast programming. *But see* Philip Swann, Time Warner: 100 HD Channels in 2008, http://www.TVPredictions.com (Last accessed Apr. 3, 2008) (TWC's digital cable customers in Brooklyn, Queens, and Staten Island, soon will be able to receive 100 HD channels, including high definition signals from New York television stations.) It appears from this announcement that a subscriber would need to purchase a digital tier, in addition to the basic service tier, to access broadcast signals in HD.

[23]The FCC sought further comment on tiering issues in a 2001 Further Notice of Proposed Rulemaking accompanying the Report and Order. In so doing, it stated its belief that it would facilitate the digital transition to permit cable operators that are carrying a broadcast station's analog signal on the basic tier to carry that broadcast station's digital signal on a separate digital tier pursuant to retransmission consent. The FCC believed that such an approach, which was necessarily limited to the duration of the transition in a given market, was consistent with the flexibility given the Commission by Section 614(b)(4)(B) to prescribe carriage rules for the DTV transition. The FCC has not finally decided this matter, even though it was proposed over seven years ago. *Id.* at 2656.

regardless of whether those signals are available as part of the lowest–priced basic service. In their Petition for Rulemaking, Copyright Owners have asserted that some cable operators may not be including digital set top box fees in their calculation of gross receipts. Copyright Owners have not suggested that all cable operators are failing to include digital converter fees in their gross receipts. They noted, however, that the fact that some cable systems are including such fees in their gross receipts, while others are apparently not doing so, underscores the need for the Copyright Office to address this matter to ensure consistency in the application of the relevant rules.

Copyright Owners, therefore, requested that the Copyright Office clarify that, in accordance with Section 201.17(b), a cable operator must include in its gross receipts any fees charged subscribers for digital set top boxes used to receive digital broadcast signals, notwithstanding that the operator may market its offering of such signals as ''free.'' Copyright Owners have also recommended that the Copyright Office include in Space E of the cable SOA specific reference to ''Digital and HDTV Converters'' and explain that this line item refers to converters used to receive HDTV or other digital broadcast signals. We sought comment on these proposed changes in the NOI. 71 FR at 54952.

Comments on Set Top Boxes. NCTA states that when the converter box rule was first adopted by the Copyright Office in the late 1970s, many television sets were unable to receive UHF broadcast stations carried on cable without a set top box, a device that they could only obtain from their cable operator. NCTA Comments at 9. NCTA asserts that recent developments in communications law, specifically the requirement regarding the commercial availability of navigation devices under Section 629 of the Communications Act ''has ensured that cable operators are no longer the only source of equipment to permit the reception of broadcast signals.'' It argues that cable operator–provided set–top boxes can no longer be considered ''necessary'' to receive digital broadcast signals and should not be included in gross receipt revenues. NCTA additionally argues that cable subscribers do not need cable operator–leased set top boxes to receive digital broadcast signals. To support its position, it asserts that cable operators are generally delivering digital broadcast signals ''in the clear'' (not scrambled) and any basic service tier subscriber (with a DTV receiver) is able to receive and view them without a box or a CableCard (*see* explanation below). NCTA Comments at 10. ACA agrees and states that to receive digital broadcast signals on cable, a customer need only purchase a digital ''cable–ready'' television. ACA Comments at 3.

NCTA states that when a cable subscriber purchases either a digital ''cable ready'' receiver or a Tivo Series 3 digital video recorder at retail, copyright owners receive no royalty payment. NCTA comments that in both these cases, the customer–supplied equipment enables the viewing of digital television signals in the same manner as a digital set top box rented from the cable operator. For these reasons, NCTA argues, it can no longer be said that it is necessary for any subscriber to lease a device from their local operator to access digital signals retransmitted by cable. NCTA concludes that no policy reason justifies charging cable subscribers in the form of increased royalty fees when those customers choose to lease a set top box from their cable operator instead of pursuing other marketplace options. NCTA Comments at 12.

NCTA states that when cable systems first began retransmitting broadcast signals under the cable statutory license, broadcast signals were all that operators offered; under these circumstances, a policy that required operators to include set top box revenues may have been justified. NCTA asserts, however, that digital set top boxes serve entirely different functions that make this policy no longer valid; cable subscribers are obtaining set top boxes for a broad variety of reasons that have nothing to do with the system's ''secondary transmission service.'' NCTA states that digital set top boxes enable subscribers to buy services, like digital video recording or video–on–demand and make possible viewing of scrambled non–broadcasting digital programming. NCTA asserts that these are services that a subscriber could not access without a set top box. NCTA concludes that copyright owners are simply trying to bootstrap box rental revenues into the copyright royalty pool. According to NCTA, these revenues have no relationship to the statutory license or to broadcast signal carriage, and operators should be able to exclude them from the gross receipt calculation. *See id.* at 12–13.

In response, Copyright Owners assert that the Copyright Office has already ruled that analog converter fees must be included in the gross receipts calculation and that the applicability of this provision to such converters has not been challenged for 30 years. Copyright Owners assert that cable–ready television sets were widely available in the pre–digital era and subscribers nonetheless chose to rent converters in order to eliminate ghosting problems or be able to receive additional non–broadcast channels. They add that the Copyright Office's ruling required cable operators to report converter revenues as part of their gross receipts for royalty purposes whether or not subscriber rentals were driven by necessity. *See* Copyright Owners Reply Comments at 9–10.

Copyright Owners also argue that NCTA's proposal would lead to absurd results. They state, for example, that NCTA's logic suggests that none of the subscriber fees charged to receive broadcast signals should be included in gross receipts because it is not necessary for a subscriber to buy service from a cable operator to receive broadcast signals. They argue that cable subscribers typically can obtain broadcast signals off–the–air, but nothing in the Copyright Act or Copyright Office rules would permit cable operators to omit fees they collect from subscribers from their gross receipts under a necessity rationale. *Id.* at 10.

Copyright Owners admit that if a cable subscriber purchases a set top box from a third party, they receive no portion of that purchase price. They assert, however, that this situation is no different from the situation in 1976 (or now) where copyright owners receive no portion of the purchase price of outdoor antennas when consumers choose that option to receive broadcast signals. They argue that the availability of alternative means for obtaining broadcast signals does not free cable operators from the obligation to include the cost of converters in their gross receipts. *Id.* at 11.

Background on CableCards. Under the Copyright Office's rules, gross receipts for the retransmission of broadcast signals include the full amount of service fees for any and all services or tiers of service which include one or more secondary transmissions of television or radio broadcast signals, for additional set fees, and for converter fees. 37 CFR 201.17(b).

Section 624A of the Communications Act, 47 U.S.C. 544a, governs the compatibility between cable systems and navigation devices (*e.g.*, cable set–top boxes, digital video recorders, and television receivers with navigation capabilities) manufactured by consumer electronics manufacturers not affiliated with cable operators. In connection with the digital television transition, the cable industry and the consumer electronics industry have engaged in ongoing inter–industry discussions

seeking to establish a cable ''plug and play'' standard. Cable subscribers are now able to directly attach their DTV receivers to cable systems and receive cable television service without the need for a digital set top box. To receive cable service, consumers would only need to use a point–of–deployment module (''POD''), now marketed as ''CableCard,'' that would fit into a slot built into the television set. The POD acts as a key to unlock encrypted programming.[24]

In the NOI, we sought comment on whether cable subscribers have been required to purchase CableCards in order to access digital broadcast television signals. If so, we asked whether the Copyright Office's definition of gross receipts should be amended to include subscriber revenue generated through the lease of CableCards. 71 FR at 54952.

Comments on CableCards. Copyright Owners state that many cable operators appear to make CableCards available to subscribers for a monthly rental fee, but they are not aware of how many customers are using them. Copyright Owners state that if cable subscribers choose to rent CableCards from cable systems in order to access digital broadcast signals, those fees should be reported in Section E and included in gross receipts calculations. Copyright Owner Comments at 8–9. NCTA states that because digital broadcast signals are ''in the clear,'' a subscriber does not need to obtain a CableCard from their cable operator in order to view them. NCTA further states that subscribers can simply ''plug and play'' a ''digital cable ready'' set and watch digital and analog broadcast signals without incurring any additional equipment charges. NCTA Comments at 11.

Discussion. Under the Copyright Office's rules, any fees charged for converters necessary to receive broadcast signals must be included in the cable system's gross receipts used to calculate its Section 111 royalty payment. (Emphasis added). 37 CFR 201.17(b)(1). The Copyright Office has already ruled that analog converter fees must be included in the gross receipts calculation and that the applicability of this provision to such converters has remained in place for 30 years, even though they may not be deemed ''necessary'' in certain cases.[25] Further, we agree with Copyright Owners that the availability of alternative means for obtaining broadcast signals does not free cable operators from including the cost of converters in their gross receipts. Therefore, a cable operator's digital set top box revenues, or monies generated by the sale or rent of CableCards used to access digital broadcast signals, must be included in gross receipts and royalties must be paid based upon the inclusion of these items.

2. Second television set fees and in–home digital networks

Background on second set fees. Under the Copyright Office's rules, cable operator fees for service to second television sets are included in a cable system's gross receipts for the purposes of Section 111. 37 CFR 201.17(b)(1); Form SA 1–2, General Instructions, p. v; Form SA 3, General Instructions, p. vi; *see also Compulsory License for Cable Systems*, 43 FR 958, 959 (Jan. 5, 1978) (''The additional set fee is, we believe, clearly a payment for basic secondary transmission service . . .'').

In their Petition for Rulemaking, Copyright Owners stated that some cable systems charge additional fees for access to digital broadcast signals to a second television set in the household. Copyright Owners have questioned whether cable operators are including fees for service to additional sets that receive HDTV and other digital broadcast signals within their calculation of gross receipts. Copyright Owners have asked the Copyright Office to clarify that, in accordance with Section 201.17(b) of the rules, fees for service to additional digital television sets or ''HDTV Terminals'' must be included in a cable system's gross receipts. Copyright Owners have also recommended that the Copyright Office include in Space E of the cable SOA specific reference to ''Digital and HDTV Additional Set Fees'' and explain that such a line item refers to fees charged for service to additional television sets receiving HDTV or other digital broadcast signals. We sought comment on the recommendations proposed by the Copyright Owners in the NOI. 71 FR 54952.

Background on in–home digital networks. In the NOI, we noted that some cable operators offer subscribers in–home digital networks where one digital set top box provides digital signals to all sets in the household. We sought comment on whether the fees associated with such a service, if any, should be included in the operator's gross receipts calculation. *Id.* at 54953.

Comments on in–home digital networks. Copyright Owners assert that the existing principle that requires cable operators to report subscriber fees for converters used to receive retransmitted broadcast signals in Section E of their SOAs, and to include the fees in gross receipts calculations, should apply to other rented equipment required to receive retransmissions of digital (or analog) broadcast transmissions. If cable operators lease digital set top boxes that provide digital broadcast signals to all sets in a household, the rental fees should be reported in Section E and included in gross receipts. Copyright Owners Comments at 9.

Discussion. Under the Copyright Office's rules, cable operator fees for service to second television sets are included in a cable system's gross receipts for the purposes of Section 111. 37 CFR 201.17(b)(1). The transition to digital television does not disturb this policy. A television set is a television set regardless of the transmission technology. We note, however, the cable industry has now developed new ways of delivering cable service inside and throughout the home with new types of networks and connections. Nevertheless, the current rule is adequate to accommodate changes in the use of technology. A cable operator must report, in its gross receipts calculation, any revenue generated from the connection of cable service to additional digital television sets, through traditional means, or by new means, such as in–home digital networks in a household. This policy generally carries forward determinations made by the Copyright Office in the analog television context over thirty years ago. *See, generally, Compulsory License for Cable Systems*, 43 FR 958, 959 (Jan. 5, 1978).

III. Internet Retransmission of Distant Broadcast Signals

Comments. CBC has urged the Copyright Office to adopt a policy stating that ''the retransmission of broadcasters' local signals over the Internet (whether for free or for payment) and other new technologies is exempt from copyright liability, so long

[24] According to recent reports, the nation's ten largest cable operators had supplied their customers with at least 300,000 CableCards by early December 2007. *See* Todd Spangler, *Operators Top 2.2M CableCard Set–Tops*, Multichannel News, January 2, 2008.

[25] We note that in 1988, for example, cable counsel asked whether revenues from the rental of converters need not be included in the gross receipts calculation where the cable system's configuration allows for the secondary transmissions of broadcast signals without the use of such equipment. *See* letter from Sol Schildhause, Farrow, Schildhause & Wilson, to Dorothy Schrader, General Counsel, Copyright Office, dated February 23, 1988. In response, Schrader wrote that ''Even though in your case the converters are optional and perhaps unnecessary, if the converters are in fact used for secondary transmissions, the revenue from the rental or sale must be reported as gross receipts for purposes of computing the cable compulsory license royalties.'' *See* letter from Dorothy Schrader, General Counsel, Copyright Office, to Sol Schildhause, Farrow, Schildhause & Wilson, dated April 8, 1988.

as the copyright protected material is only accessible to viewers within the station's local market (as defined by Nielsen's Designated Market Area).'' CBC believes that providers of Internet video and wireless technologies, similar to cable and satellite carriers under the statutory licenses, should not be subject to copyright royalties for retransmitting local broadcasts to parties who already have the option to receive the programming free over–the–air. *See* CBC Comments at 4.[26]

Copyright Owners state that the retransmission of copyrighted broadcast programming over the Internet constitutes a public performance within the meaning of Section 106(4) of the Act and may also implicate copyright owners' exclusive reproduction rights under Section 106(1) of the Act. Copyright Owners argue that unless a statutory exemption or statutory license is available to the entity that seeks to retransmit broadcast programming over the Internet, that entity must obtain a privately negotiated license from the affected copyright owners. They further argue that nothing in the Copyright Act provides a general exemption for the public performance of third parties' copyrighted works on the Internet. They add that neither Section 111 nor any other statutory provision affords any statutory licensee the right to retransmit television programming over the Internet. As such, Copyright Owners urge the Copyright Office to reject CBC's requested ''clarification.'' Copyright Owners Reply Comments at 26–27.

Discussion. This is the wrong forum for discussing the Internet retransmission of digital broadcast signals. This matter was not raised by the Copyright Owners in their Petition nor was it a subject addressed in the NOI. In any event, many parties have discussed this matter at length in the Copyright Office's pending Section 109 proceeding. *See Section 109 Report to Congress*, Notice of Inquiry, 72 FR 19039 (Apr. 16, 2007) and comments filed thereunder. Internet retransmission of television broadcast signals will be a subject addressed in the Section 109 Report due to Congress in June 2008.

IV. Conclusion

We hereby seek comment from the public on the proposals identified herein associated with the retransmission of digital broadcast signals by cable systems under Section 111 of the Copyright Act.

[26]After filing its comments, CBC requested that its comments be withdrawn from the public record in this proceeding. We decline this request because other parties have already joined issue with the matters raised by CBC.

Regulatory Flexibility Act Statement

Although the Copyright Office, as a department of the Library of Congress and part of the Legislative Branch, is not an ''agency'' subject to the Regulatory Flexibility Act, 5 U.S.C. 601–612, the Register of Copyrights has considered the effect of the proposed amendments on small businesses. The Register has determined that the proposed amendments would not have a significant economic impact on a substantial number of small businesses because the NPRM clarifies the application of existing law to changes in the cable industry. In any event, interested parties may file comments demonstrating that such changes could result in substantive burdens to smaller businesses.

List of Subjects in 37 CFR Part 201

Copyright.

Proposed Regulation

For the reasons set forth in the preamble, the Copyright Office proposes to amend part 201 of title 37 of the Code of Federal Regulations as follows:

PART 201–GENERAL PROVISIONS

1. The authority citation for part 201 continues to read as follows:

Authority: 17 U.S.C. 702.

2. Section 201.17 is amended as follows:

a. By revising the first sentence of paragraph (b)(1);

b. By adding ''analog or digital'' after ''primary television transmitters whose'' in paragraph (e)(9) introductory text; and

c. By revising paragraphs (e)(9)(i) and (vi).

The revisions and additions to § 201.17 read as follows:

§ 201.17 Statements of Account covering compulsory licenses for secondary transmissions by cable systems.

* * * * *

(b) * * *(1) Gross receipts for the ''basic service of providing secondary transmissions of primary broadcast transmitters'' include the full amount of monthly (or other periodic) service fees for any and all services or tiers which include one or more secondary transmissions of television or radio broadcast signals, for additional set fees, and for converter fees, including any service fees, converter fees, CableCard fees, additional set fees, whole home network fees, and any related fees that subscribers must pay to receive digital broadcast signals. * * *

* * * * *

(e) * * *

(9) * * *

(i) The station call sign of the primary transmitter, including the designation ''TV'' for analog signals and ''DT'' (followed by the subchannel number) for digital signals.

* * * * *

(iv) A designation as to whether that primary transmitter is a ''network station,'' an ''independent station,'' or a ''noncommercial educational station.'' In the case of stations engaged in digital multicasting, that designation shall be made for each digital stream that the cable system carried.

* * * * *

Dated: May 21, 2008.

Marybeth Peters,

Register of Copyrights,

U.S. Copyright Office.

[FR Doc. E8–11855 Filed 5–30–08; 8:45 am]

BILLING CODE 1410–33–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2007–1132; FRL–8573–4]

Approval and Promulgation of Air Quality Implementation Plans; Minnesota; Interstate Transport of Pollution

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a request submitted by the Minnesota Pollution Control Agency (MPCA) on October 23, 2007, to revise the Minnesota State Implementation Plan (SIP). The submission would address the ''good neighbor'' provisions of the Clean Air Act (CAA). These provisions require each state to submit a SIP that prohibits emissions that adversely affect another state's air quality through interstate transport. MPCA has adequately addressed the four distinct elements related to the impact of interstate transport of air pollutants. These include prohibiting significant contribution to nonattainment of the National Ambient Air Quality Standards (NAAQS) in another state, interference with maintenance of the NAAQS in another state, interference with plans in another state to prevent significant deterioration of air quality, and interference with plans in another state to protect visibility.

In the final rules section of this **Federal Register**, EPA is approving the SIP revision as a direct final rule without prior proposal, because EPA

views this as a noncontroversial revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If we do not receive any adverse comments in response to these direct final and proposed rules, we do not contemplate taking any further action in relation to this proposed rule. If EPA receives adverse comments, we will withdraw the direct final rule and will respond to all public comments in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received on or before July 2, 2008.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2007–1132 by one of the following methods:

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

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

FOR FURTHER INFORMATION CONTACT: Charles Hatten, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6031, *hatten.charles@epa.gov.*

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

Dated: May 21, 2008.

Walter W. Kovalick Jr,

Acting Regional Administrator, Region 5.

[FR Doc. E8–12223 Filed 5–30–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[EPA–HQ–OAR–2006–0699; FRL–8568–9]

RIN 2060–AO90

Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry; Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; stay.

SUMMARY: EPA is proposing to extend the stay of certain provisions of the standards of performance for equipment leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry (SOCMI) and Petroleum Refineries. In the ''Rules and Regulations'' section of this **Federal Register** we are extending the stay as a direct final rule without a prior proposed rule. If we receive no adverse comment, we will not take further action on this proposed rule.

DATES: Written comments must be received by July 2, 2008.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2006–0699, by mail to Air and Radiation Docket (2822T), 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Please include a total of two copies. Comments may also be submitted electronically or through hand delivery/courier by following the detailed instructions in the **ADDRESSES** section of the direct final rule located in the rules section of this **Federal Register**.

We request that you also send a separate copy of each comment to the contact persons listed below (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Ms. Karen Rackley, Coatings and Chemicals Group, Sector Policies and Programs Division, Office of Air Quality Planning and Standards (E143–01), Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–0634; fax number: 919–541–0246; e-mail address: *rackley.karen@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Why Is EPA Issuing This Proposed Rule?

This document proposes to take action on the standards of performance for equipment leaks of VOC in the SOCMI and Petroleum Refineries. We have published a direct final rule extending the stay of the provisions under reconsideration and the stay of the clarification of the definition of process unit in the ''Rules and Regulations'' section of this **Federal Register** because we view this as a noncontroversial action and anticipate no adverse comment. We have explained our reasons for this action in the preamble to the direct final rule.

If we receive no adverse comment, we will not take further action on this proposed rule. If we receive adverse comment, we will withdraw the direct final rule and it will not take effect. We would address all public comments in any subsequent final rule based on this proposed rule.

We do not intend to institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information, please see the information provided in the **ADDRESSES** section of this document.

II. Does This Action Apply to Me?

Categories and entities potentially regulated by this action are synthetic organic chemicals manufacturers and petroleum refineries. The New Source Performance Standards (NSPS) for equipment leaks of VOC in SOCMI and petroleum refineries affect the following categories of sources:

Category	NAICS Code [1]	Examples of potentially regulated entities
Industry	324110	Petroleum refiners.
	Primarily 325110, 325192, 325193, and 325199.	Synthetic organic chemical manufacturing industry (SOCMI) units, e.g., producers of benzene, toluene, or any other chemical listed in 40 CFR 60.489.

[1] North American Industrial Classification System.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by the final amendments and new standards for equipment leaks of VOC in SOCMI and petroleum refineries. To determine whether your facility is regulated by this action, you should examine the applicability criteria in 40 CFR 60.480, 60.590, 60.480a, and 60.590a. If you have any questions regarding the applicability of the NSPS to a particular entity, contact the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

III. Statutory and Executive Orders

For a complete discussion of all of the administrative requirements applicable to this action, see the direct final rule in the ''Rules and Regulations'' section of this **Federal Register**.

List of Subjects in 40 CFR Part 60

Environmental protection, Administrative practice and procedure, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: May 15, 2008.

Stephen L. Johnson,

Administrator.

For the reasons cited in the preamble, title 40, chapter I, part 60 of the Code of Federal Regulations is amended as follows:

PART 60—[AMENDED]

1. The authority citation for part 60 continues to read as follows:

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

Subpart VV—[Amended]

2. Section 60.480 is amended by adding paragraph (f) to read as follows:

§ 60.480 Applicability and designation of affected facility.

* * * * *

(f) *Stay of standards.* Owners or operators are not required to comply with the definition of ''process unit'' in § 60.481 and the requirements in § 60.482–1(g) of this subpart until the EPA takes final action to require compliance and publishes a document in the **Federal Register**. While the definition of ''process unit'' is stayed, owners or operators should use the following definition:

Process unit means components assembled to produce, as intermediate or final products, one or more of the chemicals listed in § 60.489 of this part. A process unit can operate independently if supplied with sufficient feed or raw materials and sufficient storage facilities for the product.

§ 60.481 [Amended]

3. In § 60.481, the definition for ''process unit'' is stayed from August 1, 2008 until further notice.

§ 60.482–1 [Amended]

4. In § 60.482–1, paragraph (g) is stayed from August 1, 2008 until further notice.

Subpart VVa—[Amended]

5. Section 60.480a is amended by adding paragraph (f) to read as follows:

§ 60.480a Applicability and designation of affected facility.

* * * * *

(f) *Stay of standards.* (1) Owners or operators that start a new, reconstructed, or modified affected source prior to November 16, 2007 are not required to comply with the requirements in this paragraph until EPA takes final action to require compliance and publishes a document in the **Federal Register**.

(i) The definition of ''capital expenditure'' in § 60.481a of this subpart. While the definition of ''capital expenditure'' is stayed, owners or operators should use the definition found in § 60.481 of subpart VV of this part.

(2) Owners or operators are not required to comply with the requirements in this paragraph until EPA takes final action to require compliance and publishes a document in the **Federal Register**.

(i) The definition of ''process unit'' in § 60.481a of this subpart. While the definition of ''process unit'' is stayed, owners or operators should use the following definition:

Process unit means components assembled to produce, as intermediate or final products, one or more of the chemicals listed in § 60.489 of this part. A process unit can operate independently if supplied with sufficient feed or raw materials and sufficient storage facilities for the product.

(ii) The method of allocation of shared storage vessels in § 60.482–1a(g) of this subpart.

(iii) The standards for connectors in gas/vapor service and in light liquid service in § 60.482–11a of this subpart.

§ 60.481a [Amended]

6. In § 60.481a, the definitions of ''capital expenditure'' and ''process unit'' are stayed from August 1, 2008 until further notice.

§ 60.482–1a [Amended]

7. In § 60.482–1a, paragraph (g) is stayed from August 1, 2008 until further notice.

§ 60.482–11a [Amended]

8. Section 60.482–11a is stayed from August 1, 2008 until further notice.

Subpart GGG—[Amended]

9. Section 60.590 is amended by adding paragraph (e) to read as follows:

§ 60.590 Applicability and designation of affected facility.

* * * * *

(e) *Stay of standards.* Owners or operators are not required to comply with the definition of ''process unit'' in § 60.590 of this subpart until the EPA takes final action to require compliance and publishes a document in the **Federal Register**. While the definition of ''process unit'' is stayed, owners or operators should use the following definition:

Process unit means components assembled to produce intermediate or final products from petroleum, unfinished petroleum derivatives, or other intermediates; a process unit can operate independently if supplied with sufficient feed or raw materials and sufficient storage facilities for the product.

§ 60.591 [Amended]

10. In § 60.591, the definition of ''process unit'' is stayed from August 1, 2008 until further notice.

Subpart GGGa—[Amended]

11. Section 60.590a is amended by adding paragraph (e) to read as follows:

§ 60.590a Applicability and designation of affected facility.

* * * * *

(e) *Stay of standards.* Owners or operators are not required to comply with the definition of ''process unit'' in § 60.590 of this subpart until the EPA takes final action to require compliance and publishes a document in the **Federal Register**. While the definition of ''process unit'' is stayed, owners or operators should use the following definition:

Process unit means components assembled to produce intermediate or final products from petroleum, unfinished petroleum derivatives, or other intermediates; a process unit can operate independently if supplied with sufficient feed or raw materials and sufficient storage facilities for the product.

§ 60.591a [Amended]

12. In § 60.591a, the definition of ''process unit'' is stayed from August 1, 2008 until further notice.

[FR Doc. E8–11384 Filed 5–30–08; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Part 5 and 51c

RIN 0906–AA44

Designation of Medically Underserved Populations and Health Professional Shortage Areas

AGENCY: Department of Health and Human Services (HHS).

ACTION: Notice of proposed rulemaking; extension of public comment period.

SUMMARY: On April 21, 2008, HHS published a 30-day extension to the public comment period and provided clarification on the notice of proposed rulemaking, ''Designation of Medically Underserved Populations and Health Professional Shortage Areas'' (73 FR 21300). HHS and the Health Resources and Services Administration (HRSA) have received requests for a further extension to the comment period. In consideration of these requests, HHS is extending the comment period an additional 30 days, with a new closing date of June 30, 2008.

DATES: Written comments on this proposed rule must be submitted on or before June 30, 2008. Please refer to **SUPPLEMENTARY INFORMATION** for additional information.

FOR FURTHER INFORMATION CONTACT: Andy Jordan, 301–594–0197.

SUPPLEMENTARY INFORMATION: During the public comment period, HRSA has encouraged State Primary Care Offices (PCOs) to apply the proposed methodology using their own State and local data to see how well it works in identifying areas in need in their States. HRSA has provided assistance, tools, and data to support States in their efforts and will continue to do so. In order to facilitate a better understanding of the proposed rule, HRSA provided PCOs with a calculator that applies the formulas proposed in the rule to determine designation, with data files, as well as with technical assistance in using the calculator. HRSA has also provided the names of PCOs who, with their expertise with different data sources, may be able to offer some technical assistance to their colleagues.

Dated: May 29, 2008.

Elizabeth M. Duke,

Administrator.

[FR Doc. 08–1314 Filed 5–29–08; 2:55 pm]

BILLING CODE 4152–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[FWS–R2–ES–2008–0070; 1111 FY07 MO–B2]

Endangered and Threatened Wildlife and Plants; 90-Day Finding on a Petition To List the Cactus Ferruginous Pygmy-Owl (Glaucidium ridgwayi cactorum) as Threatened or Endangered With Critical Habitat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 90-day petition finding and initiation of status review.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 90-day finding on a petition to list the cactus ferruginous pygmy-owl (*Glaucidium ridgwayi cactorum*) (pygmy-owl) as threatened or endangered under the Endangered Species Act of 1973, as amended (Act). We find that the petition presents substantial scientific or commercial information indicating that listing the pygmy-owl may be warranted. Therefore, with the publication of this notice, we are initiating a status review of the species, and we will issue a 12-month finding on our determination as to whether the petitioned action is warranted. To ensure that the status review of the pygmy-owl is comprehensive, we are soliciting information and data regarding this species. We will make a determination on critical habitat for this species if and when we initiate a listing action.

DATES: We made the finding announced in this document on June 2, 2008. To allow us adequate time to conduct this review, we request that information be submitted on or before August 1, 2008.

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

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- U.S. mail or hand delivery: Public Comments Processing, Attn: [FWS–R2–ES–2008–0070]; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 222; Arlington, VA 22203.

We will not accept e-mail or faxes. We will post all submissions on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see the Information Solicited section below for more information).

FOR FURTHER INFORMATION CONTACT: Steven Spangle, Field Supervisor, Arizona Ecological Services Office, U.S. Fish and Wildlife Service, 2321 West Royal Palm Road, Suite 103, Phoenix, AZ 85021; telephone 602/242–0210; facsimile 602/242–2513. If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Information Solicited

When we make a finding that a petition presents substantial information to indicate that listing a species may be warranted, we are required to promptly commence a review of the status of the species. To ensure that the status review is complete and based on the best available scientific and commercial information, we are soliciting information on the status of the pygmy-owl. We request any additional information from the public, other concerned governmental agencies, Native American Tribes, the scientific community, industry, or any other interested parties concerning the status of the pygmy-owl. We are seeking information regarding the species' historical and current status and distribution, its biology and ecology, ongoing conservation measures for the species and its habitat; and threats to the species or its habitat. Specifically,

we are requesting input related to the genetics and taxonomy of ferruginous pygmy-owls, and the status, distribution, and threats to the pygmy-owl in Mexico.

If we determine that listing the pygmy-owl is warranted, it is our intent to propose critical habitat to the maximum extent prudent and determinable at the time we propose to list the species. Therefore, with regard to areas within the geographical range currently occupied by the pygmy-owl, we also request data and information on what may constitute physical or biological features essential to the conservation of the species, where these features are currently found, and whether any of these features may require special management considerations or protection. In addition, we request data and information regarding whether there are areas outside the geographical area occupied by the species that are essential to the conservation of the species. Please provide specific information as to what, if any, critical habitat you think we should propose for designation if the species is proposed for listing, and why such habitat meets the requirements of the Act.

We will base our 12-month finding on a review of the best scientific and commercial information available, including all information received during the public comment period. Please note that submissions merely stating support or opposition to the action under consideration without providing supporting information, although noted, will not be considered in making a determination, as section 4(b)(1)(A) of the Act directs that determinations as to whether any species is a threatened or endangered species shall be made ''solely on the basis of the best scientific and commercial data available.'' At the conclusion of the status review, we will issue the 12-month finding on the petition, as provided in section 4(b)(3)(B) of the Act.

You may submit your information concerning this status review by one of the methods listed in the **ADDRESSES** section. We will not consider submissions sent by e-mail or fax or to an address not listed in the **ADDRESSES** section.

If you submit information via *http://www.regulations.gov,* your entire submission—including any personal identifying information—will be posted on the Web site. If your submission is made via a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this personal identifying information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on *http://www.regulations.gov.*

Information and materials we receive will be available for public inspection on *http://www.regulations.gov,* or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Arizona Ecological Services Office (see **FOR FURTHER INFORMATION CONTACT**).

Background

Section 4(b)(3)(A) of the Act requires that we make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information indicating that a petitioned action may be warranted. We are to base this finding on information provided in the petition, supporting information submitted with the petition, and information otherwise available in our files at the time we make the determination. To the maximum extent practicable, we are to make the finding within 90 days of our receipt of the petition, and publish our notice of this finding promptly in the **Federal Register.**

Our standard for ''substantial information,'' as defined in the Code of Federal Regulations at 50 CFR 424.14(b), with regards to a 90-day petition finding is ''that amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted.'' If we find that substantial information was presented, we are required to promptly commence a status review of the species.

We base this finding on information provided by the petitioner that we determined to be reliable after reviewing sources referenced in the petition and available in our files. We evaluated that information in accordance with 50 CFR 424.14(b). Our process for making this 90-day finding under section 4(b)(3)(A) of the Act is limited to a determination of whether the information in the petition meets the ''substantial information'' threshold.

On March 20, 2007, we received a formal petition dated March 15, 2007, from the Center for Biological Diversity and Defenders of Wildlife requesting that we list the pygmy-owl as a threatened or endangered species under the Act (CBD and DOW 2007). Additionally, the petition requested the designation of critical habitat concurrent with listing. The petition clearly identified itself as a petition and included the identification information, as required in 50 CFR 424.14(a). We sent a letter to the petitioners dated June 25, 2007, stating that we were proceeding with a review of the petition.

The petitioners petitioned us on three potentially listable entities of the pygmy-owl: (1) The Arizona distinct population segment (DPS) of the pygmy-owl; (2) the Sonoran Desert DPS of the pygmy-owl; and (3) the western subspecies of the pygmy-owl, which they identified as *Glaucidium ridgwayi cactorum.* As an immediate action, the petitioners requested that we promulgate an emergency listing rule for the pygmy-owl. In our June 25, 2007, response letter to the petitioners, we stated our determination that emergency listing was not warranted for the pygmy-owl and that the designation of critical habitat would be considered if listing one of the proposed entities of the pygmy-owl was found to be warranted.

Previous Federal Actions

On May 26, 1992, a coalition of environmental organizations (Galvin *et al.* 1992) petitioned us to list the entire cactus ferruginous pygmy-owl subspecies as endangered under the Act. We published a finding that the petition presented substantial scientific or commercial information indicating that listing of the pygmy-owl may be warranted and commenced a status review of the subspecies (58 FR 13045, March 9, 1993). As a result of information collected and evaluated during the status review, including information collected during a public comment period, we proposed to list the pygmy-owl as endangered with critical habitat in Arizona and threatened in Texas (59 FR 63975, December 12, 1994). After a review of all comments received in response to the proposed rule, we published a final rule listing the Arizona DPS of the pygmy-owl as endangered (62 FR 10730, March 10, 1997). In that final rule, we determined that listing in Texas was not warranted and that critical habitat designation for the Arizona population was not prudent.

In September 1998, we formed the Cactus Ferruginous Pygmy-owl Recovery Team, comprised of biologists (pygmy-owl experts and raptor ecologists) and representatives from affected and interested parties (e.g., Federal and State agencies, local governments, the Tohono O'odham Nation, and private groups) to develop a pygmy-owl recovery plan.

On December 30, 1998, in response to an October 31, 1997, lawsuit filed in the District Court of Arizona by the Southwest Center for Biological Diversity, we proposed to designate critical habitat in Arizona for the

pygmy-owl (63 FR 71820). On April 15, 1999, we released a draft economic analysis of the proposed critical habitat designation and reopened a public comment period for 30 days (64 FR 18596). On July 12, 1999, we published our final critical habitat determination (64 FR 37419), essentially designating the same areas as were proposed.

On January 9, 2001, a coalition of plaintiffs filed a lawsuit with the District Court of Arizona challenging the validity of the Service's listing of the Arizona DPS of the pygmy-owl as an endangered species and the designation of its critical habitat. On September 21, 2001, the District Court upheld the listing of the pygmy-owl in Arizona but, at our request, and without otherwise ruling on the critical habitat issues, remanded the designation of critical habitat for preparation of a new economic analysis and other effects of the designation (*Natl. Ass'n of Home Builders* v. *Norton,* No. Civ.–00–0903–PHX–SRB). The District Court vacated the critical habitat designation during this remand. Subsequently, the District Court ordered that we submit a new proposed critical habitat rule to the **Federal Register** on or before November 15, 2002. On November 27, 2002, we published the proposed rule to designate critical habitat for the pygmy-owl (67 FR 71032) and opened a public comment period on the proposed rule and the draft economic analysis until February 25, 2003. We extended the comment period on February 25, 2003, until April 25, 2003 (68 FR 8730). We then reopened the comment period on April 28, 2003, until June 27, 2003 (68 FR 22353). Due to a lack of funding, work on the final rule to designate critical habitat for the pygmy-owl was suspended in April 2003.

On January 9, 2003, we published in the **Federal Register** (68 FR 1189) a notice of availability and opening of a public comment period (until April 9, 2003) for the draft pygmy-owl recovery plan. On April 30, 2003 (68 FR 23158), we reopened the public comment period on the recovery plan until June 30, 2003.

The plaintiffs appealed the District Court's ruling on the listing of the pygmy-owl as a distinct population segment in Arizona. On August 19, 2003, the Ninth Circuit Court of Appeals upheld the Service's determination that the Arizona pygmy-owl population was discrete, but found that the Service did not articulate a rational basis for finding that the Arizona pygmy-owl population was significant to its taxon (*Natl. Ass'n of Home Builders* v. *Norton,* 340 F.3d. at 852). The Ninth Circuit reversed the judgment of the District Court and remanded the case to the District Court for further proceedings consistent with the Ninth Circuit's opinion.

On October 1, 2003, the intervenor-appellees (CBD and DOW) petitioned for a rehearing from the Ninth Circuit Court. That request was denied. On November 12, 2003, the plaintiffs filed a motion with the District Court seeking removal of the Arizona DPS listing based on the Ninth Circuit Court's ruling. On December 10, 2003, the Service filed a response agreeing that removal of the listing was appropriate. The response also indicated that the Service was undertaking an internal review of the current status of the pygmy-owl in the United States and Mexico and was engaged in ongoing surveys of the species. The interveners in the case opposed the plaintiffs' motion to remove the Arizona DPS listing and disputed the contention that the listing rule should be removed.

On June 25, 2004, the District Court of Arizona (CV 00–0903 PHX–SRB) remanded the listing rule to the Service for reconsideration consistent with the Ninth Circuit's ruling and ordered that the pygmy-owl listing should remain in place for the duration of the Service's deliberations. On January 31, 2005, pursuant to the District Court's order, we filed a status report with the District Court regarding our reconsideration of the listing rule for the pygmy-owl. As a result of our reconsideration, we published a proposed rule on August 3, 2005, to delist the pygmy-owl (70 FR 44547). On April 14, 2006, following public comment, we published a final rule removing the pygmy-owl from the Federal List of Endangered and Threatened Wildlife (71 FR 19452).

The interveners in the above lawsuit filed a request with the Arizona District Court for a temporary restraining order (denied by the District Court in May 2006) and a preliminary injunction to halt the delisting of the pygmy-owl and, concurrently, a lawsuit arguing that the delisting of the pygmy-owl was arbitrary and capricious. The Arizona District Court heard the case in October 2006 and issued an opinion on March 9, 2007, upholding the Federal delisting of the pygmy-owl and denying the request for a preliminary injunction. Defenders of Wildlife and the Center for Biological Diversity have appealed the District Court's decision, and the case is currently pending in the Ninth Circuit Court of Appeals (9th Cir. No. 07–15854).

Species Information

The pygmy-owl is in the order Strigiformes and the family Strigidae. It is a small bird, approximately 17 centimeters (6.75 inches) long. In Arizona, male pygmy-owls average 58 grams (g) (2.0 ounces (oz)) and females average 70 g (2.4 oz) (AGFD 2007, p. 2). The pygmy-owl is reddish brown overall, with a cream-colored belly streaked with reddish brown. Color may vary, with some individuals being more grayish brown.

One of the primary issues presented by the petitioners is related to the taxonomy of the pygmy-owl. Until recently, we considered the cactus ferruginous pygmy-owl to occur from lowland central Arizona south through western Mexico to the States of Colima and Michoacan, and from southern Texas south through the Mexican States of Tamaulipas and Nuevo Leon (Proudfoot and Johnson 2000, p. 4). The petitioners request a revised taxonomic consideration for the cactus ferruginous pygmy-owl based on Proudfoot *et al.* (2006a, p. 9; 2006b, p. 946) and König *et al.* (1999, pp. 160, 370–373), classifying it as *Glaucidium ridgwayi cactorum.* The revised consideration would include recognition of two subspecies in Mexico and the U.S., *G. r. cactorum* in western Mexico and Arizona and *G. r. ridgwayi* in eastern Mexico and Texas. We find this request to be reasonable, as Proudfoot and Johnson (2000, p. 4) indicate that a thorough taxonomic revision for the ferruginous pygmy-owl is needed. Other authors have also proposed the ''*ridgwayi*'' classification of the subspecies of pygmy-owl in question (Heidrich *et al.* 1995, pp. 37–39; Navarro-Sigüenza and Peterson 2004, p. 5).

The literature suggests that the taxonomy of the pygmy-owl has been inconsistent and ever-changing (Coues 1872, p. 370, Bendire 1888, p. 366; Fischer 1893, pp. 199–200; Gilman 1901, p. 145, Howell 1916, p. 211). The use of genetics (Proudfoot *et al.* 2006a; Proudfoot *et al.* 2006b), morphology, and vocalizations (König *et al.* 1999, pp. 160, 370–373; Heidrich *et al.* 1995, pp. 25–27) to clarify pygmy-owl taxonomy may provide the basis for taxonomic revision. The petitioners report that recent studies suggest that North and Central American ferruginous pygmy-owls fall into the species *ridgwayi,* and South American ferruginous pygmy-owls fall into the species brasilianum (Proudfoot 2006a, p. 9; König *et al.* 1999). Proudfoot (2006a, p. 9) further divides *ridgwayi* into two subspecies, one found in Arizona, Sonora, and Sinaloa (*Glaucidium ridgwayi cactorum*), and one found in Texas, Tamaulipas, and regions of South-Central Mexico (*Glaucidium ridgwayi ridgwayi*). This

finding addresses the petitioned subspecies *G. r. cactorum,* which the petitioners referred to as the cactus ferruginous pygmy-owl.

Some have suggested that the proposed taxonomic change should not be accepted until it is acknowledged by the American Ornithologist's Union (AOU) (Johnson and Carothers 2007, pp. 16–17). While the AOU checklist undergoes vigorous review, it presently does not list entries at the subspecies level and does not provide the most current information related to taxonomic classifications at this level (AOU 2007). The Service is not restricted to existing taxonomic checklists in determining a listable entity. Rather, the Service is required to use the best available scientific and commercial information. The information presented by Proudfoot (2006a, 2006b) is found in peer-reviewed professional journal articles, and the work of König *et al.* (1999) was published by a reputable institution. We judge these sources to be reliable with regard to the information they present. Information in our files supports the supposition of the petitioners that Proudfoot (2006a, 2006b), König *et al.* (1999), and Heidrich *et al.* (1995) represent the best available scientific information regarding the taxonomy of the pygmy-owl. We find that the petitioners have provided reliable and substantial scientific information that a taxonomic revision may be warranted.

Historically (i.e., late 1800s and early 1900s), pygmy-owls occupied areas of south-central Arizona—from New River, about 56 kilometers (km) (35 miles (mi)) north of Phoenix, south to the U.S./Mexico border, west to Agua Caliente near Gila Bend and Cabeza Prieta Tanks, and east to Tucson, and, rarely, the San Pedro River (Bent 1938, pp. 435–438; Monson and Phillips 1981, pp. 71–72; Johnson *et al.* 2003, pp. 390–391). The geographic area historically occupied by pygmy-owls in Arizona includes portions of Gila, Pima, Pinal, Maricopa, Graham, Santa Cruz, Cochise, Greenlee, and Yuma Counties. No pygmy-owls have been recorded in New Mexico (Hubbard 1978, p. 6) or from the lower Colorado River valley of both the United States (Rosenberg *et al.* 1991, pp. 206–210) and Mexico (van Rossem 1945, p. 111).

Currently, the known locations of pygmy-owls in Arizona are restricted to two counties, Pima and Pinal (USFWS 2007). As the petition contends (CBD and DOW 2007, p. 15) and our records support (Abbate *et al.* 1996, pp. 8–12; 1999, pp. 14–17; 2000, pp. 15–16; Johnson *et al.* 2003, p. 390), the current distribution of pygmy-owls within Arizona is much reduced when compared to its historical distribution. Recent data indicate that there are fewer than 50 adult pygmy-owls and fewer than 10 nest sites in Arizona in any given year (Abbate *et al.* 2000, pp. 15–16).

The petitioners provide information indicating that pygmy-owl populations in Arizona and Sonora, Mexico are declining (CBD and DOW 2007, pp. 15–17). The information in our files is consistent with the population numbers reported in the petition. We judge the information regarding a decline in pygmy-owl numbers in northern Sonora (Flesch and Steidl 2006) to be substantial and reliable.

In Arizona, pygmy-owls rarely occur below 300 meters (m) (1,000 feet (ft)) or above 1,220 m (4,000 ft) (Proudfoot and Johnson 2000, p. 5), except perhaps during dispersal (AGFD 2007, p. 2). Historically, pygmy-owls were documented in cottonwood (*Populus fremontii*)-mesquite (*Prosopis* spp.) forest and mesquite woodland along the Gila and Salt rivers and major tributaries (Gilman 1909, pp. 148–149; Johnson *et al.* 1987). Currently, most pygmy-owls in southern Arizona are found in Sonoran desertscrub communities as described by Brown (1982, pp. 181–221). These communities include dense thickets bordering dry desert washes consisting of palo verde (*Cercidium spp.*), ironwood (*Olneya tesota*), mesquite, acacia (*Acacia* spp.), and saguaro (*Carnegiea gigantea*) (Johnson and Haight 1985, p. 145; Millsap and Johnson 1988, p. 138). In the 1990s and early 2000s, pygmy-owls were also found in suburban areas containing exotic landscaping supported by irrigation (Abbate *et al.* 1996, p. 26). Pygmy-owls have also been located in semidesert and Sonoran savanna grasslands with washes (e.g., the Altar Valley) (Abbate *et al.* 2000, p. 27, Flesch 2003, pp. 153–156). Dominant tree species in riparian areas include mesquite, ash (*Fraxinus velutina*), and hackberry (*Celtis* spp.).

In Mexico, the pygmy-owl occurs from sea level to 1,219 m (4,000 ft) (Friedmann *et al.* 1950, p. 145). It is a resident of primarily giant cactus associations, in western Sonora (van Rossem 1945, p. 111). It also occurs in desertscrub, tropical thornscrub, and tropical deciduous forest (Russell and Monson 1998, p. 141). The pygmy-owl is absent from tropical deciduous forest and higher vegetation zones in west Mexico, where it is replaced by *G. minutissimum* and *G. gnoma* (Schaldach 1963, p. 40). Flesch (2003, p. 37) reported that pygmy-owls occurred in the greatest numbers and highest frequencies within the Arizona Upland subdivision of Sonoran desertscrub in northern Sonora, Mexico. Densities were greatest in the Plains of Sonora and lowest in Sinaloan Thornscrub. Density of owls was relatively high in the Central Gulf Coast, but frequency of occurrence was low. Semidesert grasslands were second only to Arizona Upland for frequency of occurrence of pygmy-owls in Sonora, Mexico.

Threats Analysis

Section 4 of the Act (16 U.S.C. 1533), and its implementing regulations at 50 CFR part 424, set forth the procedures for adding species to the Federal List of Endangered and Threatened Wildlife and Plants. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1) of the Act: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence.

In making this 90-day finding, we evaluated whether information on threats to the pygmy-owl, as presented in the petition and other information available in our files at the time of the petition review, is substantial, thereby indicating that the petitioned action may be warranted. Our evaluation of this information is presented below.

A. Present or Threatened Destruction, Modification, or Curtailment of the Species' Habitat or Range

The petitioners claim that numerous threats to pygmy-owl habitat occur in both Arizona and Sonora, Mexico, and that these threats have resulted in the loss and fragmentation of pygmy-owl habitat (CBD and DOW 2007, p. 18). As a result, pygmy-owls have been lost from portions of their range and are declining in abundance in the United States and Mexico (Phillips *et al.* 1964, p. 52; Johnson *et al.* 1979, p. 51; Hunter 1988, pp. 3–6; Millsap and Johnson 1988, pp. 137–139; Johnson *et al.* 2003, pp. 393–398; Flesch and Steidl 2006, pp. 869–870). The petitioners (CBD and DOW 2007, pp. 18–24) specifically identified riparian forest destruction, urban sprawl, woodcutting, vegetation clearing for agriculture, livestock grazing, border issues, and exotic plant species invasions as threats to the pygmy-owl (Ohmart 1994, pp. 276–281; Flesch 2003, p. 134; Abouhaider 1989, pp. 58–59; Burquez and Martinez-Yrizar

1997, pp. 383–388; Burquez-Montijo *et al.* 2002, pp. 134–138; Flesch and Steidl 2006, pp. 869–870).

The petitioners indicate that widespread destruction of riparian woodlands in Arizona and Sonora has occurred within the range of the pygmy-owl and has led to a subsequent decline in pygmy-owl abundance (CBD and DOW 2007, p. 19). They cite papers, also found in our files, estimating that between 85 and 90 percent of riparian bottomland forests in the southwestern United States have been modified or lost, and that these alterations and losses are attributable to woodcutting, urban and agricultural encroachment, water diversion and impoundment, channelization, groundwater pumping, livestock overgrazing, and hydrologic changes resulting from various land-use practices (Carothers 1977, pp. 2–3; Kusler 1985, p. 6; Jahrsdoerfer and Leslie 1988, pp. 17–36; USGAO 1988, p. 8; Szaro 1989, pp. 73–81; State of Arizona 1990, pp. 1–5; Bahre 1991, pp. 119–151). Information provided by the petitioners was found to be reliable and corroborated by information found in our files. Information from our files indicates that threats to riparian communities are also evident in Mexico. Deloya (1985, pp. 11–12) expressed concern over the declining trend of riparian ecosystems there and a lack of strategy to reverse it.

The petitioners state that continued population growth in both Arizona and Mexico will continue to contribute to the loss of important riparian resources. They cite specific examples of the San Pedro River in Arizona and the Rio Magdelena in Mexico, including Flesch and Steidl (2006b), who stated that the Rio Magdalena watershed had the largest human population of the watersheds they studied, which likely reduces habitat quality for the pygmy-owl (CBD and DOW 2007, p. 20).

The petition cites urban sprawl as a significant threat to pygmy-owls in both Arizona and Mexico (USFWS 2005, Burquez and Martinez-Yrizar 1997) (CBD and DOW, p. 20). Impacts to pygmy-owls and pygmy-owl habitat from urbanization are related to housing development, lighting, roads, traffic, predation by domestic pets, and the alteration of hydrologic patterns supporting important pygmy-owl habitat elements. Petitioners point out that low-density urban development may provide some benefit to pygmy-owl habitat elements and that pygmy-owls have occurred in these types of areas in the past. However, most recent urbanization in Arizona cannot be categorized as low density (AZ Daily Star 2006, p. B–1); therefore, it is usually not beneficial to the pygmy-owl. In addition, the petitioners point out a concern that if the beneficial habitat elements in low-density developments attract pygmy-owls, these areas may act as population sinks (a population with a negative balance between productivity and mortality) if there is increased mortality from automobile and window collisions, pet predation, and other urban factors. Information in our files supports the petitioners' claims of increasing human population growth along the border in both Mexico and Arizona (AZ Daily Star 2000a, 2000b; Clement *et al.* 2003, p. 60; DES 1997, East Valley Tribune 2005; Ewing *et al.* 2005, pp. 7–16; PAG 2003; Pineiro 2001, p. 1). The impacts of urbanization on pygmy-owls and their habitat have been identified and discussed in numerous documents within our files (USFWS 2005b, 2005c, 2005d), and we find that the information presented by the petitioners is reliable.

According to the petition, the conversion of native vegetation to non-native grasses for livestock grazing represents a threat to pygmy-owl habitat in Arizona and Mexico. The petition states that the conversion to and invasion by buffelgrass (*Pennisetum ciliaris*) results in the direct loss and fragmentation of pygmy-owl habitat by eliminating large columnar cacti (nest substrates) and other vegetation required by pygmy-owls for nesting, perching, and cover; reduces prey availability; and increases fire frequency in a non-fire-adapted vegetation community (CBD and DOW 2007, p. 22). The petitioners point out that this threat is widespread (8–10 million acres (3.2–4 million hectares) in northern Mexico and the southwestern U.S.) and will likely result in permanent impacts to pygmy-owls and pygmy-owl habitat. They cite Van Devender and Dimmit (2000), who state that the introduction of buffelgrass into fire-intolerant desert communities results in a permanent conversion to a buffelgrass savanna with reduced plant cover and diversity (CBD and DOW 2007, p. 22). Information within our files supports the magnitude of this threat identified by the petitioners, and we find that the information presented is reliable. In some cases the conversion to buffelgrass has been so complete that consequences are irreversible in the short term (Burquez *et al.* 1998, p. 21). Talking about the potential extent of the threat of buffelgrass conversion in Sonora, Mexico, Arriaga *et al.* (2004, pp. 1507–1510) predict that buffelgrass could cover up to 53 percent of Sonora and affect 26 percent of the desertscrub, 12 percent of the mesquite woodlands, and 8 percent of the tropical deciduous forest. However, regional efforts to reduce the extent of buffelgrass are being initiated in southern Arizona.

The petition points out that the introduction of fire into non-fire-adapted communities, such as the Sonoran Desert, has significant effects on the native vegetation. The petitioners state that many desert trees, shrubs, and cacti, including saguaros, are not fire-adapted and cannot withstand fires. This is particularly significant in relation to the pygmy-owl because of effects to nest cavities and prey availability. As the conversion of native habitat to non-native plant communities is primarily a human-facilitated issue, and because many current fires are human-caused, the issue of fire in an environment of increasing non-native plant communities and increasing population growth is a legitimate threat to pygmy-owl habitat. The information available in our files corroborates the increased occurrence and severity of fires within the range of the pygmy-owl, and the significant conversion of native plant communities to non-native grassland savannahs in both the United States and Mexico.

The petitioners indicate that livestock grazing eliminates and modifies pygmy-owl habitat, especially in sensitive riparian areas (CBD and DOW 2007, p. 23). They contend that overgrazing results in the direct removal of riparian vegetation, changes channel morphology, and has been a primary factor in the loss of most riparian woodlands in the southwest. With specific regard to pygmy-owl habitat elements, our files indicate that overgrazing can affect saguaro (nest sites) recruitment (Abouhaidar 1989, pp. 58–59), cause a loss of riparian species diversity and cover (Belsky *et al.* 1999, pp. 425–428), and reduce prey diversity (Jones 1981, pp. 109–114; Krueper 1996, pp. 288–294). The threats to pygmy-owl habitat from livestock overgrazing as raised by the petitioners were found to be reliable based on information in our files. However, it is important to note that such effects are typically the result of overgrazing and not well-managed livestock grazing that occurs under an appropriate livestock-grazing system, which under certain conditions, can have beneficial effects to wildlife (Holochek *et al.* 1982, p. 208; Smith *et al.* 1996, p. 492). In addition, no studies specifically related to the effects of livestock grazing on pygmy-owls have been done.

The petitioners indicate that border activities can affect pygmy-owls and pygmy-owl habitat. In particular, they

point to the current construction of a wall along the U.S./Mexico border intended to impede illegal immigration and smuggling activities. They cite Flesch and Steidl (2007), who state that pygmy-owls often fly short distances just above the ground when crossing vegetation openings. The petitioners therefore claim that construction of the border wall will preclude movement of individuals between Arizona and Sonora. Our observations of pygmy-owl movements in the landscape indicate that tall fences, in association with a zone cleared of vegetation, would likely result in an impediment to pygmy-owl movements in that area, and could affect local movements within territories, as well as immigration and dispersal across the international border (Abbate *et al.* 1999, p. 28–29; Flesch and Steidl 2007, p. 35, Scott Richardson, personal observations). The effects to natural resources resulting from illegal border crossing and smuggling, and the response of enforcement agencies to such activities, such as the construction of fences, is documented in our files, and we find the information presented by the petitioners to be reliable (Cohn 2007, p. 96; Marris 2006, pp. 1–2).

In summary, we find that the information provided in the petition, as well as other information in our files, presents substantial scientific or commercial information indicating that the petitioned action may be warranted due to the present or threatened destruction, modification, or curtailment of the habitat or range of the subspecies of ferruginous pygmy-owl defined in the petition. Information in our files identifies the top ten threats to the natural resources of the Sonoran bioregion, which includes many of the threats proposed by the petitioners and described above (Nabhan and Holdsworth 1998, pp. 1–3).

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

According to the petition, overutilization is not considered a major factor in pygmy-owl declines past or present.

C. Disease or Predation

The petition names a number of diseases or disease-related issues that could potentially affect the status of the pygmy-owl population throughout its range. These include hematozoa (blood parasites), trichomoniasis, external parasites, and West Nile Virus. Information in our files indicates that the information presented in the petition is reliable and that ectoparasites, in particular, represent potential threats to pygmy-owl populations (Proudfoot *et al.* 2005, pp. 186–187; Proudfoot *et al.* 2006c, pp. 874–875). While little is known of the natural occurrence of disease within pygmy-owl populations (Proudfoot and Johnson 2000, p. 13), more is known regarding the occurrence of parasites (Proudfoot *et al.* 2005, p. 186; Proudfoot *et al.* 2006, p. 873). Proudfoot *et al.* (2005, p. 186) could not rule out that blood loss from external parasites, in combination with other factors, may have contributed to the loss of an entire clutch of pygmy-owls in Arizona. Serious disease problems have not been documented to date in pygmy-owl populations; however, should such an event occur, the population effects are clear given that fewer than 10 pygmy-owl nest sites are typically documented in Arizona on an annual basis (Abbate *et al.* 2000, pp. 15–16). The effects of an introduced virus, like the West Nile Virus, on pygmy-owls are of particular concern (Ganez *et al.* 2004, pp. 2135–2136).

The petitioners point out that predation on pygmy-owls has been documented throughout its range. Recently-fledged young are particularly vulnerable to predation, affecting the overall productivity of pygmy-owls in Arizona (Abbate *et al.* 1999, p. 50). With so few nests documented in Arizona, reduced productivity due to predation can have population-level effects. Predation occurs naturally within pygmy-owl populations; however, ongoing drought conditions contribute to increasing predation rates due to lack of vegetation cover and poor condition of individual pygmy-owls (USFWS 2004, AGFD unpublished data). Information in our files indicates that this information is reliable and that predation can affect the status of local pygmy-owl populations. Non-native predators may increase predation rates above natural levels. Introduced predators in urbanized areas, such as domestic cats, have been documented as pygmy-owl predators and are an ongoing threat to pygmy-owls and other wildlife as urbanization increases (Evans 1995, pp. 4–5; Coleman *et al.* 1997, pp. 2–3; Winter and Wallace 2006, p. 3).

In summary, we find that the information provided in the petition, as well as other information in our files, presents substantial scientific or commercial information indicating that the petitioned action may be warranted due to disease, especially given the low population size of the pygmy-owl, and predation, particularly of fledglings.

D. Inadequacy of Existing Regulatory Mechanisms

The petition includes four levels of current regulation that the petitioners contend fall short in their protection of pygmy-owls and pygmy-owl habitat. The petitioners indicate that Federal laws such as the Migratory Bird Treaty Act and the National Environmental Policy Act do not require protection of pygmy-owl habitat. The Arizona Game and Fish Department includes the pygmy-owl as an endangered species on its Species of Special Concern list (AGFD 1996, p. 15), but this list does not afford the pygmy-owl any legal or regulatory protections. While State wildlife laws prohibit the illegal take of pygmy-owls, they do not address impacts to pygmy-owl habitat. Some local conservation mechanisms, such as habitat conservation plans, are in development in southern Arizona. These plans include conservation measures for pygmy-owls, but are several years from completion and, as drafts, do not afford the pygmy-owl any level of protection or conservation (although some pygmy-owl habitat has been conserved through acquisitions related to these plans). There are no regulations or laws in Mexico that provide any specific protection to pygmy-owl habitat. Based on the information in our files, the information presented by the petitioners regarding existing regulatory mechanisms is reliable.

E. Other Natural or Manmade Factors Affecting the Species' Continued Existence

The petition identifies two issues under this factor, genetic stochasticity and fire, that affect the continued existence of the pygmy-owl. The petitioners indicate that the incidence of inbreeding and the low genetic diversity within the pygmy-owl population may make the population susceptible to stochastic genetic events. Caughley and Gunn (1996, p. 166) are cited, noting that small populations can become extinct entirely by chance even when their members are healthy and the environment favorable (CBD and DOW 2007, p. 28). Information in our files supports the contention that there is low genetic variability within genetic samples obtained from pygmy-owls in the United States and northern Mexico (Proudfoot and Slack 2001, p. 5; Proudfoot *et al.* 2006a, p. 9), and that pairings within family groups have been documented in this same area (Abbate *et al.* 2000, p. 21).

The issue of fire and its effects on pygmy-owl habitat is related to the issue

of non-native plant species and is more appropriately discussed earlier in this document within the context of Factor A, rather than under Factor E.

Distinct Vertebrate Population Segments and Significant Portion of the Range

The petition asserts that the pygmy-owl occurs in two possible DPSs and implies that, as a subspecies, the pygmy-owl is also threatened or endangered throughout a significant portion of its range. We conclude that the petition presents substantial information that listing the entire subspecies may be warranted (see Finding below). Therefore, we have not specifically evaluated whether the petition provides substantial information with respect to the two potential DPSs outlined within the petition, or the extent to which the pygmy-owl is endangered or threatened throughout a significant portion of its range. An analysis of these additional entities will occur during the 12-month status review if we determine that listing of the entire subspecies is not warranted.

Finding

We have reviewed the petition and the literature cited in the petition, and evaluated the information to determine whether the sources cited support the claims made in the petition. We also reviewed reliable information that was readily available in our files to evaluate the petition.

The petitioners presented substantial information indicating that the pygmy-owl may be threatened by Factors A, C, D, and E throughout the entire range of the subspecies defined in the petition in Arizona and northwest Mexico. The petitioners did not assert that Factor B is currently, or in the future, considered a threat to this species. Based on this review and evaluation, we find that the petition has presented substantial scientific or commercial information that listing the pygmy-owl throughout all or a portion of its range may be warranted due to current and future threats under Factors A, C, D, and E. As such, we are initiating a status review to determine whether listing the pygmy-owl under the Act is warranted. As part of our status review of the pygmy-owl, we will examine whether the purported subspecific designation is appropriate; whether the Arizona or Sonoran Desert DPSs of the pygmy-owl warrant listing under the Act; or if the subspecies is in danger of extinction within a significant portion of its range. We will issue a 12-month finding as to whether any of the petitioned actions are warranted.

References Cited

A complete list of references cited is available on the Internet at *http://www.regulations.gov* and upon request from the Arizona Ecological Services Office (see **FOR FURTHER INFORMATION CONTACT**).

Author

The primary authors of this document are the staff of the Arizona Ecological Services Office (see **FOR FURTHER INFORMATION CONTACT**).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (U.S.C. 1531 *et seq.*).

Dated: May 20, 2008.

Kenneth Stansell,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. E8–12168 Filed 5–30–08; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register
Vol. 73, No. 106
Monday, June 2, 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

Office of the Secretary

[Docket Number: AMS–CN–07–0093; CN–07–007]

Advisory Committee on Universal Standards; Meeting

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, the Agricultural Marketing Service (AMS) announces a forthcoming meeting of the Advisory Committee on Universal Cotton Standards.

DATES: June 12, 2008, at 9 a.m. to 5 p.m. and on June 13, 2008, at 9 a.m. until the review is complete.

Place: On June 12, at the Peabody Hotel, 149 Union Avenue, Memphis, Tennessee 38103. Phone (901) 529–4000.

On June 13, at USDA, Agricultural Marketing Service, Cotton and Tobacco Programs office at 3275 Appling Road, Memphis, Tennessee 38133. Phone (901) 384–3000. The meeting is open to the public.

FOR FURTHER INFORMATION CONTACT: James Knowlton, Standardization and Engineering Branch, Cotton and Tobacco Programs, AMS, USDA, 3275 Appling Road, Memphis, Tennessee 38133; Phone (901) 384–3030, facsimile (901) 384–3032, or e-mail at *james.knowlton@usda.gov.*

SUPPLEMENTARY INFORMATION: The committee includes representatives of all segments of the U.S. cotton industry and the twenty-three overseas associations that are signatories to the Universal Cotton Standards Agreement which is authorized under the United States Cotton Standards Act (U.S.C. 51–65). The purpose of the meeting is: (1) To recommend to the Secretary of Agriculture any changes considered necessary to the Universal Standards; and (2) to review freshly prepared sets of Universal Cotton Standards for conformity with existing standards.

The meeting is open to the public. Written comments may be submitted in advance or following the meeting to Mr. Knowlton. Notice of this meeting is provided in accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law No. 92–463).

Dated: May 27, 2008.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E8–12221 Filed 5–30–08; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket No. FV–08–378]

Fruit and Vegetable Industry Advisory Committee

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of public meeting.

SUMMARY: The purpose of this notice is to notify all interested parties that the Agricultural Marketing Service (AMS) will hold a Fruit and Vegetable Industry Advisory Committee (Committee) meeting that is open to the public. The U.S. Department of Agriculture (USDA) established the Committee to examine the full spectrum of issues faced by the fruit and vegetable industry and to provide suggestions and ideas to the Secretary of Agriculture on how USDA can tailor its programs to meet the fruit and vegetable industry's needs. This notice sets forth the schedule and location for the meeting.

DATES: Monday, September 8, 2008, from 8 a.m. to 5 p.m.

ADDRESSES: The Committee meeting will be held at the Crowne Plaza Hotel, 1480 Crystal Drive, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Andrew Hatch, Designated Federal Official, USDA, AMS, Fruit and Vegetable Programs. Telephone: (202) 690–0182. Facsimile: (202) 720–0016. E-mail: *andrew.hatch@usda.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act (FACA) (5 U.S.C. App. II), the Secretary of Agriculture established the Committee in August 2001 to examine the full spectrum of issues faced by the fruit and vegetable industry and to provide suggestions and ideas to the Secretary on how USDA can tailor its programs to meet the fruit and vegetable industry's needs. The Committee was re-chartered in July 2003, June 2005 and again in May 2007 with new members appointed by USDA from industry nominations.

AMS Deputy Administrator for Fruit and Vegetable Programs, Robert C. Keeney, serves as the Committee's Executive Secretary. Representatives from USDA mission areas and other government agencies affecting the fruit and vegetable industry will be called upon to participate in the Committee's meetings as determined by the Committee Chairperson. AMS is giving notice of the Committee meeting to the public so that they may attend and present their recommendations. Reference the **DATES** and **ADDRESSES** section of this announcement for the time and place of the meeting.

Topics of discussion at the Committee meeting will include: The Market News reporting of fruits and vegetables, Perishable Agricultural Commodities Act license fees, the restructuring of fresh fruit and vegetable grading services at terminal markets, USDA crop insurance programs, and Maximum Residue Levels for pesticides in food. Additional agenda items can be expected.

Those parties that would like to speak at the meeting should register on or before August 29, 2008. To register as a speaker, please e-mail your name, affiliation, business address, e-mail address, and phone number to Mr. Andrew Hatch at: *andrew.hatch@usda.gov.* or facsimile to (202) 720–0016. Speakers who have registered in advance receive priority. Groups and individuals may submit comments for the Committee's consideration to the same e-mail address. The meeting will be recorded, and information about obtaining a transcript will be provided at the meeting.

The Secretary of Agriculture selected a diverse group of members representing a broad spectrum of persons interested in providing suggestions and ideas on how USDA can tailor its programs to

meet the fruit and vegetable industry's needs. Equal opportunity practices were considered in all appointments to the Committee in accordance with USDA policies.

If you require special accommodations, such as a sign language interpreter, please use the contact name listed above.

Dated: May 27, 2008.

Lloyd Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E8–12228 Filed 5–30–08; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket #: AMS–FV–07–0080; FV–06–326]

Proposed United States Standards for Grades of Olive Oil and Olive-Pomace Oil

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: The Agricultural Marketing Service (AMS) of the Department of Agriculture (USDA) is soliciting comments on the proposed revision to the United States Standards for Grades of Olive Oil. The proposal includes two major groups of oil: ''olive oil,'' produced from olives by mechanical means; and ''olive-pomace oil,'' produced using heat and a solvent to separate the oil from the olive-pomace remaining after olive oil is produced. The proposal includes new product descriptions, definitions, and requirements for the following grade designations: ''U.S. Extra Virgin Olive Oil,'' ''U.S. Virgin Olive Oil,'' ''U.S. Lampante Virgin Olive Oil—Not Fit for Human Consumption,'' ''U.S. Refined Olive Oil,'' ''U.S. Olive Oil,'' ''U.S. Olive-Pomace Oil,'' ''U.S. Refined Olive-Pomace Oil,'' and ''U.S. Crude Olive-Pomace Oil.'' The proposed revisions to the grade standards are intended to provide a uniform language for commerce and the use of the standards would be voluntary. The proposed standards include objective criteria for determining quality and purity among the grades of olive oil and olive-pomace oil, thereby facilitating the marketing of olive oil and olive-pomace oil.

DATES: Comments must be submitted on or before August 1, 2008.

ADDRESSES: Interested persons are invited to submit written comments concerning this notice. Written comments may be mailed to Chere L. Shorter, Assistant Head, Inspection and Standardization Section, Processed Products Branch (PPB), Fruit and Vegetable Programs (FV), AMS, USDA, 1400 Independence Avenue SW., Room 0709, South Building; STOP 0247, Washington, DC 20250; telephone: (202) 720–5021; fax: (202) 690–1527; or Internet: *http://www.regulations.gov.* The United States Standards for Grades of Olive Oil are available either through the address cited above or by accessing the AMS website on the Internet at *http://www.ams.usda.gov/processedinspection.* All comments should reference the docket number, date, and page number of this issue of the **Federal Register**. Comments will be made available for public inspection at the above address during regular business hours, or can be viewed at: *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Chere L. Shorter, Assistant Section Head, Inspection and Standardization Section, USDA, AMS, FV, PPB. Telephone: (202) 720–5021 or (202) 720–4693.

SUPPLEMENTARY INFORMATION: AMS is proposing to revise the U.S. Standards for Grades of Olive Oil and establish new grade standards for Olive-Pomace Oil using the procedures that appear in Part 36 of Title 7 of the Code of Federal Regulations (7 CFR Part 36).

Section 203(c) of the Agricultural Marketing Act of 1946, as amended, (7 U.S.C. 1621–1627) directs and authorizes the Secretary of Agriculture ''to develop and improve standards of quality, condition, quantity, grade and packaging, and recommend and demonstrate such standards in order to encourage uniformity and consistency in commercial practices.'' AMS is committed to carrying out this authority in a manner that facilitates the marketing of agricultural commodities and makes copies of official standards available upon request. Those United States standards for grades of fruits and vegetables no longer appear in the Code of Federal Regulations but are now maintained by USDA, AMS, FV Programs.

Background

AMS received a petition from the California Olive Oil Council (COOC), an association of olive oil producers, requesting the revision of the United States Standards for Grades of Olive Oil to reflect current industry standards commonly accepted in the United States and abroad.

The petitioners requested that the U.S. grade standards be revised to make them consistent with the International Olive Council (IOC) standards for olive and olive-pomace oil. The IOC develops standards of quality used by major olive oil producing countries, including Spain, Italy, Greece, Portugal, and Turkey. The IOC is an intergovernmental organization created by the United Nations that is headquartered in Madrid, Spain. It influences the marketing of over 95 percent of the world's olive oil production. The United States is not a member of the IOC but has observer status.

The petitioners also requested that no value be provided for linolenic acid in the fatty acid profile pending the outcome of a review of the appropriate fatty acid limits for linolenic acid by the Codex Alimentarius Commission (CAC). The CAC is a United Nations organization through which member countries, including the United States, formulate and harmonize international food standards. To date, the CAC has not made a decision on the appropriate fatty acid limits for linolenic acid.

AMS published a Notice in the November 8, 2004, **Federal Register** (69 FR 64713) with a thirty-day comment period to determine if there was an interest in revising the U.S. grade standards in response to the request by COOC. Thirty comments were received in response to the **Federal Register** notice. All of the comments are available on the AMS Web site located at *http://www.ams.usda.gov/processedinspection.*

With one exception, all of the comments agreed that the U.S. grade standards should be revised. One commenter, however, wanted the extra virgin olive oil free fatty acid level, expressed as oleic acid, to remain at a maximum of 1.4 percent, as in the current U.S. grade standards for ''U.S. Grade A.'' According to the commenter, virgin olive oils produced from old cultivars are naturally high in oleic acid content. The commenter was concerned that changing the value would force growers to uproot older trees and have to replace their old traditional presses. Olive oils extracted from older trees and by traditional stone presses have higher oleic acid content than those extracted using high speed, stainless steel mills. The commenter also stated that growers would be forced to increase pesticide usage because the lower free acidity would require a zero tolerance for pest damage.

Under AMS' proposed U.S. grade standards, a free fatty acid value (expressed as oleic acid) of 1.4 percent maximum would be graded as ''U.S. Virgin Olive Oil'', one grade lower than ''U.S. Extra Virgin Olive Oil'', which

would have a maximum allowable percentage of 0.8 percent free fatty acid. The IOC standards include a grade for ''Ordinary Virgin Olive Oil.'' AMS excluded this grade because it is not produced or recognized as a grade in many countries and has flavor defects that make it unpalatable. ''U.S. Lampante Virgin Olive Oil—Not Fit for Human Consumption'' will have a free fatty acid value of greater than 2.0 percent. ''U.S. Virgin Olive Oil'' will have a free fatty acid value of not more than 2.0 percent and ''U.S. Extra Virgin Olive Oil'' will have a free fatty acid value of not more than 0.8 percent.

Some commenters were concerned about issues regarding truth in labeling and whether the label provides meaningful information. AMS notes that labeling issues are under the jurisdiction of the Food and Drug Administration.

Another commenter stated that the food service industry is penalized because of the lack of a regulation or standard of identity for olive oil, an ingredient used by major food companies. Standards of identity are established by the Food and Drug Administration and there is currently no regulation or standard of identity for olive oil or olive-pomace oil.

AMS believes that its proposal would allow users of the standards to be assured of product quality through AMS inspection and testing. Users of the inspection services could demonstrate that their product has been officially graded by using the official USDA shield on their packaging or other materials. This would help consumers and buyers differentiate between the various grades and help ensure the value of their purchases. While U.S. grade standards are not regulatory, by establishing terms that can objectively define product quality, the standards can help ensure that consumers get what they expect when they purchase certain food products.

All processed fruit and vegetable products that are inspected and graded undergo a review process where samples of graded product are sent to either AMS Headquarters in Washington, DC or another designated AMS Processed Products Branch field office. The samples are reviewed organoleptically by trained, experienced graders of the AMS Processed Products Branch. If the proposed standards are adopted, samples of olive oil and olive-pomace oil would undergo a similar review process by AMS. Samples representing the lot would also be sent to the AMS Science and Technology laboratory that would perform the chemical analyses.

The proposal would establish grades based on how olive oil and olive-pomace oil are produced and would determine their chemical and physical characteristics, such as flavor. The proposal would also establish analytical methods for determining compliance with the various grade requirements.

The proposed U.S. grade standards would include two major groups of oil: ''olive oil,'' produced from olives by mechanical means; and ''olive-pomace oil,'' produced using heat and a solvent to separate the oil from the olive-pomace remaining after olive oil is produced. The proposed grade standards would include new product descriptions, definitions, and requirements for the following grade designations:

1. ''U.S. Extra Virgin Olive Oil,''
2. ''U.S. Virgin Olive Oil,''
3. ''U.S. Lampante Virgin Olive Oil—Not Fit for Human Consumption,''
4. ''U.S. Refined Olive Oil,''
5. ''U.S. Olive Oil,''
6. ''U.S. Olive-Pomace Oil,''
7. ''U.S. Refined Olive-Pomace Oil,''
8. ''U.S. Crude Olive-Pomace Oil.''

Unlike the existing grade standards, the proposed standards would not use score points to determine the grade. Details of the requirements that distinguish each grade can be found in the proposed U.S. grade standards posted on the AMS Web site at *http://www.ams.usda.gov/processedinspection* or *http://www.regulations.gov.*

AMS believes that revising the grade standards would facilitate the marketing of olive oil and olive-pomace oil by adopting and carefully defining terms that are currently in use in the marketplace. AMS is soliciting comments on the proposed United States Standards for Grades of Olive Oil and Olive-Pomace Oil.

This notice provides for a 60-day comment period for interested parties to comment on the proposed grade standards.

Authority: 7 U.S.C. 1621–1627.

Dated: May 27, 2008.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E8–12226 Filed 5–30–08; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket No. AMS–LS–07–0056, LS–07–17]

Sorghum Promotion, Research, and Information: Certification of Organizations for Eligibility To Make Nominations to the Sorghum Promotion, Research, and Information Board

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Department of Agriculture's (USDA) Agricultural Marketing Service (AMS) is accepting applications from State, regional, and national sorghum producer organizations or associations which desire to be certified as eligible to nominate sorghum producers for appointment to the Sorghum Promotion, Research, and Information Board (Board). To nominate a producer to the Board, organizations must first be certified by USDA. Notice is also given that upcoming appointments are anticipated and that during a period to be established by USDA, nominations will be accepted from eligible organizations.

DATES: Applications for certification must be received by close of business July 2, 2008.

ADDRESSES: Certification forms as well as information regarding the certification and nomination procedures may be requested from Kenneth R. Payne, Chief, Marketing Programs Branch; Livestock and Seed Program; AMS; USDA; Room 2628–S; STOP 0251; 1400 Independence Avenue, SW.; Washington, DC 20250–0251 or obtained via the Internet at *http://www.ams.usda.gov/LSMarketingPrograms.*

FOR FURTHER INFORMATION CONTACT: Kenneth R. Payne, Chief, Marketing Programs Branch; *Telephone:* 202/720–1115; *Fax:* 202/720–1125; or e-mail *Kenneth.Payne@usda.gov.*

SUPPLEMENTARY INFORMATION: (a) The Commodity Promotion, Research, and Consumer Information Act of 1996 (Act) (7 U.S.C. 7411–7425) authorizes the establishment and implementation of the sorghum promotion, research, and information program. Pursuant to the Act, a proposed Sorghum Promotion, Research, and Information Order (Order) was published in the **Federal Register** on November 23, 2007 (72 FR 65842). The final Order was published in the **Federal Register** on May 6, 2008 (73 FR

25398). The Order provides for the establishment of an initial 13-member Board of persons appointed by the Secretary of Agriculture with staggered terms as follows:

The largest production State based on total production shall have five sorghum producers to serve as representatives.

The second largest production State based on total production shall have three sorghum producers to serve as representatives.

The third largest production State based on total production shall have one sorghum producer to serve as a representative.

There shall be four sorghum producers to serve as at-large national representatives with at least two representatives appointed from States other than the top three sorghum producing States.

If the value of assessments on imported sorghum reaches or exceeds the production of the third largest sorghum producing State, there shall be one importer to serve as a representative plus an additional at-large national representative, with the maximum number of producers from one State being increased from six to seven. The duties and responsibilities of the Board are set forth in the Order.

The Order provides that USDA shall certify or otherwise determine the eligibility of any State, regional, or national sorghum producer organizations or associations that meet the eligibility criteria established under the Order. Those organizations that meet the eligibility criteria specified under the Order will be certified as eligible to nominate members for appointment to the Board. Those organizations should ensure that the nominees represent the interests of the sorghum industry.

The Order provides that the members of the Board shall serve for terms of 3 years, except that appointments to the initially established Board shall be as follows:

Largest Producing State—2 representatives shall serve a 2-year term, 1 representative shall serve a 3-year term, and 2 representatives shall serve a 4-year term;

Second Largest Producing State—1 representative shall serve a 2-year term, 1 representative shall serve a 3-year term, and 1 representative shall serve a 4-year term;

Third Largest Producing State—The representative shall serve a 3-year term;

At-large national—1 representative shall serve a 2-year term, 2 representatives shall serve a 3-year term, and 1 representative shall serve a 4-year term.

Representatives serving initial terms of 2 or 4 years shall be eligible to serve a single term of 3 years after their initial 2- or 4-year term.

Each representative shall continue to serve until a successor is appointed by the Secretary and has accepted the position. No person may serve more than two consecutive 3-year terms. USDA will announce when nominations will be due from eligible organizations and when any subsequent nominations are due when a vacancy does or will exist.

Any eligible producer organization that is interested in being certified to nominate producers for appointment to the Board, must complete and submit an official ''Application for Certification of Organization'' form. That form must be received by close of business July 2, 2008.

Only those organizations that meet the criteria for certification of eligibility specified under § 1221.107 under the Order are eligible for certification.

The eligibility of State, regional, or national organizations to participate in making nominations for membership on the Board shall be certified by the Secretary. Those organizations that may seek certification include:

(1) State-legislated sorghum promotion, research, and information organizations;

(2) Organizations whose primary purpose is to represent sorghum producers within a State, region, or at the national level; or,

(3) Organizations that have sorghum producers as members.

Eligibility shall be based, in addition to other information, upon a report submitted by the organization that shall contain information deemed relevant and specified by the Secretary for the making of such determination, including the following:

(1) The geographic territory covered by the organization's active membership;

(2) The nature and size of the organization's active membership, proportion of active membership accounted for by producers, a map showing the sorghum producing counties in which the organization has active members, the volume of sorghum produced in each such county, the number of sorghum producers in each such county, and the size of the organization's active sorghum producer membership in each such county;

(3) The extent to which the sorghum producer membership of such organization is represented in setting the organization's policies;

(4) Evidence of stability and permanency of the organization;

(5) Sources from which the organization's operating funds are derived;

(6) The functions of the organization; and

(7) The ability and willingness of the organization to further the purpose and objectives of the Act.

The primary consideration in determining the eligibility of an organization shall be whether its sorghum producer membership consists of a sufficiently large number of sorghum producers who produce a relatively significant volume of sorghum to reasonably warrant its participation in the nomination of State specific and national at-large members to the Board. Any sorghum producer organization found eligible by the Secretary under this section shall be certified by the Secretary, and the Secretary's determination as to eligibility shall be final.

The information collection requirements referenced in this notice have been submitted to the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C., Chapter 35) for review.

Authority: 7 U.S.C. 7411–7425.

Dated: May 27, 2008.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E8–12220 Filed 5–30–08; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Meeting; Federal Lands Recreation Enhancement Act (Title VIII, Pub. L. 108–447)

AGENCY: Pacific Southwest Region, Forest Service, U.S. Department of Agriculture.

ACTION: Notice of Meeting.

SUMMARY: The Pacific Southwest Recreation Resource Advisory Committee (Recreation RAC) will hold a meeting in Redding, California. The purpose of this meeting is to conduct a field trip to view the recreation program and fee sites on the Shasta-Trinity National Forest and to make recommendations for fee proposals on lands managed by the Forest Service and Bureau of Land Management in California. The Recreation RAC will consider fee proposals for standard amenity fee and expanded amenity fees from the Eldorado, Cleveland, Inyo, Sequoia and Shasta-Trinity National

Forests and the Bureau of Land Management Arcata Area Office.

DATES: The meeting will be held June 24, 2008 from 8 a.m.–6 p.m. and June 25, 2008 from 8 a.m. to 3 p.m.

ADDRESSES: The field trip on the first day will begin at 8 a.m. at the Shasta-Trinity NF, Forest Supervisor's office with an overview by Forest staff and then will depart from there for various sites on the Shasta-Trinity National Forest. On the second day the meeting will be held at the Shasta-Trinity Forest Supervisor's Office. The address for the Forest Supervisor's office is 3644 Avetech Parkway, Redding, CA. Send written comments to Marlene Finley, Designated Federal Official for the Pacific Southwest Region Recreation RAC, 1323 Club Drive, Vallejo, CA 94592, 707–562–8856 or *mfinley01@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Marlene Finley, Designated Federal Official, Pacific Southwest Region Recreation RAC, 1323 Club Drive, Vallejo, CA 94592.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Committee discussion is limited to Forest Service and Bureau of Land Management staff and Committee members. However, persons who wish to bring recreation fee matters to the attention of the Committee may file written statements with the Committee staff before or after the meeting. A public input session will be provided during the meeting and individuals who wish to address the Recreation RAC will have an opportunity at 10 a.m. on June 25. Comments will be limited to three minutes per person. The Recreation RAC is authorized by the Federal Land Recreation Enhancement Act, which was signed into law by President Bush in December 2004.

Dated: May 27, 2008.

Marlene Finley,

Designated Federal Official, Recreation RAC, Pacific Southwest Region.

[FR Doc. E8–12178 Filed 5–30–08; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Revision of Land Management Plan, Lake Tahoe Basin Management Unit, Located in California and Nevada

AGENCY: Forest Service, USDA.

ACTION: Notice of adjustment to resume the land management plan revision process. Adjustment of **Federal Register** Notice of Vol. 72, No. 23, p. 5264, Feb. 5, 2007, and transition to the 2008 Planning Rule at 36 CFR 219 [**Federal Register** Vol. 73, No. 77/April 21, 2008, p. 21468–21511]

Authority: 6 CFR 219.9(a).

SUMMARY: The USDA, Forest Service is resuming preparation of the Lake Tahoe Basin Management Unit revised land management plan (hereafter referred to as the Forest Plan), as directed by the National Forest Management Act (NFMA) . Preparation of the revised plan was halted when the 2005 Forest Service planning rule was enjoined. A new planning rule (36 CFR Part 219 was implemented on April 21, 2008, allowing the planning process to be resumed. This notice resumes the plan revision process under the new planning rule.

The Lake Tahoe Basin Management Unit (LTBMU) Forest Plan Comprehensive Evaluation Report documents the need for change and the initial scope of forest plan revision—based upon management review & determination, February 2007—which is still valid; this documentation provides information concerning public participation and collaboration. The original notice of initiation for plan revision appeared in the **Federal Register** Feb. 5, 2007. The Responsible Official, Terri Marceron, has determined the LTBMU land management plan revision process is to be adjusted from compliance with the 2005 planning regulations to conform to the 2008 regulations, published: April 21, 2008.

DATES: This notice is effective on June 2, 2008. Comments received following the release of the need for change document (Comprehensive Evaluation Report), February and March 2007, remain valid and will be incorporated into the plan revision, in conjunction with previous Pathway collaboration and future public meeting input and comments received. Future dates for formal comments will be announced once they are determined.

ADDRESSES: *Send written comments to:* Forest Plan Revision-LTBMU, 35 College Drive, South Lake Tahoe, CA 96150.

E-mail: comments-pacificsouthwest-ltbmu@fs.fed.us.

FOR FURTHER INFORMATION CONTACT: Todd Chaponot at (530) 543–2742 or Robert King at (530) 543–2619; or e-mail the revision team at: *comments-pacificsouthwest-ltbmu@fs.fed.us.*

SUPPLEMENTARY INFORMATION: Notification of initiation of the plan revision process for the Lake Tahoe Basin Management Unit land management plan was previously provided in the **Federal Register** on Feb. 5, 2007. The plan revision was initiated under the planning procedures contained in the 2005 Forest Service planning rule (36 CFR 219 (2005)). On March 30, 2007, the federal district court for the Northern District of California enjoined the Forest Service from implementing and using the 2005 planning rule until the agency provided notice and comment, and conducted an assessment of the rule's effects on the environment, completing consultation under the Endangered Species Act. Revision of the Lake Tahoe Basin Management Unit forest plan under the (36 CFR 219 (2005)) rule was suspended in response to the injunction. On April 21, 2008 the Forest Service adopted a new planning rule. This rule (36 CFR 219 (2008)) has been adopted following completion of a national-level environmental impact statement and consultation under the Endangered Species Act. This new planning rule explicitly allows the resumption of plan revisions started under the previous rule (36 CFR 219 (2005)) based on a finding that the revision process conforms to the new planning rule (36 CFR 219.14(b)(3)(ii)).

Prior to the injunction of the 2005 planning rule, the Lake Tahoe Basin Management Unit had issued a Notice of Initiation in the **Federal Register** (Vol. 72, No. 23, p. 5264, Feb. 5, 2007).

Based on the discussions above, the Responsible Official, Tern Marceron, finds that the planning actions taken by the LTBMU prior to April 21, 2008 conform to the plan revision process initiated under the provisions of the 2005 planning regulation, and for that reason the plan revision process does not need to be restarted. The Lake Tahoe Basin Management Unit is resuming its plan revision process with scheduled public participation activities in the coming months. Specific dates and times of future public participation activities will be sent to local print and broadcast media sources, and will be listed on the LTBMU Web site, at: *http://www.fs.fed.us/r5/ltbmu/*; details may also be obtained by contacting the LTBMU Supervisor's Office information desk at 530–543–2600.

Authority: 16 U.S.C. 1600–1614; 36 CFR 219.14.

Dated: May 27, 2008.

Terri Marceron,

Forest Supervisor, Lake Tahoe Basin Management Unit.

[FR Doc. E8–12184 Filed 5–30–08; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Designation for the Georgia, Montana, and Cedar Rapids (IA) Areas

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.

ACTION: Notice.

SUMMARY: We are announcing designation of the following organizations to provide official services under the United States Grain Standards Act, as amended (USGSA): Georgia Department of Agriculture (Georgia); Montana Department of Agriculture (Montana); and Mid-Iowa Grain Inspection, Inc. (Mid-Iowa). We are also announcing an amendment of Mid-Iowa's designated geographic area.

DATES: Effective July 1, 2008.

ADDRESSES: USDA, GIPSA, Karen Guagliardo, Chief, Review Branch, Compliance Division, STOP 3604, Room 1647–S, 1400 Independence Avenue, SW., Washington, DC 20250–3604.

FOR FURTHER INFORMATION CONTACT: Karen Guagliardo at 202–720–7312, e-mail *Karen.W.Guagliardo@usda.gov.*

Read Applications: All applications and comments will be available for public inspection at the office above during regular business hours (7 CFR 1.27(b)).

SUPPLEMENTARY INFORMATION: In the December 3, 2007, **Federal Register** (72 FR 67885), we requested applications for designation to provide official services in the geographic areas assigned to the official agencies named above. The notice stated incorrectly that applications were due by January 2, 2009. This was subsequently corrected in the February 15, 2008, **Federal Register** (73 FR 8851), and applications were due by February 25, 2008.

Georgia and Montana were the sole applicants for designation to provide official services in the entire area currently assigned to them, so GIPSA did not ask for additional comments on them. There were three applicants for the Cedar Rapids, Iowa area consisting of parts of northeast Iowa, southeast Minnesota, and eastern Texas, so GIPSA asked for additional comments on the three applicants:

- Gulf Country Inspection Service, Inc. (Gulf Country) applied for the entire Cedar Rapids, Iowa area. Gulf Country subsequently amended its application and applied for just the east Texas region.
- South Texas Grain Inspection, LLC (South Texas) applied for a part of the east Texas region.
- Mid-Iowa Grain Inspection, Inc. (Mid-Iowa) applied for its entire current designation in Cedar Rapids, Iowa.

In the March 26, 2008 **Federal Register** (73 FR 15968), we requested comments on the applicants for designation to provide official services in the geographic areas assigned to Mid-Iowa. Comments were due by April 25, 2008. GIPSA received six positive comments on South Texas from officials of four grain companies.

We evaluated all available information regarding the designation criteria in section 7(f)(1) of USGSA (7 U.S.C. 79(f)) and determined that Georgia and Montana are able to provide official services in the geographic areas specified in the December 3, 2007, **Federal Register**, for which they applied. These designation actions to provide official services are effective July 1, 2008, and terminate June 30, 2011, for Georgia and Montana. GIPSA determined that Mid-Iowa is able to provide official services in the Iowa and Minnesota geographic areas specified in the December 3, 2007, **Federal Register**, for which it applied. The designation for Mid-Iowa is a one-year designation, effective July 1, 2008, and terminating June 30, 2009 to allow GIPSA additional time to determine the adequacy of performance in its Iowa and Minnesota geographic area. In accordance with section 7(f)(1)(A), GIPSA determined that none of the applicants are able to provide service in the Texas region that is described as follows:

Bounded on the north by the northern Young, Jack, Montague, Cooke, Grayson, Fannin, Lamar, Red River, Morris, and Marion County line east to the Texas State line;

Bounded on the east by the eastern Texas State line south to the southern Texas State line;

Bounded on the south by the southern Texas State line west to the western Val Verde County line;

Bounded on the west by the western Val Verde, Edwards, Kimble, Mason, San Saba, Mills, Comanche, Eastland, Stephens, and Young County lines north to the northern Young County line. The geographic area does not include the export port locations which are serviced by GIPSA.

Since a qualified applicant is not available on an interim basis, GIPSA will provide needed services in the east Texas region until such time that a qualified applicant is available. Interested persons may obtain official services by calling the telephone numbers listed below.

Official agency	Headquarters location and telephone	Designation start-end
Georgia	Atlanta, GA, 229–386–3129, Additional Location: Tifton, GA	7/1/2008–6/30/2011.
Montana	Helena, MT, 406–452–9561, Additional Location: Great Falls, MT	7/1/2008–6/30/2011.
Mid-Iowa	Cedar Rapids, IA, 319–363–0239, Additional Location: Des Moines, IA	7/1/2008–6/30/2009.

GIPSA field office	Telephone	
League City	281–338–2787	Service starting 7/1/2008 in part of Texas (described above).

Section 7(f)(1) of the USGSA, authorizes GIPSA's Administrator to designate a qualified applicant to provide official services in a specified area after determining that the applicant is better able than any other applicant to provide such official services (7 U.S.C. 79(f)(1)).

Section 7(g)(1) of USGSA provides that designations of official agencies will terminate not later than three years and may be renewed according to the criteria and procedures prescribed in section 7(f) of USGSA.

Authority: 7 U.S.C. 71–87k.

Alan Christian,

Acting Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. E8–12236 Filed 5–30–08; 8:45 am]

BILLING CODE 3410–KD–P

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Opportunity for Designation in Alabama, Essex (IL), Springfield (IL), Savage (MN), and Washington Areas, and Request for Comments on the Official Agencies Serving These Areas

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.

ACTION: Notice.

SUMMARY: The designations of the official agencies listed below will end on December 31, 2008. We are asking persons interested in providing official services in the areas served by these agencies to submit an application for designation. We are also asking for comments on the quality of services provided by these currently designated agencies:

Alabama Department of Agriculture and Industries (Alabama);
Kankakee Grain Inspection, Inc. (Kankakee);
Springfield Grain Inspection, Inc. (Springfield);
State Grain Inspection, Inc. (State Grain); and
Washington Department of Agriculture (Washington).

DATES: Applications and comments must be received on or before July 1, 2008.

ADDRESSES: We invite you to submit applications and comments on this notice. You may submit applications and comments by any of the following methods:

- To apply for designation, go to FGIS online, Web page *https://fgis.gipsa.usda.gov/default_home_FGIS.aspx* Select *Delegations/Designations and Export Registrations (DDR).* You need e-authentication and a customer number prior to applying.
- *Hand Delivery or Courier:* Deliver to Karen Guagliardo, Review Branch Chief, Compliance Division, GIPSA, USDA, Room 1647–S, 1400 Independence Avenue, SW., Washington, DC 20250.
- *Fax:* Send by facsimile transmission to (202) 690–2755, attention: Karen Guagliardo.
- *E-mail:* Send via electronic mail to: *Karen.W.Guagliardo@usda.gov.*
- *Mail:* Send hardcopy to Karen Guagliardo, Review Branch Chief, Compliance Division, GIPSA, USDA, STOP 3604, 1400 Independence Avenue, SW., Washington, DC 20250–3604.
- Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments and reading any comments posted online.

Read Applications and Comments: All applications and comments will be available for public inspection at the office above during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Karen Guagliardo at 202–720–7312, e-mail *Karen.W.Guagliardo@usda.gov.*

SUPPLEMENTARY INFORMATION: Section 7(f)(1) of the United States Grain Standards Act, as amended (USGSA or Act), authorizes GIPSA's Administrator to designate a qualified applicant to provide official services in a specified area after determining that the applicant is better able than any other applicant to provide such official services (7 U.S.C. 79 (f)(1)).

Section 7(g) (1) of USGSA provides that designations of official agencies will terminate not later than three years and may be renewed according to the criteria and procedures prescribed in section 7(f) of USGSA.

Current Designations Being Announced for Renewal

Official agency	Main office	Designation start	Designation end
Alabama	Montgomery, AL	1/01/2009	12/31/2011.
Kankakee	Essex, IL	1/01/2009	12/31/2011.
Springfield	Springfield, IL	1/02/2009	12/31/2011.
State Grain	Savage, MN	1/01/2009	12/31/2011.
Washington	Olympia, WA	1/01/2009	12/31/2011.

Alabama

Pursuant to section 7(f)(2) of the Act, the following geographic area, the entire State of Alabama, except those export port locations within the State, is assigned to Alabama.

Kankakee

Pursuant to section 7(f)(2) of the Act, the following geographic area, in the State of Illinois, is assigned to Kankakee.

Bounded on the North by the northern Bureau County line; the northern LaSalle and Grundy County lines; the northern Will County line east-southeast to Interstate 57;

Bounded on the East by Interstate 57 south to U.S. Route 52; U.S. Route 52 south to the Kankakee County line;

Bounded on the South by the southern Kankakee and Grundy County lines; the southern LaSalle County line west to State Route 17; State Route 17 west to U.S. Route 51; U.S. Route 51 north to State Route 18; State Route 18 west to State Route 26; State Route 26 south to State Route 116; State Route 116 south to Interstate 74; Interstate 74 west to the western Peoria County line; and

Bounded on the West by the western Peoria and Stark County lines; the northern Stark County line east to State Route 40; State Route 40 north to the Bureau County line.

Springfield

Pursuant to section 7(f)(2) of the Act, the following geographic area, in the State of Illinois, is assigned to Springfield.

Bounded on the North by the northern Schuyler, Cass, and Menard County lines; the western Logan County line north to State Route 10; State Route 10 east to the west side of Beason;

Bounded on the East by a straight line from the west side of Beason southwest to Elkhart on Interstate 55; a straight line from Elkhart southeast to Stonington on State Route 48; a straight line from Stonington southwest to Irving on State Route 16;

Bounded on the South by State Route 16 west to the eastern Macoupin County line; the eastern, southern, and western Macoupin County lines; the southern and western Greene County lines; the southern Pike County line; and

Bounded on the West by the western Pike County line west to U.S. route 54; U.S. Route 54 northeast to State Route 107; State Route 107 northeast to State Route 104; State Route 104 east to the western Morgan County line. The western Morgan, Cass, and Schuyler County lines.

The following grain elevator, located outside of the above contiguous geographic area, is part of this geographic area assignment: East Lincoln Farmers Grain Co., Lincoln, Logan County (located inside Central Illinois Grain Inspection, Inc.'s, area).

State Grain

Pursuant to section 7(f)(2) of the Act, the following geographic area, the State of Minnesota, is assigned to State Grain.

In Minnesota:

Hennepin, Ramsey, Washington, Carver, Scott, Dakota, Brown, Nicollet, Le Sueur, Rice, Goodhue, Watonwan, Blue Earth, Waseca, Steele, Dodge, McLeod, and Sibley Counties.

Washington

Pursuant to section 7(f)(2) of the Act, the following geographic area, the entire State of Washington, except those export port locations within the State, is assigned to Washington.

Opportunity for Designation

Interested persons, including Alabama, Kankakee, Springfield, State Grain, and Washington, may apply for designation to provide official services in the geographic areas specified above under the provisions of section 7(f) of USGSA (7 U.S.C. 79(f)(2)), and 7 CFR 800.196(d) regulations. Designation in the specified geographic areas is for the period beginning January 1, 2009, and ending December 31, 2011. To apply for designation, contact the Compliance Division at the address listed above for forms and information, or obtain applications at the GIPSA Web site, *http://www.gipsa.usda.gov.*

Request for Comments

We are also publishing this notice to provide interested persons the opportunity to present comments on the quality of services provided by the Alabama, Kankakee, Springfield, State Grain, and Washington official agencies. In the designation process, we are particularly interested in receiving comments citing reasons and pertinent data for support or objection to the designation of the applicants. Submit all comments to the Compliance Division at the above address or at *http://www.regulations.gov.*

In determining which applicant will be designated, we will consider applications, comments, and other available information.

Authority: 7 U.S.C. 71–87k.

Alan Christian,

Acting Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. E8–12194 Filed 5–30–08; 8:45 am]

BILLING CODE 3410–KD–P

DEPARTMENT OF COMMERCE

Foreign–Trade Zones Board

Docket 34–2008

Foreign–Trade Zone 222 - Montgomery, AL, Application for Expansion of Manufacturing Authority, Subzone 222A - Hyundai Motor Manufacturing Alabama, LLC (Motor Vehicles and Engines)

An application has been submitted to the Foreign–Trade Zones Board (the Board) by the Montgomery Area Chamber of Commerce, grantee of FTZ 222, on behalf of Hyundai Motor Manufacturing Alabama, LLC (HMMA), operator of Subzone 222A at the HMMA motor vehicle manufacturing plant in Montgomery, Alabama, requesting an expansion of the scope of FTZ manufacturing authority to include new manufacturing capacity under FTZ procedures. The application was submitted pursuant to the provisions of the Foreign–Trade Zones Act, as amended (19 U.S.C. 81a–81u), and Section 400.28(a)(2) of the Board's regulations (15 CFR Part 400). It was formally filed on May 21, 2008.

Subzone 222A was approved in 2003 for the manufacture of up to 250,000 light–duty passenger vehicles annually at the HMMA plant (3,300 employees/ 1,750 acres/2.1 million sq.ft.) in Montgomery (Montgomery County), Alabama (Board Order 1278, 68 FR 35622, 6–16–2003).

The applicant currently requests that the scope of FTZ manufacturing authority be extended to include an additional 350,000 square feet of production area to accommodate new engine production capacity (an additional 120,000 engines annually), which will be added within the existing boundaries of Subzone 222A. The additional engine output will be shipped to the Kia Motors Manufacturing Georgia, Inc. (KMMG), assembly plant in West Point, Georgia.

Foreign–origin components that are used in engine production (representing approximately 31% of finished engine value) include: oils, self–adhesive plastic/polyurethane sheets/foil/film/ labels, pumps, rubber tubes/hoses, parts of engines, filters, paint, gaskets, fasteners, bearings, belts, locks, half shafts, parts of transmissions, electrical components, wire and cable, and measuring instruments and related parts (duty rate range: free - 8.5%).

Expanded FTZ procedures would continue to exempt HMMA from customs duty payments on the foreign components used in production for export. On its shipments transferred in–bond to the KMMG facility (located within FTZ 26), no duties would be paid on the foreign components within the engines until KMMG's finished vehicles are subsequently entered for consumption, at which time the finished automobile duty rate (2.5%) could be applied to the foreign inputs noted above. The application indicates that the savings from FTZ procedures helps to improve the HMMA plant's international competitiveness.

In accordance with the Board's regulations, Pierre Duy of the FTZ Staff is designated examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the following address: Office of the Executive Secretary, Room 2111, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230–0002. The closing period for receipt of comments is August 1, 2008. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to August 18, 2008.

A copy of the application will be available for public inspection at the Office of the Foreign–Trade Zones Board's Executive Secretary at the address listed above. For further information, contact Pierre Duy, examiner, at: pierre__duy@ita.doc.gov, or (202) 482–1378.

Dated: May 21, 2008.

Pierre V. Duy,

Acting Executive Secretary.

[FR Doc. E8–12255 Filed 5–30–08; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

Foreign–Trade Zones Board

(Docket 43–2007)

Foreign–Trade Zone 235 - Lakewood, New Jersey, Application for Expansion, Amendment of Application

Notice is hereby given that the application submitted by the Township of Lakewood, New Jersey, grantee of FTZ 235, requesting authority to expand its existing zone to include additional sites in Cranbury and Jamesburg, New Jersey (72 FR 51406, 9/7/07), has been amended to include two additional sites in Middlesex County.

The proposed sites are located in South Brunswick: *Proposed Site 5* (159 acres) Middlesex Center located at 200 Middlesex Drive (listed in application

as proposed Site 5A); and, *Proposed Site 6* (35 acres) EastPointe Property located on South River Road at the New Jersey Turnpike (listed in application as proposed Site 5B). The sites will provide warehousing and distribution services to area businesses. The application otherwise remains unchanged.

Public comment is invited from interested parties. The comment period is hereby reopened until July 2, 2008. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below.

A copy of the application and the amended is available for public inspection at each of the following locations: Township of Lakewood, Municipal Building, 231 Third Street, Lakewood, NJ 08701; and, Office of the Executive Secretary, Foreign–Trade Zones Board, Room 2111, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230. For further information, contact Camille Evans at Camille__Evans@ita.doc.gov or (202) 482–2350.

Dated: May 22, 2008.

Pierre V. Duy,

Acting Executive Secretary.

[FR Doc. E8–12256 Filed 5–30–08; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

(A–580–816)

Corrosion–Resistant Carbon Steel Flat Products from Korea: Notice of Correction of Extension of Time Limits for the Final Results of Antidumping Duty New Shipper Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: June 2, 2008.

FOR FURTHER INFORMATION CONTACT: Victoria Cho or George McMahon, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–5075 and (202) 482–1167, respectively.

SUPPLEMENTARY INFORMATION:

CORRECTION:

On April 21, 2008, the Department published the extension of time limits for the final results of the antidumping duty new shipper review of corrosion–resistant carbon steel flat products from Korea. *See Corrosion–Resistant Carbon Steel Flat Products from Korea: Extension of Time Limits for the Final Results of Antidumping Duty New Shipper Review*, 73 FR 21316 (April 21, 2008) (Extension Notice). Subsequent to the signature of the Extension Notice, we identified two inadvertent errors in the above–referenced notice. First, in the Extension Notice, the Department inadvertently included a caption ''Extension of Time Limit of *Preliminary* Results,'' however, this caption should have stated ''Extension of Time Limit of *Final* Results.'' Second, the Department mistakenly indicated that ''we are extending the time period for issuing the final results of review to 150 days after the *publication* of the preliminary results.'' However, in accordance with section 751(a)(2)(B)(iv) of the Tariff Act of 1930, as amended (the Act)[1] and 19 CFR 351.214(i)(2), the Department should have stated ''we are extending the time period for issuing the final results of review to 150 days after the date on which the preliminary results were issued.'' As a result of this correction, the final results are now due no later than June 13, 2008.

This notice serves to correct both the caption and the due date for the final results of this new shipper review, as listed in the Extension Notice. This notice is issued and published in accordance with sections 751(a)(2)(B)(iv) and 777(i)(1) of the Act, and 19 CFR 351.214(i)(2).

Dated: May 27, 2008.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E8–12259 Filed 5–30–08; 8:45 am]

BILLING CODE 3510–DS–S

[1] Section 751(a)(2)(B)(iv) of the Act requires the Department to issue the final results of a new shipper review of an antidumping order within 90 days after the date the preliminary results are issued. However, if the review is extraordinarily complicated, the Act allows the Department to extend the time limit for the final results to a maximum of 150 days.

DEPARTMENT OF COMMERCE

International Trade Administration

(A–583–833)

Polyester Staple Fiber from Taiwan: Extension of Time Limit for the Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: June 2, 2008

FOR FURTHER INFORMATION CONTACT: Thomas Schauer or Richard Rimlinger, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0410 and (202) 482–4477, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 17, 2008, the U.S. Department of Commerce (the Department) published the preliminary results of the administrative review of the antidumping duty order on polyester staple fiber from Taiwan. *See Certain Polyester Staple Fiber from Taiwan: Preliminary Results of Antidumping Duty Administrative Review*, 73 FR 20907 (April 17, 2008). The final results of this review are currently due no later than August 15, 2008.

Extension of Time Limit of Final Results

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department to issue final results within 120 days after the date on which the preliminary results are published. If it is not practicable to complete the review within that time period, section 751(a)(3)(A) of the Act allows the Department to extend the time limit for the final results to a maximum of 180 days. See also 19 CFR 351.213(h)(2).

We determine that it is not practicable to complete the final results of this review within the original time limit. We will conduct a verification of the respondent's home–market and U.S. sales responses in June and we will need additional time to give interested parties sufficient time to comment on any verification findings and to analyze and respond to any comments. Accordingly, we are extending the due date for the final results by 60 days, in accordance with section 751(a)(3)(A) of the Act. The final results are now due no later than October 14, 2008.

This extension is issued and published in accordance with sections 751(a)(3)(A) and 777(i) of the Act.

Dated: May 27, 2008.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E8–12257 Filed 5–30–08; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

The President's Export Council: Meeting of the President's Export Council

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of a Meeting via Teleconference.

SUMMARY: The President's Export Council will hold a meeting via teleconference to deliberate draft letters of recommendation and their draft final report to the President.

DATES: June 25, 2008.

Time: 2:30 p.m. (EDST).

For the Conference Call-In Number and Further Information, Contact: The President's Export Council Executive Secretariat, Room 4043, Washington, DC 20230 (Phone: 202–482–1124), or visit the PEC Web site, *http://www.ita.doc.gov/td/pec.*

Caroline Swann,

Director, Office of Advisory Committees.

[FR Doc. E8–12165 Filed 5–30–08; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

A–570–803

Heavy Forged Hand Tools, With Or Without Handles from the People's Republic of China: Rescission of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: (June 2, 2008.

FOR FURTHER INFORMATION CONTACT: Jay Anderson, AD/CVD Operations, China/NME Unit, Import Administration, Room 4017, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230; telephone: (202) 482–4349.

SUPPLEMENTARY INFORMATION:

BACKGROUND:

On February 4, 2008, the Department of Commerce (''the Department'') published a notice of opportunity to request an administrative review of the antidumping duty order on Heavy Forged Hand Tools, With Or Without Handles from the People's Republic of China (''PRC'') for the period of review (''POR'') February 1, 2007, through January 31, 2008.[1] On February 29, 2008, Truper Herramientas S.A. de C.V. (''Truper'') requested that the Department conduct an administrative review of the anti–dumping order on axes/adzes, bars/wedges, hammers/sledges, and picks/mattocks to the United States during the POR. No other parties requested a review. On March 31, 2008, the Department published the notice of initiation[2] covering Truper. On May 9, 2008, Truper withdrew its request for review.

RESCISSION OF REVIEW:

Section 351.213(d)(1) of the Department's regulations provide that the Department will rescind an administrative review if the party that requested the review withdraws its request for review within 90 days of the date of publication of the notice of initiation of the requested review, or withdraws its request at a later date if the Department determines that it is reasonable to extend the time limit for withdrawing the request. Truper properly withdrew its request before the 90-day deadline. Therefore, we are rescinding this review of the antidumping duty order on Heavy Forged Hand Tools, With or Without Handles from the PRC covering the period February 1, 2007, through January 31, 2008. The Department intends to issue assessment instructions to the U.S. Customs and Border Protection (''CBP'') 15 days after publication of this rescission notice. The Department will instruct CBP to assess antidumping duties at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i).

NOTIFICATION REGARDING ADMINISTRATIVE PROTECTIVE ORDERS (''APOs''):

This notice also serves as a reminder to parties subject to APOs of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This notice is issued and published in accordance with section 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: May 23, 2008.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E8–12258 Filed 5–30–08; 8:45 am]

BILLING CODE 3510–DS–S

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation: Opportunity to Request Administrative Review*, 73 FR 6477 (February 4, 2008)

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews, Request for Revocation in Part, and Deferral of Administrative Review*, 73 FR 16837 (March 31, 2008).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–X103

Atlantic Coastal Fisheries Cooperative Management Act Provisions; Application for Exempted Fishing Permit; Horseshoe Crabs

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

ACTION: Notification of a proposal to conduct exempted fishing; request for comments.

SUMMARY: NMFS announces that the Director, Office of Sustainable Fisheries (Director), has made a preliminary determination that the subject exempted fishing permit (EFP) application submitted by Limuli Laboratories of Cape May Court House, New Jersey, contains all the required information and warrants further consideration. The proposed EFP would allow the harvest of up to 10,000 horseshoe crabs from the Carl N. Shuster Jr. Horseshoe Crab Reserve for biomedical purposes and require, as a condition of the EFP, the collection of data related to the status of horseshoe crabs within the reserve. The Director has also made a preliminary determination that the activities authorized under the EFP would be consistent with the goals and objectives of the Atlantic States Marine Fisheries Commission's (Commission) Horseshoe Crab Interstate Fisheries Management Plan (FMP). However, further review and consultation may be necessary before a final determination is made to issue the EFP. Therefore, NMFS announces that the Director proposes to recommend that an EFP be issued that would allow up to 3 commercial fishing vessels to conduct fishing operations that are otherwise restricted by the

regulations promulgated under the Atlantic Coastal Fisheries Cooperative Management Act (Atlantic Coastal Act). The EFP would allow for an exemption from the Carl N. Shuster Jr. Horseshoe Crab Reserve (Reserve).

Regulations under the Atlantic Coastal Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed EFPs.

DATES: Written comments on this action must be received on or before [*July 2, 2008.*

ADDRESSES: Written comments should be sent to Alan Risenhoover, Director, Office of Sustainable Fisheries, NMFS, 1315 East-West Highway, Room 13362, Silver Spring, MD 20910. Mark the outside of the envelope ''Comments on Horseshoe Crab EFP Proposal.'' Comments may also be sent via fax to (301) 713–0596. Comments on this notice may also be submitted by e-mail to: *Horseshoe-Crab.EFP@noaa.gov*. Include in the subject line of the e-mail comment the following document identifier: Horseshoe Crab EFP Proposal.

FOR FURTHER INFORMATION CONTACT: Brian Hooker, Fishery Management Specialist, (301) 713–2334 x173.

SUPPLEMENTARY INFORMATION:

Background

Limuli Laboratories submitted an application for an EFP on April 25, 2008 to collect up to 10,000 horseshoe crabs for biomedical and data collection purposes from the Reserve. The applicant has applied for, and received, a similar EFP every year from 2001 - 2007. The EFP application specified that: (1) the same methods would be used in 2008 that were used in years 2001–2007, (2) at least 15 percent of the bled horseshoe crabs would be tagged, and (3) there had not been any sighting or capture of marine mammals or endangered species in the trawling nets of fishing vessels engaged in the collection of horseshoe crabs since 1993. The project submitted by Limuli Laboratories would provide morphological data on horseshoe crab catch, would participate in the U.S. Fish and Wildlife Service's Cooperative Tagging Program by tagging caught horseshoe crabs, and would use the blood from the caught horseshoe crabs to manufacture Limulus Amebocyte Lysate (LAL), an important health and safety product used for the detection of endotoxins. The LAL assay is used by medical professionals, drug companies, and pharmacies to detect endotoxins in intravenous pharmaceuticals and medical devices that come into contact with human blood or spinal fluid.

Results of 2007 EFP

During the 2007 season the applicant collected 3,748 horseshoe crabs during 15 days between September and November, transported to the laboratory and inspected for sex, size, injuries and responsiveness prior to the bleeding operation. Injured horseshoe crabs accounted for 6.51–percent (a slight decrease from 6.99–percent in 2006) of the total while 0.91–percent (a decrease from 2.1–percent last year) were unresponsive due to collecting, transporting and handing (presumed dead). In addition, 7 horseshoe crabs were rejected due to small size and not utilized in the manufacturing process. Therefore, 3,463 healthy, uninjured crabs were available for LAL processing. Since large horseshoe crabs, which are generally females, are used for LAL processing, most were females. Of those 3,463 processed for LAL, 200 female crabs were measured (inter-ocular distances and prosoma widths), weighed, aged, and tagged to establish baseline morphometrics and ages, prior to being returned to the water. An additional 375 animals that were bled were tagged for a total of 575 animals. The average measurements for the female horseshoe crabs were 163.90 mm for the inter-ocular distance (a slight decrease from the 2006 measurement of 167.69 mm); 267.56 mm for the prosoma width (a slight decrease in width from 2006 measurement of 268.74 mm); and 2.58 kg for the weight (a slight increase in weight from 2006 value of 2.51 kg). Age determination according to an aging technique developed by Carl N. Shuster Jr., showed that the majority of female horseshoe crabs were medium (147 or 73–percent), followed by young (40–percent), old (10–percent), and virgin (3–percent). This finding supports the basis for the Reserve, which was established to protect young horseshoe crabs. Encrusting organisms were found on 121 of the female animals examined. The most prevalent epibionts on the females was the slipper shell. Data collected under the EFP were supplied to NMFS, the Commission, and the State of New Jersey.

Proposed 2008 EFP

Limuli Laboratories proposes to conduct an exempted fishery operation using the same means, methods, and seasons utilized during the EFPs in 2001–2007. Limuli proposes to continue to tag at least 15 percent of the bled horseshoe crabs as they did in 2007. NMFS would require that the following terms and conditions for issuance of the EFP:

1. Limiting the number of horseshoe crabs collected in the Reserve to no more than 500 crabs per day and to a total of no more than 10,000 crabs per year;
2. Requiring collections to take place over a total of approximately 20 days during the months of July, August, September, October, and November. Horseshoe crabs are readily available in harvestable concentrations nearshore earlier in the year, and offshore in the Reserve from July through November;
3. Requiring that a 5 ½ inch (14.0 cm) flounder net be used by the vessel to collect the horseshoe crabs. This condition would allow for continuation of traditional harvest gear and adds to the consistency in the way horseshoe crabs are harvested for data collection;
4. Limiting trawl tow times to 30 minutes as a conservation measure to protect sea turtles, which are expected to be migrating through the area during the collection period, and are vulnerable to bottom trawling;
5. Restricting the hours of fishing to daylight hours only, approximately from 7:30 a.m. to 5 p.m. to aid law enforcement;
6. Requiring that the collected horseshoe crabs be picked up from the fishing vessels at docks in the Cape May Area and transported to local laboratories, bled for LAL, and released alive the following morning into the Lower Delaware Bay; and
7. Requiring that any turtle take be reported to NMFS, Northeast Region Assistant Regional Administrator of Protected Resources Division within 24 hours of returning from the trip in which the incidental take occurred.

As part of the terms and conditions of the EFP, for all horseshoe crabs bled for LAL, NMFS would require that the EFP holder provide data on sex ratio and daily harvest. Also, the EFP holder would be required to examine at least 200 horseshoe crabs for morphometric data. Terms and conditions may be added or amended prior to the issuance of the EFP.

The proposed EFP would exempt three commercial vessels from regulations at 50 CFR 697.7(e) and § 697.23(f) which prohibit the harvest and possession of horseshoe crabs on a vessel with a trawl or dredge gear aboard from the Reserve.

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

Dated: May 23, 2008.

Emily Menashes,

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

[FR Doc. E8–12261 Filed 5–30–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XI21

Marine Mammals; File No. 774–1847–03

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

ACTION: Notice; receipt of application for amendment.

SUMMARY: Notice is hereby given that NMFS Southwest Fisheries Science Center, Antarctic Marine Living Resources Program (Rennie Holt, Ph.D., Principal Investigator), 8604 La Jolla Shores Drive, La Jolla, CA 92037, has requested an amendment to scientific research Permit No. 774–147–02.

DATES: Written, telefaxed, or e-mail comments must be received on or before July 2, 2008.

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

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

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

Written comments or requests for a public hearing on this request should be submitted to the Chief, Permits, Conservation and Education Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular amendment request would be appropriate.

Comments may also be submitted by facsimile at (301)427–2521, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period.

Comments may also be submitted by e-mail. The mailbox address for providing e-mail comments is *NMFS.Pr1Comments@noaa.gov*. Include in the subject line of the e-mail comment the following document identifier: File No.774–1847–03.

FOR FURTHER INFORMATION CONTACT: Kate Swails or Tammy Adams, (301)713–2289.

SUPPLEMENTARY INFORMATION: The subject amendment to Permit No. 774–1847–02, issued on October 11, 2007 (72 FR 57914), is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

Permit No. 774–1847–02 authorizes the permit holder to take up to 710 Antarctic fur seals (*Arctophalus gazella*) and 20 leopard seals (*Hydrurga leptonyx*) annually. The animals are captured, measured, weighed, tagged, blood sampled, vibrissae collected, and have time-depth recorders, VHF transmitters, and platform terminal transmitters attached. A subset of fur seals are given an enema, have a tooth extracted, milk sampled, and are part of a doubly-labeled water study on energetics. Up to 50 adult male fur seals are tissue sampled and a subset of leopard seals are blubber and muscle sampled. The permit authorizes the research-related mortality of up to eight Antarctic fur seals (three adults and five pups) and one leopard seal annually The permit holder requests authorization to collect tissue samples from leopard seals and begin a southern elephant seal (*Mirounga leonina*) study. Up to 180 southern elephant seals would be captured, measured, and tagged annually. A subset would have blood and vibrissae collected, muscle/blubber biopsied, and satellite tags attached. The permit would authorize up to six research-related mortalities (three adults and three juveniles) of southern elephant seals. The amendment would be valid until September 30, 2011.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: May 28, 2008.

P. Michael Payne,

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

[FR Doc. E8–12231 Filed 5–30–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket No. DoD–2008–OS–0026]

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by July 2, 2008.

Title, Form and OMB Number: End-Use Certificate; DLA Form 1822; OMB Control Number 0704–0382.

Type of Request: Extension.

Number of Respondents: 40,000.

Responses per Respondent: 1.

Annual Responses: 40,000.

Average Burden per Response: 20 minutes.

Annual Burden Hours: 13,200.

Needs and Uses: All individuals wishing to acquire government property identified as Munitions List Items (MLI) or Commerce Control List Item (CCLI) must complete this form each time they enter into a transaction. It is used to clear recipients to ensure their eligibility to conduct business with the government: That they are not debarred bidders; Specially Designated Nationals (SDN) or Blocked Persons; have not violated U.S. export laws; will not divert the property to denied/sanctioned countries, unauthorized destinations or sell to debarred/Bidder Experience List firms or individuals. The EUC informs the recipients that when this property is to be exported, they must comply with the International Traffic in Arms Regulation (ITAR), 22 CFR 120 *et seq.*; Export Administration Regulations (EAR), 15 CFR 730 *et seq.*; Office of Foreign Asset Controls (OFAC), 31 CFR 500 *et seq.*; and the United States Customs Service rules and regulations.

Affected Public: Individuals; businesses or other for profit; not-for-profit institutions.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Ms. Sharon Mar.

Written comments and recommendations on the proposed information collection should be sent to Ms. Mar at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503. Comments may be e-mailed to Ms. Mar at *Sharon_Mar@omb.eop.gov*.

You may also submit comments, identified by docket number and title, by the following method:

• Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD/Information Management Division, 1777 North Kent Street, RPN, Suite 11000, Arlington, VA 22209–2133.

Dated: May 23, 2008.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E8–12171 Filed 5–30–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket No. DoD–2008–OS–0062]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense (Personnel and Readiness) (Military Personnel Policy). DoD.

ACTION: Notice.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Under Secretary of Defense (Personnel and Readiness) (Military Personnel Policy) announces the following proposed extension of a public information collection and seeks public comment on the provisions thereof. 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 burden of the proposed information collection;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(d) Ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by August 1, 2008.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

• *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

• *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Office of the Under Secretary of Defense (Personnel and Readiness) (Military Personnel Policy), ATTN: Major Eric A. Martinez, 4000 Defense Pentagon, Washington, DC 20301–4000 or call at (703) 695–5527.

Title, Associated Form, and OMB Control Number: Request for Reference, DD Form 370, OMB Number 0704–0167.

Needs and Uses: This information collection requirement is necessary to obtain personal reference data, in order to request a waiver, on a military applicant who has committed a civil or criminal offense and would otherwise be disqualified for entry into the Armed Forces of the United States. The DD Form 370 is used to obtain references information evaluating the character, work habits, and attitudes of an applicant from a person of authority or standing within the community.

Affected Public: Individuals or households, business or other for-profit; not-for-profit institutions; State, local, or tribal government. Normally, this form would be completed by responsible community leaders such as school officials, ministers and law enforcement officials.

Annual Burden Hours: 8,350.

Number of Respondents: 50,000.

Responses per Respondent: 1.

Average Burden per Response: .167 hour (10 minutes).

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

This information is collected to provide Armed Services with specific background information on an applicant. History of criminal activity, arrests, or confinement is disqualifying for military service. An applicant, with such a disqualifier, is required to submit references from community leaders who will attest to his or her character, attitudes or work habits. The DD Form 370 is the method of information collection which requests an evaluation and reference from a specific individual, within the community, who has the knowledge of the applicant's habits, behavior, personality and character. The information will be used to determine suitability of the applicant for military service and the issuance of a waiver for acceptance.

Dated: May 23, 2008.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E8–12173 Filed 5–30–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket No. DoD–2008–OS–0018]

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by July 2, 2008.

Title, Form and OMB Number: Department of Defense Dependents schools (DoDDS) Employment Opportunities for Educators; DoDEA Forms 5010, 5011, 5012, and 5013; OMB Control Number 0704–0370.

Type of Request: Extension.

Number of Respondents: 30,250.

Responses Per Respondent: 1.

Annual Responses: 30,250.

Average Burden Per Response: .10 minutes.

Annual Burden Hours: 5,042.

Needs and Uses: This information collection requirement is necessary to obtain information on prospective applicants for educator positions with the Department of Defense Dependents

Schools. The information is used to verify employment history of educator applicants and to determine creditable previous experience for pay-setting purposes on candidates selected for positions. In addition, the information is used to ensure that those individuals selected for employment with the Department of Defense Dependents Schools possess the abilities and personal traits which give promise of outstanding success under the unusual circumstances they will find working abroad. Information gathered is also used to ensure that the Department of Defense Dependents Schools personnel practices meet the requirements of Federal law. Completion of the forms is entirely voluntary with the exception of the form requesting a professional evaluation of the applicant. This information is gathered from those in supervisory and managerial positions to ascertain information relevant to an educator's professional abilities and personal traits.

Affected Public: Individuals or households.

Frequency: On Occasion.

Respondent's Obligation: Required to Obtain or Retain Benefits.

OMB Desk Officer: Ms. Sharon Mar.

Written comments and recommendations on the proposed information collection should be sent to Ms. Mar at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503. Comments may be e-mailed to Ms. Mar at *Sharon_Mar@omb.eop.gov*.

You may also submit comments, identified by docket number and title, by the following method:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Ms. Patricia Toppings

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD/Information Management Division, 1777 North Kent Street, RPN, Suite 11000, Arlington, VA 22209–2133.

Dated: May 23, 2008.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E8–12180 Filed 5–30–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket No. DOD–2008–OS–0145]

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by July 2, 2008.

Title, Form and OMB Number: Claim Certification and Voucher for Death Gratuity Payment; DD Form 397; OMB Control Number 0704–TBD.

Type of Request: New.

Number of Respondents: 2,416.

Responses Per Respondent: 1.

Annual Responses: 2,416.

Average Burden Per Response: .5 hours.

Annual Burden Hours: 1,208.

Needs and Uses: This information collection allows the government to collect the signatures and information needed to pay a death gratuity. Pursuant to 10 U.S.C. 1475–1480, a designated beneficiary(ies) or next-of-kin can receive a death gratuity payment for a deceased Service member. This form serves as a record of the disbursement of the death gratuity. The DoD Financial Management Regulation (FMR), Volume 7A, Chapter 36, defines the eligible beneficiaries and procedures for payment of the death gratuity. To provide internal controls for this benefit, and to comply with the above-cited statutes, the information requested is needed to substantiate the receipt of the benefit.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Ms. Sharon Mar.

Written comments and recommendations on the proposed information collection should be sent to Ms. Mar at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503. Comments may be e-mailed to Ms. Mar at *Sharon_Mar@omb.eop.gov*.

You may also submit comments, identified by docket number and title, by the following method:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Ms. Patricia Toppings. Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD/Information Management Division, 1777 North Kent Street, RPN, Suite 11000, Arlington, VA 22209–2133.

Dated: May 23, 2008.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E8–12181 Filed 5–30–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket No. DoD–2008–OS–0015]

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by July 2, 2008.

Title, Form and OMB Number: Department of Defense Application for Priority Rating for Production or Construction Equipment; DD Form 691; OMB Control Number 0704–0055.

Type of Request: Extension.

Number of Respondents: 610.

Responses per Respondent: 1.

Annual Responses: 610.

Average Burden per Response: .1 hour.

Annual Burden Hours: 610.

Needs and Uses: Executive Order 12919 delegates to DoD authority to require certain contracts and orders

relating to approved Defense Programs to be accepted and performed on a preferential basis. This program helps contractors acquire industrial equipment in a timely manner, thereby facilitating development and support of weapons systems and other important Defense Programs.

Affected Public: Business or other for-profit; not-for-profit institutions; Federal Government.

Frequency: On Occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Sharon Mar.

Written comments and recommendations on the proposed information collection should be sent to Ms. Mar at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503. Comments may be e-mailed to Ms. Mar at *Sharon_Mar@omb.eop.gov*.

You may also submit comments, identified by docket number and title, by the following method:

• Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Ms. Patricia Toppings

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD/Information Management Division, 1777 North Kent Street, RPN, Suite 11000, Arlington, VA 22209–2133.

Dated: May 23, 2008.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E8–12185 Filed 5–30–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2008–OS–0063]

Proposed Collection; Comment Request

AGENCY: Office of the Secretary, DoD.

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the *Paperwork Reduction Act of 1995,* the Pentagon Force Protection Agency announces the proposed extension of a public information collection and seeks public comment on the provisions thereof. 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 information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or forms of information technology.

DATES: Consideration will be given to all comments received by August 1, 2008.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

• *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instrument, please write to Pentagon Force Protection Agency, ATTN: Ms. Lillian Dockery, Room 1F1084, 9000 Defense Pentagon, Washington, DC 20301–9000, or call the Pentagon Access Control Division at (703) 697–9327.

Title; Associated Form; and OMB Number: DoD Building Pass Application; DD Form 2249; OMB Number 0704–0328.

Needs and Uses: The information collection requirement is used by officials of Security Services, Pentagon Force Protection Agency, to maintain a listing of personnel who are authorized a DoD Building Pass.

Affected Public: Individuals or households; businesses or other for-profit.

Annual Burden Hours: 12,000.

Number of Respondents: 120,000.

Responses per Respondent: 1.

Average Burden for Response: 6 minutes.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

This requirement provides for the collection of information from applicants for DoD Building Passes. The information collected from the DD Form 2249, ''DoD Building Pass Application,'' is used to verify the need for and to issue a DoD Building Pass to DoD personnel, other authorized U.S. Government personnel, and DoD consultants and experts who regularly work in or require frequent and continuing access to DoD-owned or occupied buildings in the National Capital Region.

Dated: May 23, 2008.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E8–12187 Filed 5–30–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Air Force

[Docket ID: USAF–2008–0010]

Proposed Collection; Comment Request

AGENCY: Department of the Air Force, DoD.

ACTION: Notice.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the United States Air Force Academy, Office of Admissions, announces the proposed extension of a public information collection and seeks public comment on the provisions thereof. 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 information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by August 1, 2008.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposed and associated collection instruments, please write to United States Air Force Academy, Office of Admissions, 2304 Cadet Drive, Suite 236, USAFA, CO 80840, or call United States Air Force Academy, Office of Admissions (719) 333–7291.

Title, Associated Form, and OMB Number: Air Force Academy Applications, United States Air Force Academy Form 149, OMB Number 0701–0087.

Needs and Uses: The information collection requirement is necessary to obtain data on candidate's background and aptitude in determining eligibility and selection to the Air Force Academy.

Affected Public: Individuals or households.

Annual Burden Hours: 4,925.

Number of Respondents: 9,850.

Responses Per Respondent: 1.

Average Burden Per Response: 30 Minutes.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

The information collected on this form is required by 10 U.S.C. 9346. The respondents are students who are applying for admission to the United States Air Force Academy. Each student's background and aptitude is reviewed to determine eligibility. If the Information on this form is not collected the individual cannot be considered for admittance to the Air Force Academy.

Dated: May 23, 2008.

Patricia L. Toppings

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E8–12182 Filed 5–30–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

Board of Visitors, Defense Language Institute Foreign Language Center

AGENCY: Department of the Army, DoD.

ACTION: Notice of open meeting.

SUMMARY: In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following committee meeting:

Name of Committee: Board of Visitors, Defense Language Institute Foreign Language Center, Subcommittee of the Army Education Advisory Committee.

Date: June 18–19, 2008.

Place of Meeting: Defense Language Institute Foreign Language Center and Presidio of Monterey (DLIFLC & POM), Weckerling Center and Building 614, Conference Room, Monterey, CA 93944.

Time of Meeting: Approximately 8 a.m. through 4:30 p.m.

Board Mission: The DLIFLC Board of Visitors (BoV) is governed by the Federal Advisory Committee Act (FACA) of 1972, as amended, and is a subcommittee of the Army Education Advisory Committee (AEAC). The purpose of the DLIFLC BoV is to provide the Commandant, through the Army Education Advisory Committee, with advice on matters related to the Institute's mission, specifically: academic policies, staff and faculty development, student success indicators, curricula, educational methodology and objectives, program effectiveness, instructional methods, research, and academic administration.

Board Membership: The Board is composed of 10 members.

FOR FURTHER INFORMATION CONTACT: Dr. Robert Savukinas, ATFL–APO–AR, Monterey, CA 93944, *Robert.Savukinas@us.army.mil*, (831) 242–5828.

SUPPLEMENTARY INFORMATION: Proposed Agenda: The Defense Language Institute Board of Visitors will receive briefings and information on how DLIFLC teaches area studies and integrates culture into teaching and learning. The Board will meet with students and faculty. The Board will deliberate findings and forward recommendations. All proceedings are open to the public. Advance notice of five (5) working days is required to observe the meeting. Please contact Dr. Savukinas (above) for further instructions.

Public Inquiry at Board Meetings: Any member of the public is permitted to file a written statement with the DLIFLC Board of Visitors. Written statements should be sent to the Board Designated Federal Officer (DFO) at ATFL–APO–AR, Monterey, CA 93944 or faxed to (831) 242–5146. Written statements must be received no later than five (5) working days prior to the next meeting in order to provide time for member consideration.

By rule, no member of the public attending open meetings will be allowed to present questions from the floor or speak to any issue under consideration by the Board.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. E8–12109 Filed 5–30–08; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF EDUCATION

Arbitration Panel Decision Under the Randolph-Sheppard Act

AGENCY: Department of Education.

ACTION: Notice of arbitration panel decision under the Randolph-Sheppard Act.

SUMMARY: The Department of Education (Department) gives notice that on December 5, 2007, an arbitration panel rendered a decision in the matter of *Calvin Scott* v. *Alabama Department of Rehabilitation Services (Case No. R–S/06–8).* This panel was convened by the Department under the Randolph-Sheppard Act, 20 U.S.C. 107d–1(a), after the Department received a complaint filed by the petitioner, Calvin Scott.

FOR FURTHER INFORMATION CONTACT: You may obtain a copy of the full text of the arbitration panel decision from Suzette E. Haynes, U.S. Department of Education, 400 Maryland Avenue, SW., room 5022, Potomac Center Plaza, Washington, DC 20202–2800. Telephone: (202) 245–7374. If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

SUPPLEMENTARY INFORMATION: Under section 6(c) of the Randolph-Sheppard Act (the Act), 20 U.S.C. 107d–2(c), the Secretary publishes in the **Federal Register** a synopsis of each arbitration panel decision affecting the

administration of vending facilities on Federal and other property.

Background

Calvin Scott (Complainant) alleged violations by the Alabama Department of Rehabilitation Services, the State Licensing Agency (SLA), of the Act, the implementing regulations in 34 CFR part 395, and State rules and regulations concerning his management of Facility #562 in the Gordon Persons State Office Building (GPSO Building) in Montgomery, Alabama.

Facility #562 is comprised of vending machines located throughout the GPSO Building. The GPSO Building also houses the Alabama Department of Finance, where confidential tax records are maintained. In 2004, in order to service his snack machines, Complainant requested from building management a ''swipe key'' to enable him to easily access his vending machines and a designated parking space in the loading dock.

Shortly after Complainant made his request to building management, there was a disagreement between the son of the building manager and Complainant's assistant, who is his wife. Subsequently, on February 7, 2005, the SLA received a letter from the building manager requesting immediate removal of Complainant from the GPSO Building because of Complainant's alleged threatening behavior and lack of responsiveness to refunding money from the vending machines.

Following the February 7 letter, SLA personnel met with the building manager. At the meeting, building management rescinded the request that Complainant be immediately removed and agreed to his conditional return to Facility #562 with several stipulations. The conditions were: (a) Complainant's wife was barred from the facility as the result of an unrelated personal dispute; (b) Complainant was instructed to obtain a different assistant approved by the SLA; (c) Complainant would agree to cooperate with building officials regarding secured areas, and (d) Complainant would establish a more streamlined method to respond to customer complaints and requests for refunds.

By letter dated February 9, 2005, the SLA informed the Complainant of the building manager's terms for his return to Facility #562. Upon receipt of the February 9 letter, Complainant ceased going to Facility #562 and servicing the vending machines.

On February 22, 2005, after an exchange of letters between the Complainant and the SLA, the SLA informed Complainant that due to his abandonment of Facility #562, the SLA would remove him from the facility and conduct an exit inventory on February 24, 2005. However, on February 25, 2005, the Department of Finance granted the Complainant's requests to: (a) Allow his wife to serve as his assistant; (b) provide Complainant with a designated parking space in the loading dock; (c) relocate a snack machine as previously requested by Complainant; (d) and provide Complainant a swipe key to access secured areas. Subsequently, Complainant returned to Facility #562.

On February 14, 2005, the Complainant requested that the SLA conduct an administrative review pursuant to the Act. Shortly thereafter, the Complainant indicated that he would not participate and the hearing was cancelled. He subsequently filed two lawsuits against the SLA in Federal court requesting relief that included monetary damages and incarceration of SLA employees. In the two cases, which were jointly administered, the court ordered the parties to reinstitute the administrative process. The SLA held a full evidentiary hearing on this matter on October 6, 2005. On October 13, 2005, the hearing officer concluded that the Complainant had failed to preserve any issue upon which relief could be granted and ruled in the SLA's favor. The SLA adopted the hearing officer's order as final agency action. On October 23, 2005, Complainant sought review by a Federal arbitration panel of that decision. A hearing on this matter was held on May 23, 2007.

Arbitration Panel Decision

The arbitration panel began by discussing the issues that the panel would not decide. First, the panel raised the issue whether it had statutory authority to hear the merits of the case, since Complainant did not participate in an administrative review or a State evidentiary hearing that addressed the merits of the case, but rather filed an appeal in Federal district court, which directed the SLA to hold a hearing. The panel concluded that this issue did not have to be addressed because the panel found that the Complainant was not entitled to the relief requested.

Secondly, the panel ruled that Complainant's request to seek monetary relief from and incarceration of some SLA employees was improper because the Alabama Department of Rehabilitation Services is the official agency responsible for the Act and implementing regulations and not the individual State employees.

Lastly, the panel ruled that, under the Act and regulations, the panel could only hear complaints regarding actions arising from dissatisfaction with the operation or administration of the Randolph-Sheppard vending facility program. Thus, Complainant's allegations of slander, defamation, and violations of his civil rights based on race or disability, and his seeking to impose criminal liability were outside the proper jurisdiction of the arbitration panel.

After reviewing all the records and hearing testimony of witnesses, the panel majority ruled on the merits of the case. The first issue raised by the Complainant is that he was terminated from the Randolph-Sheppard vending facility program without receiving a full evidentiary hearing as required by State law. However, the panel determined that the SLA made a decision to remove him from the facility and never took any steps to suspend or terminate his license and remove him from the program. In fact, the SLA's decision to remove him from the facility was never implemented and the Complainant was allowed to return to the facility. Thus, even if he had been removed from the facility, the SLA had no obligation under State law to provide him a hearing because he was not terminated from the program. Furthermore, notwithstanding the panel's decision on State law requirements, the panel found that, even if the SLA had removed him from the facility, the Act does not require a fair hearing prior to the action. The Act only requires that an SLA grant a hearing when a blind licensee is dissatisfied with any action already taken.

The second issue addressed by the panel was whether the SLA, as the designated state licensing agency, breached its responsibility under the Act and implementing regulations to serve as the Complainant's advocate. The panel concluded that the SLA's successful advocacy on behalf of Complainant helped to retain his position at Facility #562. Although the Complainant's own advocacy was successful in reinstating his wife/assistant, in obtaining a swipe key, and in the relocation of a snack machine, the actions of the SLA were sufficient to comply with the statutory requirements of the Act. The arbitration panel denied Complainant's claim for relief.

One panel member concurred in part and dissented in part from the majority's opinion. The panel member concurred with the majority opinion that many of the allegations of the Complainant were unsubstantiated. However, the panel member dissented from the majority opinion in the belief that the SLA failed to forcefully advocate and protect the Complainant

regarding the initial request to remove him and to impose the restrictive terms for Complainant to remain at Facility #562.

The views and opinions expressed by the panel do not necessarily represent the views and opinions of the Department.

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To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Dated: May 28, 2008.

Tracy R. Justesen,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. E8–12262 Filed 5–30–08; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services; Overview Information; Technology and Media Services for Individuals With Disabilities—Family Center on Technology and Disability; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2008.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.327F.

DATES: *Applications Available:* June 2, 2008.

Deadline for Transmittal of Applications: July 2, 2008.

Deadline for Intergovernmental Review: September 2, 2008.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purposes of the Technology and Media Services for Individuals with Disabilities program are to: (1) Improve results for children with disabilities by promoting the development, demonstration, and use of technology, (2) support educational media services activities designed to be of educational value in the classroom setting to children with disabilities, and (3) provide support for captioning and video description of educational materials that are appropriate for use in the classroom setting.

Priority: In accordance with 34 CFR 75.105(b)(2)(v), this priority is from allowable activities specified, or otherwise authorized, in the statute (see sections 674 and 681(d) of the Individuals with Disabilities Education Act (IDEA)).

Absolute Priority: For FY 2008 and any subsequent year in which we make awards based on the list of unfunded applicants from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3), we consider only applications that meet this priority.

This priority is:

Family Center on Technology and Disability (84.327F).

Background: Section 602 of IDEA defines an assistive technology device as any item, piece of equipment, or product system, whether acquired, commercially off the shelf, modified or customized, that is used to increase, maintain, or improve the functional capabilities of a child with a disability, and an assistive technology service as any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. For purposes of this priority, assistive technology refers to any assistive technology device or assistive technology service. Assistive technology can be anything from a simple magnifying glass to help a child with low vision to a complex computer system that uses the movement of a child's eyes to turn on a light or to call for help. Assistive technology also includes, for example, software to animate or make a computer cursor larger for children with visual disabilities and speech recognition software to convert speech to digital text for children unable to write or use a keyboard.

Instructional technology combines computer technology and learning theory to improve educational outcomes for all children, including children with disabilities. Examples of instructional technology include software that helps children with dyslexia learn to read and software that helps children with autism learn to interpret facial expressions and improve their social interactions with others.

Having informed parents actively involved in their children's education contributes to positive educational outcomes (Caspe & Lopez, 2006). Studies suggest that parents of children with disabilities want to be involved and engaged in technology planning and that their involvement in technology planning can be instrumental in reaching desired outcomes for their children (Lode, 1992; Long, Huang, Woodbridge, Woolverton, & Minkel, 2003; Parette & McMahan, 2002). In contrast, the absence of family involvement in planning and implementing technology-supported interventions for children with disabilities may lead to disuse or misuse of promising technologies for those children (Alper & Raharinirina, 2006; Zabala & Carl, 2005). In order for parents to participate effectively in planning and implementing technology-supported interventions, particularly during the development of their child's individualized family service plan (IFSP) or individualized education program (IEP), they need current, accurate information about assistive and instructional technologies, as well as strategies to work with early intervention and school personnel to foster the effective implementation of assistive and instructional technology interventions (Edyburn, 2004).

Families frequently receive information on assistive and instructional technology interventions from a variety of sources, including from their State educational agency (SEA), local educational agency (LEA), and State lead agency for early intervention programs funded under Part C of IDEA. Families may also receive information directly from parent organizations, disability and advocacy groups, professional associations, and community groups. While these associations and groups provide general information about assistive and instructional technology interventions, they typically do not provide the most specific or evidence-based information currently available. Additionally, the technical information about emerging technologies that is provided is often designed for practitioners or service providers rather than for families of children with disabilities. For these reasons, the Office of Special Education Programs (OSEP) funded a Family Center on Technology and Disability (FCTD) in 2003 to work primarily with organizations and programs that work with families of children and youth with disabilities to improve the availability and quality of technology-related information and support for families. (For further information on the work of the FCTD, see *http://www.fctd.info.*) The FCTD formed a ''Knowledge Network'' of more than 3,000 organizations and assisted them in

disseminating the most current information on developments and resources in the field of assistive and instructional technology interventions to families of children with disabilities.

Given the speed with which new technology emerges and changes, families of children with disabilities continue to need support to access the most current evidence-based information on assistive and instructional technology interventions. OSEP, therefore, seeks to support a new Family Center on Technology and Disability in order to build on and enhance the work of the current FCTD and to meet the continuing needs of families so that they can advocate and be actively involved in supporting their children's use of assistive and instructional technology.

Priority: The purpose of this priority is to fund a cooperative agreement to support the establishment and operation of a Family Center on Technology and Disability (Center). This Center must develop and disseminate information that will enhance the capacity of families to work collaboratively with professionals from SEAs, LEAs, and lead agencies for early intervention programs funded under Part C of IDEA, including teachers, administrators, related services providers, and early intervention personnel, to implement innovative and effective assistive and instructional technology interventions for their children with disabilities.

To be considered for funding under this absolute priority, applicants must meet the application requirements contained in this priority. All projects funded under this absolute priority also must meet the programmatic and administrative requirements specified in the priority.

Application Requirements. An applicant must include in its application—

(a) A logic model that depicts, at a minimum, the goals, activities, outputs, and outcomes of the proposed project. A logic model communicates how a project will achieve its outcomes and provides a framework for both the formative and summative evaluations of the project;

Note: For more information on logic models, the following Web site lists multiple on-line resources: *http://www.cdc.gov/eval/resources.htm.*

(b) A plan to implement the activities described in the *Project Activities* section of this priority;

(c) A plan, linked to the proposed project's logic model for a formative evaluation of the proposed project's activities. The plan must describe how the formative evaluation will use clear performance objectives to ensure continuous improvement in the operation of the proposed project, including objective measures of progress in implementing the project and ensuring the quality of products and services;

(d) A line item in the proposed budget for a summative evaluation to be conducted by an independent third-party;

(e) A line item in the proposed budget for attendance at each of the following:

(1) A one and one half day kick-off meeting to be held in Washington, DC within four weeks after receipt of the award, and an annual planning meeting held in Washington, DC with the OSEP Project Officer during each subsequent year of the project period.

(2) A three-day Project Directors' Conference in Washington, DC during each year of the project period.

(3) A two-day trip to Washington, DC during each year of the project period to attend Department briefings, Department-sponsored conferences, and other meetings, as requested by OSEP; and

(f) A line item in the proposed budget for an annual set-aside of five percent of the grant amount to support emerging needs that are consistent with the proposed project's activities, as those needs are identified in consultation with OSEP.

Note: With approval from the OSEP Project Officer, the Center must reallocate any remaining funds from this annual set-aside no later than the end of the third quarter of each budget period.

Project Activities. To meet the requirements of this priority, the Center, at a minimum, must conduct the following activities:

(a) On an ongoing basis, review current research, identify emerging trends and innovations, and synthesize the literature on the effective use of assistive and instructional technology interventions to improve results for children with disabilities ages birth through 26.

(b) Develop materials and services, in consultation with parent groups, to support the active and informed participation of families in the identification, acquisition, and use of innovative, effective, and evidence-based assistive and instructional technology, including interventions that address the functional and educational needs of children with disabilities.

(c) Collect information and materials on the availability, reliability, quality, and utility of assistive and instructional technology interventions, and make this information and materials available to SEAs, LEAs, and lead agencies for early intervention programs funded under Part C of IDEA, as well as to families and organizations serving families of children with disabilities.

(d) Create a searchable online resource database at the Web site required in (h) that allows public access to the materials collected under paragraph (c) of this section of the priority. Before including any third-party materials in this online database, the Center must obtain all permissions and licenses to use the third-party materials in this manner. The Center must maintain the database and ensure that it is up-to-date by continuously adding new material to and removing outdated material from the database. The Center must make the information and materials in the database available to download, free of charge, from the Center's Web site. To the maximum extent possible, the Center must avoid duplicating the functions and content of other online resources (e.g., *http://www.assistivetech.net, http://www.abledata.com, http://www.infinitec.net*) and instead establish a link on its Web site to these online resources.

(e) Establish and maintain ongoing partnerships with SEAs, LEAs, and State lead agencies for early intervention programs funded under Part C of IDEA in order to facilitate administrators, teachers, early intervention personnel, and related services providers' understanding of the potential benefits of assistive and instructional technology interventions so that, as appropriate, effective technology interventions are discussed, and, if appropriate, incorporated into children's IEPs/IFSPs.

(f) Maintain a network of organizations, including professional associations, advocacy groups, parent groups, nonprofit and for-profit companies that develop and improve technology, SEAs, LEAs, State lead agencies for early intervention programs funded under Part C of IDEA, other State and local agencies (including the State Assistive Technology Programs funded under the Assistive Technology Act of 1998), technical assistance and dissemination centers and other programs that work with families of children with disabilities to enhance their capacity to provide families with current information about innovative, effective, and evidence-based assistive and instructional technology interventions for children with disabilities (Network). The Center must—

(1) Ensure, to the extent possible, that the members of the current FCTD's existing network are included as members of the Network, and continue to recruit new members from relevant organizations;

(2) Maintain a searchable database of organizations that participate in the Network and agree to be included in the database;

(3) Create and disseminate a monthly newsletter, accessible in both electronic and hard-copy formats, to Network members. This newsletter must highlight innovative, effective, and evidence-based assistive and instructional technology interventions to support children's functional and educational needs;

(4) Establish an information exchange system that fosters communication and collaboration among Network members and enables them to better meet the technology information needs of families of children with disabilities; and

(5) Provide Network members with feedback from consumers that may be useful for product improvement and development.

(g) Develop and implement a strategy to respond to inquiries from families by directly responding to them or by referring them to appropriate members of the Network, which may include the State Assistive Technology Program, or appropriate out-of-State contacts. This strategy must increase the capacity of Network members to provide families with information about appropriate, innovative, effective, and evidence-based assistive and instructional technology interventions for children with disabilities so that parents can effectively advocate for including appropriate assistive and instructional technology interventions in their child's IFSP or IEP.

(h) Maintain a Web site that meets a government or industry recognized standard for accessibility and that links to the Web site operated by the Technical Assistance Coordination Center (TACC), which OSEP intends to fund in FY 2008. The Web site must contain the searchable database of organizations that participate in the required Network under paragraph (f) of this section and the searchable resource database required under paragraph (d) of this section, the Network newsletters, links to other relevant Web sites, topical online discussions, and other relevant resources on innovative, effective, and evidence-based assistive and instructional technology interventions for children with disabilities.

(i) Participate in meetings, conferences, and other events to improve the capacity of other projects and organizations to meet the technology information needs of families of children with disabilities. The Center's participation may include, but is not limited to, delivering presentations, exhibiting and demonstrating materials, facilitating discussions, and participating in work groups.

(j) Establish and maintain an advisory committee to review the proposed activities and outcomes of the Center and provide programmatic support and advice throughout the project period. The advisory committee must meet on an annual basis in Washington, DC and, at a minimum, consist of (1) an individual with a disability or a family member of an individual (under the age of 26) with a disability; (2) an individual with knowledge and expertise in innovative, effective, evidence-based assistive and instructional technology interventions for children with disabilities; (3) a representative from an SEA or LEA; (4) a representative from a State lead agency for early intervention programs funded under Part C of IDEA; and (5) a representative from a Parent Training and Information Center (PTI) or a Community Parent Resource Center (CPRC). Proposed members of the advisory committee must be submitted to OSEP for approval within eight weeks after receipt of the award.

(k) Communicate and collaborate, on an ongoing basis, with Department-funded projects, including the National and Regional Parent Technical Assistance Centers, PTIs, CPRCs, State Assistive Technology Programs, the National Assistive Technology Technical Assistance Partnership, and the National Pass It On Center, funded by the Rehabilitation Services Administration. This collaboration could include the sharing of information, the joint development of resource materials, and the planning and carrying out of meetings and events.

(l) Prior to developing any new resource materials, whether paper or electronic, submit to the OSEP Project Officer and the Proposed Product Advisory Board at OSEP's TACC for approval, a proposal describing the content and purpose of the product.

(m) Coordinate with the National Dissemination Center for Individuals with Disabilities, which OSEP intends to fund in FY 2008, to develop an efficient and high quality dissemination plan that reaches broad audiences. Strategies must be developed to support organizations in reaching underserved populations, including parents from rural communities, those who have limited access to Web-based resources, those with low income, and those with limited English proficiency.

(n) Maintain ongoing communication with the OSEP Project Officer through monthly phone conversations and e-mail communication.

Fourth and Fifth Years of the Project: In deciding whether to continue funding the Center for the fourth and fifth years, the Secretary will consider the requirements of 34 CFR 75.253(a), and in addition—

(a) The recommendation of a review team consisting of experts selected by the Secretary. The review will be conducted during a one-day intensive meeting to be held in Washington, DC during the last half of the Center's second year. The Center must budget for travel expenses associated with this one-day intensive review;

(b) The timeliness and effectiveness with which all requirements of the negotiated cooperative agreement have been or are being met by the Center; and

(c) The quality, relevance, and usefulness of the Center's activities and products and the degree to which the Center's activities and products are contributing to changed practice and improved child and family outcomes.

References

Alper, S., & Raharinirina, S. (2006). Assistive technology for individuals with disabilities: A review and synthesis of the literature. *Journal of Special education Technology, 21*(2), 47–64.

Caspe, M., & Lopez, M.E. (2006). Lessons from family-strengthening interventions: Learning from evidence-based practice. Cambridge, MA: Harvard Family Research Project; available at *http://www.gse.harvard.edu/hfrp/projects/fine/resources/research/lessons.html*.

Edyburn, D.L. (2004). Rethinking assistive technology. *Special Education Technology Practice, 5*(4), 16–23.

Lode, C. (1992). How assistive technology assists my daughter to compete in the mainstream of life. *Exceptional Parent, 22*(8), 34–41.

Long, T., Huang, L., Woodbridge, M., Woolverton, M., & Minkel, J. (2003). *Integrating assistive technology into an outcome-driven model of service delivery. Infants and Young Children, 16*, 272–283.

Parette, P., & McMahan, G.A. (2002). What should we expect of assistive technology? Being sensitive to family goals. *Teaching Exceptional Children, 35*, 56–61.

Zabala, J.S., & Carl, D.F. (2005). Quality indicators for assistive technology services in schools. In D.L. Edyburn, K. Higgins, & R. Boone (Eds.), *The handbook of special education technology research and practice* (pp. 179–207). Whitefish Bay, WI: Knowledge by Design, Inc.

Waiver of Proposed Rulemaking: Under the Administrative Procedure Act (APA) (5 U.S.C. 553), the Department generally offers interested parties the

opportunity to comment on proposed priorities and requirements. Section 681(d) of IDEA, however, makes the public comment requirements of the APA inapplicable to the priority in this notice.

Program Authority: 20 U.S.C. 1474 and 1481.

Applicable Regulations: The Education Department General Administrative Regulations in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 84, 85, 86, 97, 98, and 99.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education (IHEs) only.

II. Award Information

Type of Award: Discretionary grants.
Estimated Available Funds: $600,000.
Maximum Award: We will reject any application that proposes a budget exceeding $600,000 for a single budget period of 12 months. The Assistant Secretary for Special Education and Rehabilitative Services may change the maximum amount through a notice published in the **Federal Register**.
Number of Awards: 1.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* SEAs; LEAs; public charter schools that are LEAs under State law; IHEs; other public agencies; private nonprofit organizations; outlying areas; freely associated States; Indian tribes or tribal organizations; and for-profit organizations.

2. *Cost Sharing or Matching:* This competition does not require cost sharing or matching.

3. *Other: General Requirements*—(a) The projects funded under this competition must make positive efforts to employ and advance in employment qualified individuals with disabilities (see section 606 of IDEA).

(b) Applicants and grant recipients funded under this competition must involve individuals with disabilities or parents of individuals with disabilities ages birth through 26 in planning, implementing, and evaluating the projects (see section 682(a)(1)(A) of IDEA).

IV. Application and Submission Information

1. *Address to Request Application Package:* Education Publications Center (ED Pubs), P.O. Box 1398, Jessup, MD 20794–1398. Telephone, toll free: 1–877–433–7827. FAX: (301) 470–1244. If you use a telecommunications device for the deaf (TDD), call, toll free: 1–877–576–7734.

You can contact ED Pubs at its Web site, also: *http://www.ed.gov/pubs/edpubs.html* or at its e-mail address: *edpubs@inet.ed.gov*.

If you request an application package from ED Pubs, be sure to identify this program or competition as follows: CFDA Number 84.327F.

Individuals with disabilities can obtain a copy of the application package in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) by contacting the person or team listed under *Alternative Format* in section VIII of this notice.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit Part III to the equivalent of no more than 50 pages, using the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger, or no smaller than 10 pitch (characters per inch).

The page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the two-page abstract, the resumes, the bibliography, the references, or the letters of support. The page limit, however, does apply to the application narrative in Part III.

We will reject your application if you exceed the page limit; or if you use other standards and exceed the equivalent of the page limit.

3. *Submission Dates and Times:*
Applications Available: June 2, 2008.
Deadline for Transmittal of Applications: July 2, 2008.

Applications for grants under this program may be submitted electronically using the Grants.gov Apply site (Grants.gov), or in paper format by mail or hand delivery. For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery, please refer to section IV. 6. *Other Submission Requirements* in this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII in this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

Deadline for Intergovernmental Review: September 2, 2008.

4. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section in this notice.

6. *Other Submission Requirements:* Applications for grants under this program may be submitted electronically or in paper format by mail or hand delivery.

a. *Electronic Submission of Applications.*

To comply with the President's Management Agenda, we are participating as a partner in the Governmentwide Grants.gov Apply site. The Family Center on Technology and Disability competition, CFDA Number 84.327F, is included in this project. We request your participation in Grants.gov.

If you choose to submit your application electronically, you must use the Governmentwide Grants.gov Apply site at *http://www.Grants.gov.* Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not e-mail an electronic copy of a grant application to us.

You may access the electronic grant application for the Family Center on Technology and Disability competition—CFDA Numbers 84.327F at *http://www.Grants.gov.* You must search for the downloadable application package for this competition by the

CFDA number. Do not include the CFDA number's alpha suffix in your search (e.g., search for 84.327, not 84.327F).

Please note the following:

• Your participation in Grants.gov is voluntary.

• When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.

• Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30 p.m., Washington, DC time, on the application deadline date.

• The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.

• You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this competition to ensure that you submit your application in a timely manner to the Grants.gov system. You also can find the Education Submission Procedures pertaining to Grants.gov at *http://e-Grants.ed.gov/help/GrantsgovSubmissionProcedures.pdf.*

• To submit your application via Grants.gov, you must complete all steps in the Grants.gov registration process (see *http://www.grants.gov/applicants/get_registered.jsp*). These steps include (1) registering your organization, a multi-part process that includes registration with the Central Contractor Registry (CCR); (2) registering yourself as an Authorized Organization Representative (AOR); and (3) getting authorized as an AOR by your organization. Details on these steps are outlined in the Grants.gov 3-Step Registration Guide (see *http://www.grants.gov/section910/Grants.govRegistrationBrochure.pdf*). You also must provide on your application the same D–U–N–S Number used with this registration. Please note that the registration process may take five or more business days to complete, and you must have completed all registration steps to allow you to submit successfully an application via Grants.gov. In addition you will need to update your CCR registration on an annual basis. This may take three or more business days to complete.

• You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you submit your application in paper format.

• If you submit your application electronically, you must submit all documents electronically, including all information you typically provide on the following forms: Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications. Please note that two of these forms—the SF 424 and the Department of Education Supplemental Information for SF 424—have replaced the ED 424 (Application for Federal Education Assistance).

• If you submit your application electronically, you must attach any narrative sections of your application as files in a .DOC (document), .RTF (rich text), or .PDF (Portable Document) format. If you upload a file type other than the three file types specified in this paragraph or submit a password-protected file, we will not review that material.

• Your electronic application must comply with any page-limit requirements described in this notice.

• After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a second notification to you by e-mail. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (an ED-specified identifying number unique to your application).

• We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk, toll free, at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII in this notice and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that that problem affected your ability to submit your application by 4:30 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

b. *Submission of Paper Applications by Mail.*

If you submit your application in paper format by mail (through the U.S. Postal Service or a commercial carrier), you must mail the original and two copies of your application, on or before the application deadline date, to the Department at the applicable following address:

By mail through the U.S. Postal Service:
U.S. Department of Education,
Application Control Center,
Attention: (CFDA Number 84.327F),
400 Maryland Avenue, SW.,
Washington, DC 20202–4260; or

By mail through a commercial carrier:
U.S. Department of Education,

Application Control Center, Stop 4260, *Attention:* (CFDA Number 84.327F), 7100 Old Landover Road, Landover, MD 20785–1506.

Regardless of which address you use, you must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.*

If you submit your application in paper format by hand delivery, you (or a courier service) must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, *Attention:* (CFDA Number 84.327F), 550 12th Street, SW., Room 7041, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8 a.m. and 4:30 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210 and are listed in the application package.

2. *Peer Review:* In the past, the Department has had difficulty finding peer reviewers for certain competitions, because so many individuals who are eligible to serve as peer reviewers have conflicts of interest. The Standing Panel requirements under IDEA also have placed additional constraints on the availability of reviewers. Therefore, the Department has determined that, for some discretionary grant competitions, applications may be separated into two or more groups and ranked and selected for funding within specific groups. This procedure will make it easier for the Department to find peer reviewers, by ensuring that greater numbers of individuals who are eligible to serve as reviewers for any particular group of applicants will not have conflicts of interest. It also will increase the quality, independence, and fairness of the review process while permitting panel members to review applications under discretionary grant competitions for which they also have submitted applications. However, if the Department decides to select an equal number of applications in each group for funding, this may result in different cut-off points for fundable applications in each group.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notice (GAN). We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section in this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section in this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary also may require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *http://www.ed.gov/fund/grant/apply/appforms/appforms.html.*

4. *Performance Measures:* Under the Government Performance and Results Act of 1993 (GPRA), the Department has established a set of performance measures, including long-term measures, that are designed to yield information on various aspects of the effectiveness and quality of the Technology and Media Services for Individuals with Disabilities program. These measures focus on the extent to which projects are of high quality, are relevant to improving outcomes of children with disabilities, and contribute to improving outcomes for children with disabilities. We will collect data on these measures from the project funded under this competition.

The grantee also will be required to report information on its project's performance in annual reports to the Department (34 CFR 75.590).

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Jo Ann McCann, U.S. Department of Education, 400 Maryland Avenue, SW., room 4076, Potomac Center Plaza (PCP), Washington, DC 20202–2550. Telephone: (202) 245–7434.

If you use a TDD, call the Federal Relay Service (FRS), toll-free, at 1–800–877–8339.

VIII. Other Information

Alternative Format: Individuals with disabilities can obtain this document and a copy of the application package in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue, SW., room 5075, PCP, Washington, DC 20202–2550. Telephone: (202) 245–7363. If you use a TDD, call the FRS, toll free, at 1–800–877–8339.

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 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.*

Dated: May 27, 2008.

Tracy R. Justesen,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. E8–12263 Filed 5–30–08; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Oak Ridge Reservation

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Oak Ridge Reservation. The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, June 11, 2008, 6 p.m.

ADDRESSES: DOE Information Center, 475 Oak Ridge Turnpike, Oak Ridge, Tennessee.

FOR FURTHER INFORMATION CONTACT: Pat Halsey, Federal Coordinator, Department of Energy Oak Ridge Operations Office, P.O. Box 2001, EM–90, Oak Ridge, TN 37831. Phone (865) 576–4025; Fax (865) 576–2347 or e-mail: *halseypj@oro.doe.gov* or check the Web site at *http://www.oakridge.doe.gov/em/ssab.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE in the areas of environmental restoration, waste management, and related activities.

Tentative Topic: The meeting will include an update on the activities of the EM Waste Management Facility.

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to the agenda item should contact Pat Halsey at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comment will be provided a maximum of five minutes to present their comments. This notice is being published less than 15 days prior to the meeting date due to programmatic issues that had to be resolved prior to the meeting date.

Minutes: Minutes will be available by writing or calling Pat Halsey at the address and phone number listed above. Minutes will also be available at the following Web site: *http://www.oakridge.doe.gov/em/ssab/minutes.htm.*

Issued at Washington, DC, on May 28, 2008.

Rachel Samuel,

Deputy Committee Management Officer.

[FR Doc. E8–12254 Filed 5–30–08; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Nuclear Energy Advisory Committee

AGENCY: Department of Energy, Office of Nuclear Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Nuclear Energy Advisory Committee (NEAC). Federal Advisory Committee Act (Public Law No. 94–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Tuesday, June 24, 2008, 8 a.m.–5:15 p.m.

Location: The meeting will be held at the L'Enfant Plaza Hotel located at 480 L'Enfant Plaza, SW., Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Dr. John Boger, Designated Federal Officer, U.S. Department of Energy, 19901 Germantown Rd., Germantown, MD 20874; telephone (301) 903–4495; e-mail *john.boger@hq.doe.gov*.

SUPPLEMENTARY INFORMATION:

Background: The Nuclear Energy Advisory Committee (NEAC), formerly the Nuclear Energy Research Advisory Committee (NERAC), was established in 1998 by the U.S. Department of Energy (DOE) to provide expert advice on complex scientific, technical, and policy issues that arise in the planning, managing, and implementation of DOE's civilian nuclear energy research programs. The committee is composed of 12 individuals of diverse backgrounds selected for their technical expertise and experience, established records of distinguished professional service, and their knowledge of issues that pertain to nuclear energy.

Purpose of the Meeting: To inform the committee of recent developments and current status of research programs and projects pursued by the Department of Energy's Office of Nuclear Energy and receive advice and comments in return from the committee.

Tentative Agenda: The meeting is expected to include presentations that cover such topics as the current status of the Global Nuclear Energy Partnership (GNEP), Next Generation of Nuclear Power, Nuclear Power 2010, and Idaho National Laboratory. The agenda may change to accommodate committee business. For updates, one is directed the NEAC Web site: *http://www.ne.doe.gov/neac/neNeacOverview.html.*

Public Participation: Individuals and representatives of organizations who would like to offer comments and suggestions may do so on the day of the meeting, Tuesday, June 24, 2008. Approximately one-half hour will be reserved for public comments. Time allotted per speaker will depend on the number who wish to speak but is not expected to exceed 5 minutes. Anyone who is not able to make the meeting or has had insufficient time to address the committee is invited to send a written statement to Dr. John Boger, 19901 Germantown Rd., Germantown, MD 20874, or e-mail *john.boger@hq.doe.gov*.

Minutes: The minutes of the meeting will be available by contacting Dr. John Boger at the address above or on the Department of Energy, Office of Nuclear Energy Web site at *http://www.ne.doe.gov/neac/neNeacOverview.html.*

Issued in Washington, DC, on May 28, 2008.

Rachel Samuel,

Deputy Committee Management Officer.

[FR Doc. E8–12260 Filed 5–30–08; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2482–078]

Erie Boulevard Hydropower, L.P.; Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

May 23, 2008.

Take notice that the following hydroelectric application has been filed

with the Commission and is available for public inspection:

a. *Type of Application:* Request for withdrawal of project waters for municipal use.

b. *Project No.:* 2482–078.

c. *Date Filed:* April 21, 2008.

d. *Applicant:* Erie Boulevard Hydropower, L.P.

e. *Name of Project:* Hudson River Hydroelectric Project.

f. *Location:* On the Hudson River in Saratoga and Warren Counties, New York.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Timothy Lukas, Erie Boulevard Hydropower, L.P., 399 Big Bay Road, Queensbury, NY 12804 (518) 743–2012.

i. *FERC Contact:* John K. Novak, *john.novak@ferc.gov* (202) 502–6076.

j. *Deadline for filing comments, motions to intervene and protests:* June 23, 2008.

All documents (original and eight copies) should be filed with: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

k. *Description of Request:* The Erie Boulevard Hydropower, L.P. is requesting authorization to allow a withdrawal of 14 million gallons per day of project waters from the Sherman Island Development reservoir for municipal use by the Saratoga County Water Authority.

l. *Location of the Application:* The filing is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426 or by calling (202) 502–8371, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docsfiling/esubscription.asp* to be notified via e-mail or new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Any filings must bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers.

p. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

q. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(I)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–12213 Filed 5–30–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP06–412–001]

Puget Sound Energy, Inc.; Notice of Application

May 22, 2008.

Take notice that on May 16, 2008, Puget Sound Energy, Inc. (Puget), 10885 NE 4th Street, Bellevue, Washington 98009, filed with the Federal Energy Regulatory Commission an abbreviated application, pursuant to section 7(b) and 7(c) of the Natural Gas Act (NGA), as amended, and Part 157 of the Commission's regulations to amend the certificate of public convenience and necessity that was previously issued for its Jackson Prairie Deliverability project on February 5, 2007 (Order) in Docket No. CP06–412–000. Specifically, Puget requests that the Commission authorize minor changes to the previously certificated scope of work for the Deliverability Expansion Project which include eliminating the upgrade and restage of the existing Solar Saturn T1300 turbine-driven compressor unit as well as eliminating the installation of a new slug catcher, new filter separator and new relief valve, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Any questions regarding this application should be directed to Lynn Dahlberg, Manager, Certificates and Tariffs, Northwest Pipeline GP, P.O. Box 58900, Salt Lake City, Utah 84158–900, by telephone at 801–584–6851 or by fax at 801–584–7764.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the

EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the internet in lieu of paper. See 18 CFR 385.2001(a) (1) (iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

Comment Date: June 11, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–12141 Filed 5–30–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP08–398–000 and PF08–3–000]

White River Hub, LLC; Notice of Application

May 22, 2008.

Take notice that on May 16, 2008, White River Hub, LLC (White River), 180 East 100 South, Salt Lake City, Utah 84111, filed in Docket No. CP08–398–000 an application, pursuant to section 7(c) of the Natural Gas Act (NGA) and Part 157 of the Commission's regulations, for certificate authorization to acquire and construct certain pipeline facilities to be located in Rio Blanco County, Colorado. White River's proposal is more fully described as set forth in the application that is on file with the Commission and open to public inspection. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. 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.

Specifically, White River seeks authorization to: (1) Construct 5.88 miles of 30-inch diameter pipeline; (2) acquire from Enterprise Gas Processing, LLC approximately 3.8 miles of 36-inch diameter pipeline; and (3) construct other related facilities including a meter station, tie-in and two short 24-inch diameter interconnecting pipelines. White River also requests issuance of a Part 284 Subpart G blanket transportation certificate and a Part 157 Subpart F blanket construction certificate. White River estimates that the proposed facilities will cost approximately $58 million. White River states that the facilities will act as a hub with 2,565,000 Dth per day of capacity and requests authorization to be granted prior to August 1, 2008.

Any questions regarding this application should be directed to L. Bradley Burton, Manager, Federal Regulatory Affairs, White River Hub, LLC, 180 East 100 South, P.O. Box 45360, Salt Lake City, Utah 84145–0360 at (801) 324–2459 (phone) or (801) 324–5834 (fax) or *brad.burton@questar.com.*

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either, complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy regulatory Commission, 888 First Street, NE., Washington, DC 20426.

On October 25, 2007, the Commission staff granted White River's request to utilize the Pre-Filing Process and assigned Docket No. PF08–3–000 to staff activities involving White River's proposal. Now, as of the filing of White River's application on May 16, 2008, the Pre-Filing Process for this project has officially concluded. And while the PF Docket Number is now closed, all of the information contained in the Pre-Filing Process will become part of the certificate proceeding. From this time forward, White River's proceeding will be conducted in Docket No. CP08–398–000, as noted in the caption of this Notice. All future correspondence should refer to these CP docket numbers only.

Comment Date: June 9, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–12135 Filed 5–30–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13126–000]

MARMC Enterprises, LLC; Notice of Application Accepted for Filing and Soliciting Comments, Motions to Intervene, and Protests

May 27, 2008.

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* P–13126–000.

c. *Date Filed:* March 3, 2008.

d. *Applicant:* MARMC Enterprises, LLC.

e. *Name of the Project:* Algiers Cutoff Project.

f. *Location:* The project would be located on the Mississippi River in Orleans Parish, Louisiana. The project uses no dam or impoundment.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicants Contact:* Ms. Nicoline Marinovich, 722 Oak Lane, Thibodaux, LA 70301, (986) 705–2940.

i. *FERC Contact:* Patricia W. Gillis, (202) 502–8735.

j. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings. Please include the project number (P–13126–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project would consist of: (1) Up to 40 proposed 336.8-kilowatt Underwater Electric Kite generating units having a total installed capacity of 16-megawatts, (2) a proposed transmission line, and (3) appurtenant facilities. The project would have an average annual generation of 137.3-gigawatt-hours and be sold to a local utility.

l. *Location of Application:* A copy of the application is available for inspection and reproduction at the Commission in the Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Competing Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30 and 4.36.

o. *Competing Development Application*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30 and 4.36.

p. *Notice of Intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include

an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

q. *Proposed Scope of Studies Under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

r. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link.

s. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', and ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

t. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–12200 Filed 5–30–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL08–63–000]

Michigan South Central Power Agency, Complainant v. Midwest Independent Transmission System Operator, Inc., Respondent; Notice of Complaint

May 27, 2008.

Take notice that on May 23, 2008, pursuant to sections 205 and 306 of the Federal Power Act, 16 U.S.C. 824(e) and 825(e), Michigan South Central Power Agency (Complainant) filed a formal complaint against Midwest Independent Transmission System Operator, Inc. (Respondent) seeking an order directing the Respondent to resettle and refund certain Revenue Sufficiency Guarantee charges on the Complainant's transaction associated with the Complainant's Carved-Out Grandfathered Agreement No. 266.

The Complainant states that a copy of the complaint has been served on the Respondent, as listed on the Commission's list of Corporate Officials.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on June 12, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–12204 Filed 5–30–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EL08–64–000; ER08–921–000]

Sacramento Municipal Utility District, Complainant v. Pacific Gas and Electric Company, Respondent; Notice of Complaint

May 27, 2008.

Take notice that on May 23, 2008, pursuant to sections 206 and 212 of the Rules and Practice and Procedure, 18 CFR sections 385.206 and 385.212 and section 206 of the Federal Power Act, Sacramento Municipal Utility District (Complainant) filed a formal complaint against Pacific Gas and Electric Company (Respondent) seeking termination of the $7,000 monthly customer service charge found in Service Schedule E of the Interconnection Agreement between the Respondent and the Complainant.

The Complainant also request that this complaint be consolidated with the Respondent's filing in Docket No. ER08–921–000.

The Complainant states that a copy of the complaint has been served on the Respondent.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of

the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on June 12, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–12201 Filed 5–30–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ID–5721–000]

Mehra, Sachin J.; Notice of Filing

May 22, 2008.

Take notice that on May 16, 2008, Sachin J. Mehra filed an Information Report Regarding Interlocking Positions, pursuant to section 305(b) of the Federal Power Act, 18 U.S.C. section 825(d), and section 45.9 of the Federal Energy Regulatory Commission's rules and regulations, 18 CFR section 45.9.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on June 6, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–12138 Filed 5–30–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RT04–1–023]

Southwest Power Pool, Inc.; Notice of Filing

May 22, 2008.

Take notice that on May 16, 2008, Southwest Power Pool filed a petition of waiver of the Commission's regulations that require it to perform an audit of the independence of its decision-making process as a Regional Transmission Organization, pursuant to Rule 207 of the Commission's Rules of Practice and Procedure, 18 CFR 385.207.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on June 6, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–12134 Filed 5–30–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL08–54–000]

City of Vernon, California; Notice of Filing

May 23, 2008.

On May 20, 2008, the City of Vernon, California (Vernon) filed in the above-docketed proceeding an amendment modifying the gross kWhs associated with Vernon's entitlements as well as a revised tariff sheet to reflect this modification.[1]

[1] Although Vernon submitted its filing as an ''Answer to the Motion to Intervene and Comments of Pacific Gas and Electric Company,'' based on the

Continued

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on June 6, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–12208 Filed 5–30–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ID–5703–000]

Wagoner, Gregory E.; Notice of Filing

May 27, 2008.

Take notice that on May 15, 2008, Gregory E. Wagoner filed supplemental information to its April 30, 2008, application for authorization to hold interlocking positions, pursuant to section 305(b) of the Federal Power Act, Part 45 (2005) and the Commission's Order No. 664.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on June 6, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–12202 Filed 5–30–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL08–47–000]

PJM Interconnection, L.L.C.; Notice of Institution of Proceeding and Refund Effective Date

May 23, 2008.

On May 16, 2008, the Commission issued an order that instituted a proceeding in Docket No. EL08–47–000, pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e (2005), to consider the justness and reasonableness of PJM Interconnection L.L.C.'s existing market power screen. *Maryland Public Service Commission* v. *PJM Interconnection, L.L.C.,* 123 FERC ¶ 61,169 (2008).

The refund effective date in Docket No. EL08–47–000, established pursuant to section 206(b) of the FPA, will be the date of publication of this notice in the **Federal Register**.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–12214 Filed 5–30–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PF07–12–000]

Dominion Transmission, Inc.; Amended Notice of Intent To Prepare an Environmental Assessment for the Proposed Storage Factory Project, Request for Comments on Environmental Issues, and Notice of Public Scoping Meetings and Site Visit

May 22, 2008.

As previously noticed on January 18, 2008, and amended herein, the staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Storage Factory Project, involving construction and operation of facilities by Dominion Transmission, Inc. (Dominion) in Tioga County, Pennsylvania and Frederick County, Maryland. The EA will be used by the Commission in its decisionmaking process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of a third scoping period (due to changes in the project design) that will be used to gather environmental input from the public and interested agencies on the project. Your input will help the Commission staff determine which issues need to be evaluated in the EA. Please note that the scoping period will close on June 23, 2008.

Comments may be submitted in written or verbal form. Further details on how to submit written comments are provided in the Public Participation section of this notice. In lieu of sending written comments, you may choose to attend the public scoping meeting scheduled as follows:

modifications included in this filing, we will treat it as an amendment to the filing submitted on April 4, 2008 in this proceeding.

Date and time	Location
Thursday, June 19, 2008, 7 p.m. to 9 p.m. (EDT).	Jefferson Ruritan Center, Lander Road at Route 340, Jefferson, Maryland, Telephone: (301) 473–8753.

This notice is being sent to landowners of property within 0.5 mile of the planned Jefferson Compressor Station site; interested stakeholders who attended the Open House held by Dominion on May 7, 2008 and provided their address; interested stakeholders of the alternative compressor station site near Middletown; Federal, state, and local government representatives and agencies; environmental and public interest groups; Native American tribes; other interested parties in this proceeding; and local libraries and newspapers. We [1] encourage government representatives to notify their constituents of this planned project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, you may be contacted by a Dominion representative about the acquisition of an easement to construct, operate, and maintain the proposed project facilities. The pipeline company would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the Commission, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, Dominion could initiate condemnation proceedings in accordance with state law.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility on My Land? What Do I Need to Know?'' addresses a number of typically-asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is available for viewing on the FERC Internet Web site (*http://www.ferc.gov*).

Summary of the Proposed Project

On August 29, 2007 and January 18, 2008, we issued two separate *Notice of Intent to Prepare an Environmental Assessment for the Proposed Storage Factory Project, Request for Comments on Environmental Issues, and Notice of Public Scoping Meetings and Site Visit (NOI).* Since the January 18 NOI, Dominion has changed the preferred location for its compressor station located in Frederick County, Maryland. The current configuration of the planned facilities is detailed below.

The Storage Factory Project would involve leaching two caverns in a Pennsylvania salt formation for the storage of natural gas. The project consists of constructing leaching/pumping facilities, a brine processing facility, water and brine pipelines, and a new compressor station for gas storage injection/withdrawal purposes in Tioga County, Pennsylvania. Alternative water sources for leaching the caverns are also being investigated. Dominion is also proposing piping upgrades to its existing Sabinsville Storage Pool in Tioga County. In addition, Dominion had originally proposed construction of a new 14,000-horsepower compressor station located off Marker Road approximately 2 miles west of Middletown in Frederick County, Maryland. However, based on the environmental issues which were identified during the scoping process, Dominion determined that the Middletown location is no longer preferred. Dominion is now evaluating construction of a new 15,000-horsepower compressor station at a location about 2 miles west of Jefferson, Maryland and bounded by Route 180 (Jefferson Pike), U.S. Route 340, and Gene Hemp Road.

Dominion anticipates filing an application with the FERC after September 2008 and to seek the Commission's approval in time to begin construction by August 2009, with a proposed in-service date for the first storage cavern of August 2014.

Project location maps are included in Appendix A.[2]

Land Requirements for Construction

The Storage Factory Project is in the preliminary planning stage. The precise facility design, pipeline route, rights-of-way, compressor station locations, and other details have not yet been finalized. Specific information on the location of the various project elements will be made available to the public when it is finalized.

Construction of the planned project would affect a total of about 175.6 acres during construction. Following construction, about 80.5 acres would be allowed to revert to its previous conditions and uses. Disturbance associated with aboveground facilities would permanently impact approximately 49.5 acres of land. This includes the compressor station which would be located on approximately 8 acres within a 13.5 acre site that Dominion is seeking to acquire near Jefferson in Frederick County, Maryland. The land is currently used for agriculture.

Dominion plans to construct the pipelines associated with the Sabinsville Storage Pool in existing rights-of-way and would seek a construction right-of-way width varying between 100 feet and 75 feet for the pipelines associated with the leaching and gas storage areas in Pennsylvania.

The EA Process

For this project, the FERC staff has initiated its National Environmental Policy Act (NEPA) review prior to receiving an application. The purpose of the Commission's Pre-Filing Process is to involve interested stakeholders early in project planning and to identify and attempt to resolve issues before an application is filed with the FERC. A docket number (PF07–12–000) has been established to place information filed by Dominion, and related documents issued by the Commission, into the public record. Once a formal application is filed with the FERC, a new docket number will be established. The FERC will be the lead federal agency for the preparation of the EA which will satisfy the requirements of NEPA.

NEPA requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us to discover and address concerns the public may have about proposals. This process is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, we are requesting public comments on the scope of the issues that should be addressed in the EA. We will consider all comments received during scoping in the preparation of the EA.

Our independent analysis and evaluation of the issues will be presented in the EA. The EA will also include possible alternatives to the proposed project or portions of the project, and we will make recommendations on how to lessen or avoid impacts on the various resource areas of concern. Depending on the comments received during the scoping

[1] ''We'' ''us'' and ''our'' refer to the environmental staff of the Office of Energy Projects, part of the Commission staff.

[2] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies of all appendices are available on the Commission's Web site at the ''eLibrary'' link or from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the ''Additional Information'' section of this notice. Copies of the appendices were sent to all those receiving this notice in the mail. Requests for detailed maps of the proposed facilities should be made directly to Dominion.

process, the EA may be published and mailed to Federal, state, and local agencies; elected officials; environmental and public interest groups; other interested parties; affected landowners; Native American tribes; libraries and newspapers in the project area; and the Commission's official service list for this proceeding. A 30-day comment period will be allotted for review of the EA. We will consider all comments submitted on the EA in any Commission Order that is issued for the project.

We are currently involved in discussions with other jurisdictional agencies to identify their issues and concerns. These agencies include the U.S. Army Corps of Engineers; U.S. Fish and Wildlife Service; Maryland Department of Natural Resources; Frederick County; and Susquehanna River Basin Commission.

By this notice, we are asking these and other Federal, state, and local agencies with jurisdiction and/or special expertise with respect to environmental issues to formally cooperate with us in the preparation of the EA. Agencies that would like to request cooperating status should follow the instructions for filing comments provided below.

Currently Identified Environmental Issues

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project. We have already identified several issues that we think deserve attention based on a preliminary review of the entire project site (both Maryland and Pennsylvania portions) and the facility information provided by Dominion. This preliminary list of issues and potential impacts may change based on your comments and our analysis.

- Impacts on perennial and intermittent streams and waterbodies.
- Evaluation of temporary and permanent impacts on wetlands and development of appropriate mitigation.
- Effect on federally and state-listed species.
- Impacts on existing land uses.
- Visual impacts of the aboveground facilities on surrounding areas.
- Impacts on local air and noise quality associated with construction and operation.
- Impacts on cultural resources.
- Impacts on groundwater.
- Public safety and potential hazards associated with the transport of natural gas and the proposed compressor facilities.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commenter, your concerns will be addressed in the EA and considered by the Commission. Your comments should focus on the potential environmental effects of the proposal, reasonable alternatives to the proposal (including alternative locations and routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. If you have already mailed comments in response to the initial NOI for this project, your comments will still be considered and you do not need to resubmit your comments. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send an original and two copies of your letter to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Room 1A, Washington, DC 20426;
- Label one copy of the comments for the attention of Gas Branch 1;
- Reference Docket No. PF07–12–000;
- Mail your comments so that they will be received in Washington, DC on or before June 23, 2008.

Please note that the Commission strongly encourages electronic filing of any comments. See 18 Code of Federal Regulations 385.2001(a)(1)(iii) and the instructions on the Commission's Internet Web site at *http://www.ferc.gov* under the link to ''Documents and Filings'' and ''eFiling.'' eFiling is a file attachment process and requires that you prepare your submission in the same manner as you would if filing on paper, and save it to a file on your hard drive. New eFiling users must first create an account by clicking on ''Sign up'' or ''eRegister.'' You will be asked to select the type of filing you are making. This filing is considered a ''Comment on Filing.'' In addition, there is a ''*Quick Comment*'' option available, which is an easy method for interested persons to submit text only comments on a project. The Quick-Comment User Guide can be viewed at *http://www.ferc.gov/docs-filing/efiling/quick-comment-guide.pdf.* Quick Comment does not require a FERC eRegistration account; however, you will be asked to provide a valid e-mail address. All comments submitted under either eFiling or the Quick Comment option are placed in the public record for the specified docket. If you want to be kept on our environmental mailing list, you must provide an address along with your comment.

The public scoping meeting (date, time, and location is listed above) is designed to provide state and local agencies, interested groups, affected landowners, and the general public with another opportunity to offer environmental comments on the project. Interested groups and individuals are encouraged to attend the meeting and to present comments on the environmental issues they believe should be addressed in the EA. A transcript of the meeting will be made so that your comments will be accurately recorded.[3]

All public meetings will be posted on the Commission's calendar located at *http://www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Once Dominion formally files its application with the Commission, you may want to become an official party to the proceeding known as an ''intervenor.'' Intervenors play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in a Commission proceeding by filing a request to intervene. Instructions for becoming an intervenor are included in the User's Guide under the ''e-filing'' link on the Commission's Web site. Please note that you may not request intervenor status at this time; you must wait until a formal application is filed with the Commission.

Site Visit

On June 19, 2008, the Office of Energy Projects (OEP) staff will visit the planned Jefferson Compressor Station site near Jefferson, Maryland. Staff will tour this area by automobile and on foot. Representatives of Dominion will accompany the OEP staff.

All interested parties may attend the site visit. Those planning to attend must provide their own transportation. If you are interested in attending the site visit, please meet us at 12 p.m. EDT at the planned Jefferson Compressor Station Site. The directions to the location of the planned Jefferson Compressor Station are as follows:

From the East (Frederick, MD)

- Travel west on MD Route 340 to exit 8 (Jefferson—Lander Road);

[3] We previously held a public scoping meeting on September 18, 2007, in Lawrenceville, Pennsylvania, to gather comments on Dominion's planned facilities in Pennsylvania and on February 6, 2008, in Middletown, Maryland, to gather comments on siting Dominion's planned compressor station near Middletown.

• Turn right on Lander Road and travel 0.2 miles north to MD Route 180 (Jefferson Pike);
• Turn left on MD Route 180 (Jefferson Pike) and travel west approximately 2 miles;
• Existing Dominion Jefferson Metering & Regulation Station and planned project site on left.

From West (Harpers Ferry, WV)

• Travel east on MD Route 340 to exit 4 (MD Route 180—Jefferson Pike);
• Turn left on MD Route 180 (Jefferson Pike) and travel east approximately 0.8 miles;
• Existing Dominion Jefferson Metering & Regulation Station and planned project site on right.

For additional information, please contact the Commission's Office of External Affairs at 1–866–208–FERC (3372).

Environmental Mailing List

An effort is being made to send this notice to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project in Maryland. This includes all landowners who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within distances defined in the Commission's regulations of certain aboveground facilities. If you do not return the attached form (appendix B), you will be removed from the Commission's environmental mailing list. All individuals who provide written comments (if using quick comment, you must supply an address), attend the scoping meeting, or return the ''Keep on Mailing List Form'' will remain on our environmental mailing list for this project.

Any individual who participated in the prior scoping periods will also remain on our mailing list and does not need to mail back the enclosed ''Keep on Mailing List Form''. This includes those who already have:
• Mailed comments to FERC;
• Mailed the ''Keep on the Mailing List Form''; or
• Attended the scoping meeting in Lawrenceville, Pennsylvania on September 18, 2007, or the scoping meeting in Middletown, Maryland on February 6, 2008.

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs at 1–866–208 FERC (3372) or on the FERC Internet Web site (*http://www.ferc.gov*). Using the ''eLibrary'' link, select ''General Search'' from the eLibrary menu, enter the selected date range and ''Docket Number'' excluding the last three digits (i.e., PF07–12), and follow the instructions. For assistance with access to eLibrary, the helpline can be reached at 1–866–208–3676, TTY (202) 502–8659, or at *FERCOnlineSupport@ferc.gov.* The eLibrary link on the FERC Internet Web site also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission now offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries and direct links to the documents. Go to *http://www.ferc.gov/esubscribenow.htm.*

Finally, Dominion has established an Internet Web site for this project at *http://www.dom.com/about/gas-transmission/storage/index.jsp.* The Web site includes a project overview, status, and answers to frequently-asked questions. You can also request additional information by calling Dominion at 1–888–882–5055.

Kimberly D. Bose,
Secretary.

[FR Doc. E8–12140 Filed 5–30–08; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2266–096; Project Nos. P–2310–173 and P–2784–003]

Nevada Irrigation District; Pacific Gas and Electric Company; Notice of Intent To Prepare an Environmental Impact Statement and Notice of Scoping Meetings and Site Visit and Requesting Scoping Comments

May 22, 2008.

Take notice that the following three hydroelectric applications have been filed with Commission and are available for public inspection:

a. *Type of Applications:* Notices of Intent to File License Application for a New License and Pre-Application Documents.

b. *Project Nos:* P–2266–096, P–2310–173, P–2784–003.

c. *Date Filed:* April 11, 2008.

d. *Applicants:* Nevada Irrigation District (P–2266–096); Pacific Gas and Electric Company (P–2310–173, P–2784–003).

e. *Names of Projects:* Yuba-Bear Project (P–2266–096), Drum-Spaulding Project (P–2310–173), Rollins Transmission Line Project (P–2784–003).

f. *Location:* The Yuba-Bear Project is located on the west slope of the Sierra Nevada on the Middle Yuba River, Canyon Creek, Fall Creek, Rucker Creek and Bear River, in Nevada, Placer and Sierra counties, California. A large portion of the project is located on the Tahoe National Forest. Some of the project is located on federally owned land managed by the Bureau of Land Management as part of the Sierra Resource Management Area.

The Drum-Spaulding Project is located on the west slope of the Sierra Nevada, on the South Yuba River, Bear River, North Fork of the North Fork of the American River and tributaries to the Sacramento River basin, in Nevada and Placer counties, California. A large portion of the project is located on federal-owned lands managed by the Forest Service as part of the Tahoe National Forest. Small portions of the project occupy lands managed by the Bureau of Land Management and the Bureau of Reclamation.

The Rollins Transmission Line Project is located in Nevada and Placer counties, California, near the Bear River and the town of Colfax. The project extends from the Rollins Powerhouse switchyard approximately 3,800 feet to PG&E's Drum-Grass Valley-Weimar transmission line. The project occupies a total of 5.38 acres, all of which is under private ownership.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contacts:* Yuba-Bear Project—Ron Nelson, General Manager, Nevada Irrigation District, 1036 West Main Street, Grass Valley, CA 95945, (530) 271–6824, or e-mail *nelson@nid.dst.ca.us.*

Drum Spaulding Project—Steve Peirano, Relicensing Project Manager, Pacific Gas and Electric Company, 245 Market Street, Room 1103, P.O. Box 770000, San Francisco, CA 94177–0001 (415) 973–4481, or e-mail *slp2@pge.com.*

Rollins Transmission Line Project—Forrest Sullivan, Senior Project Manager, Pacific Gas & Electric Company, 5555 Florin-Perkins Road, Building 500, Sacramento, CA 95826. Tel: (916) 386–5580, or e-mail *frs3@pge.com.*

i. *FERC Contact:* John Mudre, (202) 502–8902, or *john.mudre@ferc.gov.*

j. *Deadline for filing scoping comments:* August 11, 2008.

All documents (original and eight copies) should be filed with: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Scoping comments may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

k. The applications are not ready for environmental analysis at this time.

l. The Yuba-Bear Project consists of four developments—Bowman, Dutch Flat, Chicago Park, and Rollins—which, in total, include: 13 main dams with a combined gross storage capacity of 207,865 acre-feet of water; four water conduits; five diversion dams; four powerhouses with a combined installed capacity of 79.32 megawatts; one 9.0-mile-long, 60-kilovolt transmission line; and appurtenant facilities and structures, including recreation facilities.

The Drum-Spaulding Project consists of 10 developments: Spaulding No. 3; Spaulding No. 1 and No. 2; Drum No. 1 and No. 2; Dutch Flat No. 1; Halsey; Wise; Newcastle; Deer Creek; Alta; and Wise No. 2. In the 10 developments there are 29 reservoirs with a combined gross storage capacity of 154,388 acre-feet of water; 6 major water conduits; 12 powerhouses with a combined authorized installed capacity of 192.5 megawatts, 7 transmission lines; and appurtenant facilities and structures, including recreation facilities.

The Rollins Transmission Line Project consists of a single circuit wood pole line extending from the Rollins Powerhouse switchyard approximately 3,800 feet to PG&E's Drum-Grass Valley-Weimar transmission line. The project is within a 40-foot-wide corridor. The project also includes an access road that is 1,867 feet in length, with project widths between 20 and 60 feet.

m. Copies of all three applications are available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the documents. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659. Copies are also available for inspection and reproduction at the address in item h above.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to these or other pending projects. For assistance, contact FERC Online Support.

n. *Scoping Process*

Pursuant to NEPA, we intend to prepare an environmental impact statement (EIS) for the projects, which would be used by the Commission to determine whether, and under what conditions, to issue new hydropower licenses for the projects. To support and assist our environmental review, we are beginning the public scoping process to ensure that all pertinent issues are identified and analyzed. Because these three projects are located in the same watersheds and have the same license expiration dates, NID and PG&E have decided, to the extent practical, to cooperate and coordinate on their relicensing efforts. Our multi-project EIS will allow for a comprehensive and coordinated review of the environmental effects of the proposed projects and alternatives. The scoping meetings and site visits discussed below will address all three projects.

Scoping Meetings

Commission staff will hold two public scoping meetings in the vicinity of the projects. A daytime meeting will focus on resource agency concerns and an evening meeting will focus on the public's views. We invite all interested agencies, Indian tribes, NGOs, and individuals to attend one or both of the meetings to assist staff in identifying the scope of environmental issues that should be analyzed in the EIS.

The times and locations of these meetings are as follows:

Daytime Scoping Meeting

Date and Time: Tuesday, June 24, 2008, 9 a.m. (PST).

Location: Auburn Holiday Inn Hotel, 120 Grass Valley Highway, Auburn, California.

Evening Scoping Meeting

Date and Time: Tuesday, June 24, 2008, 7 p.m. (PST).

Location: Gold Miners Inn Holiday Inn Express Hotel, 121 Bank Street, Grass Valley, California.

Copies of the Scoping Document (SD1) outlining the subject areas to be addressed in the EIS are being distributed on this date to the parties on the Commission's mailing list under separate cover. Commission's mailing list. Copies of the SD1 will be available at the scoping meeting or may be viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link (see item m above).

Site Visit

The licensees and Commission staff have scheduled a visit of some of the projects' facilities on Tuesday, June 17, Wednesday, June 18, and Thursday, June 19, 2008, starting at 8 a.m. and ending at or about 5 p.m. Participants should meet by the start time as follows: (1) On June 17 at the Discovery Trail in Bear Valley; (2) on June 18 at the Alta Service Center; and (3) on June 19 at the Halsey Forebay. Participants are responsible for their own transportation; four-wheel-drive vehicles are recommended. Anyone interested in attending the site visit should contact Mr. James Lynch at (916) 564–4214, by June 3, 2008.

Objectives

At the scoping meetings, the staff will: (1) Summarize the environmental issues tentatively identified for analysis in the EIS; (2) solicit from the meeting participants all available information, especially quantifiable data, on the resources at issue; (3) encourage statements from experts and the public on issues that should be analyzed in the EIS, including viewpoints in opposition to, or in support of, the staff's preliminary views; (4) determine the resource issues to be addressed in the EIS; and (5) identify those issues that require a detailed analysis, as well as those issues that do not require a detailed analysis.

Procedures

The meetings are recorded by a stenographer and become part of the formal record of the Commission proceeding on the project.

Individuals, organizations, and agencies with environmental expertise and concerns are encouraged to attend the meeting and to assist the staff in defining and clarifying the issues to be addressed in the EIS.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–12139 Filed 5–30–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER08–838–000; ER08–838–001]

Affordable Power, L.P.; Notice of Issuance of Order

May 23, 2008.

Affordable Power, L.P. (Affordable Power) filed an application for market-based rate authority, with an accompanying tariff. The proposed market-based rate tariff provides for the sale of energy, capacity and ancillary services at market-based rates. Affordable Power also requested waivers of various Commission regulations. In particular, Affordable Power requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Affordable Power.

On May 22, 2008, pursuant to delegated authority, the Director, Division of Tariffs and Market Development-West, granted the requests for blanket approval under part 34 (Director's Order). The Director's Order also stated that the Commission would publish a separate notice in the **Federal Register** establishing a period of time for the filing of protests. Accordingly, any person desiring to be heard concerning the blanket approvals of issuances of securities or assumptions of liability by Affordable Power, should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. 18 CFR 385.211, 385.214 (2004). The Commission encourages the electronic submission of protests using the FERC Online link at *http://www.ferc.gov.*

Notice is hereby given that the deadline for filing protests is June 20, 2008.

Absent a request to be heard in opposition to such blanket approvals by the deadline above, Affordable Power is authorized to issue securities and assume obligations or liabilities as a guarantor, endorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Affordable Power, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approvals of Affordable Power's issuance of securities or assumptions of liability.

Copies of the full text of the Director's Order are available from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Commission's Web site at *http://www.ferc.gov,* using the eLibrary link. Enter the docket number excluding the last three digits in the docket number filed to access the document. Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–12212 Filed 5–30–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER08–836–000; ER08–836–001]

Champion Energy Marketing LLC; Notice of Issuance of Order

May 23, 2008.

Champion Energy Marketing LLC (Champion Marketing) filed an application for market-based rate authority, with an accompanying tariff. The proposed market-based rate tariff provides for the sale of energy, capacity and ancillary services at market-based rates. Champion Marketing also requested waivers of various Commission regulations. In particular, Champion Marketing requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Champion Marketing.

On May 22, 2008, pursuant to delegated authority, the Director, Division of Tariffs and Market Development-West, granted the requests for blanket approval under Part 34 (Director's Order). The Director's Order also stated that the Commission would publish a separate notice in the **Federal Register** establishing a period of time for the filing of protests. Accordingly, any person desiring to be heard concerning the blanket approvals of issuances of securities or assumptions of liability by Champion Marketing, should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. 18 CFR 385.211, 385.214 (2004). The Commission encourages the electronic submission of protests using the FERC Online link at *http://www.ferc.gov.*

Notice is hereby given that the deadline for filing protests is June 20, 2008.

Absent a request to be heard in opposition to such blanket approvals by the deadline above, Champion Marketing is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Champion Marketing, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approvals of Champion Marketing's issuance of securities or assumptions of liability.

Copies of the full text of the Director's Order are available from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Commission's Web site at *http://www.ferc.gov*, using the eLibrary link. Enter the docket number excluding the last three digits in the docket number filed to access the document. Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–12211 Filed 5–30–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER08–638–000; ER08–638–001]

Crafton LLC; Notice of Issuance of Order

May 23, 2008.

Crafton LLC (Crafton LLC) filed an application for market-based rate authority, with an accompanying rate schedule. The proposed market-based rate schedule provides for the sale of energy and capacity at market-based rates. Crafton also requested waivers of various Commission regulations. In particular, Crafton requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Crafton.

On May 23, 2008, pursuant to delegated authority, the Director, Division of Tariffs and Market Development-West, granted the requests for blanket approval under part 34 (Director's Order). The Director's Order also stated that the Commission would publish a separate notice in the **Federal Register** establishing a period of time for the filing of protests. Accordingly, any person desiring to be heard concerning the blanket approvals of issuances of securities or assumptions of liability by Crafton, should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. 18 CFR 385.211, 385.214 (2004). The Commission encourages the electronic submission of protests using the FERC Online link at *http://www.ferc.gov.*

Notice is hereby given that the deadline for filing protests is June 23, 2008.

Absent a request to be heard in opposition to such blanket approvals by the deadline above, Crafton is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Crafton, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approvals of Crafton's issuance of securities or assumptions of liability.

Copies of the full text of the Director's Order are available from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Commission's Web site at *http://www.ferc.gov,* using the eLibrary link. Enter the docket number excluding the last three digits in the docket number filed to access the document. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–12210 Filed 5–30–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR08–23–000]

Worsham-Steed Gas Storage, L.P.; Notice of Petition for Rate Approval

May 23, 2008.

Take notice that on May 12, 2008, Worsham-Steed Gas Storage, L.P. (Worsham-Steed), an intrastate natural-gas storage company, filed a petition for rate approval of market based rates for transportation services pursuant to section 284.123(b)(2) of the Commission's Regulations. Worsham-Steed requests that the Commission authorize it to charge market-based rates for its transportation services pursuant to section 311 of the Natural Gas Policy Act of 1978.

Any person desiring to participate in this rate proceeding must file a motion to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time Wednesday, June 4, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–12207 Filed 5–30–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02–2001–007, et al.]

Electric Quarterly Reports, etc.; Notice of Revocation of Market-Based Rate Tariffs

May 23, 2008.

In the matter of: Electric Quarterly Reports, Docket No. ER02–2001–007; Dunhill Power, L.P., Docket No. ER07–430–000; Exel Power Sources, LLC, Docket No. ER07–591–000.

On April 30, 2008, the Commission issued an order announcing its intent to withdraw the market-based rate authority of two public utilities that had failed to file their required Electric Quarterly Reports.[1] The Commission gave the utilities fifteen days in which to file their overdue Electric Quarterly Reports or face revocation of their market-based rate tariffs.

In Order No. 2001, the Commission revised its public utility filing requirements and established a requirement for public utilities, including power marketers, to file Electric Quarterly Reports summarizing the contractual terms and conditions in

[1] *Electric Quarterly Reports,* 123 FERC ¶ 61,102 (2008) (April 30 Order).

their agreements for all jurisdictional services (including market-based power sales, cost-based power sales, and transmission service) and providing transaction information (including rates) for short-term and long-term power sales during the most recent calendar quarter. [2]

In the April 30 Order, the Commission directed the public utilities it had identified to file the required reports within 15 days of the date of issuance of the order or face revocation of their authority to sell power at market-based rates and termination of their electric market-based rate tariffs.[3]

The time period for compliance with the April 30 Order has elapsed. The two companies identified in the April 30 Order (Dunhill Power, L.P. and Exel Power Sources, LLC) have failed to file their delinquent Electric Quarterly Reports.

The Commission hereby withdraws the market-based rate authority and terminates the electric market-based rate tariff for each of the 90 companies captioned above in this Notice.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–12209 Filed 5–30–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice Setting Forth Timeline

May 22, 2008.

PSEG Energy Resources & Trade LLC	Docket No. ER99–3151–008
Public Service Electric and Gas Company	Docket No. ER97–837–007
PSEG Power Connecticut LLC	Docket No. ER03–327–002
PSEG Fossil LLC	Docket No. ER08–447–000
PSEG Nuclear LLC	Docket No. ER08–448–000
Allegheny Power	Docket No. ER98–1466–005
Allegheny Energy Supply Company, LLC	Docket No. ER00–814–006
Green Valley Hydro, LLC	Docket No. ER00–2924–006
Buchanan Generation, LLC	Docket No. ER02–1638–005
PPL Electric Utilities Corporation	Docket No. ER00–1712–008
Lower Mount Bethel Energy, LLC	Docket No. ER02–2408–003
PPL Brunner Island, LLC	Docket No. ER00–744–006
PPL Holtwood, LLC	Docket No. ER00–744–006
PPL Marlins Creek, LLC	Docket No. ER00–744–006
PPL Montour, LLC	Docket No. ER00–744–006
PPL Susquehanna, LLC	Docket No. ER00–744–006
PPL University Park, LLC	Docket No. ER02–1327–005
PPL EnergyPlus, LLC	Docket No. ER00–1703–003
PPL Edgewood Energy, LLC	Docket No. ER02–1749–003
PPL Shoreham Energy, LLC	Docket No. ER02–1747–003
PPL Great Works, LLC	Docket No. ER99–4503–005
PPL Maine, LLC	Docket No. ER00–2186–003
PPL Wallingford Energy LLC	Docket No. ER01–1559–004
Atlantic City Electric Company	Docket No. ER96–1361–013
Delmarva Power & Light Company	Docket No. ER99–2781–011
Potomac Electric Power Company	Docket No. ER98–4138–009
Conectiv Energy Supply, Inc.	Docket No. ER00–1770–019
Conectiv Bethlehem, LLC	Docket No. ER02–453–010
Pepco Energy Services, Inc.	Docket No. ER98–3096–015
Bethlehem Renewable Energy, LLC	Docket No. ER07–903–002
Eastern Landfill Gas, LLC	Docket No. ER05–1054–003
Potomac Power Resources, LLC	Docket No. ER01–202–008
Fauquier Landfill Gas, LLC	Docket No. ER04–472–007
Dominion Energy Marketing, Inc.	Docket No. ER01–468–008

[2] *Revised Public Utility Filing Requirements,* Order No. 2001, 67 Fed. Reg. 31043, FERC Stats. & Regs. ¶ 31,127 (April 25, 2002), *reh'g denied,* Order No. 2001–A, 100 FERC ¶ 61,074, *reconsideration and clarification denied,* Order No. 2001–B, 100 FERC ¶ 61,342, *order directing filings,* Order No. 2001–C, 101 FERC ¶ 61,314 (2002).

[3] 3 April 30 Order at Ordering Paragraph A.

Dominion Nuclear Connecticut, Inc.	Docket No. ER00–3621–009
Dominion Nuclear Marketing III, LLC	Docket No. ER00–3746–009
Dominion Energy Kewaunee, Inc.	Docket No. ER04–318–004
Dominion Energy Brayton Point, LLC	Docket No. ER05–36–005
Dominion Energy Manchester Street, Inc.	Docket No. ER05–37–005
Dominion Energy New England, Inc.	Docket No. ER05–34–005
Dominion Energy Salem	Docket No. ER05–35–005
Dominion Retail, Inc.	Docket No. ER04–249–005
Elwood Energy, LLC	Docket No. ER99–1695–010
Fairless Energy, LLC	Docket No. ER02–23–011
Kincaid Generation, LLC	Docket No. ER97–30–006
State Line Energy, LLC	Docket No. ER96–2869–013
Virginia Electric and Power Company	Docket No. ER97–3561–005
	Docket No. ER00–1737–011
Baltimore Gas and Electric Company. Docket No. ER99–2948–012.	
Constellation Power Source Generation, Inc.. Docket No. ER00–2918–011.	
Calvert Cliffs Nuclear Power Plant, Inc.. Docket No. ER00–2917–011.	
Constellation Energy Commodities Group, Inc.. Docket No. ER97–2261–022.	
Handsome Lake Energy, LLC. Docket No. ER01–556–010.	
Nine Mile Point Nuclear Station, LLC	Docket No. ER01–1654–013
Constellation NewEnergy, Inc.	Docket No. ER02–2567–011
Constellation Energy Commodities Group Maine, LLC	Docket No. ER02–699–005
R.E. Ginna Nuclear Power Plant, LLC	Docket No. ER04–485–008
Raven One, LLC	Docket No. ER07–247–003
Raven Two, LLC	Docket No. ER07–245–003
Raven Three, LLC	Docket No. ER07–244–003
Exelon Generation Company, LLC	Docket No. ER00–3251–015
AmerGen Energy Company, LLC	Docket No. ER99–754–016
Commonwealth Edison Company	Docket No. ER98–1734–014
Exelon Energy Company	Docket No. ER01–1919–011
PECO Energy Company	Docket No. ER01–1147–006
Exelon West Medway, LLC	Docket No. ER01–513–021
Exelon Wyman, LLC	Docket No. ER01–513–021
Exelon New Boston, LLC	Docket No. ER01–513–021
Exelon Framingham, LLC	Docket No. ER01–513–021
Exelon New England Power Marketing, L.P.	Docket No. ER99–2404–011
FirstEnergy Operating Companies	Docket No. ER01–1403–006
Pennsylvania Power Company, et al. Docket No. ER06–1443–002.	
Jersey Central Power & Light Company	Docket No. ER04–366–005
FirstEnergy Solutions Corp.	Docket No. ER01–2968–007
FirstEnergy Generation Corporation	Docket No. ER01–845–006
FirstEnergy Nuclear Generating Corporation	Docket No. ER05–1122–004
FirstEnergy Generating Mansfield Unit 1 Corp. (Collectively PJM RTO Filers)..	Docket No. ER08–107–001

On April 30, 2008, PJM Interconnection L.L.C. (PJM) filed a motion to intervene out-of-time in the above-referenced dockets for the purpose of submitting its current simultaneous import capability limit (SIL) study of the PJM regional transmission organization (RTO) footprint, with the exception of the Eastern PJM submarket (PJM-East). The April 30 PJM filing was made in response to an April 4, 2008 request for additional information regarding the PJM RTO Filers' updated market power analyses filed on January 14, 2008.[1]

Specifically, the April 4 data request directed the PJM RTO Filers to provide a SIL study consistent with Order No. 697, or provide a SIL study done by PJM that it believes adequately addresses the principles for how to measure SIL.

In its April 30 filing, PJM committed to provide a further SIL study for the PJM-East submarket in a subsequent Commission filing.

On May 9, 2008, a Notice of Conference Call was issued. That notice also granted the PJM RTO Filers and PJM an extension of time in which to respond further to the April 4 data request (e.g., providing a SIL study for the PJM-East submarket) and stated that the Commission would issue a future

[1] *PSEG Energy Resources & Trade LLC*, Docket No. ER99–3151–008 (April 4, 2008) (unpublished letter order) (April 4 data request).

notice setting forth a timeline for compliance. The conference call took place on May 15, 2008.

Regarding PJM's commitment to file a SIL study for the PJM-East submarket, PJM should submit that SIL study for the PJM-East submarket within 10 days of the date of this notice, and it may use the same methodology as it used in its April 30, 2008 filing. Once the PJM-East SIL study has been filed, a notice will be issued soliciting comments on both that study and the PJM SIL study that was filed on April 30, 2008. That notice will also instruct the PJM RTO Filers on when they must comply with the remaining requirements of the April 4 data request.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–12137 Filed 5–30–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER08–901–000; ER08–901–001]

Saracen Energy Partners, L.P.; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

May 22, 2008.

This is a supplemental notice in the above-referenced proceeding of Saracen Energy Partners, LP's application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability, is June 11, 2008.

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-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–12136 Filed 5–30–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Information Collection Request Submitted to the Office of Management and Budget (OMB) for Approval Under the Paperwork Reduction Act

AGENCY: Western Area Power Administration, U.S. Department of Energy.

ACTION: Notice of Submission for OMB Approval; Request for Comments.

SUMMARY: This notice announces that Western Area Power Administration (Western), an agency of the Department of Energy (DOE), has sent an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review, comment and approval. Western submitted the ICR as required under the Paperwork Reduction Act of 1995.[1] The ICR described below identifies the proposal including the anticipated public burdens. On January 30, 2008, Western published a notice in the **Federal Register** inviting public comments on the ICR.[2] That notice provided a 60 day comment period. Western has included a summary of the comments and Western's responses below. As described below, Western invites interested entities to submit comments to OMB.

Western is collecting this data to properly perform its function of marketing a limited amount of Federal hydropower. Western will use the collected data to evaluate who will receive an allocation of Federal power.

Western notes the Paperwork Reduction Act process and associated **Federal Register** notice is a process whereby Western obtains approval from OMB to collect information from the public. It is a legal requirement that Western must comply with before Western can request potential preference customers to submit an application for power. The Paperwork Reduction Act process is not the process whereby interested parties request an allocation of federal power. The allocation of power from Western is outside the scope of this process and is completed in a separate process by each Western Region, when required.

DATES: To assure consideration, comments regarding this collection must be received on or before July 2, 2008. The Paperwork Reduction Act requires OMB to make a decision on the ICR between 30–60 days after this publication.

ADDRESSES: Written comments should be sent to: The DOE Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10102, 735 17th Street, NW., Washington, DC 20503. With a copy to: *PRAcomments@wapa.gov* or Western Area Power Administration, Acting Power Marketing Advisor, 12155 W. Alameda Parkway, Lakewood, CO 80228.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Western Area Power Administration, Melanie Reed 970–461–7229.

SUPPLEMENTARY INFORMATION:

I. Statutory Authority

Reclamation Laws are a series of laws arising from the Desert Land Act of 1877 and include, but are not limited to: The Desert Land Act of 1877, Reclamation Act of 1902, Reclamation Project Act of 1939, and the Acts authorizing each individual project such as the Central

[1] *See* 44 U.S.C. 3501, *et seq.*

[2] *See* 73 FR 5555 (2008).

Valley Project Re-Authorizing Act of 1937.[3] The Reclamation Act of 1902 established the Federal reclamation program.[4] The basic principle of the Reclamation Act of 1902 was that the United States, through the Secretary of the Interior, would build and operate irrigation works from the proceeds of public land sales in the sixteen arid Western states (a seventeenth was added later). The Reclamation Project Act of 1939 expanded the purposes of the reclamation program and specified certain terms for contracts the Secretary of the Interior enters into to furnish water and power.[5] Congress enacted the Reclamation Laws for purposes that include enhancing navigation, flood protection, reclaiming arid lands in the western United States, and for fish and wildlife.[6] Congress intended that the production of power would be a supplemental feature of the multi-purpose water projects authorized under the Reclamation Laws.[7] No contract entered into by the United States for power may impair the efficiency of the project for irrigation purposes.[8] Section 5 of the Flood Control Act of 1944 is read in pari materia with Reclamation Laws.[9] In 1977, the Department of Energy Organization Act transferred the power marketing functions of the Department of the Interior to Western.[10] Pursuant to this authority, Western markets Federal hydropower. As part of Western's marketing authority, Western needs to obtain information from interested entities who desire an allocation of Federal power. The Paperwork Reduction Act requires Western to obtain a clearance from OMB before collecting certain information.[11]

II. Background

Western is a Federal agency under the Department of Energy that markets and transmits wholesale electric power from 56 Federal hydropower plants and one coal-fired plant. Western sells about 40 percent of regional hydroelectric generation in a service area that covers 1.3 million square miles in 15 states.[12] To deliver this electric power to the western half of the United States, Western markets transmits about 10,000 megawatts of hydropower across an integrated 17,000-circuit mile, high voltage transmission system. Western's statutorily defined preference customers include municipalities, cooperatives, public utility and irrigation districts, Federal and State agencies, and Native American Tribes.[13] These customers, in turn, provide retail electric service to millions of consumers in Arizona, California, Colorado, Iowa, Kansas, Minnesota, Montana, Nebraska, Nevada, New Mexico, North Dakota, South Dakota, Texas, Utah, and Wyoming.

As part of its marketing mission, Western needs to collect information contained in this ICR from entities which may be interested in obtaining a power allocation from Western. Western is submitting this ICR to OMB with this notice.[14] Western has analyzed and responded to all comments received through this process. As required by the Paperwork Reduction Act, Western is now publishing a notice of its submittal to OMB and providing a second opportunity to comment.[15] Such comments should be sent to OMB with a copy to Western at the addresses listed above.

III. Process

A. Background

On January 30, 2008, (73 FR 5555), in compliance with the Paperwork Reduction Act, Western published a notice in the **Federal Register** inviting comments on this ICR.[16] As part of that notice, in particular, Western invited comments on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Western provided notice that the proposed ICR in this program will not be part of a system of records covered by the Privacy Act[17] and will be available under the Freedom of Information Act.[18]

On January 31, 2008, Western published a copy of the **Federal Register** notice on its Web site.[19] Western sent a notice to over 1,000 potentially interested parties informing them of the publication of the **Federal Register** notice. Western sent notices on the following dates:

—February 1, 2008, to over 100 interested parties in its Sierra Nevada Region;
—February 6, 2008, to over 200 interested parties in its Colorado River Storage Project Management Center;
—February 6, 2008, to almost 100 interested parties in its Rocky Mountain Region;
—February 12, 2008, to over 400 interested parties in its Upper Great Plains Region;
—February 14, 2008, to over 300 interested parties in its Desert Southwest Region.

Western received comments from 7 different interested parties. Western's responses to the comments are below.

B. Response to Comments

Comment: Several commenters asked why this process is taking place at this point in time, i.e., what is driving this process.

Response: When a federal agency requests information from the public that falls within the Paperwork Reduction Act, the agency must obtain approval (and an assigned control number) from OMB. Several of Western's Regional offices will be accepting applications for federal power in the next few years. Potential preference customers will be required to provide information by completing an Applicant Profile Data (APD) form. Western will use the APD to collect information to determine who may be eligible to receive a federal power allocation. Western must have OMB approval (and a valid control number) to request the information contained in the APD from potential preference customers. This process is an opportunity for the public to comment on the need, type, etc., of the

[3] *See* Ch. 107, 19 Stat. 377 (1877), Ch. 1093, 32 Stat. 388 (1902), Ch, 418, 53 Stat. 1187 (1939), Ch. 832, 50 Stat. 844, 850 (1937), all as amended and supplemented.

[4] *See* Ch. 1093, 32 Stat. 388, as amended and supplemented.

[5] *See* Ch. 418, 53 Stat. 1187 (1939), as amended and supplemented.

[6] *See, e.g.*, Ch. 832, 50 Stat. 844, 850 (1937), as amended and supplemented.

[7] *See, e.g.*, Ch. 832, 50 Stat. 844, 850 (1937), as amended and supplemented.

[8] *See* 43 U.S.C. § 485h(c).

[9] *See* Act of December 22, 1944, Ch. 665, 58 Stat. 887, as amended and supplemented.

[10] *See* 42 U.S.C. 7152(a)(1).

[11] *See* 44 U.S.C. 3501, *et seq.*

[12] Western markets power under marketing plans developed through its offices: The Desert Southwest Region, Upper Great Plains Region, Rocky Mountain Region, Sierra Nevada Region and the Colorado River Storage Project Management Center (Regions).

[13] *See, e.g.*, 43 U.S.C. 485h(c).

[14] *See* 44 U.S.C. 3507.

[15] *See* 44 U.S.C. 3507.

[16] *See* 44 U.S.C. 3506.

[17] *See* 5 U.S.C. 552(a).

[18] *See* 5 U.S.C. 552. Western reserves the right to redact information to exempt from disclosure confidential or sensitive information, as provided under FOIA.

[19] *See* 73 FR 5555 (2008).

information collected through Western's APD. The allocation of power from Western is outside the scope of this process and is completed in a separate process by each Western Region, when required.

Comment: We understand the impetus for going through this process is an upcoming partial reallocation within the Pick-Sloan Project. It would appear Western has decided to try to develop a form that can be used in all situations. An explanation of that sort in the **Federal Register** notice would have cut down on the expressions of concern many entities have fielded about this process.

Response: In addition to the Pick-Sloan Post-2010 Resource Pool Project, other Western projects will be undertaking power allocations pursuant to existing marketing plans in the next few years. The commenter correctly notes that Western will be requiring potential preference customers to provide information on a common form and that this process seeks comments on the form, i.e., the proposed APD. When a Federal agency requests information from the public that falls within the Paperwork Reduction Act, the agency must obtain approval (and an assigned control number) from OMB. As discussed above, Western must have OMB approval (and a valid control number) to request the information contained in the APD from potential customers. An OMB control number is valid for a maximum three year period. As a result, Western will go through this or similar processes once every three years to maintain a valid OMB control number. In future Paperwork Reduction Act processes, Western will clarify the process by including a summary phrase such as:

> The Paperwork Reduction Act process, at 44 U.S.C. 3501 *et seq.*, and associated **Federal Register** notice is a process whereby Western obtains approval from the Office of Management and Budget to collect information from the public. It is a legal requirement that Western must comply with before Western can request potential preference customers to submit an application for power. The Paperwork Reduction Act process is not the process whereby interested parties request an allocation of federal power. The allocation of power from Western is outside the scope of this process and is completed in a separate process by each Western Region, when required.

Comment: Several commenters asked whether they could obtain or apply for an allocation of federal power during the Paperwork Reduction Act process.

Response: The Paperwork Reduction Act process is not the process whereby interested parties request an allocation of federal power. The Paperwork Reduction Act process and the associated **Federal Register** notices are a process whereby Western obtains approval from OMB to collect information from the public. It is a legal requirement that Western must comply with before Western can request potential preference customers to submit an application for power. The allocation of power from Western is outside the scope of this process and is completed in a separate process by each Western Region, when required.

Comment: Several commenters asked whether Western would make the APD available on line and whether interested parties can file applications electronically.

Response: Western's Regions will issue a **Federal Register** notice for a Call for Applications through a separate process when required for the individual projects. At that time, Western will make the APD available on line and provide potential preference customers with the Web site and instructions on how to access the APD. Potential preference customers will be able to download the APD and submit the APD to Western under various methods (which Western will outline in the Call for Applications **Federal Register** notice), including via e-mail. However, Western currently does not have a Web site that would allow interested parties to fill out forms on line. In the event Western develops such a site, Western will provide notice of the availability of the site as part of the Call for Applications **Federal Register** notice.

Comment: A commenter stated a way to enhance quality, utility and clarity of information collection would be through automated collection of load data from any utility with that capability on the presumption that automated data should offer easier incorporation into Western's form.

Response: Developing software that would automatically collect data from each potential preference customer's computer system would be complex and expensive to develop for a small data collection effort. There are many different software developers and computer systems—not all systems are compatible. Considering this is not a routine, ongoing, repetitive, collection of information, Western does not believe it would be cost effective for Western to develop software and systems that would automatically collect load data from any potential preference customer that may submit an application.

Comment: Several commenters noted they appreciate receiving Western power and wish to continue to receive Western power in the future.

Response: Comment noted. Western appreciates the support from customers.

Comment: A commenter opposed collecting a subset of the information. The commenter would like to see the same APD used for each allocation process unless legally directed otherwise. This practice will ensure fairness across all re-marketing processes.

Response: In its initial proposal, because all of Western's Regions do not need the same information, Western proposed to allow each Region to use subsets of the APD form. In other words, as the commenter notes, one Region's APD may request less information than another Region's APD. This is necessary since each Region, due to Region specific requirements, may not necessarily need all of the information collected in the proposed APD. Rather than over-collect unnecessary information, Western seeks to collect only the minimal amount of information it needs. Western evaluated the possibility of using the same APD form for each Call for Application while instructing applicants to fill out only certain sections. This approach may lead to an applicant ignoring or misunderstanding Western's instructions and providing unnecessary information. Using a subset of information will lead to a more consistent process and will minimize the time an applicant uses to complete the APD.

Comment: Several commenters asked Western to clarify whether the data obtained under the APD has historically qualified for protection from release under the Freedom of Information Act's (FOIA) proprietary information exemption. They also expressed concerns about whether some of the applicant's load and resource information should be made available to the public. Western should be especially sensitive to the new Federal Energy Regulatory Commission criteria on Critical Energy Infrastructure Information (CEII). Western should have a way of collecting CEII when necessary for legitimate agency purposes without exposing that information to disclosure.

Response: Historically, Western has not considered the information contained in the APD as proprietary or confidential business information. A potential preference customer's historical actual monthly and yearly demand and energy load has not traditionally been seen as proprietary. In contrast to real time schedules, which are subject to daily constraints and to significant market forces, historical

monthly and yearly aggregates are not subject to the same type of manipulation. Western does not anticipate collecting any CEII through the APD. Western clarifies that in the event Western collects information protected by CEII or other confidential or business sensitive material, Western may withhold such information pursuant to FOIA.

Comment: A commenter stated that for Native American Tribes, the proposed rule does not appear to lessen any type of reporting burden previously imposed. With regard to load data; non-utility tribes generally spent many weeks retrieving data from their serving utilities in order to complete the applicant forms, while utility tribes required several work days to compile the information due to the mix of service from tribal and non-tribal entities and other factors.

Response: Western understands that, in some instances with regard to load data, non-utility Native American Tribes may have to work with serving utilities in order to obtain data for the APD. Estimated load data, which are subject to approval or adjustment by Western, may be used by the Native American Tribes when actual load data is difficult to obtain. Western believes the alternatives of estimating load data, as needed, lessen the Native American Tribes' burden to complete the APD.

Comment: A commenter stated Western should note an exception for Native American Tribes under Section 1(e). Providing Tribal membership lists is extremely burdensome and not relevant to Western's purposes under the collection.

Response: Western agrees Native American Tribes are not required to list individual members of the Tribe. Western included Section 1(e) to obtain information from member organizations such as Joint Power Agencies that may include numerous utilities. Western understands many Native American Tribes have individual members. While Native American Tribes are not required to list individual members, in the event numerous Tribes become members of an organization such as a Joint Power Agency and apply for power under such an organization, the separate Tribes (but not individual members) should be listed. Western will clarify that Section 1(e) requires a list of organizational members not individual members.

Comment: A commenter stated Section 1(i) should provide an exception for Native American Tribes—redirecting these applicants to Section 3(b) which addresses Tribes that do not operate their own utilities; alternatively, this section should include the phrase ''if any.''

Response: Western agrees Section 1(i) may not be applicable to Native American Tribes. Western has included the phrase ''if applicable'' in the Section.

Comment: Several commenters generally agreed the scope of information collected related to the proper performance of Western's functions. Western should not allocate resources blindly.

Response: Comment noted. Western appreciates the support from customers.

Comment: Several commenters noted the information will have a practical utility in that it will assist Western in allocating resources.

Response: Comment noted. Western appreciates the support from customers.

Comment: A commenter stated large organizations with which Western deals have staff that routinely handle this kind of information and can supply it to the individual tasked with filling out the form. Small organizations will have more trouble collecting this information. However, as Western points out, the resource is scarce and valuable and well worth the time.

Response: Western agrees large organizations will have more staff available to fill out the form. Western believes collecting the load data could be the most time consuming element of the APD organization. However, load data is essential to determine the amount of resources which Western may allocate to potential preference customers, small and large. In the event an organization needs assistance filling in the form, they may contact Western for assistance.

Comment: A commenter stated that, to achieve more clarity, Western should examine the list provided under type of entity/organization. There are several kinds of organizations that currently contract with Western but are not named. Two of those are electrical districts and power districts. The commenter suggested Western examine its potential contractors to see if it is missing additional categories that should be included in an existing category. For instance, irrigation district could be changed to special district (agricultural improvement, power, electrical, irrigation or other special district).

Response: Section 1(c) of the APD lists the majority of types of organizations found eligible for allocations in processes under past marketing initiatives. To the extent there are other types of organizations submitting an ADP, they may use the box marked ''Other'' and write in their specific organizational type.

Comment: A commenter stated as to existing customers, much of the information that would be put in the proposed APD is already known to Western and is in Western's system. The commenter suggests that, for existing customers, Western ask for updated information in lieu of forcing applicants to give the agency information it already has if there are no changes. For existing customers, Western could merely note the last time such types of information were submitted and request that the applicant provide any changes to that type of information from that last submission.

Response: The APD is designed to obtain current information from applicants who are seeking an allocation of Federal power. Western requires only those applicants desiring power under a Call for Applications to submit an APD. The APD is typically used to obtain information from new potential preference customers, but may also be used for existing preference customers who apply for an allocation increase, if allowed under the Regional marketing plan. To ensure consistency in the allocation processes, Western requires applicants applying under a Call for Application to submit an APD with current information.

Comment: Two commenters made statements about the estimate burden associated with completing the APD and the annual reporting. One commenter stated that there is no real way to estimate how long it will take to fill out this form until one tries to do so. Another commenter stated Western underestimated the completion estimate and recordkeeping burden for Native American Tribes.

Response: In recognition of these comments, Western has increased the burden estimate for completing the APD by doubling the estimated time from 4 hours to 8 hours. While some potential preference customers may require more time than others, Western still anticipates most customers will be able to complete the APD within 4 hours. By increasing the average burden to 8 hours, Western recognizes that it may take longer for some entities to complete the APD. Because the amount of annual recordkeeping is minimal, Western considers the annual burden estimate of 1 hour for recordkeeping as accurate.

IV. Purpose of Proposed Collection

The ICR is necessary for the proper performance of Western's functions. Western markets a limited amount of Federal power. Western has discretion to determine who will receive an

allocation of Federal power. Due to the high demand for Western's power and limited amount of available power, Western needs to be able to collect information to evaluate who will receive an allocation of Federal power. As a result, the information Western collects is both necessary and useful.

This public process only determines what type of information Western will collect in the APD from an entity applying for a Federal power allocation. The information Western proposes to collect is voluntary. Western will use the information collected in the APD, in conjunction with its marketing plan, to determine an entity's eligibility and ultimately who will receive an allocation of Federal power. Western will issue a Call for Applications, as part of its marketing plan, which will occur through a separate process. The actual allocation of power is outside the scope of this proceeding.

V. Information Western Proposes To Collect

A. Applicant Profile Data (APD)

Western has submitted to OMB the ICR described below. Western will collect the information through an application. As part of this process, Western has identified what it believes is the minimum amount of information Western needs for its Regional offices to properly perform the functions of the agency. Due to the variations that may be developed in each Region, each Region, through its marketing plan, may determine that it does not need all of the information contained in the ICR. As a result, Western proposes to allow each Region to use subsets of the form, where one Region's APD may request less information than another Region's APD. Rather than over-collect unnecessary information, Western seeks to collect only the minimal amount of information it needs. Western evaluated the possibility of using the same APD form but instructing applicants to fill out only certain sections. This approach could lead to an applicant ignoring or misunderstanding Western's instructions and providing unnecessary information. Using a subset of information will lead to a more consistent process and will minimize the time an applicant uses to complete the APD.

To receive an allocation of Federal power from Western, the applicant must provide the information requested in the APD. If the requested information is not applicable or is not available, the applicant shall note it on the APD. Western will request, in writing, additional information from any applicant whose application is deficient. Western will notify the applicant when such information is due. In the event, that by the due date, an applicant fails to provide sufficient information to allow Western to make a determination regarding eligibility, the application will not be considered. The content and format of the APD are outlined below.

B. Form of APD

BILLING CODE 6450–01–P

OMB Clearance Number _____
Expiration Date: _____

APPLICANT PROFILE DATA

All items of information in the Applicant Profile Data (APD) should be answered as if prepared by the entity/organization seeking the allocation of Federal power. The APD shall consist of the following:

1. Applicant Information. Please provide the following:

a. Applicant's (entity/organization requesting an allocation) name and address:

Applicant's Name:	
Address:	
City:	
State:	
Zip:	

b. Person(s) representing the applicant:

Contact Person (Name & Title):	
Address:	
City:	
State:	
Zip:	
Telephone:	
Fax:	
Email Address:	

c. Type of entity/organization:

- ☐ Federal Agency
- ☐ Irrigation District
- ☐ Municipal, Rural, or Industrial User
- ☐ Municipality
- ☐ Native American Tribe
- ☐ Public Utility District
- ☐ Rural Electric Cooperative
- ☐ State Agency
- ☐ Other, please specify:

d. Parent entity/organization of the applicant, if any:

e. Name of the applicant's member organizations, if any:
(Separated by commas)

f. Applicable law under which the applicant was established:

g. Applicant's geographic service area (if available, please submit a map of the service area and indicate the date prepared):

h. Describe whether the applicant owns and operates its own electric utility system.

i. Provide the date the applicant attained utility status, if applicable. 10 C.F.R. Part 905.35 defines utility status to mean "that the entity has responsibility to meet load growth, has a distribution system, and is ready, willing, and able to purchase power from Western on a wholesale basis for resale to retail consumers."

j. Describe the entity/organization that will interact with Western on contract and billing matters.

2. Service Requested:

Provide the amount of power the applicant is requesting to be served by Western.

3. Applicant's Loads:

a. Utility and non-utility applicants:

(i) If applicable, provide the number and type of customers served (e.g., residential, commercial, industrial, military base, agricultural):

Customer Type and Number						
	Residential	Commercial	Industrial	Military	Ag.	Other
Number of customers						
If not applicable, explain why:						

(ii) Provide the actual monthly maximum demand (kilowatts) and energy use (kilowatt-hours) for each calendar month experienced in calendar year 20__:

Calendar Year 20__						
	January	February	March	April	May	June
Demand *(kilowatts)*						
Energy *(kilowatt-hours)*						
	July	August	September	October	November	December
Demand *(kilowatts)*						
Energy *(kilowatt-hours)*						

(iii) Provide the average annual load factor for calendar year 20__:
Calendar Year 20__ Average Annual Load Factor

(iv) Provide the average monthly load factors for calendar year 20__:

Calendar Year 20__ Average Monthly Load Factor						
	January	February	March	April	May	June
Load Factor						
	July	August	September	October	November	December
Load Factor						

(v) Identify any factors or conditions in the next 5 years which may significantly change peak demands, load duration, or profile curves.

b. Native American Tribe applicants only:

(i) Indicate the utility or utilities currently serving your loads:

(ii) If applicable, provide the number and type of customers served (e.g., residential, commercial, industrial, military base, agricultural):

Customer Type and Number						
	Residential	Commercial	Industrial	Military	Ag.	Other
Number of customers						
If not applicable, explain why:						

(iii) Provide the actual monthly maximum demand (kilowatts) and energy use (kilowatt-hours) experienced in calendar year 20__. If the actual demand and energy data are not available or are difficult to obtain provide the estimated monthly demand:

Calendar Year 20__						
	January	February	March	April	May	June
Demand *(kilowatts)*						
Energy *(kilowatt-hours)*						
	July	August	September	October	November	December
Demand *(kilowatts)*						
Energy *(kilowatt-hours)*						

(iv) If the demand and energy data in 3.b(iii) above is estimated, provide a description of the method and basis for this estimation in the space provided below:

(v) Provide the actual average annual load factors for calendar year 20__. If the actual load factors are not available, provide the estimated load factors:

Calendar Year 20__ Average Annual Load Factor

(vi) **Provide the actual monthly load factors for calendar year 20__. If the actual load factors are not available, provide the estimated load factors.**

Calendar Year 20__ Average Monthly Load Factor						
	January	February	March	April	May	June
Load Factor						
	July	August	September	October	November	December
Load Factor						

(vii) **If the load factor data in 3.b.(v-vi) is estimated, provide a description of the method and basis for this estimation in the space provided below:**

(viii) **Identify any factors or conditions in the next 5 years which may significantly change peak demands, load duration, or profile curves:**

4. **Applicant's Resources. Please provide the following information:**
   a. **A list of current power supplies if applicable, including the applicant's own generation, as well as purchases from others. For each supply, provide the resource name, capacity supplied, and the resource's location.**
   Power supplies (resource name, capacity & location):

   b. **For each power supplier, provide a description and status of the power supply contract (including the termination date):**

   c. **For each power supplier, provide the type of power:**
      - ☐ **Power supply is on a firm basis.**
      - ☐ **Power supply is not on a firm basis. Please explain:**

5. Transmission:

a. Points of delivery. Provide the requested point(s) of delivery on Western's transmission system (or a third party's transmission system), the voltage of service required, and the capacity desired, if applicable.

b. Transmission arrangements. Describe the transmission arrangements necessary to deliver firm power to the requested points of delivery. Include a brief description of the applicant's transmission and distribution system including major interconnections. Provide a single-line drawing of applicant's system, if one is available.

c. Provide a brief explanation of the applicant's ability to receive and use, or receive and distribute Federal power as of [date].

6. Other Information. The applicant may provide any other information pertinent to receiving an allocation.

7. Signature: Western requires the signature and title of an appropriate official who is able to attest to the validity of the APD and who is authorized to submit the request for an allocation.

BILLING CODE 6450–01–S

Signature Title

Applications may be submitted by U.S. mail to the address below or electronically to *xxxx@wapa.gov* with an electronic signature. If submitting this application electronically and an electronic signature is not available, please fax this page *with a signature* to (xxx) xxx–xxx, or mail it to _____ Region, Western Area Power Administration, Address, State, City, and Zip Code.

Recordkeeping Requirements: If Western accepts your application and you receive an allocation of Federal power you must keep all records associated with your APD for a period of 3 years after you sign your contract for Federal power. If you do not receive an allocation of Federal power, there is no recordkeeping requirement.

Western has obtained an OMB Clearance Number _____ for the collection of the above information.

This data is being collected to enable Western to properly perform its function of marketing limited amounts of Federal hydropower. The data you supply will be used by Western to evaluate who will receive an allocation of Federal power.

Public reporting burden for this collection of information is estimated to average 8 hours per response, including 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 collection of information, including suggestions for reducing this burden, to Paperwork Reduction Act Comments, Western Area Power Administration, P.O. Box 281213, 12155 W. Alameda Parkway, Lakewood, CO 80228; and to the Office of Management and Budget (OMB), OIRA, Washington, DC 20503.

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 Paperwork Reduction Act unless that collection of information displays a currently valid OMB control number.

Submission of this data is voluntary, however, if an entity seeks an allocation of Federal power, the applicant must submit an APD.

VI. Paperwork Reduction Requirements

A. Introduction

1. *OMB Number:* Western will obtain a new OMB Number. This number will be displayed on the front page of the APD.

2. *Title:* Western will title the ICR: Applicant Profile Data.

3. *Type of Review:* Western will request that OMB treat its review as a New Review for an existing collection.

4. *Purpose:* The ICR is necessary for the proper performance of Western's functions. Western markets a limited amount of Federal power. Western has discretion to determine who will receive an allocation of Federal power. Due to the high demand for Western's power and limited amount of available power under established marketing plans, Western needs to be able to collect information to evaluate who will receive an allocation of Federal power. As a result, the information Western collects is both necessary and useful. This public process only determines the information which Western will collect in its application. The actual allocation of Federal power will be done through a separate process and is outside the scope of this proceeding.

5. *Respondent:* The response is voluntary. However, if an entity seeks an allocation of Federal power, the applicant must submit an APD. Western has identified the following class of respondents as the most likely to apply: municipalities, cooperatives, public utilities, irrigation districts, Native American Tribes, and Federal and State agencies. The respondents will be located in Arizona, California, Colorado, Iowa, Kansas, Minnesota, Montana, Nebraska, Nevada, New Mexico, North Dakota, South Dakota, Texas, Utah, and Wyoming.

6. *Estimated Number of Respondents.* Depending on the amount of power that becomes available for allocation, Western anticipates it could receive up to 100 requests for power during the 3-year period when the OMB Clearance Number is in effect. Western does not anticipate annual responses. The responses will be periodic and occur when Western has power available under an allocation process.

7. *Number of Burden Hours:*

a. *Initial Application:* Western anticipates that it will take 8 hours or less to complete the APD. Once the respondent completes the APD, it will submit the APD to Western for Western's review. After submitting the APD, provided the APD is complete and no clarification is required, Western does not anticipate requiring any further information for the APD from the applicant, unless the applicant is successful in obtaining a power allocation. The applicant submits only one APD. It does not submit an APD every year. If the applicant receives a power allocation, the applicant will need to complete a standard contract to receive its power allocation. Western's standard contract terms are outside the scope of this process.

b. *Recordkeeping:* There are no mandatory recordkeeping requirements on the applicant if it does not receive an allocation of Federal power. In such case, any recordkeeping of the APD by a respondent is voluntary. For those entities that receive a Federal power allocation, Western requires the successful applicant keep the information for 3 years after the applicant signs its Federal power contract. The 3-year, record retention policy will allow Western sufficient time to administer the contract and to ensure the applicant provided factual information in its application. A 3-year, record retention policy will have little impact on most businesses in the electric utility industry. Western anticipates that it would take less than 1 hour per successful candidate, per year, for recordkeeping purposes. Western anticipates that in a 3-year period, Western will have less than 30 successful applicants.

c. *Methodology:* Based on the total number of burden hours and the total number of applications described above, Western expects that over a 3-year period, the total burden hours to complete the APD is 800 hours over 3 years (100 applicants over 3 years × 8 hours per applicant). This converts to an annual hourly burden of 266.667 hours. An entity will only complete the APD once. It is not required each year.

Based on the above, Western anticipates that there will be additional cost burdens for recordkeeping of 1 hour per year for each successful applicant, i.e., each applicant who receives a Federal power allocation. Western anticipates that over the course of 3 years there will be 30 successful applicants. The power may be allocated in year 1, year 2 or year 3. For the purposes of determining the cost burden, Western will presume all 30 applicants received an allocation in year 1. As a result, the annual hourly burden for recordkeeping is 30 hours.

For the purposes of this cost burden analysis, Western is assuming that a utility staff specialist will complete the APD. Western estimates a utility staff specialist rate, including administrative overheard, to be approximately $100/hour. For recordkeeping, Western estimates an administrative support rate of $50/hour. Based on the above, Western estimates the total annual cost as (266.667 hour/year × $100/hour) + (30 hour/year × $50/hour) = $28,167 per year.

Using the above estimates, on a per applicant basis, assuming the applicant receives a Federal power allocation, the total cost for the applicant over a 3-year period is $950. The cost to complete the APD is a one time cost of $800. In addition to the one time cost, the applicant, if it successfully receives a power allocation, will incur an additional expense of 1 hour for recordkeeping per year × $50 per hour for a total recordkeeping cost of $150 for 3 years.

d. *Summary of Burdens:*

TABLE 1.—ANNUAL HOUR BURDEN ESTIMATES

Activity	Number of respondents	Number of responses per respondent	Average burden hour per response	Sub-total burden hours
APD	33.333	1	8	266.67
Recordkeeping	30	1	1	30.00
Total Burden				296.67

TABLE 2.—ANNUAL COST BURDEN ESTIMATE

Instrument	Number of respondents	Number of responses per respondent	Average annual burden hour	Cost per burden hour	Cost per response	Sub-total cost
Prepare APD	33.333	1	8	$100	$800.00	$26,666.40
Recordkeeping	30	1	1	50	50.00	1,500.00
Total Cost						28,166.40

The procedure and process for the allocation of power shall be the subject matter of a separate notice and is outside the scope of this process.

B. Does the collection of data avoid unnecessary duplication?

Yes. To avoid unnecessary duplication, only entities which desire a new Western allocation are required to submit an APD.

As it relates to each of the components of the APD, there is no duplication. Section 1 is information Western needs to determine who the applicant is, whether the applicant is a statutorily defined preference entity and whether the applicant is ready, willing and able to receive and/or distribute Federal power. Section 2 identifies the amount of Federal power which the applicant requests. Section 3 identifies the applicant's loads. Section 4 identifies the applicant's resources. Section 5 identifies the applicant's transmission delivery arrangements necessary to receive Federal power. Section 6 is voluntary and provides the applicant with the ability to provide any additional information. Section 7 is an attestation that the information provided is true and accurate to the best of the applicant's knowledge.

C. Does the collection reduce the burden on the respondent, including small entities, to the extent practicable and appropriate?

Yes. The information requested is the minimum amount of information to determine whether the applicant qualifies as a statutorily defined preference entity and is ready, willing and able to receive an allocation of Federal power.

D. Does the collection use plain, coherent, and unambiguous language that is understandable to the respondent?

Yes. The collection uses plain, coherent, and unambiguous language that is understandable to the target audience. The terms are those used in the electric utility industry. Western does not market power to individual members of the public such as homeowners or shopkeepers. Preference entities are statutorily designated potential customers who generally are involved in the power business. As a result, the language used in the application is understandable to the target audience.

E. Is the collection consistent with and compatible with the respondent's current reporting and recordkeeping practices to the maximum extent practicable?

Yes. The information collection is voluntary. Western will use the information to determine whether an applicant qualifies as a preference entity to receive an allocation of Federal power. As discussed above, there is no mandatory recordkeeping requirement on the applicant if it does not receive an allocation of Federal power. For those entities that receive a Federal power allocation, Western requires that they keep the information for 3 years after Western grants the power allocation and the applicant signs a Federal power contract. The proposed 3-year record retention policy for such applicants would allow Western sufficient time to administer the contract and to ensure the applicant provided factual information in its application. Western anticipates that a 3-year record retention policy will have little impact on most businesses in the power industry who will already keep the APD as part of their normal business records. The procedure and process for the allocation of power shall be the subject matter of a separate notice and is outside the scope of this process.

F. Does the collection indicate the retention period for any recordkeeping requirements for the respondent?

Yes. The APD identifies that there is no recordkeeping requirement for the respondent if it does not receive an allocation of Federal power. It also identifies that applicants who receive an allocation of Federal power must retain the records for 3 years.

G. Does the collection inform the public of the information the public needs to exercise scrutiny concerning the agency need to collect information (the reasons the information is collected, the way it is used, an estimate of the burden, whether the response is voluntary, required to obtain a benefit, or mandatory and a statement that no person is required to respond unless a valid OMB control number is displayed)?

Yes. If an entity desires a Federal power allocation from Western, Western needs certain information to determine whether the entity is eligible to receive power. Western has a limited amount of power available. Western uses its discretion in allocating power. In order to use its discretion in allocating power, Western will use the information collected on the application. Western will not accept incomplete applications. Western will work with Native American Tribes and other entities that may need assistance in completing the application. No person is required to submit any information unless a valid OMB control number is displayed. No person is required to submit any information unless they desire a Federal power allocation.

H. Is the collection developed by an office that has planned and allocated resources for the efficient and effective management and use of the information collected?

Yes. Western's power marketing offices will administer and evaluate the applications. Use and management of the collected information has been factored into each office's functions and resource requirements. Historically, Western has requested the same relative information from applicants and effectively used Western resources to utilize and manage the information in its determinations. Each power marketing office will make a recommendation to Western's Administrator on which applicant(s) should be awarded a Federal power allocation based on the information contained in the APD. Western's Administrator shall use his discretion in the final power allocations. The procedure and process for the allocation of power shall be the subject matter of a separate notice and is outside the scope of this process.

I. Does the collection use effective and efficient statistical survey methods?

Not applicable. Since the information collected is used to determine whether an applicant receives an allocation of Federal power, this section is inapplicable.

J. Does the collection use information technology to the maximum extent practicable to reduce the burden and to improve data quality, agency efficiency, and responsiveness to the public?

Yes. The APD will be accessible for downloading via Western's Web site. Western will accept electronic-mail submission of the APD, as well as submission via fax or regular mail. At this time, applicants cannot enter the information on Western's Web site.

VII. Invitation for Comments

Western invites public comment on ICR that Western has submitted to OMB pursuant to the Paperwork Reduction Act of 1995. The Paperwork Reduction Act requires OMB to make a decision on the PIC between 30–60 days after this publication.[20] Comments should be sent directly to the addresses listed in the **ADDRESSES** section above.

Dated: May 23, 2008

Timothy J. Meeks,

Administrator.

[FR Doc. E8–12246 Filed 5–30–08; 8:45 am]

BILLING CODE 6450–01–P

[20] *See* 44 U.S.C. 3607.

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2007–0380; FRL–8574–5]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Air Stationary Source Compliance and Enforcement Information (Renewal); EPA ICR No. 0107.09, OMB Control No. 2060–0096

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (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 information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before July 2, 2008.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OECA–2007–0380, to (1) EPA online using *http://www.regulations.gov* (our preferred method), by e-mail to *docket.oeca@epa.gov*, or by mail to: EPA Docket Center, Environmental Protection Agency, Enforcement and Compliance Docket and Information Center (ECDIC), MC2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) OMB by mail to: 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: Betsy Metcalf, Enforcement Targeting and Data Division, MC2222A, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564–5962; fax number: (202) 564–0032; e-mail address: *metcalf.betsy@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 Tuesday, October 23, 2007, 72 *FR* 60012, EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received two comments during the comment period, which are addressed in the ICR. 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 No. EPA–HQ–OECA–2007–0380, which is available for online viewing at *http://www.regulations.gov*, or in person viewing at the Enforcement and Compliance Docket and Information Center (ECDIC) in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room is open from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for the ECDIC Docket is 202–566–1752.

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: Air Stationary Source Compliance and Enforcement Information (Renewal).

ICR Numbers: EPA ICR No. 0107.09, OMB Control No. 2060–0096.

ICR Status: This ICR is scheduled to expire on June 30, 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, are 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: Source Compliance and State Action Reporting is an activity whereby State, District, Local, and Commonwealth governments make air compliance and enforcement information available to the U.S. Environmental Protection Agency (EPA or the Agency) on a cyclic basis via input to the Air Facility System (AFS). The information provided to EPA includes compliance activities and determinations, and enforcement activities. EPA uses this information to assess progress toward meeting emission requirements developed under the authority of the Clean Air Act (CAA or the Act) to protect and maintain the atmospheric environment and the public health. The EPA and many of the state and local agencies access the data in AFS to assist them in the management of their air pollution control programs.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 131 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: State and Local Agencies.

Estimated Number of Respondents: 93.

Frequency of Response: 6 times per year.

Estimated Total Annual Hour Burden: 73,073.

Estimated Total Annual Cost: $3,504,531.00, inclusive of labor costs, and $00.00 for both annualized capital and O&M costs.

Changes in the Estimates: There is a decrease of 25,110 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. This decrease is due to: Reduction in the major source universe, increase in the use of the Universal Interface software program, significant differences in the level of effort provided by different agencies in the maintenance and oversight of data, and the reduction of startup costs from the previous ICR.

Dated: May 23, 2008.

Sara Hisel-McCoy,

Director, Collection Strategies Division.

[FR Doc. E8–12265 Filed 5–30–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2008–0356; FRL–8574–3]

Agency Information Collection Activities: Proposed Collection; Comment Request; Water Quality Standards Regulation (Renewal), EPA ICR Number 988.10, OMB Control Number 2040–0049

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit a request to renew an existing approved Information Collection Request (ICR) to the Office of Management and Budget (OMB). This ICR is scheduled to expire on November 30, 2008. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before August 1, 2008.

ADDRESSES: Submit your comments, identified by docket ID No. EPA–HQ–OW–2008–0356 by one of the following methods:

- *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *E-mail: ow-docket@epa.gov*.
- *Mail:* EPA Docket Center, Water Docket, Environmental Protection Agency, Mailcode 28221T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.
- *Hand delivery:* Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OW–2008–0356. 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 through *http://www.regulations.gov* or e-mail information that you consider to be CBI or otherwise protected. 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. For additional information about EPA's public docket, visit the EPA

Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm*.

FOR FURTHER INFORMATION CONTACT: Samantha Fontenelle, Office of Water (4305T), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 202–566–2083; fax number: 202–566–0409; e-mail address *fontenelle.samantha@epa.gov.*

SUPPLEMENTARY INFORMATION:

How Can I Access the Docket and/or Submit Comments?

EPA has established a public docket for this ICR under Docket ID number EPA–HQ–OW–2008–0356, which is available for online viewing at *http://www.regulations.gov* or in person viewing at the Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room is open from 8:30 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 Water Docket is (202) 566–2426.

Use *http://www.regulations.gov* to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket ID number identified in this document.

What Information Is EPA Particularly Interested in?

Pursuant to section 3506(c)(2)(A) of the PRA, EPA specifically solicits comments and information to enable it to:

(i) 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;

(ii) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) 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. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

What Should I Consider When I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible and provide specific examples.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Offer alternative ways to improve the collection activity.
6. Make sure to submit your comments by the deadline identified under **DATES**.
7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

What Information Collection Activity or ICR Does This Apply to?

Affected Entities: Entities potentially affected by this action are all States and certain authorized Indian tribes that adopt water quality standards under the Clean Water Act; and water dischargers subject to certain requirements related to water quality standards in the Great Lakes system, including dischargers in the following SIC categories: Mining (SIC codes 10, 14); Food (20); Pulp and Paper (26); Inorganic Chemical Manufacturing (281); Organic Chemical Manufacturing (28); Petroleum Refining (29); Metal Manufacturing (33), Metal Finishing (34–37); Steam Electric (4911), and Publically Owned Treatment Works (4952). For the purposes of the Regulation, the term ''State'' means the 50 States, the District of Columbia, Guam, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands.

Title: Water Quality Standards Regulation (Renewal).

ICR Number: EPA ICR No. 988.10, *OMB Control No.* 2040–0049.

ICR Status: This ICR is currently scheduled to expire on November 30, 2008. 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, are 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: Water quality standards are provisions of State, Tribal, and Federal law that consist of designated uses for waters of the United States, water quality criteria to protect the designated uses, and an antidegradation policy. Section 303(c) of the Clean Water Act requires States and authorized Tribes to establish water quality standards, and to review and, if appropriate, revise their water quality standards once every three years. The Act also requires EPA to review and either approve or disapprove the new or revised standards, and to promulgate replacement Federal standards if necessary. Section 118(c)(2) of the Act specifies additional water quality standards requirements for waters of the Great Lakes system.

The Water Quality Standards Regulation (40 CFR part 131 and portions of part 132) governs national implementation of the water quality standards program. The Regulation describes requirements and procedures for States and authorized Tribes to develop, review, and revise their water quality standards, and EPA procedures for reviewing and approving the water quality standards. The regulation requires the development and submission of information to EPA, including:

—The minimum elements in water quality standards that each State or Tribe must submit to EPA for review, including any new or revised water quality standards resulting from the jurisdiction's triennial review (40 CFR 131.6 and 131.20). The elements include use designations for specific water bodies; methods used and analyses conducted to support water quality standards revisions; supporting analysis for use attainability analyses; water quality criteria sufficient to protect the designated uses; methodologies for site-specific criteria development; an antidegradation policy; certification by the jurisdiction's Attorney General or other appropriate legal authority that the water quality standards were duly adopted pursuant to State or Tribal law; information that will aid EPA in determining the adequacy of the scientific basis for the standards; and information on general policies that may affect the implementation of the standards.

—Information that an Indian Tribe must submit to EPA in order to determine whether a Tribe is qualified to administer the water quality standards program (40 CFR 131.8).
—Information a State or Tribe must submit if it chooses to exercise a dispute resolution mechanism for disputes between States and Tribes over water quality standards on common water bodies (40 CFR 131.7).
—Information related to public participation requirements during State and Tribal review and revision of water quality standards (40 CFR 131.20). States and Tribes must hold public hearings as part of their triennial reviews, and make any proposed standards and supporting analyses available to the public before the hearing.

The Regulation establishes specific additional requirements for water quality standards and their implementation in the waters of the Great Lakes system, contained in the Water Quality Guidance for the Great Lakes System (40 CFR part 132). This portion of the Regulation includes the following requirements for information collection: bioassay tests to support the development of water quality criteria; studies to identify and provide information on antidegradation control measures that will guard against the reduction of water quality in the Great Lakes system; and information collection and recordkeeping activities associated with analyses and reporting to request regulatory relief from Guidance requirements. The Guidance includes additional information collections that are addressed in separate Information Collection Requests for the National Pollutant Discharge Elimination System program.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 988 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.

The following estimates are based on estimates from the previous ICR renewal and will be revised prior to OMB submission. The public will have a second opportunity to comment before then. The ICR provides a detailed explanation of the Agency's estimate, which is only briefly summarized here:

Estimated total number of potential respondents: 2,796.[1]

Frequency of response: At least once every 3 years.

Estimated total average number of responses for each respondent: 0.095.

Estimated total annual burden hours: 260,714 hours.

Estimated total annual costs: $12,063,453. This cost consists entirely of the estimated burden cost since there are no capital investment or maintenance and operational costs.

What Is the Next Step in the Process for This ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. At that time, EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

Dated: May 23, 2008.

Ephraim King,

Director, Office of Science and Technology.

[FR Doc. E8–12268 Filed 5–30–08; 8:45 am]

BILLING CODE 6560–50–P

[1] **Note:** EPA estimates that of the estimated total number of potential respondents there will likely be only 264 responses.

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8574–4]

Good Neighbor Environmental Board

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Under the Federal Advisory Committee Act, Pub. L. 92463, EPA gives notice of a meeting of the Good Neighbor Environmental Board. The Board meets three times each calendar year at different locations along the U.S.-Mexico border and in Washington, DC. It was created by the Enterprise for the Americas Initiative Act of 1992. An Executive Order delegates implementing authority to the Administrator of EPA. The Board is responsible for providing advice to the President on environmental and infrastructure issues and needs within the States contiguous to Mexico. The statute calls for the Board to have representatives from U.S. Government agencies; the States of Arizona, California, New Mexico and Texas; tribal representation; and a variety of non-governmental officials. The purpose of this meeting is to hear presentations on local environmental issues as well as the theme selected for the Board's Twelfth Report: Innovation, including Incentives, to Prevent/Reduce Pollution at the U.S. Mexico Border. The meeting also will include a public comment session and a business meeting on the second day. A copy of the meeting agenda will be posted at *http://www.epa.gov/ocem/gneb*.

DATES: The Good Neighbor Environmental Board will hold an open meeting on Wednesday, June 18, from 8:30 a.m. to 4 p.m. and Thursday, June 19, from 8:30 a.m. to 1 p.m.

ADDRESSES: The meeting will be held in the Imperial Valley Campus Library of San Diego State University, 720 Heber Avenue, Calexico, CA 92231. Telephone: (760) 768–5585. It is open to the public, with limited seating on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT: Lorena Cedeño-Zambrano, Acting Designated Federal Officer, *cedeno-zambrano.lorena@epa.gov*, 202–566–0978, U.S. EPA, Office of Cooperative Environmental Management (1601M), 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: Requests to make brief oral comments or provide written statements to the Board should be sent to Lorena Cedeño-Zambrano, Acting Designated Federal Officer, at the contact information above.

Meeting Access: For information on access or services for individuals with disabilities, please contact Lorena Cedeño-Zambrano at the contact information above. To request accommodation of a disability, please contact Lorena Cedeño-Zambrano, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: May 20, 2008.

Lorena Cedeño-Zambrano,

Acting Designated Federal Officer.

[FR Doc. E8–12267 Filed 5–30–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2008–0349; FRL–8363–8]

National Advisory Committee for Acute Exposure Guideline Levels for Hazardous Substances; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: A meeting of the National Advisory Committee for Acute Exposure Guideline Levels for Hazardous Substances (NAC/AEGL Committee) will be held on June 25–27, 2008, in Boston, MA. At this meeting, the NAC/AEGL Committee will address, as time permits, the various aspects of the acute toxicity and the development of Acute Exposure Guideline Levels (AEGLs) for 25 chemicals.

DATES: A meeting of the NAC/AEGL Committee will be held from 10 a.m. to 5:30 p.m. on June 25, 2008; from 8 a.m. to 5:30 p.m. on June 26, 2008; and from 8 a.m. to noon on June 27, 2008.

To request accommodation of a disability, please contact the Designated Federal Officer (DFO) listed under **FOR FURTHER INFORMATION CONTACT**, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

ADDRESSES: The meeting will be held at the Radisson Hotel Boston, 200 Stuart St., Boston, MA 02116.

FOR FURTHER INFORMATION CONTACT: *For general information contact*: Colby Lintner, Regulatory Coordinator, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 554–1404; e-mail address: *TSCA-Hotline@epa.gov*.

For technical information contact: Paul S. Tobin, DFO, Risk Assessment Division (7403M), Office of Pollution Prevention and Toxics, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–8557; e-mail address: *tobin.paul@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may be of particular interest to anyone who may be affected if the AEGL values are adopted by government agencies for emergency planning, prevention, or response programs, such as EPA's Risk Management Program under the Clean Air Act and Amendments Section 112r. It is possible that other Federal agencies besides EPA, as well as State agencies and private organizations, may adopt the AEGL values for their programs. As such, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket*. EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPPT–2008–0349. All documents in the docket are listed in the docket's index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically at *http://www.regulations.gov*, or, if only available in hard copy, at the OPPT Docket. The OPPT Docket is located in the EPA Docket Center (EPA/DC) at Rm. 3334, EPA West Bldg., 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. The telephone number of the EPA/DC Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Docket visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor bags are processed through an X-ray machine and subject to search. Visitors will be provided an EPA/DC badge that must be visible at all times in the building and returned upon departure.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at *http://www.epa.gov/fedrgstr*.

II. Meeting Procedures

The NAC/AEGL Committee meeting will address the following chemicals: Acetyl chloride; arsenic pentoxide; 3,5-dichloro-2,4,6-trifluoropyridine; ethyl benzene; ethylphosphonous dichloride; germane; isobutyl isocyanate; isopropyl isocyanate; methoxymethyl isocyanate; methyl iodide; methyl paraoxon; methyl parathion; *n*-butyl isocyanate; *n*-propyl isocyanate; nitrosyl chloride; parathion; phorate; phosgene; sodium dithionite; *t*-butyl isocyanate; *t*-octyl mercaptan; tetrachloroethylene; 1,1,1-trichloroethylene; trifluoroacetyl chloride; and trimethylacetyl chloride.

For additional information on the scheduled meeting, the agenda of the NAC/AEGL Committee, or the submission of information on chemicals to be discussed at the meeting, contact the DFO listed under **FOR FURTHER INFORMATION CONTACT**.

The meeting of the NAC/AEGL Committee will be open to the public. Oral presentations or statements by interested parties will be limited to 10 minutes. Interested parties are encouraged to contact the DFO to schedule presentations before the NAC/AEGL Committee. Since seating for outside observers may be limited, those wishing to attend the meeting as observers are also encouraged to contact the DFO at the earliest possible date to ensure adequate seating arrangements. Inquiries regarding oral presentations and the submission of written statements or chemical-specific information should be directed to the DFO.

III. Future Meetings

Another meeting of the NAC/AEGL Committee is scheduled for December 1–3, 2008.

List of Subjects

Environmental protection, Chemicals, Hazardous substances, Health.

Dated: May 21, 2008.

Charles M. Auer,

Director, Office of Pollution Prevention and Toxics.

[FR Doc. E8–12266 Filed 5–30–08; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority, Comments Requested

May 23, 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 August 1, 2008. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: You may submit all PRA comments by e-mail or U.S. post mail. To submit your comments by e-mail, send them to *PRA@fcc.gov.* To submit your comments by U.S. mail, mark them to the attention of Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection(s), contact Cathy Williams at (202) 418–2918 or send an e-mail to *PRA@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0706.

Title: Cable Act Reform, 47 CFR Sections 76.952 and 76.990.

Form Number: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; State, Local or Tribal Government.

Number of Respondents and Responses: 70 respondents; 70 responses.

Estimated Time per Response: 1 hour–8 hours.

Frequency of Response: On occasion reporting requirement; Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this collection of information is contained in the Telecommunications Act of 1996, Public Law No. 104–104, Sections 301 and 302.

Total Annual Burden: 210 hours.

Total Annual Cost: None.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality.

Needs and Uses: 47 CFR Section 76.952 states that all cable operators must provide to the subscribers on monthly bills the name, mailing address and phone number of the franchising authority, unless the franchising authority in writing requests that the cable operator omits such information. The cable operator must also provide subscribers with the FCC community unit identifier for the cable system in their communities.

47 CFR Section 76.990(b)(1) requires that a small cable operator, may certify in writing to its franchise authority at any time that it meets all criteria necessary to qualify as a small operator. Upon request of the local franchising authority, the operator shall identify in writing all of its affiliates that provide cable service, the total subscriber base of itself and each affiliate, and the aggregate gross revenues of its cable and non-cable affiliates. Within 90 days of receiving the original certification, the local franchising authority shall determine whether the operator qualifies for deregulation and shall notify the operator in writing of its decision, although this 90-day period shall be tolled for so long as it takes the operator to respond to a proper request for information by the local franchising authority. An operator may appeal to the Commission a local franchise authority's information request if the operator seeks to challenge the information request as unduly or unreasonably burdensome. If the local franchising authority finds that the operator does not qualify for deregulation, its notice shall state the grounds for that decision. The operator may appeal the local franchising authority's decision to the Commission within 30 days. 47 CFR Section 76.990(b)(3) requires that within 30 days of being served with a local franchising authority's notice that the local franchising authority intends to file a cable programming services tier rate complaint, an operator may certify to the local franchising authority that it meets the criteria for qualification as a small cable operator. This certification shall be filed in accordance with the cable programming services rate complaint procedure set forth in § 76.1402. Absent a cable programming services rate complaint, the operator may request a declaration of CPST rate deregulation from the Commission pursuant to § 76.7.

On March 26, 1999, the Commission released a *Report and Order*, FCC 99–12, CS Docket 98–132, that among other things removed the requirements of 76.1404. With this submission we have removed the associated burdens.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E8–12107 Filed 5–30–08; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Approved by the Office of Management and Budget

May 23, 2008.

SUMMARY: The Federal Communications Commission has received Office of Management and Budget (OMB) approval for the following public information collection(s) pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. sections 3501–3520). An agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number, and no person is required to respond to a collection of information unless it displays a currently valid OMB control number. Comments concerning the accuracy of the burden estimate(s) and any suggestions for reducing the burden should be directed to the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.

FOR FURTHER INFORMATION CONTACT: For additional information, please contact Cathy Williams, *Cathy.Williams@fcc.gov*, or on (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0027.

OMB Approval Date: 05/14/08.

Expiration Date: 05/31/2011.

Title: Application for Construction Permit for Commercial Broadcast Station.

Form Number: FCC Form 301.

Estimated Annual Burden: 4,278 responses; 2 to 4 hours per response; 10,513 hours total per year.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained in 154, 303 and 308 of the Communications Act of 1934, as amended.

Nature and Extent of Confidentiality: There is no need for confidentiality.

Needs and Uses: Congress has mandated that after February 17, 2009, full-power television broadcast stations must transmit only in digital signals, and may no longer transmit analog signals. On December 22, 2007, the Commission adopted a Report and Order in the matter of the Third Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television, MB Docket No. 07–91, FCC 07–228, to establish the rules, policies and procedures necessary to complete the nation's transition to DTV. With the DTV transition deadline less than 14 months away, the Commission must ensure that broadcasters meet their statutory responsibilities and complete construction of, and begin operations on, the facility on their final, post-transition (digital) channel that will reach viewers in their authorized service areas by the statutory transition deadline, when they must cease broadcasting in analog. The Commission wants to ensure that no consumers are left behind in the DTV transition. Specifically, the Report and Order requires full-power commercial television stations to use revised FCC Form 301 to obtain the necessary Commission approvals (i.e., construction permits and licenses) in time to build their post-transition facility.

Applications for post-transition facilities. Full-power commercial television stations without a construction permit for their final, post-transition (DTV) facility must file an application to construct or modify that facility using FCC Form 301.

Requests to transition early to post-transition channel. Full-power commercial television stations may request authority to transition early to their post-transition channel using FCC Form 301.

Revisions to FCC Form 301. FCC Form 301 was revised to accommodate the filing of post-transition applications.

OMB Control Number: 3060–0029.

OMB Approval Date: 05/14/08.

Expiration Date: 05/31/2011.

Title: Application for TV Broadcast Station License, FCC Form 302 TV; Application for DTV Broadcast Station License, FCC Form 302–DTV; Application for Construction Permit for Reserved Channel Noncommercial Educational Broadcast Station, FCC Form 340; Application for Authority to Construct or Make Changes in an FM Translator or FM Booster Station, FCC Form 349.

Form Number(s): FCC Form 302–TV; FCC Form 302–DTV; FCC Form 340; FCC Form 349.

Estimated Annual Burden: 4,325 responses; 1 to 4 hours per response; 12,150 hours total per year.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained in 154(i), 303 and 308 of the Communications Act of 1934, as amended.

Nature and Extent of Confidentiality: There is no need for confidentiality.

Needs and Uses: Congress has mandated that after February 17, 2009, full-power television broadcast stations must transmit only in digital signals, and may no longer transmit analog signals. On December 22, 2007, the Commission adopted a Report and Order in the matter of the Third Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television, MB Docket No. 07–91, FCC 07–228, to establish the rules, policies and procedures necessary to complete the nation's transition to DTV. With the DTV transition deadline less than 14 months away, the Commission must ensure that broadcasters meet their statutory responsibilities and complete construction of, and begin operations on, the facility on their final, post-transition (digital) channel that will reach viewers in their authorized service areas by the statutory transition deadline, when they must cease broadcasting in analog. The Commission wants to ensure that no consumers are left behind in the DTV transition. Specifically, the Report and Order requires Noncommercial Educational (''NCE'') television stations to use revised FCC Form 340 to obtain the necessary Commission approvals (i.e., construction permits and licenses) in time to build their post-transition facility.

Applications for post-transition facilities. NCE television stations without a construction permit for their final, post-transition (DTV) facility must file an application to construct or modify that facility using FCC Forms 340.

Requests to transition early to post-transition channel. NCE television stations may request authority to transition early to their post-transition channel using FCC Form 340.

Revisions to FCC Form 340. FCC Form 340 was revised to accommodate the filing of post-transition applications.

In addition, the Report and Order requires that stations that have applied to construct or modify post-transition facilities must use the Form 302–DTV to obtain a new or modified station license to cover those post-transition facilities.

OMB Control Number: 3060–0216.

OMB Approval Date: 02/28/08.

Expiration Date: 02/28/2011.

Title: Informal Requests to Discontinue Only One Service and Informal Requests to Flash Cut; Section 73.3538, Application To Make Changes in an Existing Station, Section 73.1690(e) Modification of Transmission Systems.

Form Number: Not applicable.

Estimated Annual Burden: 700 responses; 0.50–3 hours per response; 1,125 hours total per year.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained in 154(i), 303(r), 308, 309(j) and 337(e) of the Communications Act of 1934, as amended.

Nature and Extent of Confidentiality: There is no need for confidentiality.

Needs and Uses: Congress has mandated that after February 17, 2009, full-power television broadcast stations must transmit only digital signals and may no longer transmit analog signals. On December 31, 2007, the Commission released a Report and Order, In the Matter of the Third Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television, MB Docket No. 07–91, FCC 07–228. In this Report and Order, among other things, the Commission requires stations to request Commission approval to return their currently assigned, pre-transition-only DTV channel (i.e., a DTV channel that is not their final, post-transition channel) and flash cut at or before the transition deadline from their current analog channel to their final, post-transition channel. This process will be accomplished by permitting broadcasters to file an informal letter to the Video Division of the Media Bureau and send an e-mail to analog@*fcc.gov* in lieu of a formal construction permit application (FCC Forms 301 and 340). 47 CFR 73.1690(e) requires AM, FM, and TV station licensees to prepare an informal statement or diagram describing any electrical and mechanical modification to authorized transmitting equipment that can be made without prior Commission approval provided that equipment performance measurements are made to ensure compliance with FCC rules. This informal statement or diagram must be retained at the transmitter site as long as the equipment is in use. 47 CFR 73.3538 requires broadcast stations to file an informal application to modify or discontinue the obstruction marking or lighting of an antenna supporting structure.

OMB Control Number: 3060–0386.

OMB Approval Date: 05/08/2008.

Expiration Date: 11/30/2008.

Title: Special Temporary Authorization (STA) Requests, 47 CFR 73.1635; Notifications, 47 CFR 73.1615; and Informal Filings (47 CFR part 73).

Form Number: Not applicable.

Estimated Annual Burden: 3,710 responses; 30 minutes to 4 hours per response; 4,020 hours total per year.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained in 1, 4(i) and (j), 7, 301, 302, 303, 307, 308, 309, 312, 316, 318, 319, 324, 325, 336 and 337 of the Communications Act of 1934, as amended.

Nature and Extent of Confidentiality: There is no need for confidentiality.

Needs and Uses: Congress has mandated that after February 17, 2009, full-power television broadcast stations must transmit only in digital signals, and may no longer transmit analog signals. On December 31, 2007, the Commission released a Report and Order, In the Matter of the Third Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television, MB Docket No. 07–91, FCC 07–228. In the Report and Order, the Commission adopted rules to ensure that, by the February 17, 2009, transition date, all full-power television broadcast stations (1) cease analog broadcasting and (2) complete construction of, and begin operations on, their final, full-authorized post-transition (DTV) facility. The Commission recognized that broadcasters may need regulatory flexibility in order to achieve these goals. Accordingly, the Commission authorized the following ''DTV Transition-related'' filings, which must be made electronically via the FCC's Consolidated Database System (''CDBS''), to permit broadcasters to request and obtain regulatory flexibility from the Commission, if necessary, to meet their DTV construction deadlines:

STA for Phased Transition and Continued Interim Operations. Stations may file a request for Special Temporary Authorization (STA) approval to temporarily remain on their in-core, pre-transition DTV channel after the transition date through the CDBS using the Informal Application Filing Form.

STA for Phased Transition/Build-Out. Stations may file a request for STA approval to build less than full, authorized post-transition facilities by the transition date through the CDBS using the Informal Application Filing Form.

STA for Permanent Service Reduction or Termination. Stations may file a request for STA approval to permanently reduce or terminate analog or pre-transition DTV service where necessary to facilitate construction of final, post-transition facilities through the CDBS using the Informal Application Filing Form.

Notification/Informal Letter of Temporary Service Disruption. Stations may file a notification or informal letter pursuant to Section 73.1615 to temporarily reduce or cease existing analog or pre-transition DTV service where necessary to facilitate construction of final, post-transition facilities through the CDBS using the Informal Application Filing Form.

Notification of Service Reduction or Termination. Stations may file a notification to permanently reduce or terminate analog or pre-transition DTV service within 90 days of the transition date through the CDBS using the Informal Application Filing Form.

Informal Filings. Stations claiming a ''unique technical challenge'' warranting a February 17, 2009, construction deadline may file a notification to document their status through the CDBS using the Informal Application Filing Form.

47 CFR 73.1635 states that broadcast stations (licensees or permittees) may file a request for Special Temporary Authority (STA) approval to permit a station to operate a broadcast facility for a limited period at a specified variance from the terms of the station's authorization or requirements of the FCC rules. Stations may file a request for STA approval for a variety of reasons. The request must describe the operating modes and facilities to be used.

OMB Control Number: 3060–1117.

OMB Approval Date: 05/08/2008.

Expiration Date: 11/30/2008.

Title: Viewer Notification Requirements in Third DTV Periodic Report and Order, FCC 07–228.

Form Number: Not applicable.

Estimated Annual Burden: 174,000 responses; 0.01–0.33 hours per response; 12,015 hours total per year.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained in 154(i) of the Communications Act of 1934, as amended.

Nature and Extent of Confidentiality: There is no need for confidentiality.

Needs and Uses: Congress has mandated that after February 17, 2009, full-power television broadcast stations must transmit only in digital signals, and may no longer transmit analog signals. On December 22, 2007, the Commission adopted a Report and Order, In the Matter of the Third Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television, MB Docket No. 07–91, FCC 07–228 (''Third DTV Periodic Report and Order'') to establish the rules, policies and procedures necessary to complete the nation's transition to DTV. In the Report and Order, the Commission adopted rules to ensure that, by the February 17, 2009, transition date, all full-power television broadcast stations (1) cease analog broadcasting and (2) complete construction of, and begin operations on, their final, full-authorized post-transition (DTV) facility. The Commission recognized that broadcasters may need regulatory flexibility in order to achieve these goals. Accordingly, the Commission affords broadcasters the opportunity for regulatory flexibility, if necessary, to meet their DTV construction deadlines. The Commission, however, must also ensure that no consumers are left behind in the DTV transition. Therefore, the Commission requires broadcasters that choose to reduce or terminate TV service to comply with viewer notification requirements.

Specifically, as a result of the Third DTV Periodic Report and Order, stations must comply with a viewer notification requirement (i.e., stations must notify viewers about their planned service reduction or termination) if:

(1) The station will permanently reduce or terminate analog or pre-transition digital service before the transition date; or

(2) The station will not serve at least the same population that receives their current analog TV and DTV service after the transition date.

Viewer notifications must occur every day on-air at least four times a day including at least once in primetime for the 30-days prior to the station's termination of full, authorized analog service. These notifications must include: (1) The station's call sign and community of license; (2) the fact that the station must delay the construction and operation of its post-transition (DTV) service or the fact that the station is planning to or has reduced or terminated its analog or digital operations before the transition date; (3) information about the nature, scope, and anticipated duration of the station's post-transition service limitations; (4) what viewers can do to continue to receive the station, i.e., how and when the station's digital signal can be received; (5) information about the availability of digital-to-analog converter boxes in their service area; and (6) the street address, e-mail address (if available), and phone

number of the station where viewers may register comments or request information.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E8–12123 Filed 5–30–08; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 27, 2008.

A. Federal Reserve Bank of St. Louis (Glenda Wilson, Community Affairs Officer) 411 Locust Street, St. Louis, Missouri 63166-2034:

1. Rock Bancshares, Inc., Little Rock, Arkansas; to become a bank holding company through the conversion of its thrift subsidiary, Heartland Community Bank, Bryant, Arkansas, into a state-chartered commercial bank.

Board of Governors of the Federal Reserve System, May 28, 2008.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E8–12216 Filed 5–30–08; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 27, 2008.

A. Federal Reserve Bank of Chicago (Burl Thornton, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. Capitol Bancorp LTD, Lansing, Michigan; to acquire 51 percent of the voting shares of Forethought Federal Savings Bank, Batesville, Indiana, and thereby operate a savings association pursuant to section 225.28(b)(4)(ii) of Regulation Y.

Board of Governors of the Federal Reserve System, May 28, 2008.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E8–12215 Filed 5–30–08; 8:45 am]

BILLING CODE 6210–01–S

GENERAL SERVICES ADMINISTRATION

Privacy Act of 1974; Notice of Updated Systems of Records

AGENCY: General Services Administration.

ACTION: Notice.

SUMMARY: GSA reviewed its Privacy Act systems to ensure that they are relevant, necessary, accurate, up-to-date, covered by the appropriate legal or regulatory authority, and in response to 0MB M–07–16. This notice is a compilation of updated Privacy Act system of record notices.

DATES: Effective July 2, 2008.

FOR FURTHER INFORMATION CONTACT: Call or e-mail the GSA Privacy Act Officer: telephone 202–208–1317; e-mail *qsa.privacyact@gsa.gov.*

ADDRESSES: GSA Privacy Act Officer (CIB), General Services Administration, 1800 F Street, NW., Washington, DC 20405.

SUPPLEMENTARY INFORMATION: GSA undertook and completed an agency wide review of its Privacy Act systems of records. As a result of the review GSA is publishing updated Privacy Act systems of records notices. Rather than make numerous piecemeal revisions, GSA is republishing updated notices for one of its systems. Nothing in the revised system notices indicates a change in authorities or practices regarding the collection and maintenance of information. Nor do the changes impact individuals' rights to access or amend their records in the systems of records. The updated system notices also includes the new requirement from 0MB Memorandum M–07–16 regarding a new routine use that allows agencies to disclose information in connection with a response and remedial efforts in the event of a data breach.

Dated: May 21, 2008.

Cheryl M. Paige,

Director, Office of Information Management.

GSA/PPFM–8

SYSTEM NAME:

Comprehensive Human Resources Integrated System (CHRIS).

SYSTEM LOCATION:

The record system is an Oracle web-based application used by GSA Services and Staff Offices, Presidential Boards and Commissions, and small agencies serviced by GSA, at the addresses below:

- GSA Central Office, 1800 F Street, NW., Washington, DC 20405.

• National Capital Region, 7th & D Streets, SW., Washington, DC 20407.
• New England Region, 10 Causeway Street, Boston, MA 02222.
• Northeast and Caribbean Region, 26 Federal Plaza, New York, NY 10278.
• Mid-Atlantic Region, 20 N. Eighth Street, Philadelphia, PA 19107.
• Southeast Sunbelt Region, 77 Forsyth Street, Atlanta, GA 30303.
• Great Lakes Region, 230 South Dearborn Street, Chicago, IL 60604.
• The Heartland Region, 1500 East Bannister Road, Kansas City, MO 64131.
• Greater Southwest Region, 819 Taylor Street, Fort Worth, TX 76102.
• Rocky Mountain Region, 1 Denver Federal Center, Denver, CO 80225.
• Pacific Rim Region, 450 Golden Gate Avenue, San Francisco, CA 95102.
• NARA, 9700 Page Blvd, St. Louis, MO.
• NARA, 8601 Adelphi Road, College Park, MD 20740–6001.
• OPM, 1900 E Street NW., Washington, DC 20415.
• OPM, 1137 Branchton Road, Boyers, PA 16020.
• RRB, 844 N. Rush, Chicago, IL 60611.
• NCUA, 1775 Duke Street, Alexandria, VA 22314.
• Export-Import Bank of the U.S., Washington, DC 20571.
• USIP, 1200 17th Street, NW., 2nd floor, Washington, DC 20036.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees of the General Services Administration, Presidential Boards and Commissions, and small agencies serviced by GSA, including persons in intern, youth employment, and work-study programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains personnel and training records. The records include information collected by operating officials and personnel officials administering programs for or about employees. The system has data needed to update the Central Personnel Data File (CPDF), the Enterprise Human Resources Integration (EHRI), and the Electronic Official Personnel Folder (eOPF) at the Office of Personnel Management (OPM), as well as process and document personnel actions. It may include, but is not limited to, the data maintained in each employee's Official Personnel Folder, including:

a. Employee's name, Social Security Number, date of birth, gender, work schedule, type of appointment, education, veteran's preference, military service, and race or national origin.

b. Employee's service computation date for leave, date probationary period began, and date of performance rating.

c. Pay data such as pay plan, occupational series, grade, step, salary, and organizational location.

d. Performance rating and types and amounts of awards.

e. Position description number, special employment program, and target occupational series and grade.

f. Training records that show what classes employees have taken.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C., pt. III, is the authority for maintaining personnel information. Authorities for recording Social Security Numbers are E.O. 9397, 26 CFR 31.601 1(b)2, and 26 CFR 31.6109–1.

PURPOSE:

To maintain a computer based information system supporting the day-to-day operating needs of human resource operations and management. The system is designed to meet information and statistical needs of all types of Government organizations and provides a number of outputs.

For the Office of the Chief Human Capital Officer, the system tracks, produces and stores personnel actions, and supplies HR data used to generate reports (organizational rosters, retention registers, retirement calculations, Federal civilian employment, length-of-service lists, award lists, etc.). It also provides reports for monitoring personnel actions to determine the impact of GSA policies and practices on minorities, women, and disabled persons, analyzing their status in the work force; and for establishing affirmative action goals and timetables. The system also provides management data for administrative and staff offices.

ROUTINE USES OF THE SYSTEM RECORDS, INCLUDING CATEGORIES OF USERS AND THEIR PURPOSE FOR USING THE SYSTEM:

The information in the system is used by GSA employees and designated client agency representatives in the performance of their official duties as authorized by law and regulation and for the following routine uses:

a. To disclose information to the Office of Personnel Management (OPM) for the Central Personnel Data File (CPDF) and the Enterprise Human Resources Integration (EHRI).

b. GSA uses Business Objects and the Personnel Information Database (PID) to disclose information to sources outside GSA, including other agencies and persons; for employees seeking employment elsewhere; and for documenting adverse actions, conducting counseling sessions, and preparing biographical sketches on employees for release to other agencies and persons.

c. To disclose information in the personnel file to GSA's Office of the Chief Human Capital Officer.

d. To disclose information to agency staff and administrative offices who may restructure the data for management purposes.

e. In any legal proceeding, where pertinent, to which GSA is a party before a court or administrative body.

f. To authorized officials engaged in investigating or settling a grievance, complaint, or appeal filed by an individual who is the subject of the record.

g. To a Federal agency in connection with the hiring or retention of an employee; the issuance of a security clearance; the reporting of an investigation; the letting of a contract; or the issuance of a grant, license, or other benefit to the extent that the information is relevant and necessary to a decision.

h. To the Office of Personnel Management (OPM), the Office of Management and Budget (OMB), or the Government Accountability Office (GAO) when the information is required for program evaluation purposes.

i. To a Member of Congress or staff on behalf of and at the request of the individual who is the subject of the record.

j. To an expert, consultant, or contractor of GSA in the performance of a Federal duty to which the information is relevant.

k. To the National Archives and Records Administration (NARA) for records management purposes.

l. To appropriate agencies, entities, and persons when (1) the Agency suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) the Agency has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by GSA or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with GSA's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING RECORDS IN THE SYSTEM:

STORAGE:

Computer records are stored on a secure server and accessed over the web

using encryption software. Paper records, when created, are kept in file folders and cabinets in secure rooms.

RETRIEVABILITY:

Records are retrieved by name, Social Security Number, or Applicant or Employee ID.

SAFEGUARDS:

Computer records are protected by a password system. Paper output is stored in locked metal containers or in secured rooms when not in use. Information is released to authorized officials based on their need to know.

RETENTION AND DISPOSAL:

Records are disposed of by shredding or burning as scheduled in the handbook, GSA Records Maintenance and Disposition System (OAD P 1820.2).

SYSTEM MANAGER AND ADDRESS:

CHRIS Program Manager (CID), Office of the Chief Information Officer, Office of the Chief Human Capital Officer, General Services Administration, 1800 F Street, NW., Washington, DC 20405.

NOTIFICATION PROCEDURE:

Address inquiries to: Director of Human Resources Services (CP), Office of the Chief People Officer, General Services Administration, 1800 F Street, NW., Washington, DC 20405; or, for regional personnel records, to the regional Human Resources Officer at the addresses listed above under System Location.

RECORD ACCESS PROCEDURES:

Requests from individuals for access to their records should be addressed to the system manager.

CONTESTING RECORD PROCEDURES:

Rules for contesting the content of a record and appealing a decision are contained in 41 CFR 105–64.

RECORD SOURCE CATEGORIES:

The sources for the system information are the individuals themselves, other employees, supervisors, management officials, officials of other agencies, and record systems GSA/HRO–37, OPM/GOVT–1, and EEOC/GOVT–1.

[FR Doc. E8–11822 Filed 5–30–08; 8:45 am]

BILLING CODE 6820–34–M

GOVERNMENT ACCOUNTABILITY OFFICE

Appointments to the Medicare Payment Advisory Commission

AGENCY: Government Accountability Office (GAO).

ACTION: Notice of appointments.

SUMMARY: The Balanced Budget Act of 1997 established the Medicare Payment Advisory Commission (MedPAC) and gave the Comptroller General responsibility for appointing its members. This notice announces three new appointments and two reappointments to fill the vacancies occurring this year.

DATES: Appointments are effective May 1, 2008 through April 30, 2011, except as noted.

ADDRESSES: GAO: 441 G Street, NW., Washington, DC 20548.

MedPAC: 601 New Jersey Avenue, NW., Suite 9000, Washington, DC 20001.

FOR MORE INFORMATION CONTACT: GAO: Office of Public Affairs, (202) 512–4800.

MedPAC: Mark E. Miller, Ph.D., (202) 220–3700.

SUPPLEMENTARY INFORMATION: To fill this year's vacancies I am announcing the following:

Newly appointed members are Peter W. Butler, M.H.S.A., Executive Vice President and Chief Operating Officer, Rush University Medical Center; Michael Chernew, Ph.D., professor, Department of Health Care Policy; and George N. Miller, Jr., M.H.S.A., Regional President and Chief Executive Officer, Community Mercy Health Partners.

Reappointed members are Jennie Chin Hansen, R.N., M.S.N., member, Board of Directors, AARP; and Nancy M. Kane, D.B.A., professor of management, Department of Health Policy Management, Harvard School of Public Health.

(Sec. 4022, Pub. L. 105–33, 111 Stat. 251, 350)

Gene L. Dodaro,

Acting Comptroller General of the United States.

[FR Doc. E8–12023 Filed 5–30–08; 8:45 am]

BILLING CODE 1610–02–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Office of Resources and Technology; Statement of Organization, Functions and Delegations of Authority

Part A, Office of the Secretary, Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services (HHS) is being amended at Chapter AM, Office of Resources and Technology, as last amended at 72 FR 2282–88 on January 18, 2007, and more recently at 72 FR 56074, on October 2, 2007. This reorganization is to establish within the Office of the Chief Information Officer (AMM), a new Office of Information Technology Security (AMM6). The changes are as follows:

I. Under Chapter AM, Section AMM. 10 Organization, delete in its entirety and replace with the following:

AMM.10 Organization. The Office of the Chief Information Officer (OCIO) is headed by the Deputy Assistant Secretary for Information Technology/ HHS Chief Information Officer (CIO), who reports to the Secretary and the Assistant Secretary for Resources and Technology (ASRT). The HHS CIO serves as the primary IT leader for the Department, and the OCIO consists of the following:

- Immediate Office (AMM).
- Office of Resources Management (AMM2).
- Office of Enterprise Architecture (AMM4).
- Office of Enterprise Project Management (AMM5).
- Office of Information Technology Security (AMM6).

II. Under AM, Section AMM.20 Functions, make the following changes:

A. Under Paragraph 3, ''Office of Enterprise Architecture (AMM4),'' delete in its entirety and replace with the following:

3. *Office of Enterprise Architecture (AMM4):* The Office of Enterprise Architecture (OEA) is headed by the Director, Office of Enterprise Architecture who is also the HHS Chief Enterprise Architect and supports all planning and enterprise programs that fall under the OCIO.

The OEA is responsible for:

a. Working with OPDIV Chief Information Officers (CIOs) to support Government-wide initiatives of the Federal CIO Council and to identify opportunities for participation and consultation in information technology projects with major effects on OPDIV program performance.

b. Providing leadership in the planning, design, and evaluation of major Departmental projects and oversight throughout project rollout and perform post implementation performance assessments.

c. Assessing risks that major information systems pose to performance of program operations and administrative business throughout the Department, develops risk assessment policies and standard operating procedures and tools, and uses program outcome measures to gauge the quality of Departmental information resources management.

d. Coordinating the Department's strategic planning, capital planning and investment control (CPIC), budgeting and performance management processes for information technology, and provides direct planning development and support to assure that IRM plans support agency business planning and mission accomplishment.

e. Coordinating the activities of the Departmental Information Technology Investment Review Board (ITIRB) in assessing and prioritizing the Department's major information systems, and in analyzing and evaluating IT investment decisions. Reviews OPDJV ITIRB implementations, IT capital funding decisions, and use of performance metrics to evaluate programs for both initial and continued funding.

f. Coordinating and supporting the Department's Chief Information Officer's Council, whose membership consists of the Chief Information Officers from each OPDIV.

g. Representing the Department through participation on interagency and Departmental work groups and task forces, as appropriate.

h. Working with OPDIV Chief Information Officers to identify opportunities for administering information management functions and telecommunications initiatives with major effects on OPDIV performance. OEA provides leadership primarily in defining alternatives for acquisition of telecommunications services and coordinating implementation of information management initiatives in conjunction with the Director of the Office of Enterprise Project Management and the HFJS Chief Enterprise Architect.

i. Providing support for special priority initiatives identified by the CIO.

B. Add the following new paragraph at the end of Section AMM.20 Functions, ''Office of the Chief Information Officer (AMM6).''

5. *Office of Information Technology Security (AMM6).* The Office of Information Technology Security (OITS) is headed by the Director, (OITS), who is also HHS Chief Information Security Officer (CISO), which manages HHS Security Program. The Office provides management leadership in IT security policy and guidance, expert advice and collaboration among the Operating Divisions (OPDIVs) and the Staff Divisions (STAFFDIVs) in developing, promoting and maintaining IT security measures to adequately and cost effectively protect and ensure the confidentiality, integrity and timely availability of all data and information in the custody of the Department as well as of the information systems required to meet the Department's current and future business needs. OJTS is responsible for:

a. Developing, implementing and administering the program to protect the information resources of the Department. This includes management and oversight of activities under the Federal Information Security Management Act (FISMA), IT critical infrastructure protection (CIP), and Department-wide security contracts and high level project management of OPDIV security programs, such as corrective action plans and security policies.

b. Implementing and administering the HHS security program to protect the information resources of the Department in compliance with legislation, Executive Orders, directives of the Office of Management and Budget (OMB), or other mandated requirements (e.g., the Clinger Cohen Act, Presidential Decision Directive 63, and OMB Circular A–130), the National Security Agency, and other Federal agencies.

c. Directing the development of and implementing cyber security policies and guidance for the Department, including requirements for employees and contractors who are responsible for systems of data, or for the acquisition, management, or use of information resources.

d. Monitoring information system security program activities in the Department by reviewing OPDIVs and STAFFDFVs security plans for sensitive systems, recommending improvements, and evaluating safeguards to protect major information systems, or IT infrastructure.

e. Responding to requests in conjunction with 0MB Circular A–130, the Computer Security Act of 1987, and Presidential Decision Directive 63, or other legislative or mandated requirements related to IT security or privacy.

f. Monitoring all Departmental systems development and operations for security and privacy compliance and providing advice and guidance to ensure compliance standards are included throughout system life cycle development.

g. Reviewing Departmental ITIRB and ClO Council business cases (as well as 0MB circular A–11 requirements) for assurance of security and privacy compliance.

h. Recommending to the ClO to grant or deny programs the authority to operate information systems, based on security compliance.

i. Establishing and leading Department-wide teams to conduct reviews to protect HHS cyber and personnel security programs and conduct vulnerability assessments of HHS critical assets. This includes regular certification of existing systems as well as newly implemented systems. The OITS activities involving personnel and cyber security are coordinated and synchronized with the Office of Security and Strategic Information.

j. Reviewing the Department's information resources for fraud, waste, and abuse to avoid having redundant resources, in conformance with the Clinger-Cohen Act.

k. Developing, implementing, and evaluating employee cyber security awareness and training program to meet the requirements as mandated by 0MB Circular A–130 and the Computer Security Act.

l. Establishing and providing leadership to the Subcommittee of the HHS ClO Council on Security.

m. Establishing and leading the HHS Computer Security Incident Response Capability team, the Department's overall cyber security incident response/coordination center and primary point of contact for Federal Computer Incident Response Capability (FedCIRC) and National Infrastructure Protection Center (NIPC).

IV. Continuation of Policy: Except as inconsistent with this reorganization, all statements of policy and interpretations with respect to the Office of Infonnation and Resources Management heretofore issued and in effect prior to this reorganization are continued in full force and effect with respect to the Office of the Chief Information Officer.

V. Delegation of Authority: All delegations and redelegations of authority previously made to officials and employees of the Office of the Chief Information Officer will continue in them or their successors pending further redelegation, provided they are consistent with this reorganization.

VI. Funds, Personnel, and Equipment: Transfer of organizations and functions affected by this reorganization shall he accompanied by direct and support funds, positions, personnel, records, equipment, supplies, and other sources.

Dated: May 19, 2008.

Joe W. Ellis,

Assistant Secretary for Administration and Management.

[FR Doc. E8–12025 Filed 5–30–08; 8:45 am]

BILLING CODE 4150–22–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–08–07BD]

Proposed Data Collections Submitted for Public Comment and Recommendations

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–5960 or send an e-mail to *omb@cdc.gov*. Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–6974. Written comments should be received within 30 days of this notice.

Notice of Correction to the Burden Table

Proposed Project

Building Related Asthma Research in Public Schools—New—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The mission of the National Institute for Occupational Safety and Health (NIOSH) is to promote safety and health at work for all people through research and prevention. The Occupational Safety and Health Act, Public Law 91–596 (section 20[a] [1]) authorizes the National Institute for Occupational Safety and Health (NIOSH) to conduct research to advance the health and safety of workers. NIOSH is conducting a longitudinal study among teachers and staff in public schools. The goals of this study are (1) to document the time course of changes in respiratory health, sick leave, and quality of life in relation to building remediation for water incursion and dampness problems; (2) to validate the reporting of building-related lower respiratory symptoms in school staff with bronchial hyper-responsiveness by the use of serial spirometry to look for building-related patterns of airflow variability; and (3) to demonstrate that a toolkit comprised of a semi-quantitative index for assessing water damage and signs of moisture in schools, along with a short health questionnaire, can be used by school personnel to pinpoint specific problem areas and aid remediation efforts.

The Centers for Disease Control and Prevention sponsored the Institute of Medicine to make an exhaustive review of the published literature relating exposures in damp buildings to health consequences. The committee findings, summarized in *Damp Indoor Spaces and Health* (Institute of Medicine of the National Academies of Science 2004), concluded that sufficient evidence exists for associating the presence of mold or other agents in damp buildings to nasal and throat symptoms, cough, wheeze, asthma symptoms in sensitized asthmatics, and hypersensitivity pneumonitis in susceptible persons. Identification of specific causal agents for these health outcomes in damp environments requires more investigation, and more research and demonstration projects are needed to evaluate interventions in damp buildings.

NIOSH is proposing to conduct an initial cross-sectional respiratory health survey in three public schools. The study will then continue with two additional years of longitudinal follow-up, which will be used to assess respiratory health and environmental conditions in relation to time and intervention status in the three schools. NIOSH will study one school with no history of building leaks and good control of internal moisture sources, one school with previous building leaks and water damage but with subsequent renovation before the start of the study, and one school with current building leaks and dampness problems with renovation scheduled during the study. The questionnaire will be administered each year by a NIOSH interviewer who will record the responses directly into a computer. The questionnaire will be offered to all school employees; we expect no more than 300 participants. It will include sections on the participant's medical history, work history, and home environment. For participants who no longer work at the school, a short questionnaire will be administered by NIOSH staff over the telephone during the second and third years of the study. Assuming that 10% of the participants will leave the school during the three-year period, we expect to interview about 30 former workers.

All participants from the initial cross-sectional survey meeting an epidemiologic definition of asthma and reporting that the symptoms improve away from the school will be asked to perform spirometry and a methacholine challenge test, or if obstructed, a bronchodilator test, both of which are standard medical tests for asthma; NIOSH anticipates about 45 respondents for these tests. A maximum of twenty participants who are positive for either lung function test will be asked to participate in the serial spirometry study, which will cover three weeks during the school term and an additional three weeks during the summer break.

The school nurse will be trained in using a shortened version of the health questionnaire to all school staff and analyze the results of the survey. Additionally, facility personnel will be trained in the use of a semi-quantitative index tool and asked to use the tool to assess areas in the schools for water damage and signs of moisture during their routine inspections. Participation in all components of the study is completely voluntary.

There are no costs to the respondents other than their time. The total estimated annualized burden hours are 1060.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Forms	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Teachers and staff	NIOSH-Administered Questionnaire.	300	1	45/60
Former teachers and staff	Former Worker Questionnaire (Years 2 & 3 only).	30	1	9/60
Teachers and staff	Spirometry, Methacholine Challenge Test or Bronchodilator Administration.	300	1	15/60
Teachers and staff	Serial Spirometry	20	1	37

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondents	Forms	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Facility personnel	Semi-Quantitative Assessment Sheet.	3	1	5

Dated: May 19, 2008.

Maryam I. Daneshvar,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E8–12191 Filed 5–30–08; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–08–08BA]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–5960 and send comments to Maryam I. Daneshvar, CDC Acting Reports Clearance Officer, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an e-mail to *omb@cdc.gov.*

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. Written comments should be received within 60 days of this notice.

Proposed Project

Active Bacterial Core Surveillance (ABCs) Projects—New—National Center for Immunization and Respiratory Diseases (NCIRD), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

CDC is requesting OMB approval for four data collection instruments that will assist public health officials in documenting disease burden and describing the epidemiology of six bacterial pathogens: group A and group B streptococcus, *Haemophilus influenzae, Neisseria meningitidis, Streptococcus pneumoniae,* and methicillin-resistant *Staphylococcus aureus.* Case finding is active and laboratory-based. A standard case report is completed on all identified cases through medical record review. The standard case report form contains questions on basic demographics, underlying medical conditions, vaccinations and risk factors for infection. The ABCs project is a core component of an established CDC-state-academic institution collaborative data collection network, the Emerging Infections Program (EIP) Network which includes the states of California, Colorado, Connecticut, Georgia, Maryland, Minnesota, New Mexico, New York, Oregon and Tennessee. Data collection is done differently in each EIP/ABCs surveillance area; for example, through the cooperation of on-site hospital personnel (e.g., Infection Control Practitioners or Medical Records personnel), through medical record review or clinician interview by county health department personnel, or through medical record review by surveillance personnel.

The data collections have important practical utility to the government as well as the American population as a whole because accurate surveillance data allows for the development and evaluation of public health prevention measures. ABCs is the gold standard for the collection of population- and laboratory-based invasive bacterial disease data in the U.S. No other nationwide surveillance systems which monitor these diseases exist. While similar information may be collected on a sample basis or from a particular area of the country, for most diseases, sampling would not be sufficient for the states' need of conducting prevention or control programs. ABCs collect data from EIP sites in a uniform manner.

CDC is requesting approval of four data collection forms. Estimates are based on CDC's prior experience with conducting similar surveillance activities. ''Respondents'' for each of the forms are health departments who will submit surveillance case report forms. ''Responses'' for the case report forms indicate the number of cases of the six pathogens listed above that are identified. Number of ''responses'' for all case report forms must be estimated as we do not know before hand how many cases will occur.

CDC is utilizing technology to minimize the burden associated with completing and submitting forms. CDC will provide to each EIP site a Microsoft Access database that mirrors the data collection forms. Surveillance staff at each participating EIP site will enter data from the data collection form into the database. 100% of the forms included in this data collection package will be submitted to CDC electronically. Password-protected databases are posted to site-specific folders on a secure CDC ftp site.

There are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Type of respondent	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
ABCs Case Report Form	State Health Department.	10	809	20/60	2697

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Form name	Type of respondent	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Invasive Methicillin-resistant Staphylococcus aureus ABCs Case Report Form.	State Health Department.	10	609	20/60	2030
ABCs Invasive Pneumococcal Disease in Children Case Report Form.	State Health Department.	10	41	10/60	68
Neonatal Group B Streptococcal Disease Prevention Tracking Form.	State Health Department.	10	37	20/60	123
Total					4918

Dated: May 23, 2008.

Maryam I. Daneshvar,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E8–12192 Filed 5–30–08; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Public Health Service Act (PHS); Delegation of Authority

Notice is hereby given that I have delegated to the Director, National Center for Preparedness, Detection and Control of Infectious Diseases (NCPDCID), and the Director, Division of Global Migration and Quarantine (DGMQ), NCPDCID, with authority to redelegate, the authorities vested in the Director, Centers for Disease Control and Prevention, under sections 361(a), (b), (c), (d), and 362, Title III, of the PHS Act (Control of Communicable Diseases, 42 U.S.C. 264 and 265. The authority delegated under 361(a) does not include the authority to promulgate regulations.

This delegation became effective upon date of signature. In addition, I have affirmed and ratified any actions taken by the Director, NCPDCID, the Director, DGMQ, NCPDCID, or their subordinates which involved the exercise of authorities delegated herein prior to the effective date of the delegation.

Dated: May 20, 2008.

Julie Louise Gerberding,

Director, Centers for Disease Control and Prevention.

[FR Doc. E8–12176 Filed 5–30–08; 8:45 am]

BILLING CODE 4160–18–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee on Immunization Practices (ACIP)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC), announces the following meeting of the aforementioned committee:

Times and Dates: 8 a.m.–6 p.m., June 25, 2008. 8 a.m.–5 p.m., June 26, 2008.

Place: CDC, Tom Harkin Global Communications Center, 1600 Clifton Road, NE., Building 19, Kent ''Oz'' Nelson Auditorium, Atlanta, Georgia 30333.

Status: Open to the public, limited only by the space available.

Purpose: The committee is charged with advising the Director, CDC, on the appropriate uses of immunizing agents. In addition, under 42 U.S.C. 1396s, the committee is mandated to establish and periodically review and, as appropriate, revise the list of vaccines for administration to vaccine-eligible children through the Vaccines for Children (VFC) program, along with schedules regarding the appropriate periodicity, dosage, and contraindications applicable to the vaccines.

Matters to be Discussed: The agenda will include discussions on Rotavirus Vaccines; Combination Vaccines; MMRV Vaccine; Human Papillomavirus Vaccines; Pneumococcal Vaccines; Measles Outbreaks in the United States (2008); Adult Immunization Schedule; Anthrax Vaccine; Influenza Vaccines; Rabies Vaccine and Biologicals; Vaccine Supply; and Immunization Safety Update. There may be VFC voting on the Rotavirus, Combination and Human Papillomavirus Vaccines.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Antonette Hill, Immunization Services Division, National Center for Immunization and Respiratory Diseases, CDC, 1600 Clifton Road, NE., (E–05), Atlanta, Georgia 30333, Telephone (404) 639–8836, Fax (404) 639–8905.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both the CDC and ATSDR.

Dated: May 27, 2008.

Elaine Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E8–12234 Filed 5–30–08; 8:45 am]

BILLING CODE 4160–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Food Safety Research; Investigations Focused on Promoting the Safety of Produce

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA-Center for Food Safety and Applied Nutrition (CFSAN)) is announcing the availability of approximately $1.0 million in research funds for fiscal year (FY) 2008. It is anticipated that individual grants will receive a total of $250,000 to $500,000 to cover both direct and indirect costs. These funds will be used to support research efforts to advance the safe transportation and preparation of produce and to help reduce the incidence of foodborne illness that may be associated with fresh produce consumption. The award will provide 18 months of support. There will be no additional years of noncompetitive continuation support. A copy of the full text of this announcement will be posted in Grants.gov and on FDA's Center for Food Safety and Applied Nutrition Web site at *http://www.cfsan.fda.gov/list.html*.

Key Dates: Receipt Date: Applications are due within 90 days after the publication of the funding opportunity in the **Federal Register**.

I. Funding Opportunity Description

The Food and Drug Administration (FDA) Center for Food Safety and Applied Nutrition (CFSAN) maintains an active intramural research program. This research is focused on five primary CFSAN program priorities; ensuring the safety of food, dietary, supplements and cosmetics; improving nutrition; and promoting the security and integrity of the food supply. When resources permit, CFSAN supports extramural research grants intended to help advance these program priorities. The extramural program endeavors to support novel research efforts, expertise, and resources not found within CFSAN. In particular, it is intended that any additional extramural research efforts in food safety will complement the Center's intramural research efforts, and generally enhance the Agency's and the Nation's ability to reduce the incidence of food borne illness and protect the integrity of the nation's food supply.

Applications submitted in response to this Request for Application must be submitted electronically through Grants.gov (*http://www.grants.gov*) using the SF 424 Research and Related (R&R forms and the SF 424 (R&R) Application Guide.) Paper applications will not be accepted.

Project Emphasis

FDA is announcing the availability of competitively awarded funding for FY 2008 to be used for research intended to help enhance produce safety. Proposed projects designed to fulfill the specific objectives of either of the following requested project topic categories will be considered for funding. Applications may address only one project and its objectives per application. It should be noted that CFSAN will place greater value on those proposals addressing the objectives in a manner that will lead to practical solutions, which, if implemented, will help improve the safety of prepared and consumed fresh-cut produce. No proposed projects should involve human research subjects.

A. Project Topic Category 1

Conduct laboratory based studies assessing the handling of fresh-cut produce by consumers that may compromise the microbiological safety of the product prior to its consumption. Quantifiable information is being sought regarding the consequences of typical consumer handling behaviors that compromise fresh produce safety and about practical alterations in consumer behaviors that may be easily employed to improve the safety of the product they eat. These must be laboratory based studies and not consumer behavioral studies involving human subjects.

B. Project Topic Category 2

Identify and assess problem(s) that occur during the transportation of fresh produce between producer processing facilities and point of retail sale to the consumer. The research may focus on an individual problem and its impact on a single commodity or a group of commodities. Alternatively, the research may focus on a set of related or interdependent problems and their impact on a single commodity or a group of commodities. It is expected the research effort will provide practical solutions that can be used to enhance product safety and integrity during the transportation phase of its production.

II. Award Information

Mechanism of Support

This Request for Application will use the Research Project Grant R01 award mechanism. The applicant will be solely responsible for planning, directing, and executing the proposed project. FDA will support the competitively awarded grants under the authority of section 301 of the Public Health Service (PHS) Act (42 U.S.C. 241).

Announcement Type: New Competing Research Grant (R01)

Request for Applications (RFA) Number: RFA-FD-08-005

Catalog of Federal Domestic Assistance Number: 93.103

III. Eligibility Information

A. Eligible Applicants

The grants are available to any foreign or domestic, public or private, for-profit or nonprofit entity (including State and local units of government). Federal agencies that are not part of the Department of Health and Human Services (HHS) may apply. Agencies that are part of HHS may not apply. For-profit entities must commit to excluding fees or profit in their request for support to receive grant awards. Organizations that engage in lobbying activities, as described in section 501(c) (4) of the Internal Revenue Code of 1968, are not eligible to receive grant awards.

B. Cost Sharing or Matching

Cost sharing is not required.

C. Other-Special Eligibility Criteria

Applicants may submit more than one application, provided each application is scientifically distinct.

IV. Application and Submission

A. Request Application Information

Applicants must download the SF424 (R&R) application forms and SF424 (R&R) Application Guide for this funding opportunity through the Grants.gov Apply *http://www.grants.gov* Web site. Only the forms package directly attached to this specific funding opportunity in Grants.gov can be used.

Your organization will need to obtain a Data Universal Number System (DUNS) number and register with the Central Contractor Registration (CCR) as part of the Grants.gov registration process.

Direct questions regarding Grants.gov registration should be directed to Grants.gov Customer Support at 800–518–4726 or e-mail *support@grants.gov*.

1. Dun and Bradstreet Number (DUNS)

Applicants are now required to have a DUNS number to apply for a grant or cooperative agreement from the Federal Government. The DUNS number is a 9–digit identification number that uniquely identifies business entities. To obtain a DUNS number, call Dun and Bradstreet at 1–866–705–5711. Be certain that you identify yourself as a Federal grant applicant when you contact Dun and Bradstreet. For foreign entities the Web site is *https://eupdate.DNB.com*.

2. Central Contractor Registration

Applicants must register with the CCR database. You must have a DUNS number to begin your registration. This database is a government-wide warehouse of commercial and financial information for all organizations conducting business with the Federal Government. The preferred method for completing a registration is through the Web site at *http://www.ccr.gov*. This Web site provides a CCR handbook with detailed information on data you will need prior to beginning the online pre-registration, as well as steps to walk you through the registration process. In order to access grants.gov an applicant will be required to register with the Credential Provider. Information about this is available at *http://www.grant.gov/CredentialProvider*.

B. Content and Form of Application Submission

The SF424 (R&R) has several components. Some components are required, others are optional. The forms package associated with this Request for Application in Grants.gov/APPLY includes all applicable components (required and optional). The package should be labeled ''Response to RFA-

FD–08–005.'' If you experience technical difficulties with your online submission you should contact Gladys Melendez-Bohler by telephone 301–827–7168 or by e-mail *gladys.melendez-bohler@fda.hhs.gov*.

Data and information included in the application will generally not be publicly available prior to the funding of the application. After funding has been awarded, data and information included in the application will be given confidential treatment to the extent permitted by the Freedom of Information Act (5 U.S.C. 552(b)) and FDA's implementing regulations (including 21 CFR Part 20 and §§ 20.61, 20.105, and 20.106). By accepting funding, the applicant agrees to allow FDA to publish specific information about the grant. Collecting information on Form SF424 (R&R) has been approved and assigned OMB control number 4040–0001.

C. Submission Dates and Times

The application submission receipt date is within 90 days after the date of the publication of the Funding Opportunity Announcement in the **Federal Register**. The application will be accepted electronically until the established receipt date.

On time submission requires that applications be successfully submitted to Grants.gov no later than 5 p.m local time (of the applicant's institution/organization).

D. Intergovernmental Review

The regulations issued under Executive Order 12372, Intergovernmental Review of Federal Program (45 CFR Part 100) do not apply.

E. Funding Restrictions

This agreement will be subject to all policies and requirements that govern the research grant programs of the PHS, including Provisions of 42 CFR Part 52 and 45 CFR Parts 74 and 92. All grants are subject to the terms and conditions, cost principles, and other considerations described in the January 6, 2007, HHS Grants Policy Statement that are applicable based on your recipient type and the purpose of this award. This includes any requirements in Parts I and II (available at *http://www.hhs.gov/grantsnet/adminis/gpd/index.htm*).

Although consistent with the HHS Grants Policy Statement (GPS), any applicable statutory or regulatory requirements, including 45 CFR parts 74 or 92, directly apply to this award apart from any coverage in the HHS GPS.

V. Agency Contacts

For issues regarding the programmatic aspects of this notice: Mark Wirtz, Center for Food Safety and Applied Nutrition (HFS–002), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 301–436–2001, e-mail: *mark.wirtz@fda.hhs.gov*. For issues regarding the administrative and financial management aspects of this notice contact, Gladys Melendez-Bohler at 301–827–7168 or by e-mail at *gladys.melendez-Bohler@fda.hhs.gov*.

Dated: May 23, 2008.

Jeffrey Shuren,

Associate Commissioner for Policy and Planning.

[FR Doc. E8–12159 Filed 5–30–08; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2007–D–0364] (formerly Docket No. 2007D–0080)

Guidance for Industry on Indexing Structured Product Labeling; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance for industry entitled ''Indexing Structured Product Labeling.'' This guidance explains that the Center for Biologics Evaluation and Research (CBER) and the Center for Drug Evaluation and Research (CDER) will index structured product labeling (SPL) in the product labeling for human drug and biologic products. This guidance also makes recommendations to industry on how to submit input regarding the indexing information in the SPL.

DATES: Submit written or electronic comments on agency guidance documents at any time.

ADDRESSES: Submit written requests for single copies of the guidance to the Division of Drug Information (HFD–240), Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 2201, Silver Spring MD 20993–0003, or the Office of Communication, Training, and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research, Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist that office in processing your requests. The guidance can also be obtained by mail by calling CBER at 1–800–835–4709 or 301–827–1800. Submit written comments on the guidance to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.regulations.gov.* See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: Laurie Burke, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, rm. 6462, Silver Spring, MD 20993–0002, *laurie.burke@fda.hhs.gov*, or

Stephen Ripley, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448, 301–827–6210.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance for industry entitled ''Indexing Structured Product Labeling.'' This guidance explains that CBER and CDER will index SPL in the product labeling for human drug and biological products. This guidance also makes recommendations to industry on how to submit input regarding the indexing information in the SPL.

A Health Level Seven (HL7) standard, SPL enables the electronic exchange of the content of labeling and other regulated product information using the extensible markup language. The SPL standard enables the inclusion of indexing elements with product labeling. These machine readable identifiers enable users with clinical decision support tools and electronic prescribing systems to rapidly search and sort product information found in product labeling. Indexing the content of labeling with SPL will greatly facilitate the efficient communication of important drug information to the public, helping create a more robust nationwide system for promoting the safe and effective use of drugs.

After completing a 6-month pilot project evaluating how best to add indexing elements, FDA determined that the most efficient strategy is for FDA, not individual applicants, to index the SPL using a phased approach. We will index the pharmacological class during the first phase. We are adding

the pharmacologic class first because: (1) It is important for the safe use of drugs; (2) it is necessary for making future indexing meaningful (e.g., drug interactions); and (3) this choice leverages existing FDA resources. After pharmacologic class, we will be seeking public input on which indexing elements should be added in future phases.

The guidance also recommends that applicants submit any questions regarding existing indexing, including any requests to add or revise an indexing element, to FDA by e-mail at *spl@fda.hhs.gov*. Inquiries and requests will be forwarded to the appropriate FDA personnel, who will consider them and make any appropriate change in the SPL.

In the **Federal Register** of March 19, 2007, FDA announced a draft version of this guidance entitled ''Indexing Structured Product Labeling'' (72 FR 12807). A number of comments were received, and FDA considered them carefully during finalization of the guidance. For example, applicants expressed a desire to recommend indexing terms to FDA; the guidance now provides advice on this topic. Applicants also indicated that they would like to see the indexing terms that FDA has selected prior to indexing. The guidance describes a high level process for sharing indexing terms before FDA actually indexes the SPL decision for a specific element, e.g., pharmacologic class. The guidance also clarifies various points set forth in the draft guidance that the public suggested needed clarification. This guidance is being issued as a joint CDER-CBER guidance in preparation for CBER to implement SPL in the future.

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the agency's current thinking on indexing SPL. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Comments on agency guidances are welcome at any time. Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding this document. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

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*.

III. Electronic Access

Persons with access to the Internet may obtain the document at either *http://www.fda.gov/cder/guidance/index.htm*, *http://www.fda.gov/cber/guidelines.htm*, or *http://www.fda.regulations*.

Dated: May 23, 2008.

Jeffrey Shuren,

Associate Commissioner for Policy and Planning.

[FR Doc. E8–12158 Filed 5–30–08; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Host Interactions with Bacterial Pathogens.

Date: June 12, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Latham Hotel, 3000 M Street, NW., Washington, DC 20007.

Contact Person: Richard G. Kostriken, PhD., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3192, MSC 7808, Bethesda, MD 20892, 301–402–4454, *kostrikr@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; CASE and KNOD SRG Member Conflict Panel.

Date: June 16, 2008.

Time: 10 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Fungai F. Chanetsa, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3135, MSC 7770, Bethesda, MD 20892, 301–435–1262, *chanetsaf@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review, Special Emphasis Panel, Urology Overflow Applications.

Date: June 17, 2008.

Time: 4 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Ryan G. Morris, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4205, MSC 7814, Bethesda, MD 20892, 301–435–1501, *morrisr@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review, Special Emphasis Panel, Neurobiophysical Topics.

Date: June 18, 2008.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Mary Custer, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4148, MSC 7850, Bethesda, MD 20892–7850, (301) 435–1164, *custerm@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review, Special Emphasis Panel, Fungal Pathogens.

Date: June 23, 2008.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Richard G. Kostriken, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3192, MSC 7808, Bethesda, MD 20892, 301–402–4454, *kostrikr@csr.nih.gov*.

Name of Committee: Center for Scientific Review, Special Emphasis Panel, Molecular Cardiology.

Date: June 24, 2008.

Time: 1:30 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Russell T. Dowell, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4128, MSC 7814, Bethesda, MD 20892, (301) 435–1850, *dowellr@csr.nih.gov*.

Name of Committee: AIDS and Related Research Integrated Review Group; Behavioral and Social Science Approaches to Preventing HIV/AIDS Study Section.

Date: July 7–8, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Grand Hyatt Seattle, 721 Pine Street, Seattle, WA 90101.

Contact Person: Jose H. Guerrier, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5222, MSC 7852, Bethesda, MD 20892, 301–435–1137, *guerriej@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Biomedical Devices and Bioengineering.

Date: July 7, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Guo Feng Xu, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5122, MSC 7854, Bethesda, MD 20892, 301–435–1032, *xuguofen@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; SAT Member Conflict.

Date: July 7, 2008.

Time: 2 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Roberto J. Matus, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5108, MSC 7854, Bethesda, MD 20892, (301) 435–2204, *matusr@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Dissemination and Implementation Research in Healthcare Special Emphasis Panel.

Date: July 8, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Sir Francis Drake Hotel, 450 Powell Street, San Francisco, CA 94102.

Contact Person: Melinda Tinkle, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3141, MSC 7770, Bethesda, MD 20892, (301) 594–6594, *tinklem@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; AIDS SBIR/STTR Biological Sciences.

Date: July 8, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Allerton Hotel, 701 N. Michigan Avenue, Chicago, IL 60611.

Contact Person: Kenneth A. Roebuck, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5106, MSC 7852, Bethesda, MD 20892, (301) 435–1166, *roebuckk@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; ELSI of Human Microbiome Research.

Date: July 8, 2008.

Time: 8 a.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: One Washington Circle Hotel, One Washington Circle, NW., Washington, DC 20037.

Contact Person: Richard A. Currie, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1108, MSC 7890, Bethesda, MD 20892, (301) 435–1219, *currieri@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Radioligands.

Date: July 8, 2008.

Time: 8 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Raya Mandler, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5217, MSC 7840, Bethesda, MD 20892, 301–402–8228, *rayam@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Molecular, Cellular and Developmental Neurobiological Small Business Applications.

Date: July 8, 2008.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Embassy Suites, 1250 22nd Street, NW., Washington, DC 20037.

Contact Person: Michael A. Lang, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4140, MSC 7850, Bethesda, MD 20892, (301) 435–1265, *langm@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Diabetes, Obesity and Nutrition.

Date: July 8, 2008.

Time: 11 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Krish Krishnan, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6164, MSC 7892, Bethesda, MD 20892, (301) 435–1041, *krishnak@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RIBT Member Conflicts.

Date: July 8, 2008.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: George M. Barnas, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2180, MSC 7818, Bethesda, MD 20892, 301–435–0696, *barnasg@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Diversity Program.

Date: July 8, 2008.

Time: 12 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Bonnie L. Burgess-Beusse, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2191C, MSC 7818, Bethesda, MD 20892, 301–435–1783, *beusseb@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Lipids and Lipoproteins.

Date: July 9–10, 2008.

Time: 1 p.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Michael Knecht, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6176, MSC 7892, Bethesda, MD 20892, (301) 435–1046, *knechtm@csr.nih.gov*.

Name of Committee: Biology of Development and Aging Integrated Review Group; International and Cooperative Projects—I Study Section.

Date: July 10, 2008.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: The Fairmont Washington, D.C., 2401 M Street, NW., Washington, DC 20037.

Contact Person: Manana Sukhareva, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3214, MSC 7808, Bethesda, MD 20892, 301–435–1116, *sukharem@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Cell Biology.

Date: July 10–11, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Jonathan Arias, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5170, MSC 7840, Bethesda, MD 20892, 301–435–2406, *ariasj@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Roadmap–R21 HTS Assays.

Date: July 10, 2008.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: James J. Li, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5148, MSC 7849, Bethesda, MD 20892, 301–435–2417, *lijames@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Nature's Solutions.

Date: July 10, 2008.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Joyce C. Gibson, DSC, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4130, MSC 7814, Bethesda, MD 20892, (301) 435–4522, *gibsonj@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Musculoskeletal Rehabilitation SBIR.

Date: July 10–11, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Jo Pelham, BA, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4102, MSC 7814, Bethesda, MD 20892, (301) 435–1786, *pelhamj@csrnih.gov*.

Name of Committee: AIDS and Related Research Integrated Review Group; AIDS Immunology and Pathogenesis Study Section.

Date: July 11,2008.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: The Fairmont Hotel, 2401 M Street, NW., Washington, DC 20037.

Contact Person: Shiv A. Prasad, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5220, MSC 7852, Bethesda, MD 20892, 301–443–5779, *prasads@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business Hematology.

Date: July 11, 2008.

Time: 8 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Lombardy, 2019 Pennsylvania Avenue, NW., Washington, DC 20006.

Contact Person: Delia Tang, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4126, MSC 7802, Bethesda, MD 20892, 301–435–2506, *tangd@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Predoctoral Fellowship to Promote Diversity in Health-Related Research (DCPS).

Date: July 11, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Savoy Suites, 2505 Wisconsin Avenue, NW., Washington, DC 20007.

Contact Person: Gabriel B. Fosu, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3215, MSC 7808, Bethesda, MD 20892, (301) 435–3562, *fosug@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Cognition, Language, and Perception Fellowship Study Section.

Date: July 11, 2008.

Time: 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: The Fairmont Washington, D.C., 2401 M Street, NW., Washington, DC 20037.

Contact Person: Dana Jeffrey Plude, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3176, MSC 7848, Bethesda, MD 20892, 301–435–2309, *pluded@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Alzheimer's Disease Pilot Clinical Trials.

Date: July 11, 2008.

Time: 11 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Alfonso R. Latoni, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3182, MSC 7848, Bethesda, MD 20892, 301–435–0913, *latonia@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: May 20, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–11790 Filed 5–30–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Project: Methamphetamine Use Prevention Initiative—NEW

Prevention of Methamphetamine Abuse grants are authorized under Section 519E of the Public Health Service Act, as amended. This program addresses the growing problem of methamphetamine abuse and addiction by assisting localities to expand prevention interventions that are effective and evidence-based and/or to increase capacity through infrastructure development. According to the 2005 National Survey on Drug Use and Health, 10.4 million Americans age 12 and older had tried methamphetamine at least once in their lifetime. In addition, the number of methamphetamine users who were dependent on or abused some kind of illicit drug rose significantly from 164,000 in 2002 to 257,000 in 2005. The goal of the Methamphetamine Abuse Prevention grants is to intervene effectively to prevent, reduce, or delay the use and/or spread of methamphetamine abuse.

Proposed Methamphetamine Prevention and Abuse grants will focus on conducting community-based prevention programs targeting those populations within the community that are most at risk for methamphetamine abuse and addiction. In addition, grants may be used for assisting local government entities to conduct appropriate methamphetamine prevention activities in rural and urban areas that are experiencing increases in methamphetamine abuse and addiction. This can be documented by local and

specific epidemiological, health service use, judicial and/or environmental data. Activities may include: Training and educating state and local law enforcement officials, prevention and education officials, members of community anti-drug coalitions, and parents on the signs of methamphetamine abuse and addiction and the options for prevention; planning, administration, and educational activities related to the prevention of methamphetamine abuse and addiction; monitoring and evaluating of methamphetamine prevention activities, and reporting and disseminating resulting information to the public; or conducting and evaluating targeted pilot programs.

The grantees will be collecting data on the approved National Outcomes Measures (NOMs) —OMB No. 0930–0230—and program specific questions on youth and adults Methamphetamine use. There are two surveys: One for adults ages 18 and older and another for youths under the age of 18. The adult and youth surveys contain 40 and 42 questions respectively with the first 12 questions covering the OMB approved NOMs questions. The focus areas for the adult surveys comprise of attitudes toward tobacco, alcohol, and other substances; attitudes and experiences; family relationships, relationships with those around you; future goals; thoughts, beliefs, and experiences related to methamphetamines; and thoughts on possible effects of methamphetamine use. The youth survey focus areas include: General information; attitudes toward tobacco, alcohol, and other substances; attitudes and experiences; family relationships; school experiences; perceived probability to try substances; where they receive substance abuse information; thoughts, beliefs, and experiences relating to methamphetamine; effects of methamphetamine use; and how comfortable they were with answering the survey questions. Additional non-methamphetamine related questions are included to identify risk and protective factors for methamphetamine. These questions identify demographic information which will be useful in categorizing results. Some program specific questions were suggested and agreed upon by the grantees in the review of the survey.

All applicants must describe their evaluation plans in their applications, and funded grantees are required to conduct an evaluation of their projects. The evaluation should be designed to provide regular feedback in order to facilitate project improvements. The evaluation must include both process and outcome components which must measure change relating to project goals and objectives over time compared to baseline information. Control or comparison groups are not required. Applicants must consider their evaluation plans when preparing the project budget. The grantees will collect data from program participants at three time periods: Baseline, exit, and 6-month follow-up. Each Methamphetamine grantee will collect program specific questions in addition to NOM questions. Similar to the submission process for the Government Performance and Results Act (GPRA), grantees will submit their NOM–Meth data to their respective program Project Officers as well as to the Center for Substance Abuse Prevention's (CSAP) Data Coordination and Consolidation Center (DCCC) two times per year. The OMB approved NOMs incorporate the GPRA measures for reporting and are approved for all PRNS. DCCC will be responsible for data collection and analysis across grantee sites, while individual grantees will be responsible for their own analyses.

The burden is greatly reduced by the fact that the data collection process can be conducted by submitting electronic files. In many cases, some programs can collect all data online. The SAMHSA Prevention Platform has publicly available online data collection and reporting tools such as the database builder, which can be used to meet these reporting requirements. Other tools are under development. CSAP is currently developing a web-based data entry tool that will assist grantees in submitting their data electronically. This data entry tool will reduce the burden on those grantees that do not yet have the capacity to submit large batch files. The DCCC will use this data for secondary analysis that will aid CSAP in responding to GPRA, Office of National Drug Control Policy as well as other federal reporting requirements.

Survey	Number of respondents	Responses per respondent	Hours per response	Total Burden Hours
Baseline Survey	3,000	1	.83	2,500
Exiting Survey	2,400	1	.83	2,000
6 month follow up survey	1,680	1	.83	1,400
Total	7,080			5,900

Written comments and recommendations concerning the proposed information collection should be sent by July 2, 2008 to: SAMHSA Desk Officer, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503; due to potential delays in OMB's receipt and processing of mail sent through the U.S. Postal Service, respondents are encouraged to submit comments by fax to: 202–395–6974.

Dated: May 23, 2008.

Elaine Parry,

Acting Director, Office of Program Services.

[FR Doc. E8–12177 Filed 5–30–08; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2007–0008]

National Advisory Council Teleconference

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice of teleconference meeting.

SUMMARY: The National Advisory Council (NAC) will be holding a teleconference on June 18, 2008 from 1–

4 p.m. EDT to discuss and approve their comments to the draft revised National Incident Management System (NIMS) document; to discuss potential recommendations regarding the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, and post-disaster housing. The teleconference meeting will be open to the public.

DATES: *Meeting Date:* June 18, 2008 from 1–4 p.m. EDT; *Comment Date:* Written statements must be received by June 10, 2008.

ADDRESSES: The meeting will be held via teleconference only. Members of the public who wish to obtain the call-in number, access code, and other information for the public teleconference may contact Alyson Price as listed under the **FOR FURTHER INFORMATION CONTACT** caption by 5 p.m. on June 10, 2008.

You may submit statements to the NAC on the draft NIMS document, identified by Docket ID FEMA–2007–0008, by one of the following methods:

Federal Rulemaking Portal: http://www.regulations.gov. Follow instructions for submitting comments on the Web site.

E-mail: FEMA-RULES@dhs.gov. Include Docket ID FEMA–2007–0008 in the subject line of the message.

Facsimile: (866) 466–5370.

Mail: Office of Chief Counsel, Federal Emergency Management Agency, Room 835, 500 C Street, SW., Washington, DC 20472.

Hand Delivery/Courier: Office of the Chief Counsel, Federal Emergency Management Agency, Room 835, 500 C Street, SW., Washington, DC 20472.

Instructions: Please note that statements submitted to this docket are for the use of the NAC and although they could be considered by the NAC in the generation of its recommendation to FEMA on the draft document, public statements will not be forwarded to FEMA for its consideration. FEMA published a separate **Federal Register** notice requesting public comments on the NIMS. Those comments should be submitted to *http://www.regulations.gov* under Docket ID: FEMA–2008–0008 no later than June 2, 2008.

All Submissions received must include the agency name and Docket ID FEMA–2007–0008. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy Act notice that is available on the Privacy and Use Notice link on the Administration Navigation Bar of *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments received, go to Docket ID FEMA–2007–0008 at *http://www.regulations.gov.* The 2008 draft NIMS document can be found in Docket ID FEMA–2008–0008.

FOR FURTHER INFORMATION CONTACT: Alyson Price, Designated Federal Officer, Federal Emergency Management Agency, 500 C Street, SW., (E Street, 3rd Floor), Washington, DC 20472, telephone 202–646–3746, and e-mail *FEMA-NAC@dhs.gov* or *Jennifer.Veal@associates.dhs.gov.* The NAC's Web site is located at: *http://www.fema.gov/about/nac/.*

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act (FACA), Public Law 92–463, as amended (5 U.S.C. App. 1, *et seq.*). Section 508(b) of the Post-Katrina Emergency Management Reform Act of 2006, Public Law 109–295, requires that the National Advisory Council (NAC) incorporate State, local, and tribal government and private sector input in the development and revision of the National Incident Management System (NIMS) (and other plans and strategies). The NAC will be holding a teleconference meeting for purposes of discussing the NAC's comments to the NIMS document as well as potential recommendations regarding the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, and post-disaster housing issues. It is possible that the NAC may briefly address other issues during this call. This meeting is open to the public. Although members of the public will not be allowed to comment orally during the meeting, they may file a written statement by June 10, 2008.

Dated: May 27, 2008.

Harvey Johnson,

Deputy Administrator, Federal Emergency Management Agency.

[FR Doc. E8–12164 Filed 5–30–08; 8:45 am]

BILLING CODE 9111–48–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Form I–824, Revision of an Existing Information Collection; Comment Request

ACTION: 30-Day Notice of Information Collection Under Review: Form I–824, Application for Action on an Approved Application or Petition; OMB Control No. 1615–0044.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on March 4 2008, at 73 FR 11655 allowing for a 60-day public comment period. USCIS did not receive any comments for this information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until July 2, 2008. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Department of Homeland Security (DHS), and to the Office of Management and Budget (OMB) USCIS Desk Officer. Comments may be submitted to: USCIS, Chief, Regulatory Management Division, Clearance Office, 111 Massachusetts Avenue, Suite 3008, Washington, DC 20529. Comments may also be submitted to DHS via facsimile to 202–272–8352 or via e-mail at *rfs.regs@dhs.gov,* and to the OMB USCIS Desk Officer via facsimile at 202–395–6974 or via e-mail at *kastrich@omb.eop.gov.*

When submitting comments by e-mail please make sure to add OMB Control Number 1615–0044 in the subject box. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the 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:* Revision of an existing information collection.

(2) *Title of the Form/Collection:* Application for Action on an Approved Application or Petition.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–824. U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or Households. This information collection is used to request a duplicate approval notice, to notify and to verify to the U.S. Consulate that a petition has been approved or that a person has been adjusted to permanent resident status.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 43,772 responses at 25 minutes (.416 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 18,209 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please visit the USCIS Web site at: *http://www.regulations.gov/search/index.jsp.*

If additional information is required contact: USCIS, Regulatory Management Division, 111 Massachusetts Avenue, Suite 3008, Washington, DC 20529, (202) 272–8377.

Dated: May 27, 2008.

Stephen Tarragon,

Acting Chief, Regulatory Management Division, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. E8–12166 Filed 5–30–08; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Form I–102, Extension of a Currently Approved Information Collection; Comment Request

ACTION: 30-Day Notice of Information Collection Under Review: Form I–102, Application for Replacement/Initial Nonimmigrant Arrival-Departure Document; OMB Control No. 1615–0079.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on March 26, 2008, at 73 FR 16027 allowing for a 60-day public comment period. USCIS did not receive any comments for this information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until July 2, 2008. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Department of Homeland Security (DHS), and to the Office of Management and Budget (OMB) USCIS Desk Officer. Comments may be submitted to: USCIS, Chief, Regulatory Management Division, Clearance Office, 111 Massachusetts Avenue, Suite 3008, Washington, DC 20529. Comments may also be submitted to DHS via facsimile to 202–272–8352 or via e-mail at *rfs.regs@dhs.gov*, and to the OMB USCIS Desk Officer via facsimile at 202–395–6974 or via e-mail at *kastrich@omb.eop.gov.*

When submitting comments by e-mail please make sure to add OMB Control Number 1615–0079. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the 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 an existing information collection.

(2) *Title of the Form/Collection:* Application for Replacement/Initial Nonimmigrant Arrival-Departure Document.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–102. U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals and households. The data collected on this form is used by the alien temporarily residing in the United States to request a replacement of his or her arrival evidence.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 12,195 responses at 25 minutes (.416) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 5,073 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please visit the USCIS Web site at: *http://www.regulations.gov/search/index.jsp.*

If additional information is required contact: USCIS, Regulatory Management Division, 111 Massachusetts Avenue, Suite 3008, Washington, DC 20529, (202) 272–8377.

Dated: May 28, 2008.

Stephen Tarragon,

Acting Chief, Regulatory Management Division, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. E8–12218 Filed 5–30–08; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Supplement A to Form I–539, Extension of a Currently Approved Information Collection; Comment Request

ACTION: 30-Day Notice of Information Collection Under Review: Supplement A to Form I–539 (Filing Instructions for V Nonimmigrant Status Applicants); OMB Control No. 1615–0004.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on March 26, 2008, at 73 FR 16033 allowing for a 60-day public comment period. USCIS did not receive any comments for this information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until July 2, 2008. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Department of Homeland Security (DHS), and to the Office of Management and Budget (OMB) USCIS Desk Officer. Comments may be submitted to: USCIS, Chief, Regulatory Management Division, Clearance Office, 111 Massachusetts Avenue, Suite 3008, Washington, DC 20529. Comments may also be submitted to DHS via facsimile to 202–272–8352 or via e-mail at *rfs.regs@dhs.gov*, and to the OMB USCIS Desk Officer via facsimile at 202–395–6974 or via e-mail at *kastrich@omb.eop.gov.*

When submitting comments by e-mail please make sure to add OMB Control Number 1615–0004. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the 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 an existing information collection.

(2) *Title of the Form/Collection:* Supplement A to Form I–539 (Filing Instructions for V Nonimmigrant Status Applicants).

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Supplement A to Form I–539. U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals and households. This form will be used for nonimmigrants to apply for an extension of stay, for a change to another nonimmigrant classification, or for obtaining V nonimmigrant classification.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 200 responses at 30 minutes (.50) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 100 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please visit the USCIS Web site at: *http://www.regulations.gov/search/index.jsp*

If additional information is required contact: USCIS, Regulatory Management Division, 111 Massachusetts Avenue, Suite 3008, Washington, DC 20529, (202) 272–8377.

Dated: May 28, 2008.

Stephen Tarragon,

Acting Chief, Regulatory Management Division, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. E8–12219 Filed 5–30–08; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Immigration and Customs Enforcement

Agency Information Collection Activities: Extension of a Currently Approved Information Collection; Comment Request

ACTION: 30-Day Notice of Information Collection Under Review; Form I–246, Application for Stay of Deportation or Removal, OMB No. 1653–0021.

The Department of Homeland Security, Bureau of Immigration and Customs Enforcement has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on March 26, 2008 Vol. 73 No. 59 16035, allowing for a 60 day comment period. No comments were received on this information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until July 2, 2008.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the 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:* New information collection.

(2) *Title of the Form/Collection:* Application for Stay of Deportation or Removal.

(3) *Agency form number, if any, and the applicable component of the*

Department of Homeland Security sponsoring the collection: Form I–246. Bureau of Immigration and Customs Enforcement.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals. The information collected on the Form I–246 is necessary for U.S. Immigration and Customs Enforcement (ICE) to make a determination that the eligibility requirements for a request for a stay of deportation or removal are met by the applicant. Upon approval of the application the alien's removal from the United States is stayed at the discretion of the Field Office Director or other designated Department of Homeland Security official, pursuant to section 241.6 of Title 8 Code of Federal Regulations (CFR).

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 2,500 responses at 60 minutes (1 hour) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 3,125 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Lee Shirkey 202–353–2266, Branch Chief, Records Management Branch, Bureau of Immigration and Customs Enforcement, U.S. Department of Homeland Security, 425 I Street, NW., Room 1122, Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Lee Shirkey.

Comments and/or questions; requests for a copy of the proposed information collection instrument, with instructions; or inquiries for additional information should be directed to: Lee Shirkey, Chief, Records Management Branch; U.S. Immigration and Customs Enforcement, 425 I Street, NW., Room 1122, Washington, DC 20536; (202) 353–2266.

Dated: May 27, 2008.

Lee Shirkey,

Records Management Branch Chief, Bureau of Immigration and Customs Enforcement, Department of Homeland Security.

[FR Doc. E8–12227 Filed 5–30–08; 8:45 am]

BILLING CODE 9111–28–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Immigration and Customs Enforcement

Agency Information Collection Activities: Extension of an Existing Information Collection; Comment Request

ACTION: 30-Day notice of information collection under review; Form G–146, Nonimmigrant Checkout Letter; OMB Control No. 1653–0020.

The Department of Homeland Security, U.S. Immigration and Customs Enforcement (USICE), has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on March 26, 2008, Vol. 73 No. 59 16035–16036, allowing for a 60-day public comment period. No comments were received on this information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted for thirty days until July 2, 2008.

Written comments and suggestions regarding items contained in this notice, and especially with regard to the estimated public burden and associated response time should be directed to the Department of Homeland Security (DHS), Lee Shirkey, Chief, Records Management Branch, Bureau of Immigration and Customs Enforcement, 425 I Street, NW., Room 1122, Washington, DC 20536; (202) 353–2266.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies' estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the 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 currently approved information collection.

(2) *Title of the Form/Collection:* Order to Show Cause.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form G–146, Bureau of Immigration and Customs Enforcement.

1. *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individual or Households. When an alien (other than one who is required to depart under safeguards) is granted the privilege of voluntary departure without the issuance of an Order to Show Cause, a control card is prepared. If, after a certain period of time, a verification of departure is not received, actions are taken to locate the alien or ascertain his or her whereabouts. Form G–146 is used to inquire of persons in the United States or abroad regarding the whereabouts of the alien.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 20,000 responses at 10 minutes (.16) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 3,220 annual burden hours.

Comments and/or questions; requests for a copy of the proposed information collection instrument, with instructions; or inquiries for additional information should be directed to: Lee Shirkey, Chief, Records Management Branch, Bureau of Immigration and Customs Enforcement, 425 I Street, NW., Room 1122, Washington, DC 20536; (202) 353–2266.

Dated: May 27, 2008.

Lee Shirkey,

Chief, Records Management Branch, Bureau of Immigration and Customs Enforcement, Department of Homeland Security.

[FR Doc. E8–12229 Filed 5–30–08; 8:45 am]

BILLING CODE 9111–28–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Immigration and Customs Enforcement

Agency Information Collection Activities: Extension of a Currently Approved Information Collection; Comment Request

ACTION: 30-Day Notice of Information Collection Under Review; Form I–901, Fee Remittance for Certain F, J and M Nonimmigrants; OMB Control No. 1653–0034.

The Department of Homeland Security, U.S. Immigration and Customs Enforcement (USICE), has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on March 26, 2008, Vol. 73 No. 59 16034–16035, allowing for a 60 day comment period. No comments were received on this information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted for thirty days until July 2, 2008.

Written comments and suggestions regarding items contained in this notice, and especially with regard to the estimated public burden and associated response time should be directed to the Department of Homeland Security (DHS), Lee Shirkey, Chief, Records Management Branch, Bureau of Immigration and Customs Enforcement, 425 I Street, NW., Room 1122, Washington, DC 20536; (202) 353–2266.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the 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 currently approved information collection.

(2) *Title of the Form/Collection:* Fee Remittance for Certain F, J and M Nonimmigrants.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–901, Bureau of Immigration and Customs Enforcement.

Affected public who will be asked or required to respond, as well as a brief abstract: Primary: Individual or Households. Public Law 104–208, Subtitle D, Section 641 directs the Attorney General, in consultation with the Secretary of State and the Secretary of Education, to develop and conduct a program to collect information on nonimmigrant foreign students and exchange visitors from approved institutions of higher education, as defined in section 101(a) of the Higher Education Act of 1965, as amended or in a program of study at any other DHS-approved academic or language-training institution, to include approved private elementary and secondary schools and public secondary schools, and from approved exchange visitor program sponsors designated by the Department of State (DOS). It also authorized a fee, not to exceed $100, to be collected from these students and exchange visitors to support this information collection program. DHS has implemented the Student and Exchange Visitor Information System (SEVIS) to carry out this statutory requirement.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 600,000 responses at 19 minutes (.32) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 192,000 annual burden hours.

Comments and/or questions; requests for a copy of the proposed information collection instrument, with instructions; or inquiries for additional information should be directed to: Lee Shirkey, Chief, Records Management Branch, Bureau of Immigration and Customs Enforcement, 425 I Street, NW., Room 1122, Washington, DC 20536; (202) 353–2266.

Dated: May 27, 2008.

Lee Shirkey,

Chief, Records Management Branch, Bureau of Immigration and Customs Enforcement, Department of Homeland Security.

[FR Doc. E8–12230 Filed 5–30–08; 8:45 am]

BILLING CODE 9111–28–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Sporting Conservation Council

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice announces a meeting of the Sporting Conservation Council (Council). The meeting agenda includes policy discussions on implementation of the Executive Order on hunting heritage and wildlife conservation and plans for a 2008 Conference on North American Wildlife Policy regarding the North American Conservation Model; State/Federal/Tribal Wildlife Management; Habitat Conservation and Management; Funding for Wildlife Conservation; and Perpetuating Hunter Traditions. This meeting is open to the public, and will include a session for the public to comment.

DATES: We will hold the meeting on June 17, 2008, from 1:30 p.m. to 3:30 p.m. From 2:30 p.m. to 3 p.m. on June 17, 2008, we will host a public comment session.

ADDRESSES: On June 17, 2008, the meeting will be held in Room 5160 in the Main Interior Building at 1849 C Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Phyllis T. Seitts, 9828 North 31st Avenue, Phoenix, AZ 85051–2517; 602–906–5603 (phone); or *Twinkle_Thompson-Seitts@blm.gov* (e-mail).

SUPPLEMENTARY INFORMATION: The Secretary of the Interior established the Council in February 2006 (71 FR 11220, March 6, 2006). The Council's mission is to provide advice and guidance to the Federal Government through the Department of the Interior on how to increase public awareness of: (1) The importance of wildlife resources, (2) the social and economic benefits of recreational hunting, and (3) wildlife conservation efforts that benefit recreational hunting and wildlife resources.

The Secretary of the Interior and the Secretary of Agriculture signed an amended charter for the Council in June

2006 and July 2006, respectively. The revised charter states that the Council will provide advice and guidance to the Federal Government through the Department of the Interior and the Department of Agriculture.

The Council will hold a meeting on the date shown in the **DATES** section at the address shown in the **ADDRESSES** section. The meeting will include a session for the public to comment.

Dated: May 27, 2008.

Phyllis T. Seitts,

Designated Federal Officer, Sporting Conservation Council.

[FR Doc. E8–12203 Filed 5–30–08; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Notice of the Annual Price Threshold Determination

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of annual price threshold determination and annual average oil and gas market price calculations, along with their effects for the Gulf of Mexico royalty relief programs.

SUMMARY: This notice provides the official MMS documentation of which Gulf of Mexico price thresholds have been exceeded by annual market prices for oil or gas, by lease vintage, for calendar year 2007. This notice also explains in detail how MMS calculates the annual oil and gas prices and applicable price thresholds used to determine whether royalty relief applies in calendar year 2007 for our various deepwater and deep depth royalty relief programs.

FOR FURTHER INFORMATION CONTACT: Marshall Rose, Chief, Economics Division at (703) 787–1536.

SUPPLEMENTARY INFORMATION: By various laws (Outer Continental Shelf Lands Act, Deep Water Royalty Relief Act, Energy Policy Act) and regulations (30 CFR 203.47, 203.54, 203.78, 260.110, and 260.122), MMS has authority to impose price thresholds for royalty relief. As prescribed in applicable regulations or lease terms, notwithstanding any provisions for royalty relief, companies are required to pay royalties for those calendar years when annual average New York Mercantile Exchange (NYMEX) market prices for oil or gas exceed the adjusted price thresholds levels. As a courtesy, MMS tracks, calculates, and posts on its Web site a variety of relevant information about applicable oil and gas prices and the price threshold levels to be used in determining whether a particular lease continues to be eligible for deep gas, deep water, or other royalty relief. The information contained in this published notice was previously posted on the MMS Web site.

The following table represents the official MMS price threshold and market price calculation determinations made for calendar year 2007. Any subsequent inflation adjustments or market price adjustments will not affect these official results or their implication for royalty relief on the designated categories of leases.

APPLICABLE PRICE THRESHOLDS AND MARKET PRICES FOR CALENDAR YEAR 2007

Product	Lease vintage (sale held in)	Annual average NYMEX price ($/bbl or $/mmbtu)	Adjusted price threshold level ($/bbl or $/mmbtu)	Royalty relief suspended
Deepwater oil	Before 1996; 1996–1997[1]; 2000[1]; 2002–3/2004; 2007.	$72.39	$36.39	Yes
Deepwater oil	2001	72.39	32.64	Yes
Deepwater oil	8/2004–2006	72.39	42.37	Yes
Deepwater gas	Before 1996; 1996–1997[1]; 2000[1]; 2002–3/2004; 2007.	7.12	4.55	Yes
Deepwater gas	2001	7.12	4.08	Yes
Deepwater gas	8/2004–2006	7.12	7.06	Yes
Deep gas	3/2001	7.12	4.08	Yes
Deep gas	8/2001–2003	7.12	5.83	Yes
Deep gas (0–200 meters)	Before 2001, 2004–2007; Reg 30 CFR 203.47.	7.12	10.15	No
Deep gas (200–400 meters) and Ultra-Deep gas (0–400 meters).	All years	7.1	TBD[2].	

bbl = barrel, mmbtu = million British Thermal Units.

[1] Leases issued in Deepwater during the years 1996–1997 and 2000 may be affected by the outcome of pending litigation on price thresholds imposed at that time. The MMS has sent correspondence to the affected lessees addressing the impact of the litigation during the interim.

[2] The Energy Policy Act of 2005 mandated additional royalty relief for deep gas in shallow water in the Gulf of Mexico. The MMS published a proposed rule on May 18, 2007 (72 FR 28396), to implement this new relief, including a gas price threshold. The level of that price threshold and how it applies will be set in the final rule for ultra-deep wells spud after the date of the proposed rule.

Technical Documentation

The data and methodology used for making the 2007 calculations and determinations are discussed below. This same information for all years since 1996 is available at the Economics Division Web site *http://www.mms.gov/econ/DWRRAPrice1.htm.* Additional information and notes about understanding this web site are included at the end of this notice.

Methodology for Calculation of the Actual Annual Average NYMEX Nearby Delivery Price

1. We use the price for the nearby delivery month or front month. That is, the price for the first contract or earliest month that you can get the delivery/inventory for buying and selling today's product. For example, on October 1, 2007, the nearby delivery month was November 2007. There are prices for other delivery months that can be bought and sold on October 1, 2007, such as December 2007, January 2008, etc., but the ''nearby delivery month''

would be November 2007. However, the nearby delivery month is not always the next month because the last trading day of the month differs for oil and gas futures. For example, on March 27, 2008, the nearby delivery month for light sweet crude oil is May 2008 while for natural gas it is still April 2008.

2. The daily NYMEX closing price is listed as the settle price at the end of business trading hours for each commodity. These are listed at *http://www.nymex.com* and also summarized at *http://www.oilnergy.com.*

3. The daily closing average is used to calculate the monthly average. For holidays and weekends, we use the previous business day's closing average. For example, Table A illustrates the calculation of the average NYMEX oil price for the month of November 2007 (Note—this methodology is different from the Minerals Revenue Management's Royalty In-Kind Program that excludes weekends and holidays). Our analysis indicates that inclusion or exclusion of weekends and holidays does not bias the annual average price calculation in either direction. We chose to include the weekends and holidays, as highlighted in Table A, to avoid the necessity to keep track of actual trading days each month all year, and because our source summarizes the monthly price data with the inclusion.

TABLE A.—EXAMPLE OF MONTHLY AVERAGE PRICE CALCULATION

Day	Date	Daily closing price ($/bbl)	Day	Date	Daily closing price ($/bbl)
Thursday	11/1/2007	$93.49	Friday	11/16/2007	$95.10
Friday	11/2/2007	95.93	Saturday	11/17/2007	95.10
Saturday	11/3/2007	95.93	Sunday	11/18/2007	95.10
Sunday	11/4/2007	95.93	Monday	11/19/2007	94.64
Monday	11/5/2007	93.98	Tuesday	11/20/2007	98.03
Tuesday	11/6/2007	96.70	Wednesday	11/21/2007	97.29
Wednesday	11/7/2007	96.37	Thursday (Holiday)	11/22/2007	97.29
Thursday	11/8/2007	95.46	Friday	11/23/2007	98.18
Friday	11/9/2007	96.32	Saturday	11/24/2007	98.18
Saturday	11/10/2007	96.32	Sunday	11/25/2007	98.18
Sunday	11/11/2007	96.32	Monday	11/26/2007	97.70
Monday	11/12/2007	94.62	Tuesday	11/27/2007	94.42
Tuesday	11/13/2007	91.17	Wednesday	11/28/2007	90.62
Wednesday	11/14/2007	94.09	Thursday	11/29/2007	91.01
Thursday	11/15/2007	93.43	Friday	11/30/2007	88.71
				Average	95.19

4. The monthly average is used to calculate the annual average. For example, Table B illustrates the calculation of the NYMEX oil price for 2007. The calculation for the year-to-date average consists of the monthly averages so far in the year. The dollar amount of the result is rounded to the nearest tenth decimal point (i.e., cents). We do not weight the average each month by the number of days in that month, again to avoid adding superfluous complexity.

TABLE B.—EXAMPLE OF ANNUAL AVERAGE PRICE CALCULATION

Month	Average closing price ($/bbl)
January	$54.70
February	59.52
March	60.78
April	64.21
May	63.61
June	67.43
July	74.13
August	72.40
September	79.11

TABLE B.—EXAMPLE OF ANNUAL AVERAGE PRICE CALCULATION—Continued

Month	Average closing price ($/bbl)
October	85.83
November	95.19
December	91.75
Average	72.39

Methodology for Calculation of the Applicable Oil and Natural Gas Price Thresholds

1. The price thresholds are estimates until they are locked-in for a calendar year based on the most current inflation data available after the close of the year. In conjunction with the calculation of the annual market prices for oil and gas above, once the price thresholds are locked in, MMS makes an official determination regarding whether these market prices have exceeded the applicable price thresholds for the calendar year for a given vintage of lease and royalty relief program. After this official MMS determination is made, any subsequent revisions in the underlying source of the inflation figures will not affect the locked-in price thresholds or the determination of eligibility for royalty relief for that calendar year.

2. The source for inflation data is the Department of Commerce, Bureau of Economic Analysis (BEA) *http://www.bea.gov:* The U.S. Economic Accounts—Gross Domestic Product (GDP), National Income and Products Account (NIPA) Table 1.1.9. The 4th quarter implicit price deflator is not available from BEA until late March of the subsequent calendar year.

3. The implicit price deflator for GDP is used to calculate the applicable annual inflation rate, as illustrated in Table C. The deflator from the applicable year is divided by the deflator from the previous year and subtracted by one. For example, the inflation rate used to set the 2007 price threshold is calculated as $\{(119.66 / 116.57) - 1 = 2.7\%\}$.

TABLE C.—INFLATION RATES (CURRENT AND LOCKED-IN)

[Derived from BEA Data]

Calendar year	Implicit price deflator for GDP (base = 1996)	Implicit price deflator for GDP (base = 2000)	Current annual inflation rate	Locked-in annual inflation rate
1994	$96.01			
1995	98.10			
1996	100.00			
1997	101.95			
1998	103.20			
1999	104.65			
2000	107.04	$100.00		
2001		102.40	2.2	2.2
2002		104.19	1.2	1.2
2003		106.40	2.1	1.7
2004		109.46	2.9	2.1
2005		113.00	3.2	2.8
2006		116.57	3.2	2.9
2007		119.66	2.7	2.7

4. Because price thresholds are fixed for previous years, the current inflation rate displayed in Table C above may not correspond precisely to the rate actually employed to calculate previous price thresholds. For example, the GDP deflator posted on the BEA Web site in March 2008 shows an inflation rate for 2004 of 2.9 percent. However, back in March 2005, when the 2004 price threshold was locked-in, the BEA Web site showed an inflation rate of 2.1 percent, resulting in a change for the deepwater oil price threshold for most leases, as shown in the first column of the Deepwater Table on the Web site, from $32.81/bbl in 2003 to $33.50/bbl in 2004. Note that the figures that were shown on the BEA Web site in March of each year would be consistent with the adjustments made in the price thresholds from year to year. Rounding explains any remaining small differences between calculated locked-in inflation rates and those rates depicted on the MMS Web site. Therefore, to replicate the calculation for previous price thresholds, use the locked-in inflation rate. To replicate the calculation for the estimated price threshold, prior to March of the subsequent year, use the current inflation rate.

Additional Information and Notes About the Web Site

1. Beginning in the second quarter of each year, the MMS will estimate the average market price at which oil or gas would have to sell during the remainder of the calendar year for the estimated price threshold to be exceeded for that year. If that estimated market price is shown in the table as a zero, the average price at which oil or gas would have to be sold during the rest of the calendar year as of that time is guaranteed to exceed the estimated price threshold for the calendar year.

2. The yellow highlight shown for selected actual annual market prices indicates years in which at least some leases were not eligible for royalty relief because actual prices exceeded the applicable price thresholds set for those leases. The coral highlight indicates years in which no leases were eligible for royalty relief because actual prices exceed all applicable price thresholds. For example, in calendar year 2007, the actual average price of natural gas of $7.12 (per mmbtu) exceeded the shallow water, deep natural gas price threshold levels of $4.08 for leases issued in Sale 178 (2001), and $5.83 for leases issued in all other Gulf of Mexico Sales held from 2001–2003 that did not exercise the option to switch terms offered under 30 CFR 203.48, but did not exceed the price threshold level of $10.15 for all other leases with relief under 30 CFR 203.47.

3. Production generated royalty-free under the deep gas program counts against the remaining royalty suspension volume, with one exception. That exception involves production from March 1, 2004, through May 2, 2004, from deep wells that qualified for royalty suspension under 30 CFR 203.40 through 203.48 (see 69 FR 24055).

4. Regulations pertaining to price thresholds include 30 CFR 203.47, 203.54, 203.78, 260.110, and 260.122.

Dated: April 21, 2008.

Chris C. Oynes,

Associate Director for Offshore Minerals Management.

[FR Doc. E8–12225 Filed 5–30–08; 8:45 am]

BILLING CODE 4310–MR–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1013 (Review)]

Saccharin From China

AGENCY: United States International Trade Commission.

ACTION: Institution of a five-year review concerning the antidumping duty order on saccharin from China.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty order on saccharin from China would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; [1] to be assured of consideration, the deadline for responses is July 22, 2008. Comments on the adequacy of responses may be filed with the Commission by August 15, 2008. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207,

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 08–5–183, expiration date June 30, 2008. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

subparts A, D, E, and F (19 CFR part 207).

EFFECTIVE DATE: June 2, 2008.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this review may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background—On July 9, 2003, the Department of Commerce issued an antidumping duty order on imports of saccharin from China (68 FR 40906). The Commission is conducting a review to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

Definitions—The following definitions apply to this review:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The *Subject Country* in this review is China.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determination, the Commission defined one Domestic Like Product consisting of all forms of saccharin.

(4) The *Domestic Industry* is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determination, the Commission defined the *Domestic Industry* as all domestic producers of saccharin.

(5) The *Order Date* is the date that the antidumping duty order under review became effective. In this review, the Order Date is July 9, 2003.

(6) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the review and public service list—Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation. The Commission's designated agency ethics official recently has advised that a five-year review is no longer considered the ''same particular matter'' as the corresponding underlying original investigation for purposes of 18 U.S.C. 207, the post employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 73 FR 24609 (May 5, 2008). This advice was developed in consultation with the Office of Government Ethics. Consequently, former employees are no longer required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this review must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is July 22, 2008. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is August 15, 2008. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

Inability to provide requested information—Pursuant to section

207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determination in the review.

Information to be Provided In Response to this Notice of Institution: As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in the Subject Country that currently export or have exported Subject Merchandise to the United States or other countries since the Order Date.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 2007 (report quantity data in pounds and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production;

(b) the quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s); and

(c) the quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 2007 (report quantity data in pounds and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Country accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Country; and

(c) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from the Subject Country.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 2007 (report quantity data in pounds and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in the Subject Country accounted for by your firm's(s') production; and

(b) the quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Country accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Country since the Order Date, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Country, and such merchandise from other countries.

(11) (OPTIONAL) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.

Issued: May 19, 2008.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E8–11527 Filed 5–30–08; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–1014, 1016, and 1017 (Review)]

Polyvinyl Alcohol from China, Japan, and Korea

AGENCY: United States International Trade Commission.

ACTION: Institution of five-year reviews concerning the antidumping duty orders on polyvinyl alcohol from China, Japan, and Korea.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty orders on polyvinyl alcohol from China, Japan, and Korea would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; [1] to be assured of consideration, the deadline for responses is July 22, 2008. Comments on the adequacy of responses may be filed with the Commission by August 15, 2008. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

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

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background—On July 2, 2003, the Department of Commerce (''Commerce'') issued an antidumping duty order on imports of polyvinyl alcohol from Japan (68 FR 39518). On October 1, 2003, Commerce issued antidumping duty orders on imports of polyvinyl alcohol from China and Korea (68 FR 56620, 56621). The Commission is conducting reviews to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full reviews or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions—The following definitions apply to these reviews:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by Commerce.

(2) The *Subject Countries* in these reviews are China, Japan, and Korea.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determinations, the Commission defined the Domestic Like Product as all domestically produced polyvinyl alcohol meeting the specifications stated in Commerce's scope definition.

(4) The *Domestic Industry* is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determinations, the Commission defined the Domestic Industry as all domestic producers of polyvinyl alcohol.

(5) The *Order Dates* are the dates that the antidumping duty orders under review became effective. In the review concerning Japan, the Order Date is July 2, 2003. In the reviews concerning China and Korea, the Order Date is October 1, 2003.

(6) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the reviews and public service list—Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation. The Commission's designated agency ethics official recently has advised that a five-year review is no longer considered the ''same particular matter'' as the corresponding underlying original investigation for purposes of 18 U.S.C. 207, the post employment statute for Federal employees, and Commission rule 201.15(b)(19 CFR 201.15(b)), 73 FR 24609 (May 5, 2008). This advice was developed in consultation with the Office of Government Ethics. Consequently, former employees are no longer required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 08–5–182, expiration date June 30, 2008. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

authorized to receive BPI under the APO.

Certification—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is July 22, 2008. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is August 15, 2008. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

Inability to provide requested information—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determinations in the reviews.

Information to be Provided in Response to this Notice of Institution: If you are a domestic producer, union/worker group, or trade/business association; import/export Subject Merchandise from more than one Subject Country; or produce Subject Merchandise in more than one Subject Country, you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent Subject Country. As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and e-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty orders on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in each Subject Country that currently export or have exported Subject Merchandise to the United States or other countries since the Order Dates.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 2007 (report quantity data in pounds and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production;

(b) the quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s); and

(c) the quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Country(ies), provide the following information on your firm's(s') operations on that product during calendar year 2007 (report quantity data in pounds and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from each Subject Country accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of Subject Merchandise imported from each Subject Country; and

(c) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from each Subject Country.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Country(ies), provide the following

information on your firm's(s') operations on that product during calendar year 2007 (report quantity data in pounds and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in each Subject Country accounted for by your firm's(s') production; and

(b) the quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from each Subject Country accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Countries since the Order Dates, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Countries, and such merchandise from other countries.

(11) (Optional) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.

Issued: May 19, 2008.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E8–11528 Filed 5–30–08; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Four Consent Decrees Pursuant To the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that on May 22, 2008, four proposed consent decrees in *United States* v. *Belle Tire Distr., Inc., et al.*, No. 06cv0816, were lodged with the United States District Court for the Western District of Michigan.

In this cost recovery action brought pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9607, the United States sought recovery of unreimbursed past response costs and prejudgment interest incurred by the United States Environmental Protection Agency for a removal action at the Carl's Tire Retreading Site near Grawn in Grand Traverse County, Michigan. Under the four proposed consent decrees, fifteen defendants will pay a total of $2,020,200 to the Hazardous Substance Superfund.

The Department of Justice will accept comments relating to the four proposed consent decrees for a period of thirty (30) days from the date of publication of this notice. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and mailed either electronically to *pubcommentees.enrd@usdoj.gov* or in hard copy to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611. Comments should refer to *United States* v. *Belle Tire Distr., Inc., et al.*, Case No. 06cv0816 (W.D. Mich.) and D.J. Reference No. 90–11–3–09026.

The four proposed consent decrees may be examined at: (1) The Office of the United States Attorney for the Western District of Michigan, 330 Iona Avenue, Suite 501, Grand Rapids, Michigan 49503, (616) 456–2404; and (2) the United States Environmental Protection Agency (Region 5), 77 West Jackson Boulevard, Chicago, Illinois 60604–3590 (contact Steven P. Kaiser (312–353–3804)). During the comment period, the proposed consent decrees may also be examined on the following Department of Justice Web site: *http://www.usdoj.gov/enrd/Consent_Decree.html.* Copies of the proposed consent decrees may also be obtained by mail from the Department of Justice Consent Decree Library, P.O. Box 7611, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please refer to the referenced case and D.J. Reference No. 90–11–3–09026, and enclose a check in the amount of $20.25 for the four consent decrees (81 pages at 25 cents per page reproduction costs), made payable to the U.S. Treasury.

William D. Brighton,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. E8–12112 Filed 5–30–08; 8:45 am]

BILLING CODE 4410–CW–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration

By Notice dated March 10, 2008 and published in the **Federal Register** on March 19, 2008, (73 FR 14838), Lipomed, Inc., One Broadway, Cambridge, Massachusetts 02142, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of the basic classes of controlled substances listed in schedule I and II:

Drug	Schedule
Cathinone (1235)	I
Methcathinone (1237)	I
N-Ethylamphetamine (1475)	I
Methaqualone (2565)	I
Gamma Hydroxybutyric Acid (2010).	I
Lysergic acid diethylamide (7315)	I
2,5-Dimethoxy-4-(n)-propylthiophenethylamine (7348).	I
Marihuana (7360)	I
Tetrahydrocannabinols (7370)	I
Hydromorphone (9150)	II
Benzoylecgonine (9180)	II
Mescaline (7381)	I
3,4,5-Trimethoxyamphetamine (7390).	I
4-Bromo-2,5-dimethoxyamphetamine (7391).	I
4-Bromo-2,5-dimethoxyphenethylamine (7392).	I
4-Methyl-2,5-dimethoxyamphetamine (7395).	I
2,5-Dimethoxyamphetamine (7396).	I
2,5-Dimethoxy-4-ethylamphetamine (7399).	I

Drug	Schedule
3,4-Methylenedioxyamphetamine (7400).	I
3,4-Methylenedioxy-N-ethylamphetamine (7404).	I
3,4-Methylenedioxymethamphetamine (7405).	I
4-Methoxyamphetamine (7411)	I
Dimethyltryptamine (7435)	I
Psilocybin (7437)	I
Psilocyn (7438)	I
Acetyldihydrocodeine (9051)	I
Dihydromorphine (9145)	I
Heroin (9200)	I
Normorphine (9313)	I
Pholcodine (9314)	I
Tilidine (9750)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Amobarbital (2125)	II
Pentobarbital (2270)	II
Secobarbital (2315)	II
Phencyclidine (7471)	II
Cocaine (9041)	II
Codeine (9050)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Ethylmorphine (9190)	II
Hydrocodone (9193)	II
Levorphanol (9220)	II
Meperidine (9230)	II
Methadone (9250)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273).	II
Morphine (9300)	II
Thebaine (9333)	II
Oxymorphone (9652)	II
Alfentanil (9737)	II
Fentanyl (9801)	II
Sufentanil (9740)	II

The company plans to import analytical reference standards for distribution to its customers for research purposes.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and 952(a) and determined that the registration of Lipomed, Inc. to import the basic classes of controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. DEA has investigated Lipomed, Inc. to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above named company is granted registration as an importer of the basic classes of controlled substances listed.

Dated: May 27, 2008.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E8–12189 Filed 5–30–08; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration

By Notice dated March 11, 2008 and published in the **Federal Register** on March 19, 2008, (73 FR 14840), Kenco VPI, Division of Kenco Group Inc., 350 Corporate Place, Chattanooga, Tennessee 37419, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of Nabilone (7379), a basic class of controlled substance listed in schedule II.

The company plans to import the listed controlled substance for distribution to its customers.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and 952(a) and determined that the registration of Kenco VPI to import the basic class of controlled substance is consistent with the public interest, and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. DEA has investigated Kenco VPI to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above named company is granted registration as an importer of the basic class of controlled substance listed.

Dated: May 27, 2008.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E8–12190 Filed 5–30–08; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

May 27, 2008.

The Department of Labor (DOL) hereby announces the submission of the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of this ICR, with applicable supporting documentation; including among other things a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAMain* or by contacting Darrin King on 202–693–4129 (this is not a toll-free number)/e-mail: *king.darrin@dol.gov.*

Interested parties are encouraged to send comments to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Occupational Safety and Health Administration (OSHA), Office of Management and Budget, Room 10235, Washington, DC 20503, Telephone: 202–395–7316 / Fax: 202–395–6974 (these are not toll-free numbers), E-mail: *OIRA_submission@omb.eop.gov* within 30 days from the date of this publication in the **Federal Register**. In order to ensure the appropriate consideration, comments should reference the OMB Control Number (see below).

The OMB is particularly interested in comments which:

- 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 agency's 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.

Agency: Occupational Safety and Health Administration.

Type of Review: Extension without change of a previously approved collection.

Title of Collection: Respiratory Protection Standard (29 CFR 1910.134).

OMB Control Number: 1218–0099.

Agency Form Number: None.

Affected Public: Private Sector—Business or other for-profit.

Estimated Number of Respondents: 639,623.

Estimated Total Annual Burden Hours: 7,159,301.

Estimated Total Annual Costs Burden: $164,751,553.

Description: In order to protect the health of employees who are exposed to airborne contaminants, physical hazards, and biological agents, the Department's Respiratory Protection Standard at 29 CFR 1910.134 requires employers to develop a written respiratory protection program, provide medical surveillance, fit test employees, obtain certificates of analysis on cylinders, change sorbent beds and filters, inspect emergency-use respirators, mark emergency-use respirator storage compartments, and maintain accurate employee records for fit testing and medical surveillance. For additional information, see related notice published at 73 FR 15541 on March 24, 2008.

Darrin A. King,

Acting Departmental Clearance Officer.

[FR Doc. E8–12142 Filed 5–30–08; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Privacy Act of 1974; Notice of Amendment to System of Records

AGENCY: Institute of Museum and Library Services (IMLS), National Foundation of the Arts and Humanities.

ACTION: Notice of Amendment to System of Records.

SUMMARY: The Institute of Museum and Library Services (IMLS), is publishing an amendment of its systems of records with descriptions of the systems and the ways they are maintained, as required by the Privacy Act of 1974, 5 U.S.C. 552(a)(e)(4). This notice clarifies the appropriate systems managers, thus enabling individuals who wish to access information maintained in IMLS systems to make accurate and specific requests for such information.

EFFECTIVE DATE: The amended system notice is effective upon date of publication.

FOR FURTHER INFORMATION CONTACT: Nancy E. Weiss, General Counsel, or Derek O. Scarbrough, Chief Information Officer, Institute for Museum and Library Services, 1800 M Street, NW., 9th Floor, Washington, DC 20036; by telefax at (202) 653–4707; or by electronic mail at *info@imls.gov.*

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 552a(e)(4), IMLS today is publishing an amended notice of the existence and character of its systems of records in order to make available in one place in the **Federal Register** the most up-to-date information regarding these systems.

Statement of General Routine Uses

The following general routine uses are incorporated by reference into each system of records set forth herein, unless specifically limited in the system description.

1. A record may be disclosed as a routine use to a Member of Congress or his or her staff, when the Member of Congress or his or her staff requests the information on behalf of, and at the request of, the individual who is the subject of the record.

2. A record may be disclosed as a routine use to designated officers and employees of other agencies and departments of the Federal government having an interest in the subject individual for employment purposes (including the hiring or retention of any employee; the issuance of a security clearance; the letting of a contract; or the issuance of a license, grant, or other benefits by the requesting agency) to the extent that the information is relevant and necessary to the requesting agency's decision on the matter involved.

3. In the event that a record in a system of records maintained by IMLS indicates, either by itself or in combination with other information in IMLS' possession, a violation or potential violation of the law (whether civil, criminal, or regulatory in nature, and whether arising by statute or by regulation, rule, or order issued pursuant thereto), that record may be referred, as a routine use, to the appropriate agency, whether Federal, State, local, or foreign, charged with investigating or prosecuting such violation, or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto. Such referral shall be deemed to authorize: (1) Any and all appropriate and necessary uses of such records in a court of law or before an administrative board or hearing; and (2) Such other interagency referrals as may be necessary to carry out the receiving agencies' assigned law enforcement duties.

4. The names, Social Security numbers, home addresses, dates of birth, dates of hire, quarterly earnings, employer identifying information, and State of hire of employees may be disclosed as a routine use to the Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services, as follows:

(a) For use in the Federal Parent Locator System (FPLS) and the Federal Tax Offset System for the purpose of locating individuals to establish paternity, establishing and modifying orders of child support, identifying sources of income, and for other child support enforcement actions as required by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. 104–193);

(b) For release to the Social Security Administration for the purpose of verifying Social Security numbers in connection with the operation of FPLS; and

(c) For release to the U.S. Department of the Treasury (Treasury) for the purpose of payroll, savings bonds, and other deductions; administering the Earned Income Tax Credit Program (section 32, Internal Revenue Code of 1986); and verifying a claim with respect to employment on a tax return, as required by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. 104–193);

5. A record may be disclosed as a routine use in the course of presenting evidence to a court, magistrate, or administrative tribunal of appropriate jurisdiction, and such disclosure may include disclosures to opposing counsel in the course of settlement negotiations.

6. Information from any system of records may be used as a data source for management information, for the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related personnel management functions or manpower studies. Information also may be disclosed to respond to general requests for statistical information (without personal identification of individuals) under the Freedom of Information Act.

7. A record may be disclosed as a routine use to a contractor, expert, or consultant of IMLS (or an office within IMLS) when the purpose of the release is to perform a survey, audit, or other review of IMLS' procedures and operations.

8. A record from any system of records may be disclosed as a routine use to the National Archives and Records Administration as part of records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

9. A record may be disclosed to a contractor, grantee, or other recipient of Federal funds when the record to be released reflects serious inadequacies with the recipient's personnel, and disclosure of the record is for the purpose of permitting the recipient to effect corrective action in the government's best interest.

10. A record may be disclosed to a contractor, grantee, or other recipient of Federal funds when the recipient has incurred indebtedness to the government through its receipt of government funds, and the release of the record is for the purpose of allowing the debtor to effect a collection against a third party.

11. Information in a system of records may be disclosed as a routine use to the Treasury; other Federal agencies; ''consumer reporting agencies'' (as defined in the Fair Credit Reporting Act, 15 U.S.C. 1681a(f), or the Federal Claims Collection Act of 1966, 31 U.S.C. 3701(a)(3)); or private collection contractors for the purpose of collecting a debt owed to the Federal Government as provided in the regulations promulgated by IMLS at 45 CFR 1183.

Table of Contents

This document gives notice that the following IMLS systems of records are in effect:

IMLS–1 IMLS Reviewers—Application and Award Management (AAMS)
IMLS–2 IMLS Reviewers—Paper Files
IMLS–3 Personnel/Payroll System
IMLS–4 Financial Management System

IMLS–1

SYSTEM NAME:

IMLS Reviewers—Application and Award Management System (AAMS) —Automated Systems.

SYSTEM LOCATION:

Office of the Chief Information Officer, Institute for Museum and Library Services, 1800 M Street, NW., 9th Floor, Washington, DC 20036.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals whom IMLS may ask or has asked to serve as application reviewers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, telephone number, telefax number, e-mail address, date of birth, identification numbers assigned by IMLS, panel assignments, and other data concerning potential and actual reviewers, including area of expertise. This system is maintained in a Microsoft Sequential Database.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Museum and Library Services Act of 2003 (20 U.S.C. 9101 *et seq.*)

PURPOSE(S):

To provide a central repository for information about experts who could be or have been called upon to review applications, and to enable staff to retrieve and manage reviewer information.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Data in this system may be used for the identification of reviewers, as well as general administration of the grant review process. See also the list of General Routine Uses contained in the Preliminary Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THIS SYSTEM:

Authorized IMLS staff use passwords to access to the database.

STORAGE:

Records in this system are maintained electronically in Microsoft Sequential databases and related automated systems.

RETRIEVABILITY:

Records in this system are retrieved by name, area of expertise, panel assignment, state and other data elements.

SAFEGUARDS:

This system is maintained in a locked computer room that can be accessed only by authorized employees of IMLS. Access to records in this system is further controlled by password, with different levels of modification rights assigned to individuals and offices at IMLS based upon their specific job functions.

RETENTION AND DISPOSAL:

Records in this system are maintained and updated on a continuing basis, as new information is received. IMLS staff periodically will request updated information from individuals who are included as reviewers in the AAMS. Records will be removed only with the concurrence of the appropriate discipline directors.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Directors of the Office of Museum Services and Library Services, Institute of Museum and Library Services, 1800 M Street, NW., 9th Floor, Washington, DC 20036.

NOTIFICATION PROCEDURE:

See 45 CFR part 1182.

RECORD ACCESS PROCEDURES:

See 45 CFR part 1182.

CONTESTING RECORD PROCEDURES:

See 45 CFR part 1182.

RECORD SOURCE CATEGORIES:

Data in this system is obtained from individuals covered by the system, as well as from IMLS employees involved in the administration of grants.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

IMLS–2

SYSTEM NAME:

IMLS Reviewers—Paper Files.

SYSTEM LOCATION:

Institute of Museum and Library Services, 1800 M Street, NW., 9th Floor, Washington, DC 20036.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals whom IMLS may ask or has asked to serve as application reviewers.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system also contains information about potential and actual reviewers, including materials such as resumes, reviewer profile forms, and contracts concerning participation on panels.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Museum and Library Services Act of 2003 (20 U.S.C. 9101 *et seq.*)

PURPOSE(S):

To complement the AAMS (IMLS–1) with information well suited for maintenance in hard copy form.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Data in this system may be used for the general administration of the grant review and award process, as well as identification of reviewers and their activities in this capacity. See also the list of General Routine Uses contained in the Preliminary Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are maintained in file cabinets.

RETRIEVABILITY:

Records in this system are retrieved by name.

SAFEGUARDS:

File cabinets containing the records in this system are kept locked.

RETENTION AND DISPOSAL:

Discipline offices maintain paper files that grow as individuals, or discipline directors who are processing individuals for service as reviewers, submit resumes. Resumes and profile forms are removed from these files only when they are replaced by more recent information or when the information has been entered into the electronic system. These files may include panelist contracts, copies of which are forwarded to IMLS' Office of the Chief Financial Officer.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Directors of the Offices of Museum Services and Library Services, Institute of Museum and Library Services, 1800 M Street, NW., 9th Floor, Washington, DC 20036.

NOTIFICATION PROCEDURE:

See 45 CFR part 1182.

RECORD ACCESS PROCEDURES:

See 45 CFR part 1182.

CONTESTING RECORD PROCEDURES:

See 45 CFR part 1182.

RECORD SOURCE CATEGORIES:

Data in this system is obtained from individuals covered by the system, as well as from IMLS employees involved in the administration of grants.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

IMLS–3

SYSTEM NAME:

Payroll/Personnel System.

SYSTEM LOCATION:

Institute of Museum and Library Services, 1800 M Street, NW., 9th Floor, Washington, DC 20036, U.S. Department of Interior, National Business Center, Denver, Colorado.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of IMLS.

CATEGORIES OF RECORDS IN THE SYSTEM:

Payroll and personnel information, such as time and attendance data, statements of earnings and leave, training data, wage and tax statements, and payroll and personnel transactions. This system includes data that also is maintained in IMLS' official personnel folders, which are managed in accordance with Office of Personnel Management (OPM) regulations. The OPM has given notice of its system of records covering official personnel folders in OPM/GOVT–1.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Museum and Library Services Act of 2003 (20 U.S.C. 9101 *et seq.*); Federal Personnel Manual and Treasury Fiscal Requirements Manual.

PURPOSE(S):

To document IMLS' personnel processes and to calculate and process payroll.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Data in this system may be transmitted to the U.S. Department of Interior, National Business Center, U.S. Department of Treasury, and employee-designated financial institutions to affect issuance of paychecks to employees and distributions of pay according to employee directions for authorized purposes. Data in this system also may be used to prepare payroll, meet government recordkeeping and reporting requirements, and retrieve and apply payroll and personnel information as required for agency needs. See also the list of General and Routine Uses contained in the Preliminary Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic records in this system are maintained off-site by the Department of Interior, National Business Center (NBC). Paper records generated through the NBC are maintained in file cabinets by the Offices of the Chief Financial Officer and Human Resources after arriving at IMLS. Discipline offices also may use file cabinets to maintain paper records concerning performance reviews and other personnel actions in their divisions.

RETRIEVABILITY:

Records in this system are retrieved by name, Social Security number, or date of birth.

SAFEGUARDS:

Access to the electronic records in this system is controlled by password on the limited number of IMLS computers that can be used to draw information from the NBC. File cabinets containing the paper records in this system either are kept locked during non-business hours, or are located in rooms that are kept locked during non-business hours.

RETENTION AND DISPOSAL:

The Human Resources Officer maintains paper records in this system in accordance with the General Services Administration's General Records Schedule 2. Division offices may maintain paper records concerning performance reviews and other personnel actions in their divisions for the duration of an individual's employment with IMLS.

SYSTEM MANAGER(S) AND ADDRESS:

Human Resources Officer, Institute of Museum and Library Services; 1800 M Street, NW., 9th Floor, Washington, DC 20036.

NOTIFICATION PROCEDURE:

See 45 CFR part 1182.

RECORD ACCESS PROCEDURES:

See 45 CFR part 1182.

CONTESTING RECORD PROCEDURES:

See 45 CFR part 1182.

RECORD SOURCE CATEGORIES:

Data in this system is obtained from individuals covered by the system, as well as from IMLS employees involved in the administration of personnel and payroll processes.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

SYSTEM NAME:

IMLS–4 Financial Management System—Delphi.

SYSTEM LOCATION:

Office of the Chief Information Officer, Institute of Museum and Library Services, 1800 M Street, NW., 9th Floor, Washington, DC 20036.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of IMLS, application reviewers, grantees, vendors and other Federal Government organizations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, telephone number, telefax number, e-mail address, payment information, including banking information. This system data is maintained in an Oracle Database.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Museum and Library Services Act of 2003 (20 U.S.C. 9101 *et seq.*)

PURPOSE(S):

To provide a central repository of all financial transactions to enable IMLS to meet its statutory reporting requirements to the Office of Management and Budget, the U.S. Department of Treasury, and Congress.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Data in this system may be used for the general administration of the grant

management process and the IMLS accounting process.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THIS SYSTEM:

Authorized IMLS staff use passwords via a remote secure VPN to gain access to the database. Discipline offices maintain paper files that grow as financial transactions are submitted to the Enterprise Services Center for processing. Records are disposed of in accordance with the General Services Administration's General Records Schedule.

STORAGE:

Electronic records in this system are maintained off-site by the Department of Transportation's Enterprise Services Center. Associated paper records are also maintained at the Enterprise Services Center. Discipline offices also may use locking file cabinets to maintain paper records concerning financial transactions processed in their divisions.

RETRIEVABILITY:

Records in this system are retrieved by name and/or purchase order number.

SAFEGUARDS:

Authorized IMLS staff use passwords via a remote secure VPN to gain access to the database. Rooms containing the records in this system are kept locked during non-working hours.

RETENTION AND DISPOSAL:

Records in this database are maintained and updated on a daily basis as financial transactions are processed. Discipline offices maintain paper files that grow as financial transactions are submitted to the Enterprise Services Center for processing.

SYSTEM OWNER(S) AND ADDRESS:

Office of the Chief Financial Officer; 1800 M Street, NW., 9th Floor, Washington, DC 20036.

NOTIFICATION PROCEDURE:

See 45 CFR part 1182.

RECORD ACCESS PROCEDURES:

See 45 CFR part 1182.

CONTESTING RECORD PROCEDURES:

See 45 CFR part 1182.

RECORD SOURCE CATEGORIES:

Data in this system is obtained from individuals covered by the system, as well as from IMLS employees involved in the administration of grants, travel, and vendor processes.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Dated: May 5, 2008.

Nancy E. Weiss,

General Counsel.

[FR Doc. E8–11974 Filed 5–30–08; 8:45 am]

BILLING CODE 7036–01–P

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The NRC published a **Federal Register** Notice with a 60-day comment period on this information collection on March 3, 2008.

1. *Type of submission, new, revision, or extension:* Extension.

2. *The title of the information collection:* 10 CFR Part 100, ''Reactor Site Criteria.''

3. *Current OMB approval number:* 3150–0093.

4. *The form number if applicable:* Not applicable.

5. *How often the collection is required:* As necessary in order for the NRC to assess the adequacy of proposed seismic design bases and the design bases for other site hazards for nuclear power and test reactors constructed and licensed in accordance with 10 CFR Parts 50 and 52 and the Atomic Energy Act of 1954, as amended.

6. *Who will be required or asked to report:* Applicants and licensees for nuclear power and test reactors.

7. *An estimate of the number of annual responses:* Approximately 5.33 (16 responses in three years). Note that this estimate was revised from the estimate published in the 60-day **Federal Register** Notice for this collection, in which the NRC estimated that it would receive 9 annual responses. The estimate was adjusted to better reflect the number of applications the NRC anticipates receiving during the three-year clearance period.

8. *The estimated number of annual respondents:* Approximately 5.33.

9. *An estimate of the total number of hours needed annually to complete the requirement or request:* 389,090 (73,000 hours per applicant).

10. *Abstract:* 10 CFR Part 100, A Reactor Site Criteria, establishes approval requirements for proposed sites for the purpose of constructing and operating stationary power and testing reactors pursuant to the provisions of 10 CFR Parts 50 or 52. These reactors are required to be sited, designed, constructed, and maintained to withstand geologic hazards, such as faulting, seismic hazards, and the maximum credible earthquake, to protect the health and safety of the public and the environment. Non-seismic siting criteria must also be evaluated. Non-seismic siting criteria include such factors as population density, the proximity of man-related hazards, and site atmospheric dispersion characteristics. NRC uses the information required by 10 CFR Part 100 to evaluate whether natural phenomena and potential man-made hazards will be appropriately accounted for in the design of nuclear power and test reactors.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F21, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html.* The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by July 2, 2008. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Nathan J. Frey, Office of Information and Regulatory Affairs (3150–0093), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be e-mailed to *Nathan_J._Frey@omb.eop.gov* or submitted by telephone at (202) 395–7345.

The NRC Clearance Officer is Margaret A. Janney, (301) 415–7245.

Dated at Rockville, Maryland, this 27th day of May 2008.

For the Nuclear Regulatory Commission.

Gregory Trussell,

Acting NRC Clearance Officer, Office of Information Services.

[FR Doc. E8–12172 Filed 5–30–08; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The NRC published a **Federal Register** Notice with a 60-day comment period on this information collection on February 14, 2008.

1. *Type of submission, new, revision, or extension:* Extension.

2. *The title of the information collection:* Notice of Enforcement Discretion (NOEDs) For Operating Power Reactors and Gaseous Diffusion Plants (GDP) (NRC Enforcement Policy).

3. *Current OMB approval number:* 3150–0136.

4. *The form number if applicable:* N/A.

5. *How often the collection is required:* On occasion.

6. *Who is required or asked to report:* Nuclear power reactor licensees and gaseous diffusion plant certificate holders.

7. *An estimate of the number of annual responses:* Approximately 14.

8. *The estimated number of annual respondents:* Approximately 14.

9. *An estimate of the total number of hours needed annually to complete the requirement or request:* 1,825.

10. *Abstract:* The NRC's Enforcement Policy addresses circumstances in which the NRC may exercise enforcement discretion. A specific type of enforcement discretion is designated as a NOED and relates to circumstances which may arise where a nuclear power plant licensee's compliance with a Technical Specification Limiting Condition for Operation or other license conditions would involve: (1) An unnecessary plant shutdown; (2) performance of testing, inspection, or system realignment that is inappropriate for the specific plant conditions; or (3) unnecessary delays in plant startup without a corresponding health and safety benefit.

Similarly, for a gaseous diffusion plant, circumstances may arise where compliance with a Technical Safety Requirement or other condition would unnecessarily call for a total plant shutdown, or, compliance would unnecessarily place the plant in a condition where safety, safeguards or security features were degraded or inoperable. A licensee or certificate holder seeking the issuance of an NOED must provide a written justification, in accordance with guidance provided in NRC Inspection Manual, Part 9900, which documents the safety basis for the request and provides whatever other information the NRC staff deems necessary to decide whether or not to exercise discretion.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F21, Rockville, MD 20852. OMB clearance requests are available at the NRC World Wide Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html.* The document will be available on the NRC home page site for 30 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by July 2, 2008. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Nathan J. Frey, Office of Information and Regulatory Affairs (3150–0136), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be e-mailed to *Nathan_J._Frey@omb.eop.gov* or submitted by telephone at 202–395–7345.

The NRC Clearance Officer is Margaret A. Janney, 301–415–7245.

Dated at Rockville, Maryland, this 27th day of May 2008.

For the Nuclear Regulatory Commission.

Gregory Trussell,

Acting NRC Clearance Officer, Office of Information Services.

[FR Doc. E8–12174 Filed 5–30–08; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on the Medical Uses of Isotopes: Meeting Notice

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of Meeting.

SUMMARY: The U.S. Nuclear Regulatory Commission will convene a teleconference meeting of the Advisory Committee on the Medical Uses of Isotopes (ACMUI) on July 21, 2008, to discuss the 10 CFR Part 35 rulemaking on permanent implant brachytherapy and the technical basis to support rulemaking in response to the Ritenour Petition for Rulemaking (PRM 35–20). A copy of the agenda for the meeting will be available at *http://www.nrc.gov/reading-rm/doc-collections/acmui/agenda* or by contacting Ms. Ashley Tull using the information below.

DATES: The teleconference meeting will be held on Monday, July 21, 2008, from 1 p.m. to 3 p.m. Eastern Daylight Time.

Public Participation: Any member of the public who wishes to participate in the teleconference discussion should contact Ms. Tull using the contact information below.

Contact Information: Ashley M. Tull, e-mail: *ashley.tull@nrc.gov,* telephone: (918) 488–0552 or (301) 415–5294.

Conduct of the Meeting

Leon S. Malmud, M.D., will chair the meeting. Dr. Malmud will conduct the meeting in a manner that will facilitate the orderly conduct of business. The following procedures apply to public participation in the meeting:

1. Persons who wish to provide a written statement should submit an electronic copy to Ms. Tull at the contact information listed above. All submittals must be received by July 16, 2008, and must pertain to the topic on the agenda for the meeting.

2. Questions and comments from members of the public will be permitted during the meeting, at the discretion of the Chairman.

3. The transcript will be available for inspection on NRC's Web site (*http://www.nrc.gov/reading-rm/doc-collections/acmui/tr/*) on or about August 21, 2008. Minutes of the meeting will be available on or about September 2, 2008.

This meeting will be held in accordance with the Atomic Energy Act of 1954, as amended (primarily Section 161a); the Federal Advisory Committee Act (5 U.S.C. App); and the Commission's regulations in Title 10, *U.S. Code of Federal Regulations,* Part 7.

Dated: May 27, 2008.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. E8–12170 Filed 5–30–08; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 52–017]

Virginia Electric and Power Company, d/b/a Dominion Virginia Power, and Old Dominion Electric Cooperative; Correction to Notice of Hearing and Opportunity To Petition for Leave To Intervene on a Combined License for North Anna Unit 3

AGENCY: Nuclear Regulatory Commission.

ACTION: Correction.

SUMMARY: This document corrects a Notice of Hearing (regarding an application for a combined license) published in the **Federal Register** on March 10, 2008 (73 FR 12760) and a supplement to the Notice of Hearing published in the **Federal Register** on April 18, 2008 (73 FR 21162), which incorrectly identify the applicants. This action is necessary to correctly identify the applicants.

SUPPLEMENTARY INFORMATION: The title of both the Notice of Hearing and the supplement are corrected to replace ''Dominion Virginia Power'' with ''Virginia Electric and Power Company d/b/a Dominion Virginia Power and Old Dominion Electric Cooperative.'' The text of both the notice and supplemental notice are corrected to replace ''Dominion Virginia Power (Dominion)'' with ''Virginia Electric and Power Company, doing business as Dominion Virginia Power (DVP or Dominion), and Old Dominion Electric Cooperative (ODEC).''

Dated at Rockville, Maryland, this 27th day of May 2008.

For the U.S. Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. E8–12179 Filed 5–30–08; 8:45 am]

BILLING CODE 7590–01–P

RAILROAD RETIREMENT BOARD

Privacy Act of 1974, as Amended; Computer Matching Program (Railroad Retirement Board and Social Security Administration Match Number 1007)

AGENCY: Railroad Retirement Board (RRB).

ACTION: Notice of records used in computer matching programs; Notification to individuals who are railroad employees, or applicants and beneficiaries under the Railroad Retirement Act or who are applicants or beneficiaries under the Social Security Act.

SUMMARY: As required by the Privacy Act, as amended, RRB is issuing public notice of its use and intent to use, in ongoing matching programs, information obtained from the Social Security Administration (SSA) of the amount of wages reported to SSA and the amount of benefits paid by that agency. The RRB is also issuing public notice, on behalf of SSA, of SSA's use and intent to use, in ongoing matching programs, information obtained from the RRB of the amount of railroad earnings reported to the RRB.

The purposes of this notice are (1) to advise individuals applying for or receiving benefits under the Railroad Retirement Act of the use made by RRB of this information obtained from SSA by means of a computer match and (2) to advise individuals applying for or receiving benefits under the Social Security Act of the use made by SSA of this information obtained from RRB by means of a computer match.

ADDRESSES: Interested parties may comment on this notice by writing to Beatrice Ezerski, Secretary to the Board, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092.

FOR FURTHER INFORMATION CONTACT: Lynn Harvey, Chief Privacy Officer, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092, telephone 312–751–4869, e-mail *lynn.harvey@rrb.gov.*

SUPPLEMENTARY INFORMATION: The Computer Matching and Privacy Protection Act of 1988, Public Law (Pub. L.) 100–503, amended the Privacy Act (5 U.S.C. 552a) by describing the conditions under which computer matching involving agencies of the Federal Government could be performed and adding certain protections for individuals applying for and receiving Federal benefits. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) further amended the Privacy Act regarding protections for such individuals. The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, State or local government records. It requires Federal agencies involved in computer matching programs to:

(1) Negotiate written agreements with the other agency or agencies participating in the matching programs;

(2) Obtain the approval of the matching agreement by the Data Integrity Boards (DIB) of the participating Federal agencies;

(3) Publish notice of the computer matching program in the **Federal Register**;

(4) Furnish detailed reports about matching programs to Congress and OMB;

(5) Notify applicants and beneficiaries that their records are subject to matching; and

(6) Verify match findings before reducing, suspending, terminating or denying an individual's benefits or payments. The last notice for this matching program was published at 70 FR 59378 (October 12, 2005).

Name of Participating Agencies: Social Security Administration (SSA) and Railroad Retirement Board (RRB).

Purpose of the Match: The RRB will, on a daily basis, obtain from SSA a record of the wages reported to SSA for persons who have applied for benefits under the Railroad Retirement Act and a record of the amount of benefits paid by that agency to persons who are receiving or have applied for benefits under the Railroad Retirement Act. The wage information is needed to compute the amount of the tier I annuity component provided by sections 3(a), 4(a) and 4(f) of the Railroad Retirement Act (45 U.S.C. 231b(a), 45 U.S.C. 231c(a) and 45 U.S.C. 231c(f). The benefit information is needed to adjust the tier I annuity component for the receipt of the Social Security benefit. This information is available from no other source.

In addition, the RRB will receive from SSA the amount of certain Social Security benefits which the RRB pays on behalf of SSA. Section 7(b)(2) of the Railroad Retirement Act (45 U.S.C. 231f(b)(2)) provides that the RRB shall make the payment of certain Social Security benefits. The RRB also requires this information in order to adjust the amount of any annuity due to the receipt of a Social Security benefit. Section 10(a) of the Railroad Retirement Act (45 U.S.C. 231i(a)) permits the RRB to recover any overpayment from the accrual of Social Security benefits. This information is not available from any other source.

Thirdly, once a year the RRB will receive from SSA a copy of SSA's Master Benefit Record for earmarked RRB annuitants. Section 7(b)(7) of the Railroad Retirement Act (45 U.S.C. 231f(b)(7) requires that SSA provide the requested information. The RRB needs

this information to make the necessary cost-of-living computation quickly and accurately for those RRB annuitants who are also SSA beneficiaries.

SSA will receive weekly from RRB earnings information for all railroad employees. SSA will match the identifying information of the records furnished by the RRB against the identifying information contained in its Master Benefit Record and its Master Earnings File. If there is a match, SSA will use the RRB earnings to adjust the amount of Social Security benefits in its Annual Earnings Reappraisal Operation (AERO). This information is available from no other source.

SSA will also receive daily from RRB earnings information on selected individuals. The transfer of information may be initiated either by RRB or by SSA. SSA needs this information to determine eligibility to Social Security benefits and, if eligibility is met, to determine the benefit amount payable. Section 18 of the Railroad Retirement Act (45 U.S.C. 231q(2)) requires that earnings considered as compensation under the Railroad Retirement Act be considered as wages under the Social Security Act for the purposes of determining entitlement under the Social Security Act if the person has less than 10 years of railroad service or has 10 or more years of service but does not have a current connection with the railroad industry at the time of his/her death.

Authority for Conducting the Match: Section 7(b)(7) of the Railroad Retirement Act (45 U.S.C. 231f(b)(7)) provides that the Social Security Administration shall supply information necessary to administer the Railroad Retirement Act. Sections 202, 205(o) and 215(f) of the Social Security Act (42 U.S.C. 402, 405(o) and 415(f) relate to benefit provisions, inclusion of railroad compensation together with wages for payment of benefits under certain circumstances, and the re-computation of benefits.

Categories of Records and Individuals Covered: All applicants for benefits under the Railroad Retirement Act and current beneficiaries will have a record of any Social Security wages and the amount of any Social Security benefits furnished to the RRB by SSA. In addition, all persons who ever worked in the railroad industry after 1936 will have a record of their service and compensation furnished to SSA by RRB. The applicable Privacy Act Systems of Records used in the matching program are as follows: RRB–5, Master File of Railroad Employees' Creditable Compensation; RRB–22, Railroad Retirement, Survivor, Pensioner Benefit System; SSA/OSR, 09–60–0090, Master Beneficiary Record (MBR); and SSA/OSR, 09–60–0059, Master Earnings File (MEF).

Inclusive Dates of the Matching Program: The consolidated matching program shall become effective no sooner than 40 days after notice of the matching program is sent to Congress and the Office of Management and Budget (OMB), or 30 days after publication of this notice in the **Federal Register**, whichever date is later. The matching program will continue for 18 months from the effective date and may be extended for an additional 12 months thereafter, if certain conditions are met.

The notice we are giving here is in addition to any individual notice that may be given.

A copy of this notice will be or has been furnished to the Office of Management and Budget and the designated committees of both houses of Congress.

Dated: May 27, 2008.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. E8–12186 Filed 5–30–08; 8:45 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57874; File No. PCAOB–2008–02]

Public Company Accounting Oversight Board; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Delaying Implementation Schedule of Rule 3523, Tax Services for Persons in Financial Reporting Oversight Roles

May 27, 2008.

Pursuant to Section 107(b) of the Sarbanes-Oxley Act of 2002 (the ''Act''), notice is hereby given that on April 22, 2008, the Public Company Accounting Oversight Board (the ''Board'' or the ''PCAOB'') filed with the Securities and Exchange Commission (the ''SEC'' or ''Commission'') the proposed rule change described in Items I and II below, which items have been prepared by the Board. The PCAOB has designated the proposed rule change as ''constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule'' under Section 19(b)(3)(A)(i) of the Securities Exchange Act of 1934 (as incorporated, by reference, into Section 107(b)(4) of the Act) and Rule 19b–4(f)(1) thereunder, which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Board's Statement of the Terms of Substance of the Proposed Rule Change

The PCAOB is filing with the SEC an adjustment of the implementation schedule for Rule 3523, Tax Services for Persons in Financial Reporting Oversight Roles. Specifically the Board will not apply Rule 3523 to tax services provided on or before December 31, 2008, when those services are provided during the audit period and are completed before the professional engagement period begins. The PCAOB is not proposing any textual changes to the Rules of the PCAOB by this filing.

II. Board's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Board included statements concerning the purpose of, and basis for, the proposed rule and discussed any comments it received on the proposed rule. The text of these statements may be examined at the places specified in Item IV below. The Board has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Board's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Purpose

On July 26, 2005, the PCAOB adopted certain rules related to registered public accounting firms' provision of tax services to public company audit clients. As part of this rulemaking, the Board adopted Rule 3523, which provides that a registered firm, subject to certain exceptions, is not independent of an audit client if the firm, or an affiliate of the firm, provides tax services during the audit and professional engagement period to a person in, or an immediate family member of a person in, a financial reporting oversight role at an audit client. This rule was intended to address concerns related to auditor independence when auditors provide personal tax services to individuals who play a direct role in preparing the financial statements of public company audit clients. Rule 3523 was approved by the SEC on April 19, 2006.

Consistent with the SEC's independence rules,[1] the phrase ''audit

[1] 17 CFR 210.2–01(f)(5).

and professional engagement period'' is defined to include two discrete periods of time. The ''audit period'' is the period covered by any financial statements being audited or reviewed.[2] The ''professional engagement period'' is the period beginning when the firm either signs the initial engagement letter or begins audit procedures, whichever is earlier, and ends when either the company or the firm notifies the SEC that the company is no longer that firm's audit client.[3]

On April 3, 2007, the Board issued a concept release to solicit comment about the possible effect on a firm's independence of providing tax services to a person covered by Rule 3523 during the portion of the audit period that precedes the beginning of the professional engagement period and other practical consequences of applying the restrictions imposed by Rule 3523 to that portion of the audit period.[4] The Board also adjusted the implementation schedule for Rule 3523, as it applies to tax services provided during the period subject to audit but before the professional engagement period.[5]

On July 24, 2007, the Board proposed an amendment to Rule 3523 to exclude the portion of the audit period that precedes the beginning of the professional engagement period, as well as a new ethics and independence rule regarding communication with audit committees, and further adjusted the implementation schedule for Rule 3523 to allow sufficient time for consideration of commenters' views.[6] After considering commenters' views, the Board adopted the amendment on April 22, 2008.[7]

The Board has determined to further adjust the implementation schedule for Rule 3523 to allow sufficient time for the SEC to consider whether to approve the amendment to Rule 3523. Specifically, the Board will not apply Rule 3523 to tax services provided on or before December 31, 2008, when those services are provided during the audit period and are completed before the professional engagement period begins.[8]

(b) Statutory Basis

The statutory basis for the proposed rule change is Title I of the Act.

B. Board's Statement on Burden on Competition

The Board does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Board's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Board did not solicit or receive written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Securities Exchange Act of 1934 (as incorporated, by reference, into Section 107(b)(4) of the Act) and paragraph (f) of Rule 19b–4 thereunder because of its designation by the PCAOB as ''constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule.'' At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the requirements of Title I of the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/pcaob.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number PCAOB–2008–02 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number PCAOB–2008–02. 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/pcaob/shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes 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 Section, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the PCAOB. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number PCAOB–2008–02 and should be submitted on or before June 23, 2008.

By the Commission.

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–12162 Filed 5–30–08; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57866; File No. SR–FINRA–2007–026]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Proposed Rule Change as Modified by Amendment No. 1 Thereto To Adopt a FINRA Policy To Expand Disseminated Trade Reporting and Compliance Engine (''TRACE'') Data

May 23, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

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[2] Rule 3501(a)(iii)(1).

[3] Rule 3501(a)(iii)(2).

[4] *See* PCAOB Release No. 2007–002 (Apr. 3, 2007).

[5] *See id.*, at 7. Specifically, the Board stated that it would not apply Rule 3523 to tax services provided on or before July 31, 2007, when those services are provided during the audit period and are completed before the professional engagement period begins.

[6] *See* PCAOB Release No. 2007–008 (July 24, 2007). Specifically, the Board stated that it would not apply Rule 3523 to tax services provided on or before April 30, 2008, when those services are provided during the audit period and are completed before the professional engagement period begins.

[7] *See* PCAOB Release No. 2008–003 (Apr. 22, 2008).

[8] This will apply regardless of whether there is an engagement in process on April 30, 2008.

(''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 5, 2007, Financial Industry Regulatory Authority, Inc. (''FINRA'') (f/k/a National Association of Securities Dealers, Inc. (''NASD'')) [3] filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by FINRA. On May 20, 2008, FINRA filed 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

FINRA is proposing to adopt a FINRA policy to expand disseminated Trade Reporting and Compliance Engine (''TRACE'') data to show, for each disseminated transaction, that the transaction is an inter-dealer transaction (''Dealer Transaction'') or a transaction with a customer (''Customer'') (''Customer Transaction'') and the member referenced is a buyer (''Buyer'') or a (''Seller'') (or acts as agent on the buy or the sell side). The proposed rule change does not include proposed rule text.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA 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. FINRA 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

Currently, FINRA members that are parties to a transaction in a TRACE-eligible security report several types of information to the TRACE System. Among the elements of data that are reported, for each transaction the member reports that it is a Buyer from a broker-dealer (''Dealer'') or a Customer or a Seller to a Dealer or a Customer (or acts as agent on the buy or the sell side).[4] In addition, the member reports that the transaction is a Dealer Transaction or a Customer Transaction. Currently, these data elements are not included in the TRACE transaction data disseminated immediately upon FINRA's receipt of a transaction report.

The data elements that are disseminated include: the bond identifier (*i.e.*, the TRACE symbol); the price inclusive of any mark-up, mark-down, or commission; the quantity (expressed as the total par value); the yield; the time of execution; and, if the transaction were executed on a day other than when TRACE data is being disseminated, the actual day of execution of the transaction.

For a Dealer Transaction, FINRA receives a TRACE report from each Dealer, but disseminates data reflecting only the information received in the Sell transaction report. For a Customer Transaction, only one side of the trade has to be reported—the Dealer (or Dealers) side—and FINRA disseminates the data from the TRACE report(s), which may be either a Dealer's Buy or a Dealer's Sell.

FINRA is proposing that additional data elements showing the side on which a Dealer acts in a transaction (''Buy/Sell data element'') and the information identifying the transaction as a Dealer Transaction or a Customer Transaction (''Dealer/Customer data element'') (but not the MPID or identity of any Dealer) be disseminated publicly for each transaction, because Dealers need access to these additional data elements and investors would benefit from this enhanced level of transparency. Dealers need the additional data elements to compare prices, and in order to comply with their best execution obligations under NASD Rule 2320, the fair and reasonable mark-up/mark-down requirements under NASD Rule 2440, NASD IM–2440–1, NASD IM–2440–2, and other provisions of the federal securities laws.[5] Investors would benefit from the dissemination of these additional data elements by being able to compare prices and request better, lower prices. Given the limited occurrence of transactions in certain sectors of the debt markets, including the corporate debt sector, FINRA believes that the Dealer/Customer data element and Buy/Sell data element should be added to the disseminated TRACE data to provide TRACE users additional clarity about what each disseminated TRACE price actually represents.

The disseminated TRACE data enhanced by the addition of the Dealer/Customer data element and the Buy/Sell data element will inform Dealers and Customers of actual executed prices for Customer Transactions and Dealer Transactions across a broad universe of corporate debt securities. Even prior to the adoption of NASD IM–2440–2, ''Additional Mark-Up Policy For Transactions in Debt Securities, Except Municipal Securities'' (''the Debt Mark-Up Interpretation''), the availability of these data elements would have aided Dealers in complying with their obligations regarding best execution and fair mark-ups set forth in FINRA rules and other provisions of the federal securities laws, and described in various litigated or settled proceedings.[6] With the implementation of the Debt Mark-Up Interpretation on July 5, 2007, FINRA believes that the data elements identifying a transaction as either a Dealer Transaction or a Customer

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Effective July 30, 2007, FINRA was formed through the consolidation of NASD and the member regulatory functions of NYSE Regulation, Inc. Generally, pre-consolidation actions by NASD are referred to as FINRA actions, except for NASD Rules, when referenced singularly, and NASD *Notices to Members*. When FINRA files proposed rule changes to create a consolidated FINRA rule manual, such NASD rules and interpretations, as incorporated in the consolidated FINRA Manual, will no longer be referred to as ''NASD'' rules.

[4] Hereinafter, ''Buy'' means either or both (i) a Dealer's purchase of a security from a Customer, and/or (ii) a Dealer, as agent of a Customer, facilitating a purchase of a security from the Customer; similarly, ''Sell'' means either or both (i) a Dealer's sale of a security to a Customer, and/or (ii) a Dealer, as agent of a Customer, facilitating a sale of a security to the Customer.

[5] When a member charges a Customer an excessive or unreasonable mark-up/mark-down, the member violates NASD Rule 2110, NASD Rule 2440, NASD IM–2440–1, and, if charged in a debt securities transaction, NASD IM–2440–2. In addition, in some cases, when a member charges an excessive or unreasonable mark-up/mark-down and does not fully disclose it to the customer, the member may be in violation of Section 10(b) of the Act, 15 U.S.C. 78j(b), and Rule 10b–5 thereunder, 17 CFR 240.10b–5, or Section 17(a) of the Securities Act of 1933, 15 U.S.C. 77q(a). NASD Rule 2320, NASD Rule 2110, NASD Rule 2440, NASD IM–2440–1, and NASD IM–2440–2 do not apply to transactions in municipal securities. Instead, when a Dealer or a municipal securities dealer engages in a municipal securities transaction, the rules of the Municipal Securities Rulemaking Board (''MSRB'') apply. *See, e.g.*, MSRB Rule G–30, Prices and Commissions; MSRB Rule G–18, Execution of Transactions.

[6] NASD IM–2440–2 was approved by the SEC on April 16, 2007, and became effective on July 5, 2007. *See* Securities Exchange Act Release No. 55638 (April 16, 2007), 72 FR 20150 (April 23, 2007) (order approving SR–NASD–2003–141); NASD *Notice to Members* 07–28 (June 2007).

Transaction and as either a Buy or a Sell now must be made available to Dealers.

Under the Debt Mark-Up Interpretation, when a Dealer is pricing or determining mark-ups (or mark-downs) by referring to recent transaction prices other than the Dealer's own price, a Dealer must be able to determine if a trade is an inter-dealer transaction (as used in the Debt Mark-Up Interpretation) or a Customer Transaction.[7] In addition, the Dealer must be able to determine which side of the market a Dealer traded from, whether looking to a Customer Transaction or an inter-dealer transaction (as used in the Debt Mark-Up Interpretation).[8] Disseminating the Dealer/Customer and the Buy/Sell data elements would allow Dealers to more accurately identify the type of pricing information disseminated by TRACE, and would permit them to use the information to comply with FINRA rules and the federal securities laws regarding fair prices and best execution.

In view of the fact that Customer Transaction prices disseminated are ''all-in prices,'' and the prices of Customer Transactions and Dealer Transactions are intermingled, the dissemination of data elements that identify transactions as Customer Transactions or Dealer Transactions will allow all who view the TRACE data to distinguish those transactions that do not include a mark-up/mark-down or a commission—Dealer Transactions—from transactions displayed as ''all-in prices'' that include Dealer mark-ups/mark-downs or commissions—Customer Transactions.

By adding the Buy/Sell data element to any transaction identified as a Customer Transaction, anyone viewing the TRACE data will be able to determine that, in the case of a Buy, the disseminated price includes a mark-down or a commission, or, in the case of a Sell, the disseminated price includes a mark-up or a commission. Thus, with the two additional elements viewable in disseminated TRACE data, Customers that are TRACE data users will be able to knowledgeably assess and compare the disseminated ''all-in price'' of their purchases and sales with other Customer Transactions. In addition, Dealers will be able to determine approximate levels of Dealer Transaction pricing by ''backing out'' of a disseminated ''all-in price'' clearly labeled as a Customer Transaction, a mark-up (or mark-down) or commission amount if Dealer Transaction pricing is not available in TRACE for the Dealer's analyses of its mark-up (or mark-down) and its compliance with best execution obligations.

Such transparency exists in other markets. The Municipal Securities Rulemaking Board (''MSRB'') determined that disseminating buy/sell and dealer/customer information was an important element of transparency in the municipal securities market, and currently disseminates both of these data elements real-time together with other price, quantity, and yield information per transaction.[9] FINRA believes it is appropriate to provide comparable data to TRACE data users.

Finally, debt pricing, particularly debt mark-ups, remains an area of regulatory concern and focus.[10] For more than two years, FINRA has considered incorporating the Dealer/Customer data element and Buy/Sell data element in disseminated TRACE transaction data to aid Dealers in improving their pricing of TRACE-eligible securities and similar debt securities; and to provide them with information to evidence their adherence to the requirements of the federal securities laws and regulations regarding fair pricing and best execution. In 2005, FINRA staff began receiving requests that these reported data elements be included in the disseminated TRACE data from members attending FINRA seminars discussing debt mark-ups. Also, in April 2005, when NASD IM–2440–2 was pending as a proposed rule change, a commenter highlighted the deficiencies in disseminated TRACE data, noting that TRACE data did not differentiate between Customer Transactions and Dealer Transactions, thus making Dealer compliance with the various requirements of NASD IM–2440–2 difficult (*e.g.*, the identification and required use, in certain cases, of certain Dealer Transaction prices to establish prevailing market price).[11] In October 2005, in FINRA's response to comments, FINRA indicated that FINRA was ''evaluating enhancing the quality of disseminated TRACE information to show, for each trade, whether the trade is inter-dealer or customer, as is now indicated in real-time disseminated municipal securities transaction

[7] In IM–2440–2, the Debt Mark-Up Interpretation, references to ''inter-dealer trades'' or ''inter-dealer transactions'' (that, in certain circumstances, must or may be used to determine the prevailing market price of a security—whether in the same or similar securities as the security for which a mark-up is being calculated) *do not include* any inter-dealer transaction in which the Dealer that is determining prevailing market price is a party. In contrast, in this proposed rule filing, the term ''inter-dealer transaction'' (defined as ''Dealer Transaction'') includes all inter-dealer transactions (*e.g.*, if Dealer A is a party to an inter-dealer transaction, from Dealer A's perspective, inter-dealer transactions means all inter-dealer transactions, including those to which Dealer A is a party). In this note 7 and note 8, *infra*, when describing various provisions of the Debt Mark-Up Interpretation, FINRA uses the term ''inter-dealer transaction'' to make clear that FINRA means inter-dealer transactions as used in the Debt Mark-Up Interpretation. *See* IM–2440–2, paragraph (b)(5)(A) (requiring that a Dealer must consider—after considering the Dealer's own contemporaneous cost (or proceeds)—the prices of any *contemporaneous inter-dealer transaction in the same security* to determine prevailing market price). *See also* NASD IM–2440–2, paragraph (b)(5)(B) (requiring that a Dealer must consider—after considering the Dealer's own contemporaneous cost (or proceeds) and the prices of any *contemporaneous inter-dealer transactions in the same security*—the prices of contemporaneous Dealer purchases (sales) in the security in question from (to) institutional accounts with which any Dealer regularly effects transactions in the same security (''certain institutional accounts'') to determine prevailing market price); NASD IM–2440–2, paragraph (b)(6) (referring to a Dealer's review, in certain circumstances, of the pricing information from (i) *contemporaneous inter-dealer transactions in a similar security*, and (ii) contemporaneous Dealer purchase (sale) transactions in a similar security with certain institutional accounts, as part of the Dealer's analysis to determine the prevailing market price of a particular security).

[8] For example, under NASD IM–2440–2, paragraph (b)(6), when a Dealer refers to transactions in similar securities, a Dealer must know the side of the market (*i.e.*, Buy or Sell information) to determine the relative comparability of a transaction in a similar security to the transaction that is being marked.

[9] Disseminated municipal securities transaction prices, like TRACE-disseminated prices, are ''all-in prices.''

[10] In remarks to the securities industry, senior SEC staff has indicated that debt mark-ups are an area of regulatory concern and focus. *See, e.g.*, Remarks before the TBMA Legal and Compliance Conference, Commissioner Annette L. Nazareth, SEC, New York, NY, February 7, 2006 (''[The industry] should consider improving transparency concerning dealer mark-up policies * * * Investors should understand what they are paying, whether the broker is acting as agent or principal, and whether the price paid includes compensation to the broker-dealer, and if so, how much.'') at *http://www.sec.gov/news/speech/spch020706aln.htm;* Remarks to The SIFMA Legal and Compliance Division, ''The Regulatory Focus on Broker-Dealer Legal and Compliance Issues,'' Mary Ann Gadziala, Associate Director, Office of Compliance Inspections and Examinations, SEC, Chicago, Ill., June 7, 2007 (listing mark-ups on fixed income securities as an examination priority), at *http://www.sec.gov/news/speech/2007/spch060707mag.htm*. FINRA acknowledges that the Commission, as a matter of policy, disclaims responsibility for any private publications or statements by any of its employees, and that the views expressed in the remarks referenced above are those of the speaker and do not necessarily reflect the views of the Commission, another Commissioner, or the Commission staff.

[11] *See* File No. SR–NASD–2003–141. Letter from The Bond Market Association (regarding File No. SR–NASD–2003–141), to Jonathan G. Katz, Secretary, SEC, dated April 5, 2005 at 13 (''[T]he NASD's TRACE system does not differentiate between inter-dealer trades and customer trades in its disseminated reports, making the identification of an inter-dealer trade difficult.''). FINRA also published the proposed change of policy regarding TRACE disseminated data in NASD *Notice to Members* 06–22 (May 2006). The comments received in connection with the proposal at that time are summarized below in Item 5.

data.'' [12] By adding the Dealer/Customer data element and Buy/Sell data element to TRACE disseminated information now, Customers and Dealers would be able to more accurately and carefully assess the quality of the pricing of their corporate bond transactions.

FINRA would announce the effective date of the proposed rule change in a *Regulatory Notice* to be published no later than 90 days following Commission approval, if the Commission approves the proposal. The effective date would be no later than 120 days following publication of the *Regulatory Notice* announcing a Commission approval.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[13] which requires, among other things, that FINRA rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes that the proposed policy, by improving the quality of information available to institutional investors, retail investors, and Dealers: (i) Will allow them to compare prices in TRACE-eligible securities transactions more meaningfully; (ii) will allow them to negotiate transaction prices with more information; (iii) will allow Dealers to comply more easily with FINRA rules and various provisions of the federal securities laws requiring Dealers to buy or sell debt securities at prices related to the prevailing market prices, adjusted by a fair and reasonable mark-up (mark-down) or commission, which provisions are designed to prevent unfair or unjust practices, or fraudulent, deceptive, and manipulative acts or practices in the pricing of securities transactions; and (iv) may stimulate price competition among Dealers, for the protection of investors and in furtherance of the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The proposed rule change was published for comment in NASD *Notice to Members* 06–22 (May 2006). Five comments were received in response to the NASD *Notice to Members.* Of the five comment letters received, two commenters were in favor of the proposed rule change [14] and three commenters were opposed.[15]

Two of the commenters indicated that they fully supported the proposed public disclosures of the Buy/Sell data element and Dealer/Customer data element because: (i) Lack of disclosure of pertinent bond information places the public investor at a disadvantage; (ii) both public investors and Dealers need such pricing information, which will permit them to compare prices meaningfully; (iii) Dealers need the additional data elements to comply with best execution and mark-up requirements; (iv) the data disseminated for municipal securities transactions already includes these data elements and the inclusion of such information plays an important role in providing transparency in the municipal securities markets; (v) companies claiming that their bond trading strategies would be exposed have not substantiated such claims; (vi) corporate debt market participants, including Dealers, will not be unduly burdened by dissemination of the additional data elements; and (vii) the benefit to the public investor and the participating TRACE Dealers will outweigh any negative impact to the market, Dealers, or Customers, including certain companies' position that possibly smaller profit margins for Dealers may result if these additional elements of TRACE data are disseminated. One of the commenters requested that, if the policy were adopted, members be given 12 months to adopt any necessary systems changes.[16]

Three commenters opposed the proposed policy change. The three commenters stated that Dealers did not need the Dealer/Customer data element and Buy/Sell data element to comply with best execution and mark-up/mark-down rules and the federal securities laws, and that the liquidity of the corporate bond market ''could be'' substantially reduced because, if the disseminated TRACE data included the additional information, it would limit a Dealer's ability to execute trades without having the market move adversely.

Two commenters submitted nearly identical comments summarized below.[17] Generally, both commenters opposed the Proposal stating, in addition to the comments summarized immediately above, that the proposed dissemination of the two additional data elements would not facilitate price transparency, and the information currently disseminated through TRACE is sufficient for investors to determine if they receive fair prices from dealers. The commenters posited that the Dealer/Customer and Buy/Sell data elements, if published, would hamper the ability of investors trying to accumulate or dispose of positions without moving the market (as noted above) and would: (i) Permit market participants to discern the trading intent of others and consequently trade in a manner that is harmful to the identified investor; (ii) permit others to intrude upon the trading strategies of an investor; (iii) increase investor costs; and (iv) as noted above, potentially reduce liquidity. In addition, the commenters stated that FINRA does not need to implement the Proposal to further its audit and surveillance functions and ''the Proposal should be effected only to the extent that investors and dealers determine there is a need for it.'' [18] Further, although the inclusion of Dealer/Customer and Buy/Sell data elements in disseminated municipal securities transaction information does not appear to be harmful to the municipal securities market, the commenters stated that such information would have an adverse impact in the corporate bond market (particularly to institutional traders and Dealers) and should not be disseminated.

The two commenters focused on the trading patterns of institutional

[12] *See* File No. SR–NASD–2003–141. Response to Comments on Additional Mark-Up Policy for Transactions in Debt Securities (regarding File No. SR–NASD–2003–141), to Katherine A. England, Assistant Director, Division of Market Regulation, SEC, dated October 4, 2005 at 13.

[13] 15 U.S.C. 78o–3(b)(6).

[14] *See* letters from Kenneth M. Cherrier, Chief Compliance Officer, Fintegra, to Barbara Z. Sweeney, Office of Corporate Secretary, NASD, dated June 1, 2006; and Bari Havlik, Senior Vice President, Global Compliance, Charles Schwab & Co., Inc. to Sharon K. Zackula, Associate General Counsel, Office of General Counsel, NASD, dated June 15, 2006 (''Schwab Letter'').

[15] *See* letters from Brad Ziemba, Chief Compliance Officer, Duncan-Williams, Inc, to Barbara Z. Sweeney, Office of Corporate Secretary, NASD, dated June 26, 2006; Mary C.M. Kuan, Vice President and Assistant General Counsel, The Bond Market Association (''TBMA''), to Barbara Z. Sweeney, Office of Corporate Secretary, NASD, dated June 16, 2006 (''TBMA Letter''); and John R. Gidman, Chairman, Asset Managers Division, TBMA, to Barbara Z. Sweeney, Office of Corporate Secretary, NASD, dated June 19, 2006 (''TBMA–AMD Letter'').

[16] *See* Schwab Letter.

[17] *See generally* TBMA Letter; TBMA–AMD Letter.

[18] TBMA Letter at 2; TBMA–AMD Letter at 2.

customers, their block trades of bonds, and their reliance on Dealers to facilitate trading in such blocks—by acting as a riskless principal, by taking the other side of the Customer's trade (a risk position), or by the Dealer selling bonds short to facilitate the institutional Customer's purchase and thereafter going out into the market to cover the short (a Dealer short position) in which, the commenters noted, Dealers take on considerable risk.[19] The commenters stated that such investors must be able to execute block trades and Dealers must be able to facilitate such trades without signaling the market because prices in the securities market are driven by supply and demand and, if an institutional investor or a Dealer tries to sell, or facilitate the sale of, a block without having the ability to shroud its activity, it might cost more. In addition, other market participants might try to raise prices, by buying some of the desired bonds, or conversely, might try to lower prices, by selling some of the desired bonds. The commenters stated that transactions might cost more and other institutional market participants and the public might be able to free-ride on the research and strategies of an institution or a Dealer. Moreover, the higher costs of trades and free-riding costs might flow downstream to the retail Customers of institutional investors. In addition, the commenters alleged that the proposal to disseminate the Dealer/Customer data element and Buy/Sell data element ''would undermine such institutional investors' fiduciary responsibilities to their customers to maintain policies and procedures to prevent misuse of their trading strategies.'' [20]

Finally, the two commenters argued that the practice of disseminating dealer/customer and buy/sell data elements for transactions in municipal securities should not be adopted in TRACE because the corporate bond market is ''sufficiently distinct from the municipal bond market'' and such information would hinder corporate bond Dealers and their Customers. They asserted that generally municipal bonds trade less frequently, there is less trading in blocks by municipal bond dealers and large institutional customers, and municipal bond dealers do not take short positions to facilitate municipal securities customer trades, in contrast to corporate bond Dealers. Thus, with fewer large block trades and fewer short positions held by municipal bond dealers, the overall risk from one or more trades (for which information is known in the market) moving the price against the trading party's economic interests is significantly lower in the municipal market (*i.e.*, because such large trades are infrequent).

The two commenters also requested access to empirical data on TRACE to study the market.

FINRA has considered the comments fully and carefully and continues to believe that the dissemination of the Dealer/Customer data element and Buy/Sell data element should occur to provide important information to Customers and Dealers about current pricing, to permit a meaningful comparison of prices, and to allow Dealers to comply with fair pricing and best execution obligations. Further, FINRA is not persuaded by those commenters who are opposed to the Proposal. None of the opposing comments voice any supportable proposition that the information benefit to TRACE data users can otherwise be obtained without the disclosure of the proposed information or that compliance with NASD IM–2440–2 is possible without the disclosure of the information since there is no other way to divine the necessary data elements or to use any price other than contemporaneous price from which the mark-up or mark-down is to occur. Finally, FINRA does not understand how the dissemination of the Buy/Sell and Dealer/Customer data elements adds materially to any quantum of information that exacerbates the potential for the ''reverse engineering'' of trading interest and strategies in comparison to the ability to divine such information today with the mix of TRACE information presently disseminated. Presumably, there are people reading the disseminated information today who, from such information, make calculated assumptions about the nature and quantity of debt securities for sale, trading strategies, and the identity of the beneficial interests behind such sales or strategies. The question not answered by the commenters is how the addition of a data element identifying either Buy/Sell or Dealer/Customer information adds material content that, in fact, aids in the ability to make such calculations more accurately. Stated another way, it is unclear how, even with these data elements added to the TRACE data already disseminated, a consumer of disseminated information will know who is behind a trade, the nature and extent of its strategy, and the size of the total debt position being disposed of or acquired. In any event, FINRA does not believe that those contentions, even if they could be established, trump the basis for the Proposal with its legitimate purposes under the Act and its necessary purposes under NASD IM–2440–2.

Finally, in response to the two commenters' request for empirical data on TRACE to study the market, FINRA proposed to provide access to historic TRACE data in SR–FINRA–2007–006, which was filed with the Commission on August 9, 2007, and published for notice and comment on September 10, 2007.[21] The proposal is currently pending before the Commission.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–FINRA–2007–026 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2007–026. This file number should be included on the subject line if e-mail is used. To help the

[19] The terms riskless principal, risk position, and Dealer short position are the terms and characterizations of the commenters. *See generally* TBMA Letter; TBMA–AMD Letter.

[20] TBMA Letter at 4; TBMA–AMD Letter at 4.

[21] *See* Securities Exchange Act Release No. 56327 (August 28, 2007), 72 FR 51689 (September 10, 2007) (notice of filing of SR–FINRA–2007–006 and request for comment).

Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. 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–FINRA–2007–026 and should be submitted on or before June 23, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–12161 Filed 5–30–08; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57873; File No. SR–NASDAQ–2008–044]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change To Amend Nasdaq Rule 4420(g)

May 27, 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 May 13, 2008, The NASDAQ Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared substantially by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and is granting accelerated approval to the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq proposes to amend Nasdaq Rule 4420(g) for the purpose of adding new text clarifying that securities listed under the rule are done so pursuant to Rule 19b–4(e) of the Act.[3] Nasdaq also proposes to remove the maximum term limitation set forth in the rule and to allow securities listed under the rule to be based on multiple underlying securities. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and *http://www.nasdaq.com*.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of, and basis for, the proposed rule change. The text of these statements may be examined at the places specified in Item III below. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Nasdaq proposes an amendment to Nasdaq Rule 4420(g) to clarify that Selected Equity-linked Debt Securities (''SEEDS'') listed on the Nasdaq Global Market are listed pursuant to Rule 19b–4(e) of the Act.[4] Rule 19b–4(e) allows self-regulatory organizations (''SROs'') to, among other things, list and trade new derivative securities products without going through the rule change process under Section 19(b) of the Act.[5] Specifically, Rule 19b–4(e) provides that the listing and trading of derivatives securities products is not deemed a proposed rule change under Rule 19b–4(c)(1). To qualify for this exemption from Rule 19b–4(c)(1), an SRO must have existing, Commission-approved trading rules, procedures, and listing standards for the product class that would include the new derivative securities product. In addition, the SRO must have a surveillance program for the product class.

Nasdaq adopted its listing rules for SEEDS in 1994,[6] prior to the Commission's amendment to Rule 19b–4 of the Act, which added paragraph (e) and its exemption from the Section 19(b) rule change filing requirement. Subsequent to the Commission's amendment of Rule 19b–4 in 1998,[7] Nasdaq did not amend its rule relating to the listing of SEEDS to clarify that such securities are considered derivative securities products and, as such, may be listed and traded without submitting a proposed rule change under Section 19(b). Nasdaq has adopted listing rules for derivative securities products subsequent to the Commission's adoption of the 1998 amendment to Rule 19b–4(e) that specifically note that such listing is pursuant to Rule 19b–4(e).[8] Accordingly, Nasdaq is filing this rule change proposal to make clear in its rules that SEEDS listed under Rule 4420(g) are done so pursuant to Rule 19b–4(e) of the Act.

Nasdaq is also proposing to amend 4420(g) to conform the rule to the analogous rule of the American Stock Exchange LLC (''Amex'').[9] Nasdaq notes that Amex requires its Equity Linked Term Notes to have only a minimum term of one year, with no maximum term limit;[10] however, Nasdaq limits SEEDS based on a domestic security to a term of one to seven years, and limits SEEDS based on a non-U.S. security or sponsored ADR to a maximum term of three years.[11] Amex's listing rules also allow Equity Linked Term Notes to be linked up to thirty underlying equity securities if all of the underlying equity securities individually satisfy the applicable listing standards. As such, Nasdaq is proposing to allow SEEDS to be listed on up to thirty equity securities and have only a minimum term of one year, with no maximum term.

[22] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(e).

[4] *Id.*

[5] 15 U.S.C. 78s(b)(1).

[6] Securities Exchange Act Release No. 34758 (September 30, 1994), 59 FR 50943 (October 6, 1994), (SR–NASD–94–49).

[7] Securities Exchange Act Release No. 40761 (December 8, 1998), 63 FR 70952 (December 22, 1998), (File No. S7–13–98).

[8] *See e.g.*, Securities Exchange Act Release No. 45920 (May 13, 2002), 67 FR 35605 (May 20, 2002) (SR–NASD–2002–45).

[9] Section 107B of the Amex Company Guide.

[10] Like the Amex, The New York Stock Exchange also requires equity-linked debt securities to have only a minimum term of one year, with no maximum term. *See* Paragraph 703.21 NYSE Listed Company Manual.

[11] Rule 4420(g)(2)(D).

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) [12] of the Act, in general, and furthers the objectives of Section 6(b)(5),[13] 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 mechanisms of a free and open market and a national market system, and, in general, to protect investors and the public interest. Nasdaq believes that the clarification of Nasdaq Rule 4420(g) is needed to avoid further confusion surrounding the part of the Act that such securities are listed. In addition, Nasdaq believes that eliminating the maximum term of SEEDS and allowing SEEDS to be linked to multiple securities provides issuers with flexibility to create such securities and allows Nasdaq to compete effectively with the other markets, while maintaining high standards and protecting investors. Nasdaq notes that the Commission has already determined, through its approval of the Amex rules, that linking Equity Linked Term Notes to up to thirty underlying securities without a maximum term is consistent with Section 6(b)(5) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq 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. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NASDAQ–2008–044 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2008–044. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2008–044 and should be submitted on or before June 23, 2008.

IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[14] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[15] which requires that the rules of an exchange be designed, among other things, 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.

The Commission finds good cause for approving this proposal before the 30th day after the publication of notice thereof in the **Federal Register**. The proposed rule change seeks to clarify that the Exchange's listing and trading of SEEDS is subject to Rule 19b–4(e) under the Act and would conform the Exchange's rules to those of other exchanges.[16] In addition, the proposed changes relating to the number of securities that may underlie SEEDS and the term of a SEED seek to conform the Exchange's rules to those of other exchanges that have been previously approved by the Commission.[17] Therefore, Commission does not believe that this proposal raises any novel regulatory issues and believes that accelerating approval of this proposal is appropriate and would ensure that the Exchange's rules clearly reflect the standards for listing and trading SEEDS and conform Nasdaq's rules to those of other exchanges without delay.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[18] that the proposed rule change (SR–NASDAQ–2008–044), be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–12196 Filed 5–30–08; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57875; File No. SR–NASDAQ–2008–047]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Trading the Two-Character Ticker Symbol "HA"

May 27, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

[14] In approving this rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[15] 15 U.S.C. 78f(b)(5).

[16] *See e.g.*, Chicago Board Options Exchange Rule 31.5(I) and NYSE Arca Rule 5.2(j)(2).

[17] *See supra* notes 9–10 and accompanying text.

[18] 15 U.S.C. 78s(b)(2).

[19] 17 CFR 200.30–3(a)(12).

(''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 20, 2008, The NASDAQ Stock Market LLC (''Nasdaq'') 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 Nasdaq. Nasdaq has filed this proposal pursuant to Section 19(b)(3)(A)[3] of the Act and Rule 19b–4(f)(5) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

Nasdaq proposes to trade the common stock of Hawaiian Holdings, Inc. on Nasdaq using the two-character symbol ''HA.''

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Historically, securities listed on Nasdaq have traded using four or five character symbols.[5] In 2005, however, Nasdaq announced its intent to allow companies listed on Nasdaq to also use one, two or three character symbols beginning on January 31, 2007.[6] This announcement was designed to provide market participants and vendors the time needed to make required changes to their own systems that may be affected by the change. Since February 20, 2007, Nasdaq has had the ability to accept and distribute Nasdaq-listed securities with one, two or three character symbols. Nasdaq reminded market participants about this change again on March 1, 2007, stressing that ''[a]ll customers should have completed their coding and testing efforts to ensure their readiness to support 1-, 2- and 3-character NASDAQ–listed issues,''[7] and on March 22, 2007, Delta Financial Corporation transferred to Nasdaq from the American Stock Exchange and maintained its three-character symbol, DFC.[8] Subsequently, the Commission approved a rule change to permit any company to transfer from another exchange to Nasdaq and maintain its three-character symbols.[9] On April 28, 2008, CA, Inc. transferred to Nasdaq from the New York Stock Exchange and maintained its two-character symbol, CA.[10] The Exchange states that there have been no trading problems reported to Nasdaq as a result of listing securities on Nasdaq with two-character or three-character symbols.

Nasdaq now proposes to allow Hawaiian Holdings, Inc., which currently trades on another domestic market with the two-character symbol HA, to transfer its common stock to Nasdaq and continue using that two-character symbol. Nasdaq believes that allowing this company to maintain its symbol will reduce investor confusion and promote competition among exchanges. Specifically, allowing Hawaiian Holdings to maintain its trading symbol will reduce investor confusion associated with its transfer to Nasdaq because investors will continue to be able to obtain quotations and execute trades using the same familiar symbol and will allow the issuer to maintain a symbol that has become a part of its identity to investors.[11] Further, Nasdaq believes that permitting Hawaiian Holdings to maintain its symbol will enhance competition among exchanges by removing concerns about investor confusion surrounding its symbol from the factors a company must consider when choosing where to list its equities. This proposal is also consistent with the historical practice of allowing companies to maintain their symbols when they switch among national securities exchanges.[12]

Given the foregoing, Nasdaq believes that market participants were provided adequate notice of this change and are prepared to accommodate the trading of this company on Nasdaq using the symbol HA. Further, Nasdaq believes that any change to the symbol will cause confusion among investors and market participants. As such, Nasdaq proposes to begin trading the common stock of Hawaiian Holdings, Inc. on Nasdaq using the symbol HA on June 2, 2008. While this filing relates to the transfer of this issuer, Nasdaq remains committed to working with the Commission and other markets to establish an equitable and transparent symbol assignment plan.[13]

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6 of the Act, in general and with Section 6(b)(5) of the Act, in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, remove impediments to a free and open market and a national market system, and, in general, to protect investors and the public interest. As described above, the proposed rule change will reduce investor confusion and encourage competition between national securities exchanges.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(5).

[5] This includes securities listed on Nasdaq's predecessor market, operated as a facility of the NASD.

[6] *See* Head Trader Alert 2005–133 (November 14, 2005), available at: *http://www.nasdaqtrader.com/TraderNews.aspx?id=hta2005-133* and Vendor Alert 2005–070 (November 14, 2005), available at: *http://www.nasdaqtrader.com/TraderNews.aspx?id=nva2005-070. See also* Head Trader Alert 2006–144 (September 29, 2006), available at: *http://www.nasdaqtrader.com/TraderNews.aspx?id=hta2006-144*, Head Trader Alert 2006–193 (November 16, 2006), available at: *http://www.nasdaqtrader.com/TraderNews.aspx?id=hta2006-193* and Vendor Alert 2006–065 (October 4, 2006), available at: *http://www.nasdaqtrader.com/TraderNews.aspx?id=nva2006–065*.

[7] Head Trader Alert 2007–050 (March 1, 2007), available at: *http://www.nasdaqtrader.com/TraderNews.aspx?id=hta2007-050*.

[8] *See* Securities Exchange Act Release No. 55519 (March 26, 2007) 72 FR 15737 (April 2, 2007) (SR–NASDAQ–2007–025).

[9] *See* Securities Exchange Act Release No. 56028 (July 9, 2007), 72 FR 38639 (July 13, 2007) (approving SR–NASDAQ–2007–031). Over 25 companies with three-character symbols have listed on Nasdaq.

[10] *See* Securities Exchange Act Release No. 57696 (April 22, 2008) 73 FR 22987 (April 28, 2008) (SR–NASDAQ–2008–034).

[11] A market transfer will still be transparent to investors because, under the Commission's rules, a company must announce the transfer of its listing on a Form 8–K. *See* Form 8–K, item 3.01(d). In addition, the issuer must publish notice of its intent to withdraw a class of securities from listing and/or registration, along with its reasons for such withdrawal, via a press release and, if it has a publicly accessible Web site, on that Web site. *See* Exchange Act Rule 12d2–2(c)(2)(iii), 17 CFR 240.12d2–2(c)(2)(iii).

[12] *See, e.g.*, Darwin Professional Underwriters, Inc (from NYSE Arca to NYSE keeping the symbol DR), Chile Fund, Inc. (from NYSE to Amex keeping the symbol CH), and iShares NYSE 100 (from NYSE to NYSE Arca keeping the symbol NY).

[13] *See* Securities Exchange Act Release No. 56037 (July 10, 2007) 72 FR 39096 (July 17, 2007).

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [14] and Rule 19b–4(f)(5) thereunder [15] in that it effects a change to an order-entry or trading system that: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not have the effect of limiting the access to or availability of the system. As such, this proposed rule change is effective upon filing with the Commission.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NASDAQ–2008–047 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2008–047. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2008–047 and should be submitted on or before June 23, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–12197 Filed 5–30–08; 8:45 am]

BILLING CODE 8010–01–P

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f)(5).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57870; File No. SR–NYSE–2008–37]

Self-Regulatory Organizations; New York Stock Exchange, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend NYSE Rule 13 To Extend the Definition of Routing Broker and Effect Conforming Changes to NYSE Rule 17

May 27, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 9, 2008, the New York Stock Exchange, LLC (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. The Exchange has designated the proposed rule change as a ''non-controversial'' rule change pursuant to Section 19(b)(3)(A) of the Act [3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Exchange Rule 13 to include in the definition of ''Routing Broker'' any non-affiliate third-party broker-dealer that may act as a Routing Broker for the Exchange. The Exchange further proposes a conforming amendment to Exchange Rule 17 to allow for the operation of such a non-affiliate third-party broker-dealer. The text of the proposed rule change is available at NYSE, the Commission's Public Reference Room, and *www.nyse.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Through this filing, the Exchange proposes to amend Exchange Rule 13 to expand the definition of ''Routing Broker'' to include any non-affiliate third-party broker-dealer that may act as a Routing Broker for the Exchange. The Exchange further proposes to make conforming amendments to Exchange Rule 17 to allow for the operation of

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

such a non-affiliate third-party broker-dealer.

Current Exchange Rules 13 and 17

Exchange Rule 13 currently defines a Routing Broker as the broker-dealer affiliate of the Exchange that acts as agent for routing orders entered into Exchange systems to other market centers for execution whenever such routing is required by Exchange Rules and federal securities laws.[5] Rule 13 further provides that the Routing Broker shall operate as prescribed in Exchange Rule 17. Archipelago Securities, LLC (''Arca Sec''), a broker-dealer affiliate of the Exchange, currently functions as the sole Routing Broker for the Exchange.[6]

Exchange Rule 17 provides that the Routing Broker will receive routing instructions from the Exchange to route orders to other market centers and report such executions back to the Exchange.[7] The Routing Broker has no discretion and cannot change the terms of an order or the routing instructions.[8] Although the use of the Routing Broker to route orders to another market center is optional, all trades entered on the Exchange that are routed to other market centers via the Routing Broker and are executed are binding.[9]

By serving as a ''system of communication to or from'' the Exchange, the Routing Broker operates as a facility of the Exchange in accordance with Section 3(a)(2) of the Act.[10] The Exchange is responsible for filing with the Commission any rule changes and fees relating to the functions performed by the Routing Broker on NYSE.[11] The books, records, premises, officers, agents, directors and employees of the Routing Broker, as a facility of the Exchange, shall be deemed to be those of the Exchange (and subject to its oversight) for the purposes of the Act.[12] The books and records of the Routing Broker as a facility of the Exchange are subject at all times to inspection and copying by the Exchange and the Commission.[13]

Proposed Amendments to Exchange Rules 13 and 17

The Exchange believes it is prudent to have a secondary Routing Broker (or Brokers, as may be needed) as a risk management tool in the event of a system malfunction or failure. The Exchange thus proposes to amend Rules 13 and 17 to allow any non-affiliate third-party broker-dealer to operate as a Routing Broker for NYSE.

Under this proposal, Arca Sec would continue to operate as an Exchange Routing Broker in conjunction with a non-affiliate third-party broker-dealer(s) that will operate simultaneously as a Routing Broker for the Exchange. By relying on parallel Routing Brokers, the Exchange will have the ability to divert order flow from one Routing Broker to another in the event of a system malfunction or failure.

A non-affiliate third-party broker-dealer will operate as prescribed by Exchange Rule 17, subject to an amendment to subparagraph (b)(2). Currently, Exchange Rule 17(b)(2) provides that the Routing Broker will not engage in any business other than (a) its outbound router function and (b) any other activities it may engage in as approved by the Commission.[14] In view of the addition of a non-affiliate third-party broker-dealer to Rules 13 and 17, the Exchange proposes to limit the proscription on business conduct contained in Rule 17(b)(2) to its broker-dealer affiliate (*i.e.* Arca Sec).

Any non-affiliate third-party broker-dealer that serves as a Routing Broker to the Exchange will be subject to the regulatory oversight and enforcement responsibilities of a self-regulatory organization unaffiliated with the Exchange or any of its other affiliates.[15] Furthermore, the Exchange shall establish and maintain procedures and internal controls reasonably designed to adequately restrict the flow of confidential and proprietary information between the Exchange and its facilities (including the non-affiliate third-party broker-dealer acting as a facility of the Exchange (''third-party Routing Facility''), and any other entity, including any affiliate of the third-party Routing Facility, and, if the third-party Routing Facility or any of its affiliates engage in any other business activities other than providing routing services to the Exchange, between the segment of the third-party Routing Facility or affiliate that provides the other business activities and the routing services.[16]

2. Statutory Basis

The basis under the Act for the proposed rule change is the requirement under Section 6(b)(5),[17] which requires that an exchange have rules that are designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The Exchange believes that having a secondary Routing Broker as a risk management tool in the event of a system malfunction or failure fulfills these requirements. The Exchange thus proposes to amend Rules 13 and 17 to allow any non-affiliate third-party broker-dealer to operate as a Routing Broker for NYSE.

The proposed rule change also supports the principles of Section 11A(a)(1)(C) of the Act[18] in that it seeks to ensure economically efficient execution of securities transactions and to make it practicable for brokers to execute investors' orders in the best market. The proposed rule change also contributes to the linking of all markets for qualified securities through communication and data processing facilities pursuant to Section 11A(a)(1)(D) of the Act,[19] by fostering efficiency, enhancing competition, increasing information availability, facilitating the offsetting of investors' orders, and contributing to the best execution of such orders.

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

[5] On April 5, 2007, the Commission noticed amendments to Exchange Rules 13 and 17 to establish a mechanism to route orders to away market centers for execution in compliance with Exchange Rules and Regulation NMS, and to facilitate the acceptance of odd-lot and sub-penny executions. *See* Securities Exchange Act Release No. 55590 (April 5, 2007), 72 FR 18707 (April 13, 2007) (SR–NYSE–2007–29) (''Routing Broker Release'').

[6] *See id.*

[7] *See* Exchange Rule 17(b)(1).

[8] *See id.*

[9] *See* Exchange Rule 17(b)(3) and (4).

[10] 15 U.S.C. 78c(a)(2). *See also* Exchange Rule 17(b)(5) and (6).

[11] *See* Exchange Rule 17(b)(5).

[12] *See* Exchange Rule 17(b)(6).

[13] *See id.*

[14] This provision relates specifically to Arca Sec in its capacity as the Exchange's sole Routing Broker and affiliate. *See* Routing Broker Release, *supra* note 5. In March 2007, the Commission authorized Arca Sec to act as a marketing agent on behalf of NYSE Arca Tech 100 Index and NYSE Arca Tech 100 ETF. These business functions have no connection to Arca Sec's function as Routing Broker and facility for the Exchange. *See* Securities Exchange Act Release No. 55442 (March 12, 2007), 72 FR 12654 (March 16, 2007) (SR–NYSEArca–2007–09).

[15] Currently, the Financial Industry Regulatory Authority, Inc. (''FINRA'') is the examining authority for the Routing Broker designated by the Commission pursuant to Rule 17d–1 of the Act. As such, FINRA is responsible for the oversight and enforcement of the Routing Broker for compliance with the applicable financial responsibility rules.

[16] *See* proposed Exchange Rule 17(b)(8). Telephone conversation between Deanna Logan, Associate General Counsel, Office of General Counsel, NYSE, and Theodore S. Venuti, Special Counsel, Division of Trading and Markets, Commission, on May 27, 2008.

[17] 15 U.S.C. 78f(b)(5).

[18] 15 U.S.C. 78k–1(a)(1)(C).

[19] 15 U.S.C. 78k–1(a)(1)(D).

necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change does not: (1) Significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; and (3) become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [20] and Rule 19b–4(f)(6) thereunder.[21]

A proposed rule change filed under 19b–4(f)(6) normally may not become operative prior to 30 days after the date of filing.[22] However, Rule 19b–4(f)(6)(iii) [23] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver will immediately provide a mechanism for the Exchange to divert order flow from one Routing Broker to another in the event of a system malfunction or failure. In addition, the Commission notes that the proposed Exchange rules applicable to a non-affiliated Routing Broker are substantially similar to the rules of other national securities exchanges applicable to non-affiliated outbound routing brokers.[24] For these reasons, the Commission designates the proposed rule change to be operative upon filing with the Commission.[25]

At any time within 60 days of the filing of such proposed rule change the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2008–37 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2008–37. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2008–37 and should be submitted on or before June 23, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–12205 Filed 5–30–08; 8:45 am]

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[20] 15 U.S.C. 78s(b)(3)(A).

[21] 17 CFR 240.19b–4(f)(6).

[22] 17 CFR 240.19b–4(f)(6)(iii). In addition, Rule 19b–4(f)(6)(iii) requires that a self-regulatory organization submit to the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this notice requirement.

[23] *Id.*

[24] *See, e.g.*, the National Stock Exchange, Inc. Rule 2.12, the Philadelphia Stock Exchange, Inc. Rule 185(g), and the International Securities Exchange, LLC Rule 2108.

[25] For the purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[26] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57872; File No. SR–Phlx–2008–27]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating To Access to XLE on Phlx's Options Floor

May 27, 2008.

On April 11, 2008, 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: (1) Delete Phlx Rule 1014(e)(iii), which limits the actions of Registered Options Traders (''ROTs'') related to trading in Phlx's equity market in certain situations, and (2) add new Phlx Rule 175 to prohibit integrated market making by Phlx market makers. The proposed rule change was published for comment in the **Federal Register** on April 24, 2008.[3] The Commission received no comments on the proposal. This order approves the proposed rule change.

The Exchange proposes to delete Phlx Rule 1014(e)(iii), which limits the actions of ROTs related to trading in Phlx's equity market in certain situations, in order to permit members and member organizations on the Phlx options floor to have connectivity to XLE, the Phlx's electronic equity trading system. The Exchange also proposes new Phlx Rule 175 to prohibit integrated market making by Phlx market makers. Specifically, Phlx Rule 175 prohibits Phlx Market Makers on

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 57683 (April 18, 2008), 73 FR 22199.

XLE, or any member, limited partner, officer, or associated person thereof, from acting as an options Specialist or ROT or functioning in any capacity involving market making responsibilities, in any option overlying a security in which the Market Maker on XLE is registered as such.

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[4] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[5] which requires, among other things, that the rules of a national securities exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

The Commission finds that the deletion of Phlx Rule 1014(e)(iii) is consistent with the Act. Phlx Rule 1014(e)(iii) was designed to mitigate the ''time and place'' advantages available to a ROT with access to the Phlx equities trading floor. The Commission notes that the Phlx no longer operates a physical equities trading floor. The Commission also notes that possession of XLE order entry technology by Phlx options floor participants does not offer any special information advantage that could be used on the Phlx options floor because access to XLE information is made available simultaneously to anyone. Likewise, physical presence on the Phlx options floor does not provide an advantage in priority for orders entered into XLE from the Phlx options floor because XLE executes orders in price-time priority based on a pre-set algorithm that may not be altered by the XLE participant entering the order and does not take into account the location where an order is entered. In addition, the Commission notes that options floor participants currently have access to other execution venues and order routing mechanisms for the underlying securities.

The Commission also finds that the prohibition on integrated market making is consistent with the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[6] that the proposed rule change (SR–Phlx–2008–27) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–12195 Filed 5–30–08; 8:45 am]

BILLING CODE 8010–01–P

[4] In approving this rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78s(b)(2).

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57871; File No. SR–Phlx–2008–37]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Definition of Exchange-Traded Fund Share

May 27, 2008.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1], and Rule 19b–4[2] thereunder, notice is hereby given that on May 19, 2008, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II, below, which Items have been prepared by the Phlx. The Exchange filed the proposal as a non-controversial proposed rule change pursuant to section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx proposes to modify Phlx Rule 1000(b)(42), the definition of Exchange-Traded Fund Share, to conform it to the definition of that term used in Phlx Rule 1009, Commentary .06.

The proposed rule change is available at the Phlx, the Commission's Public Reference Room, and *http://www.phlx.com.*

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Phlx included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Phlx 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 purpose of the proposed rule change is to update and clarify what may appear to be inconsistent language between Phlx Rule 1000(b)(42) and Phlx Rule 1009, Commentary .06. Phlx Rule 1000(b)(42) defines the term Exchange-Traded Fund Share. Phlx Rule 1009, Commentary .06 states what options are appropriate for options trading on Phlx. Phlx currently utilizes the definition of Exchange-Traded Fund Share as stated in Phlx Rule 1009, Commentary .06 for purposes of determining what options are appropriate for options trading. This proposed rule change is meant to clarify Phlx's rules by correlating the definition of Exchange-Traded Fund Share in Phlx Rule 1000(b)(42) with the meaning of Exchange-Traded Fund Share in Phlx Rule 1009, Commentary .06. It is not intended to change which securities are deemed appropriate for options trading on Phlx.

Phlx Rule 1000(b)(42) was adopted in 2001.[5] The current language in Phlx Rule 1009, Commentary .06 was adopted in 2007.[6] Phlx should have modified Phlx Rule 1000(b)(42) at that time to correlate it to the meaning of Exchange-Traded Fund Share in Phlx Rule 1009, Commentary .06, but inadvertently did not. Therefore, Phlx proposes to amend Phlx Rule 1000(b)(42) to state that the definition of Exchange-Traded Fund Share shall have the meaning assigned to it in Phlx Rule 1009, Commentary .06.

2. Statutory Basis

The Exchange believes that its proposal is consistent with section 6(b)

[5] *See* Securities Exchange Act Release No. 43921 (February 2, 2001), 66 FR 9739 (February 9, 2001).

[6] *See* Securities Exchange Act Release No. 55951 (June 25, 2007), 72 FR 37298 (July 9, 2007).

of the Act[7] in general, and furthers the objectives of section 6(b)(5) of the Act[8] in particular, in that it is designed to promote just and equitable principles of trade, to 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, by reducing any potential confusion in the Phlx Options Rules by correlating the definition of Exchange-Traded Fund Share in Phlx Rule 1000(b)(42) with Phlx Rule 1009, Commentary .06.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed (or such shorter time as the Commission may designate),[9] the proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act[10] and Rule 19b–4(f)(6) thereunder.[11]

The Exchange has requested that the Commission waive the 30-day operative delay and designate the proposed rule change as operative upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because this proposal is solely intended to correlate the definition of Exchange-Traded Fund Share in the Phlx Options Rules and is not intended to change which securities are deemed appropriate for options trading on Phlx.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. Therefore, the Commission designates the proposal as operative upon filing.[12]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–Phlx–2008–37 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2008–37. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2008–37 and should be submitted on or before June 23, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–12206 Filed 5–30–08; 8:45 am]

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[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file a proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has fulfilled this requirement.

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6)(iii).

[12] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[13] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages that will require clearance by the Office of Management and Budget (OMB) in compliance with Public Law (Pub. L.) 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. The information collection package in this notice is for a revision to an OMB-approved information collection.

SSA is soliciting comments on the accuracy of the Agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and how to minimize the burden on respondents, including the use of automated collection techniques or other forms of information technology. Submit written comments and recommendations on the information collection to the SSA Reports Clearance Officer. Mail, fax or email the information to the address and fax number listed below:

(OMB) Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202–395–6974, E-mail address: *OIRA_Submission@omb.eop.gov*.

(SSA) Social Security Administration, DCBFM, Attn: Reports Clearance Officer, 1333 Annex Building, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–965–6400, E-mail address: *OPLM.RCO@ssa.gov*.

We are submitting the information collection below to OMB for clearance. Your comments on the information collection will be most useful if you send them to OMB and SSA within 30 days from the date of this publication. You can obtain a copy of the OMB clearance package by calling the SSA Reports Clearance Officer at 410–965–

0454, or by writing to *OPLM.RCO@ssa.gov.*

Medicare Modernization Act Outreach Mailer—20 CFR 418—0960–NEW. To: (1) Promote awareness of the Medicare Part D subsidy program; and (2) encourage potentially eligible Medicare beneficiaries to complete Form SSA–1020 (OMB No. 0960–0696, the Application for Help with Medicare Prescription Drug Plan Costs), SSA plans to use a new outreach brochure including a mailer. Pharmacies, doctors' offices, and medical clinics will display and distribute copies of the brochure incorporating a mailer to encourage eligible Medicare beneficiaries to request and complete Form SSA–1020. The brochure will include an insert beneficiaries complete to request Form SSA–1020 from SSA. SSA will make follow-up phone calls to beneficiaries who use the mailer to request an SSA–1020 but do not submit it to the Agency. The respondents are Medicare beneficiaries who: (1) Are potentially eligible for Part D subsidy benefits; and (2) request a copy of Form SSA–1020 using the brochure insert.

Type of Request: New information collection.

	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated annual burden (hours)
Mailer insert	75,000	1	1	1,250.
Follow-up phone calls	30,000	1	1	500.
Totals	105,000			1,750.

Dated: May 27, 2008.

Elizabeth A. Davidson,

Reports Clearance Officer, Social Security Administration.

[FR Doc. E8–12113 Filed 5–30–08; 8:45 am]

BILLING CODE 4191–02–P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA–2008–0013]

Privacy Act of 1974, as Amended; Computer Matching Program (SSA/Internal Revenue Service (IRS) Match Number 1016)

AGENCY: Social Security Administration (SSA).

ACTION: Notice of the renewal of an existing computer matching program, which is scheduled to expire on June 30, 2008.

SUMMARY: In accordance with the provisions of the Privacy Act, as amended, this notice announces the renewal of an existing computer matching program that SSA is currently conducting with the IRS.

DATES: IRS will file a report of the subject matching program with the Committee on Homeland Security and Governmental Affairs of the Senate; the Committee on Oversight and Government Reform of the House of Representatives, and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). The renewal of the matching program will be effective as indicated below.

ADDRESSES: Interested parties may comment on this notice by either telefax to (410) 965–0201 or writing to the Deputy Commissioner for Budget, Finance and Management, 800 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235–6401. All comments received will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: The Deputy Commissioner for Budget, Finance and Management as shown above.

SUPPLEMENTARY INFORMATION:

A. General

The Computer Matching and Privacy Protection Act of 1988, (Public Law (Pub. L.) 100–503) amended the Privacy Act (5 U.S.C. 552a) by describing the conditions under which computer matching involving the Federal government could be performed and adding certain protections for individuals applying for and receiving Federal benefits. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) further amended the Privacy Act regarding protections for such individuals.

The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, State, or local government records. It requires Federal agencies involved in computer matching programs to:

(1) Negotiate written agreements with the other agency or agencies participating in the matching programs;

(2) Obtain the approval of the matching agreement by the Data Integrity Boards (DIB) of the participating Federal agencies;

(3) Publish notice of the computer matching program in the **Federal Register**;

(4) Furnish detailed reports about matching programs to Congress and OMB;

(5) Notify applicants and beneficiaries that their records are subject to matching; and

(6) Verify match findings before reducing, suspending, terminating, or denying an individual's benefits or payments.

B. SSA Computer Matches Subject to the Privacy Act

We have taken action to ensure that all of SSA's computer matching programs comply with the requirements of the Privacy Act, as amended.

Dated: May 22, 2008.

Mary Glenn-Croft,

Deputy Commissioner for Budget, Finance and Management.

Notice of Computer Matching Program, Social Security Administration (SSA) With Internal Revenue Service (IRS)

A. Participating Agencies

SSA and IRS.

B. Purpose of the Matching Program

The purpose of this matching program is to establish the conditions, terms, and safeguards under which IRS agrees to disclose to SSA certain return information for use in verifying eligibility for, and/or the correct amount of, benefits provided under Title XVI of the Social Security Act to qualified aged, blind and disabled individuals, and federally administered supplementary payments of the type described in section 1616(a) of such Act (including payments pursuant to an agreement entered into under section 212(a) of Public Law 93–66, 87 Stat. 152).

C. Authority for Conducting the Matching Program

Section 6103(l)(7) of the Internal Revenue Code (26 U.S.C. 6103(l)(7))

authorizes the IRS to disclose return information with respect to unearned income to Federal, State, and local agencies administering certain federally assisted benefit programs under the Social Security Act and the Food Stamp Act of 1977.

Section 1631(e)(1)(B) of the Social Security Act (42 U.S.C. 1383(e)(1)(B)) requires verification of Supplemental Security Income (SSI) eligibility and benefit amounts with independent or collateral sources. This section of the Act also provides that the ''Commissioner of Social Security shall, as may be necessary, request and utilize information available pursuant to section 6103(l)(7) of the Internal Revenue Code of 1954 * * *'' for purposes of federally administered supplementary payments of the type described in section 1616(a) of the Act (including payments pursuant to an agreement entered into under section 212(a) of Public Law 93–66).

D. Categories of Records and Individuals Covered by the Matching Program

SSA will provide the IRS with identifying information with respect to applicants for and recipients of Title XVI benefits available under programs specified in this Agreement from the Supplemental Security Income Record and Special Veterans Benefits (SSR), SSA/OASSIS 60–0103, as published at 71FR 1796, 1830–1834 (January 11, 2006). IRS will extract return information with respect to unearned income from the Wage and Information Returns (IRP) Processing File, Treas/IRS 22.061, hereafter referred to as the Information Return Master File (IRMF), as published at 66 FR 63797 (December 10, 2001), through the Disclosure of Information to Federal, State and Local Agencies (DIFSLA) program.

E. Inclusive Dates of the Matching Program

The matching program will become effective no sooner than 40 days after notice of the matching program is sent to Congress and the Office of Management and Budget, or 30 days after publication of this notice in the **Federal Register**, whichever date is later. The matching program will continue for 18 months from the effective date and may be extended for an additional 12 months thereafter, if certain conditions are met.

[FR Doc. E8–12250 Filed 5–30–08; 8:45 am]

BILLING CODE 4191–02–P

OFFICE OF SPECIAL COUNSEL

Agency Information Collection Activities; Request for Comment

AGENCY: Office of Special Counsel.

ACTION: Final Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), and implementing regulations at 5 CFR part 1320, the U.S. Office of Special Counsel (OSC), plans to request approval from the Office of Management and Budget (OMB) for use of four previously approved information collections consisting of complaint forms. These collections are listed below. The current OMB approval for Forms OSC-11, OSC-12, OSC-13, OSC-14 and the OSC Survey expire 9/30/08. We are submitting all four forms and the electronic survey for renewal, based on the upcoming date of expiration. Two of the four forms are being revised, Forms OSC-11 and OSC-12. Form OSC-11 has had major changes made to its electronic version, so that it has a certain amount of ''intelligence'' now built in. Depending upon your responses, it navigates you to the proper sections; it also has help menus for those who need more information prior to making their selections. The electronic form OSC-12 had minor modifications made to it, in order to allow it to be integrated into the new software used to support form OSC-11.

Current and former Federal employees, employee representatives, other Federal agencies, state and local government employees, and the general public are invited to comment on this information collection for the second time. Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of OSC functions, including whether the information will have practical utility; (b) the accuracy of OSC's estimate of the burden of the proposed collections 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. Additionally, the electronic forms OSC-11 and OSC-12 can be accessed online at https://www.osc.gov/testnewforms/ for test purposes during the 60 day period of this notice.

DATES: Comments should be received by July 11, 2008.ADDRESSES: Roderick Anderson, Director of Planning and Analysis, U.S. Office of Special Counsel, 1730 M Street, NW., Suite 218, Washington, DC 20036–4505.

FOR FURTHER INFORMATION CONTACT: Roderick Anderson, Director of Planning and Analysis at the address shown above; by facsimile at (202) 254–3715. The paper versions of the complaint forms for the collection of information are available for review on OSC's Web site, at http://www.osc.gov/forms.htm. The screen captures of the electronic forms are available for review on OSC's web site at http://www.osc.gov/library.htm. For those wishing to test out the new functionality of the ''interactive'' form OSC-11 and OSC-12, see above. You will be able to create a user name and password, and log in to test out the form.

SUPPLEMENTARY INFORMATION: OSC is an independent agency responsible for, among other things, (1) investigation of allegations of prohibited personnel practices defined by law at 5 U.S.C. 2302(b), protection of whistleblowers, and certain other illegal employment practices under titles 5 and 38 of the U.S. Code, affecting current or former Federal employees or applicants for employment, and covered state and local government employees; and (2) the interpretation and enforcement of Hatch Act provisions on political activity in chapters 15 and 73 of title 5 of the U.S. Code.

Title of Collections: (1) Form OSC-11, (Complaint of Possible Prohibited Personnel Practice of Other Prohibited Activity; (2) Form OSC-12 (Information about filing a Whistleblower Disclosure with the Office of Special Counsel); (3) Form OSC-13 (Complaint of Possible Prohibited Political Activity (Violation of the Hatch Act)); (4) Form OSC-14 Complaint of Possible Violation of the Uniformed Services Employment and Reemployment Rights Act (USERRA).

Type of Information Collection

Request: Approval of a previously approved collection of information, of which the forms and survey expire on 9/30/08. Also request that the revised electronic versions of forms OSC-11 and OSC-12 be approved.

Affected public: Current and former Federal employees, applicants for Federal employment, state and local government employees, and their representatives, and the general public.

Respondent's Obligation: Voluntary.

Estimated Annual Number of Respondents: 2,700.

Frequency: Daily.

Estimated Average Amount of Time for a Person to Respond: 64 minutes.

Estimated Annual Burden: 2,899 hours.

Abstract: This form is used by current and former Federal employees and

applicants for Federal employment to submit allegations of possible prohibited personnel practices or other prohibited activity for investigation and possible prosecution by OSC.

Dated: May 21, 2008.

Scott J. Bloch,

Special Counsel.

[FR Doc. E8–12167 Filed 5–30–08; 8:45 am]

BILLING CODE 7405–01–P

DEPARTMENT OF STATE

[Public Notice: 6243]

60-Day Notice of Proposed Information Collection: DS–157, Supplemental Nonimmigrant Visa Form, OMB Control Number 1405–0134

ACTION: Notice of request for public comments.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. We are conducting this process in accordance with the Paperwork Reduction Act of 1995.

- *Title of Information Collection:* Supplemental Nonimmigrant Visa Form.
- *OMB Control Number:* 1405–0134.
- *Type of Request:* Revision of a Currently Approved Collection.
- *Originating Office:* Bureau of Consular Affairs, Department of State (CA/VO).
- *Form Number:* DS–157.
- *Respondents:* Nonimmigrant visa applicants legally required to provide additional security and background information.
- *Estimated Number of Respondents:* 4,000,000.
- *Estimated Number of Responses:* 4,000,000.
- *Average Hours Per Response:* 1 hour.
- *Total Estimated Burden:* 4,000,000.
- *Frequency:* Once per respondent.
- *Obligation to Respond:* Required to Obtain or Retain a Benefit.

DATES: The Department will accept comments from the public up to 60 days from June 2, 2008.

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

- E-mail: *VisaRegs@state.gov* (Subject line must read DS–157 Reauthorization).
- Mail (paper, disk, or CD–ROM submissions): Chief, Legislation and Regulation Division, Visa Services—DS–157 Reauthorization, 2401 E Street, NW., Washington DC 20520–30106.
- Fax: (202) 663–3898

You must include the DS form number (if applicable), information collection title, and OMB control number in any correspondence.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed information collection and supporting documents, to Lauren Prosnik of the Office of Visa Services, U.S. Department of State, 2401 E Street, NW. L–603, Washington, DC 20520, who may be reached at (202) 663–2951.

SUPPLEMENTARY INFORMATION: We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper performance of our functions.
- Evaluate the accuracy of our estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of technology.

Abstract of Proposed Collection

Applicants will use this form to apply for a nonimmigrant visa to enter the United States. U.S. embassies and consulates will use the data provided in conjunction with the DS–156 to help determine whether aliens are eligible to receive nonimmigrant visas.

Methodology

Applicants may fill out the DS–157 online or print the page and fill it out by hand, and submit it in person at the time of interview.

Dated: April 30, 2008.

Stephen A. Edson,

Deputy Assistant Secretary, Bureau of Consular Affairs, Department of State.

[FR Doc. E8–12247 Filed 5–30–08; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

[Public Notice 6241]

Culturally Significant Objects Imported for Exhibition Determinations: ''Power and Glory: Court Arts of China's Ming Dynasty''

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 ''Power and Glory: Court Arts of China's Ming Dynasty'', 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 Asian Art Museum, San Francisco, CA, from on or about June 27, 2008, until on or about September 21, 2008; the Indianapolis Museum of Art, Indianapolis, IN, beginning on or about October 26, 2008, until on or about January 11, 2009, the St. Louis Museum of Art, St. Louis, MO, from on or about February 21, 2009, until on or about May 17, 2009, 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 Julie Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: (202) 453–8050). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: May 27, 2008.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E8–12248 Filed 5–30–08; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 6239]

Culturally Significant Objects Imported for Exhibition Determinations: ''The Tsar and the President: Alexander II and Abraham Lincoln''

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 Tsar and the President: Alexander II and Abraham Lincoln,'' 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 Oshkosh Public Museum, Oshkosh, Wisconsin, from on or about July 12, 2008, until on or about October 12, 2008, and at the Union Station Kansas City Museum, Kansas City, Missouri, from on or about November 1, 2008, until on or about April 19, 2009, 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**.

This notice supersedes the notice that was published on pages 28544–28545 of the **Federal Register** (Volume 73, Number 96), Friday, May 16, 2008, of determinations made by the Department of State pertaining to the exhibit, ''The Tsar and the President: Alexander II and Abraham Lincoln.''

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: May 27, 2008.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E8–12252 Filed 5–30–08; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 6228]

Overseas Schools Advisory Council Notice of Meeting

The Overseas Schools Advisory Council, Department of State, will hold its Annual Meeting on Wednesday, June 25, 2008, at 9:30 a.m. in Conference Room 1107, Department of State Building, 2201 C Street, NW., Washington, DC. The meeting is open to the public.

The Overseas Schools Advisory Council works closely with the U.S. business community in improving those American-sponsored schools overseas, which are assisted by the Department of State and which are attended by dependents of U.S. Government families and children of employees of U.S. corporations and foundations abroad.

This meeting will deal with issues related to the work and the support provided by the Overseas Schools Advisory Council to the American-sponsored overseas schools. The agenda includes a review of the recent activities of American-sponsored overseas schools and the overseas schools regional associations, a review of projects selected for the 2007 and 2008 Educational Assistance Programs, which are under development, and a report on the large demand from these schools for the Council-sponsored project, *Making the Difference: Differentiation in International Schools.*

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chair. Admittance of public members will be limited to the seating available. Access to the State Department is controlled, and individual building passes are required for all attendees. Persons who plan to attend should so advise the office of Dr. Keith D. Miller, Department of State, Office of Overseas Schools, Room H328, SA–1, Washington, DC 20522–0132, telephone 202–261–8200, prior to June 15, 2008. Each visitor will be asked to provide his/her date of birth and either driver's license, passport, or Social Security number at the time of registration and attendance and must carry a valid photo ID to the meeting. All attendees must use the 21st Street entrance to the building.

Dated: May 27, 2008.

Keith D. Miller,

Executive Secretary, Overseas Schools Advisory Council, Department of State.

[FR Doc. E8–12251 Filed 5–30–08; 8:45 am]

BILLING CODE 4710–24–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Request To Release Airport Property at the Billings Logan International Airport, Billings, MT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Request To Release Airport Property.

SUMMARY: The FAA proposes to rule and invites public comment on the release of land at the Billings Logan International Airport under the provisions of 49 U.S.C. 47107(h)(2).

DATES: Comments must be received on or before July 2, 2008.

ADDRESSES: Comments on this application may be mailed or delivered to the FAA at the following address:

Mr. David S. Stelling, Manager,
Federal Aviation Administration,
Northwest Mountain Region, Airports Division,
Helena Airports District Office,
FAA Building, Suite 2,
2725 Skyway Drive,
Helena, MT 59602–1213.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Donald Kim Annin, C.M., Manager of Construction Engineering and Facilities Planning, at the following address:

Billings Logan International Airport,
1901 Terminal Circle, Room 216,
Billings, Montana 59015.

FOR FURTHER INFORMATION CONTACT:

Mr. John Styba, Project Manager,
Federal Aviation Administration,
Northwest Mountain Region,
Helena Airports District Office,
FAA Building, Suite 2,
2725 Skyway Drive,
Helena, MT 59602–1213.

The request to release property may be reviewed, by appointment, in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA invites public comment on the request to release property at the Billings Logan International Airport under the provisions of 49 U.S.C. 47107(h)(2).

On May 14, 2008, the FAA determined that the request to release property at Billings Logan International Airport submitted by the airport meets the procedural requirements of the Federal Aviation Administration and the release of the property does not and will not impact future aviation needs at the airport. The FAA may approve the request, in whole or in part, no later than July 2, 2008.

The following is a brief overview of the request:

Billings Logan International Airport is proposing the release of approximately 8.63 acres of airport property defined as follows:

Parcel 6–3.10 acres. C.O.S. 1805.
Tract 2–2.72 acres. C.O.S. 2334 TR. 2.
Tract 1A–.32 acres. C.O.S. 678 TR 1.
Parcel 2B–.17 acres. Black Otter Sub. C.O.S. 1434.

Parcel 2A–2.32 acres. Black Otter Sub.

The land requested by the Montana Department of Transportation (MDOT) will be used as Right of Way for the MDOT's Airport Road project which will replace the existing two-lane roadway with a four-lane roadway from the intersection of State Secondary Highway 318 and Main Street in the Billings Heights to the airport entrance intersection at 27th Street. The project also includes the construction of two new intersections: At Alkali Creek and State Secondary Highway 318 and the intersection at North 27th and Highway 3. This project will enhance the route for large truck traffic for the ''Camino Real,'' a north-south trade route connecting Canada, the U.S. and Mexico via 1–25, 1–90, 1–15, U.S. 87 and MT 3 which runs adjacent to the airport's southern property line, subsequently increasing the capacity of the vehicle traffic coming to the airport and the safety of those using the airport's entrance.

The transfer of land is necessary to comply with Federal Aviation Administration Grant Assurances that do not allow federally acquired airport property to be used for non-aviation purposes. The property is being exchanged in-kind for monetary consideration equivalent to the appraised value of similar property in the area of the airport. All costs associated with the exchange will be borne by the Montana Department of Transportation (MDOT).

Any person may inspect, by appointment, the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon appointment and request, inspect the application, notice and other documents germane to the application in person at the Billings Logan International Airport.

Issued in Helena, Montana on May 15, 2008.

Gary M. Gates,

Acting Manager, Helena Airports District Office.

[FR Doc. E8–12027 Filed 5–30–08; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Supplemental Environmental Impact Statement: Travis County, TX

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: Pursuant to 40 CFR 1508.22 and 43 TAC § 2.5(e) (2), the FHWA and Texas Department of Transportation (TxDOT) are issuing this notice to advise the public that a limited scope supplemental environmental impact statement (SEIS) will be prepared for a transportation project in Travis County, Texas.

FOR FURTHER INFORMATION CONTACT: Mr. Salvador Deocampo, District Engineer, District A, Federal Highway Administration (FHWA), Texas Division, 300 East 8th Street, Rm 826, Austin, Texas 78701, Telephone 512–536–5950.

SUPPLEMENTARY INFORMATION: The FHWA in cooperation with TxDOT will prepare a limited scope SETS for the proposed improvement of State Highway (SH) 71 from Riverside Drive to SH 130, in Travis County, Texas. The project length is approximately 6.5 miles. The improvements proposed between Riverside Drive and Farm-to-Market Road (FM) 973 were originally considered in a Final Environmental Impact Statement (FEIS) covering improvements to SH 71/US 290 from Ranch-to-Market Road (RM) 1826 to FM 973. A Record of Decision (ROD) was issued by FHWA on August 22, 1988. The mid-section of the original project limits, between Joe Tanner Lane and Riverside Drive, has been constructed. Since the issuance of the SH 71/US 290 ROD, changes in adjacent land use, the construction of SH 130, and proposed design modifications have resulted in the need to supplement the original FEIS to evaluate the change in potential impacts from the proposed project. As a result, the unconstructed eastern portion of the original FEIS, between Riverside Drive and FM 973, will be the subject of a limited scope SEIS. Due to the proximity of intersections on SH 71 at FM 973 and at the recently constructed SH 130, the SH 71/US 290 SEIS would extend beyond the limits of the original FEIS to include the new interchange at SH 130 to provide for a more logical terminus and transition back to existing SH 71 east of SH 130. Information from the FEIS and subsequent ROD (June 5, 2001) for SH 130 from IH 35 north of Georgetown to IH 10 near Seguin will be incorporated into the subject SEIS.

The project is listed in the Capital Area Metro Planning Organization (CAMPO) Mobility 2030 Plan, as amended, (the long-range transportation plan) as a six-lane tolled freeway between Riverside Drive and Spirit of Texas Drive. From Presidential Avenue to SH 130, the project is listed as a six-lane freeway but is being considered for tolling. The need for the proposed project, as stated in the 1988 FEIS, stems from congestion and low travel speeds caused by rapid population growth in the Austin metropolitan area. Crash data have also indicated safety concerns as a primary need for this project. Additionally, the economic growth of the SH 71/US 290 corridor is dependent on the ability of the roadway network to accommodate both local trips created by recent nearby development as well as regional through traffic. In order to address these needs, the purpose of the proposed project is to increase traffic flow capacities and improve mobility in the roadway corridor while enhancing safety and system interconnectivity, in compliance with the adopted GAMPO Mobility 2030 Plan.

The SEIS will evaluate potential impacts from construction and operation of the proposed roadway including, but not limited to, the following: Transportation impacts (construction detours, construction traffic, and mobility improvement), air quality and noise impacts from construction equipment and operation of the facilities, water quality impacts from construction area and roadway storm water runoff, impacts to waters of the United States including wetlands from right-of-way encroachment Impacts to histonc and archeological resources impacts to floodplains, and impacts and/or displacements to residents and businesses, land use, vegetation, wildlife, aesthetic and visual resources, socioeconomic resources, and cumulative and indirect impacts.

Public involvement is a critical component of the project development process and will occur throughout the planning and study phases. Opportunities for public involvement exist during public meetings and public review of the draft SEIS. A public meeting will be held on Tuesday June 24, 2008 at 6 p.m. at the Del Valle High School located at 5201 Ross Road, Del Valle, Texas 78671.

Letters describing the proposed action and soliciting comments will be sent to the appropriate Federal, State, and local agencies, and private organizations and citizens who have previously expressed or are known to have interest in this proposal. To ensure that the full range of issues related to this proposed action is addressed and all significant issues are identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the SEIS should be directed to FHWA at the address above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway, Planning, and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: May 22, 2008.

Salvador Deocampo,

District Engineer.

[FR Doc. E8–12146 Filed 5–30–08; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[FHWA Docket No. FHWA–2008–0053]

Surface Transportation Project Delivery Pilot Program; Caltrans Audit Report

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice; request for comment.

SUMMARY: Section 6005 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) established the Surface Transportation Project Delivery Pilot Program, codified at 23 U.S.C. 327. To ensure compliance by each State participating in the Pilot Program, 23 U.S.C. 327(g) mandates semiannual audits during each of the first 2 years of State participation. This notice announces and solicits comments on the first audit report for the California Department of Transportation (Caltrans).

DATES: Comments must be received on or before August 1, 2008.

ADDRESSES: Mail or hand deliver comments to Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Room W12–140, Washington, DC 20590. You may also submit comments electronically at *http://www.regulations.gov,* or fax comments to (202) 493–2251.

All comments should include the docket number that appears in the heading of this document. All comments received will be available for examination and copying at the above address from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard or you may print the acknowledgment page that appears after submitting comments electronically. Anyone is able to search the electronic form of all comments in any one of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, or labor union). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70, Pages 19477–78) or you may visit *http://DocketsInfo.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Ms. Ruth Rentch, Office of Project Development and Environmental Review, (202) 366–2034, *Ruth.Rentch@dot.gov,* or Mr. Michael Harkins, Office of the Chief Counsel, (202) 366–4928, *Michael.Harkins@dot.gov,* Federal Highway Administration, Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this notice may be downloaded from the Office of the Federal Register's home page at *http://www.archives.gov* and the Government Printing Office's Web site at *http://www.access.gpo.gov.*

Background

Section 6005 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) (codified at 23 U.S.C. 327) established a pilot program to allow up to five States to assume the Secretary of Transportation's responsibilities for environmental review, consultation, or other actions under any Federal environmental law pertaining to the review or approval of highway projects. In order to be selected for the pilot program, a State must submit an application to the Secretary.

On June 29, 2007, Caltrans and FHWA entered into a Memorandum of Understanding (MOU) that established the assignments to and assumptions of responsibility to Caltrans. Under the MOU, Caltrans assumed the majority of FHWA's responsibilities under the National Environmental Policy Act, as well as the FHWA's responsibilities under other Federal environmental laws for most highway projects in California.

To ensure compliance by each State participating in the Pilot Program, 23 U.S.C. 327(g) requires the Secretary to conduct semiannual audits during each of the first 2 years of State participation; and annual audits during each subsequent year of State participation. The results of each audit must be presented in the form of an audit report and be made available for public comment. This notice announces the availability of the first audit report for Caltrans and solicits public comment on same.

Authority: Section 6005 of Pub. L. 109–59; 23 U.S.C. 315 and 327; 49 CFR 1.48.

Issued on: May 21, 2008.

James D. Ray,

Administrator, Federal Highway Administration.

Surface Transportation Project Delivery Pilot Program

FHWA Audit of Caltrans

January 29–31, 2008

Background

The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) section 6005(a) established the Surface Transportation Project Delivery Pilot Program (Pilot Program), codified at Title 23, United States Code (U.S.C.), section 327. The Section 6005 Pilot Program allows the Secretary to assign, and the State to assume, the Secretary of Transportation's (Secretary) responsibilities under the National Environmental Policy Act (NEPA) for one or more highway projects. Upon assigning NEPA responsibilities, the Secretary may further assign to the State all or part of the Secretary's responsibilities for environmental review, consultation, or other action required under any Federal environmental law pertaining to the review of a specific highway project. When a State assumes the Secretary's responsibilities under this program, the State becomes solely responsible and liable for carrying out the responsibilities it has assumed, in lieu of the Federal Highway Administration (FHWA).

To ensure compliance by each State participating in the Pilot Program, 23 U.S.C. 327(g) mandates that FHWA, on behalf of the Secretary, conduct semiannual audits during each of the first 2 years of State participation; and annual audits during each subsequent year of State participation. The focus of the FHWA audits is to assess a pilot State's compliance with the Memorandum of Understanding (MOU) [1] and applicable Federal laws and policies, to collect information needed to evaluate the success of the Pilot Program, to evaluate pilot State progress toward achieving its performance measures, and to collect information needed for the Secretary's annual report to Congress on the

[1] Caltrans MOU available at: *http://environment.fhwa.dot.gov/strmlng/safe_cdot_pilot.asp.*

administration of the Pilot Program. Additionally, 23 U.S.C. 327(g) requires FHWA to present the results of each audit in the form of an audit report. This audit report must be made available for public comment, and FHWA must respond to public comments received no later than 60 days after the date on which the period for public comment closes.

The California Department of Transportation (Caltrans) published its Application for Assumption (Application) under the Pilot Program on March 14, 2007, and made it available for public comment for 30 days. After considering public comments, Caltrans submitted its application to FHWA on May 21, 2007, and FHWA, after soliciting the views of other Federal agencies, reviewed and approved the application. Then on June 29, 2007, Caltrans and FHWA entered into a MOU that established the assignments to and assumptions of responsibility to Caltrans, which became effective July 1, 2007. Under the MOU, Caltrans assumed the majority of FHWA's responsibilities under NEPA, as well as FHWA's responsibilities under other Federal environmental laws for most highway projects in California. Caltrans' participation in the Pilot Program will be effective through August 2011, assuming the California legislature extends the required waiver of sovereign immunity beyond the State's current expiration date of January 2009.

In order to meet the audit requirements specified in SAFETEA–LU, FHWA contracted with consultants who have expertise in compliance auditing to assist FHWA in developing the audit processes and procedures for the Pilot Program. Training was provided to the audit team, FHWA, and Caltrans staff in two phases:

1. Basics of Compliance Auditing (January 2007); and
2. Development of the Pilot Program Audit Process and Procedures (August 2007).

The August 2007 audit training included specific Pilot Program auditing processes and procedures. The auditors received training on each core audit area to be evaluated during FHWA audits of each pilot State's Program. The core audit areas to be evaluated are: Program management; records and documentation management; quality control and quality assurance processes; legal sufficiency; performance measures; and training.

Scope of the Audit

The Caltrans' Pilot Program audit was conducted by the FHWA audit team in California from January 29 through January 31, 2008. The audit, as required in SAFETEA–LU, assessed Caltrans' compliance with the roles and responsibilities it assumed in the MOU and also provided recommendations to assist Caltrans in creating a successful Pilot Program.

As this was the first FHWA audit of Caltrans' participation in the Pilot Program, it was designed to begin the audit sampling process. The audit sample included fundamental processes and procedures the State put in place to carry out the assumptions of the roles and responsibilities set forth in the MOU. Key sample areas included Pilot Program staffing resources, training, legal sufficiency, and the implementation of processes and procedures to support assumed responsibilities. The sampling process also included a geographic element, as the audit included onsite visits to two Caltrans locations, the Caltrans Headquarters office in Sacramento, and its District 4 Office in Oakland. Future audits will include on-site visits to other Caltrans Districts.

While the six core audit areas identified and discussed during the August 2007 training serve as the basis for each Pilot Program audit, it is not expected that each audit will address all six core audit areas. For the first audit, FHWA selected core audit areas for review based on professional auditing experience, statistical techniques (where appropriate), interviews with Federal resource agencies, and an evaluation of background information provided by Caltrans prior to the onsite audit. All Pilot Program areas for which compliance is required under the MOU will be evaluated cumulatively by FHWA in future audits. Future FHWA Pilot Program audits will also follow up on findings from previous FHWA Pilot Program audits.

Audit Process and Implementation

Each FHWA audit conducted under the Pilot Program is designed to ensure a pilot State's compliance with the commitments in its MOU with FHWA. FHWA will not evaluate specific project-related decisions made by the State as these decisions are the sole responsibility of the pilot State. However, the scope of the FHWA audits does include reviewing the processes and procedures used by the pilot State to reach project decisions in compliance with MOU Section 3.2.

Also, Caltrans committed in its Application (which is incorporated into the MOU in section 1.1.2) to implement specific processes to strengthen its environmental procedures in order to assume the responsibilities assigned by FHWA under the Pilot Program. The FHWA Pilot Program audits will review how Caltrans is meeting each of these commitments as well as the performance of the Pilot Program in the core audit areas previously described.

The Caltrans' Pilot Program commitments address:

- Organization and Procedures under the Pilot Program;
- Expanded Quality Control Procedures;
- Independent Environmental Decisionmaking;
- Determining the NEPA Class of Action;
- Consultation and Coordination with Resource Agencies;
- Issue Identification and Conflict Resolution Procedures;
- Record Keeping and Retention;
- Expanded Internal Monitoring and Process Reviews;
- Performance Measures To Assess the Pilot Program;
- Training To Implement the Pilot Program;
- Legal Sufficiency Review.

The FHWA audit team included representatives from the following offices or agencies:

- FHWA Office of Project Development and Environmental Review;
- FHWA Office of Chief Counsel;
- FHWA Alaska Division Office;
- FHWA Resource Center Environmental Team;
- Volpe National Transportation Systems Center;
- Advisory Council on Historic Preservation.

From January 29 through January 31, 2008, the audit team conducted the onsite audit and evaluated the core Pilot Program areas associated with program management, training, records and documentation management, and legal sufficiency at both Caltrans Headquarters and District level. The onsite audit consisted of interviews with more than 40 Caltrans staff at Headquarters and in the Districts for both the Capital and Local Assistance programs, as well as 11 members of Caltrans' legal staff at Headquarters and in field offices. The audit team interviewed a cross-section of staff including top senior managers, senior environmental planners, associate planners, and technical experts. Caltrans staff at several Districts were contacted by telephone and a portion of the audit team visited the District 4 Office in Oakland. The team also reviewed project documentation associated with the projects provided to the FHWA California Division Office.

FHWA acknowledges that Caltrans identified specific issues during its first self-assessment performed under the Pilot Program as required under MOU section 8.2.6. During the FHWA onsite audit, Caltrans indicated that it had begun to implement corrective actions to address some issues identified in its first self-assessment. Some issues identified in the Caltrans self-assessment may overlap with FHWA findings in this audit report. In part, FHWA conducts each Pilot Program audit to evaluate assumed responsibilities and to obtain evidence to support the basis for each audit finding. Therefore, this audit report documents findings within the scope of the audit and as of the dates of the onsite portion of the audit. FHWA does acknowledge that some deficiencies identified in this audit report occurred during the first three months of Pilot Program operations.

In accordance with MOU section 11.4.1, FHWA provided Caltrans with a 30-day comment period to review this draft report. FHWA has reviewed the comments received from Caltrans and has revised sections of the draft report where appropriate.

Overall Audit Opinion

As this is a Pilot Program, it is expected that a learning curve is required. As such, Caltrans has made reasonable progress in implementing the start-up phase of Pilot Program operations and Caltrans is learning how to operate this new Pilot Program effectively. Based on the information reviewed, it is the audit team's opinion that to date, Caltrans has been carrying out the responsibilities it has assumed in keeping with the intent of the MOU. The Pilot Program in California is proceeding through the start-up phase. During the onsite audit, Caltrans staff and management indicated ongoing interest in obtaining constructive feedback on successes and areas for improvement. By addressing the findings in this report, Caltrans will help move the program toward success.

Findings

The FHWA audit team carefully examined Pilot Program areas to assess compliance in accordance with established criteria (i.e., MOU, Application for Assumption). The time period covered in this first audit report is from the start of the Pilot Program (July 1, 2007) through completion of the first onsite audit (January 31, 2008). This report presents audit findings in three areas:

- *Compliant*—Audit verified that a process, procedure or other component of the Pilot Program meets a stated commitment in the Application for Assumption and/or MOU.
- *Needs Improvement*—Audit determined that a process, procedure or other component of the Pilot Program as specified in the Application for Assumption and/or MOU is not fully implemented to achieve the stated commitment or the process or procedure implemented is not functioning at a level necessary to ensure the stated commitment is satisfied. Action is recommended to ensure success.
- *Deficient*—Audit was unable to verify if a process, procedure or other component of the Pilot Program met the stated commitment in the Application for Assumption and/or MOU. Action is required to improve the process, procedure or other component prior to the next audit;

or

Audit determined that a process, procedure or other component of the Pilot Program did not meet the stated commitment in the Application for Assumption and/or MOU. Corrective action is required prior to the next audit.

Summary Findings

Findings—Compliant

(C1) *Legal Sufficiency*—Caltrans' Legal Division has developed a consistent process to conduct formal legal sufficiency reviews by attorneys (per 23 Code of Federal Regulations 771.125(b) and 771.135 (k) [2]) and has provided basic legal sufficiency training to each reviewing attorney, in compliance with MOU section 8.2.5 and Section 773.106(b)(3)(iii) of Caltrans' Application.

Note: An evaluation of the implementation of the legal sufficiency review process could not be performed because no legal sufficiency determinations had been completed under the Pilot Program as of the date of the FHWA audit.

(C2) *Establish Pilot Program Policies and Procedures*—Caltrans currently, in general, complies with MOU section 1.1.2 commitments to establish Pilot Program policy and procedural documentation (as detailed in Caltrans' Application).

Pilot Program policies and procedures are described in the Caltrans' Application sections ''Overview of Caltrans' Standard Environmental Reference (SER),'' ''Other Guidance,'' and ''Appendix C.'' Caltrans maintains the SER, a 4-volume Environmental handbook, as a single on-line policy and procedural reference focusing on statutory and regulatory requirements for environmental documents, supporting technical studies, and the procedures for processing these reports. The SER addresses compliance with NEPA, the California Environmental Quality Act (CEQA), and other applicable Federal and State laws, executive orders, regulations, guidance documents, and policies. Caltrans added Chapter 38: ''NEPA Delegation,'' to Volume 1 of the SER to include the majority of the policies and procedures associated with administering the Pilot Program. However, other sections in the SER including ''Policy Memos'' contain information on the Pilot Program. In addition to the SER, a number of manuals and other forms of guidance on Caltrans Web sites include information on various aspects of processes associated with the Pilot Program. Most notably, Chapter 6 of the Local Assistance Program Manual for Local Assistance Projects Off the State Highway System provides detailed guidance on preparing environmental documents for local agency projects and also refers users to the SER.

(C3) *Background NEPA Training*—Caltrans' existing Environmental Staff Development Program, outlined in the Application, has processes in place to ensure that Environmental Staff involved in NEPA documentation have the underlying foundational skill sets required in addition to the added skills required to address responsibilities under the Pilot Program. To achieve this, the Environmental Staff Development Program includes numerous processes, including an annual needs assessment, to evaluate the training needs of the environmental staff at each of Caltrans' 12 districts. These processes help to ensure ongoing compliance with the overall Caltrans' Application commitment to ongoing staff development.

(Note: Specific skills required for the Pilot Program are discussed under separate findings.)

(C4) *Training Plan*—Caltrans conducted a training needs assessment specific to the Pilot Program and developed a training plan titled ''Caltrans Surface Transportation Project Delivery Pilot Program Training Plan (Oct. 1, 2007)'' in compliance with section 12.1.2 of the MOU.

(C5) *Interagency Agreements That Involve Signatories in Addition to FHWA*

and

[2] Effective April 11, 2008, FHWA's Section 4(f) regulation has been re-codified as 23 CFR Part 774. The legal sufficiency review requirement for Final Section 4(f) Evaluations is now found at 23 CFR § 774.7(d).

Caltrans—Caltrans complied with MOU section 5.1.5 as it pertains to the National Historic Preservation Act, Section 106 Programmatic Agreement (PA). Caltrans completed addenda to the PA within six months after the effective date of the MOU to reflect Caltrans' assignment of authority under the Pilot Program.

(C6) *State Commitment of Resources*—The initial evaluation of resources to implement the Pilot Program and the assignment of resources, as of the date of the first audit, is compliant with MOU section 4.2.2, as demonstrated by:

a. Creation of eight new Caltrans positions (Person Years or PY, equivalent to the Federal Full Time Equivalent or FTE) to support Pilot Program implementation. These new positions include two in the Caltrans Headquarters Division of Environmental Analysis (one NEPA Delegation Manager, one Statewide Audit Coordinator) and six new positions in the Caltrans Division of Local Assistance, Office of NEPA Delegation and Environmental Procedures (one Local Assistance NEPA Delegation and Environmental Coordinator and five Local Assistance NEPA Delegation Coordinators).

b. Assigning additional responsibilities to existing Caltrans Headquarters staff in the areas of Legal Sufficiency, Training, and Local Assistance, as well as expanding the responsibilities of four Environmental Coordinators. To date, these responsibilities have been accommodated within the work schedules of these positions.

c. Continuing and expanding the use of technical specialists (e.g., Biologists, Cultural Resource specialists) and generalists (e.g., Senior Environmental Planners) from Caltrans' Capital Projects section to assist, as needed, Caltrans' Local Assistance section with the review and approval of NEPA program elements. The reallocation of resources is conducted on an ongoing basis to meet needs (under the Pilot Program and in general) as they are identified.

d. Maintaining organizational and staffing capabilities to effectively carry out the responsibilities assumed under MOU sections 4.2.2 and 4.2.3 pertaining to section 106 of the National Historic Preservation Act.

Findings—Needs Improvement

(N1) *Quality Assurance/Quality Control (QA/QC) Process Implementation*—The Caltrans QA/QC process developed to comply with MOU section 8.2.5 has not been consistently implemented for all projects assumed under the Pilot Program. Caltrans personnel did not demonstrate a consistent understanding of the steps in the QA/QC process. As staff use and apply the QA/QC procedures, Caltrans needs to actively monitor conformance with its procedures and, as needed, assess and correct the root causes behind areas of weakness in execution.

(N2) *QA/QC Process Related to SER Chapter 38 Procedural and Policy Changes*—MOU section 8.2.5 requires that Caltrans carry out regular QA/QC activities to ensure that the assumed responsibilities are conducted in accordance with the MOU. While some SER procedural and policy changes are addressed through memoranda or e-mails based on the level of importance, no system existed at the time of the audit to track all policy changes, thereby affecting the QA/QC of SER changes. The audit identified that a recent revision to SER Chapter 38 resulted in the erroneous omission of Environmental Impact Statements (EISs) from the list of environmental documents required to include a statement on the document cover page regarding Caltrans' assumption of responsibility under 23 U.S.C. 327 and MOU section 3.2.5.

(N3) *Environmental Document Protocols—Class of Action Determination*—The audit team was unable to identify through a review of Pilot Program policies and procedures specified in SER Chapter 38 how a class of action determination is documented. Caltrans staff interviewed indicated that an informal agreement exists to use e-mail correspondence to document decisions on class of action determinations. It is recommended that Caltrans acknowledge in SER Chapter 38 acceptable options for documentation of class of action determinations.

(N4) *Documentation of Pilot Program Procedures in SER 38*—SER Chapter 38 requires that the signatory of each environmental document be informed of the completion of the environmental document QA/QC review process before signing the document. It is recommended that Caltrans acknowledge in SER Chapter 38 acceptable options to convey the recommendation to the signatory official that all QA/QC review certification forms have been completed.

(N5) *Execution of the Legal Sufficiency Review Process*—The first environmental document submitted for formal legal sufficiency review was not submitted in accordance with the procedures specified in the October 15, 2007, memorandum titled: ''Procedures for Determining Legal Sufficiency for Environmental Documents under the NEPA Pilot Program'' (nor, by reference, DEA's July 2, 2007, memorandum, ''Environmental Document Quality Control Program under the NEPA Pilot Program''). As this new process comes into use, Caltrans should actively monitor conformance and provide additional training as needed.

(N6) *Pilot Program Self-Assessment*—Caltrans' self-assessment process needs improvement to ensure it fully complies with MOU section 8.2.6. Specifically, the first self-assessment conducted by Caltrans under the Pilot Program did not correlate each identified issue needing improvement to the corrective action(s) taken to address each issue.

Findings—Deficient

(D1) *QA/QC Process*—Caltrans requires each environmental document to be reviewed according to the policy memo titled ''Environmental Document Quality Control Program under the NEPA Pilot Program (July 2, 2007).'' Several deficiencies exist with the quality control process detailed in the aforementioned policy memo, SER Chapter 38, and as required by MOU section 8.2.5. These deficiencies are:

a. Completion of Quality Control Certification Forms. The required Internal and External Certification forms used in the environmental document review process were not consistently completed prior to the approval of each environmental document. The QC policy memo requires that ''all staff personnel who have served as a reviewer on a project document shall sign a Quality Control Certification Form at the conclusion of their review. The reviewer's signature certifies that the document meets professional standards and Federal and State requirements in the reviewer's area of expertise, and is consistent with the SER and annotated outlines.'' Seven of 11 documents examined identified where the signatory approved the environmental document prior to the completion of the document review process (i.e., before the Quality Control Certification Form was completed).

b. Inconsistent Completion of the Environmental Document Preparation and Review Tool Checklist and the Resource/Technical Specialist Review Certification on the Internal and External Quality Control Certification Forms. For EAs and EISs, the specific resource topics identified in the Environmental Document Preparation and Review Tool Checklist were not always consistent with the resource topics indicated on the Resource/Technical Specialist Review

Certification forms for the same document.

c. The Peer Reviewer for 3 of 11 environmental documents examined under the audit did not meet the requirement in SER Chapter 38 to be ''a staff member who has not participated in, supervised, or technically reviewed the project.''

(D2) *Pilot Program Self-Assessment*—Caltrans' self-assessment process failed to fully comply with MOU section 8.2.6 which requires the identification of ''any areas needing improvement.'' The Caltrans self-assessment (which reviewed the completion of the Quality Control Certification forms) did not identify that in some cases the peer reviewer function was not performed according to SER Chapter 38 policy. The policy requires an independent review by environmental staff not otherwise involved in the project. The self assessment did not identify that on 3 of 11 QA/QC certification forms (reviewed under this audit and the self assessment) used on EA and EIS projects, the person signing as the peer reviewer also signed as a technical expert.

(D3) *Records Management*—The project filing system in place at District 4 did not meet the Caltrans Uniform Filing System requirements as specified in the ''Record Keeping and Retention'' section of the Caltrans Application. This determination was made by the Audit Team through interviews with district personnel during the on-site audit. The Uniform Filing System is the records management method chosen by Caltrans to comply with the records retention requirements in MOU section 8.3. This filing system was not in use and was not implemented as described in the Application and SER Chapter 38.

(D4) *Statement Regarding Assumption of Responsibility*—MOU section 3.2.5 requires language regarding Caltrans' assumption of responsibility under 23 U.S.C. 327 be included on the cover page of each environmental document for all assumed Pilot Program projects. The cover pages for two Draft EIS documents and one EA reviewed during the audit did not include this required statement.

[FR Doc. E8–12183 Filed 5–30–08; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[FTA Docket No. FTA–2008–0026]

Notice of Request for the Extension of Currently Approved Information Collections

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Federal Transit Administration (FTA) to request the Office of Management and Budget (OMB) to extend the following currently approved information collection: 49 U.S.C. section 53 14(a) United We Ride State Coordination Grants.

DATES: Comments must be submitted before August 1, 2008.

ADDRESSES: To ensure that your comments are not entered more than once into the docket, submit comments identified by the docket number by only one of the following methods:

1. *Web site: http://www.regulations.gov.* Follow the instructions for submitting comments on the U.S. Government electronic docket site.

(**NOTE:** The U.S. Department of Transportation's (DOT's) electronic docket is no longer accepting electronic comments.) All electronic submissions must be made to the U.S. Government electronic docket site at *http://www.regulations.gov.* Commenters should follow the directions below for mailed and hand-delivered comments.

2. *Fax:* 202–366–7951.

3. *Mail:* U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.

4. *Hand Delivery:* U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays.

Instructions: You must include the agency name and docket number for this notice at the beginning of your comments. Submit two copies of your comments if you submit them by mail. For confirmation that FTA has received your comments, include a self-addressed stamped postcard. Note that all comments received, including any personal information, will be posted and will be available to Internet users, without change, to *http://www.regulations.gov.* You may review DOT's complete Privacy Act Statement in the **Federal Register** published April 11, 2000 (65 FR 19477), or you may visit *http://www.regulations.gov.* Docket: For access to the docket to read background documents and comments received, go to *http://www.regulations.gov* at any time. Background documents and comments received may also be viewed at the U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Doug Birnie, Office of Program Management, (202) 366–1666, or e-mail: *Doug.Birnie@dot.gov.*

SUPPLEMENTARY INFORMATION: Interested parties are invited to send comments regarding any aspect of these information collections, including: (1) The necessity and utility of the information collection for the proper performance of the functions of the FTA; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the collected information. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection.

Title: 49 U.S.C. Section 53 14(a) United We Ride State Coordination Grants (OMB Number: 2132–0562).

Background: The Federal Interagency Transportation Council on Access and Mobility, comprised of 11 federal departments and agencies, launched United We Ride (UWR) to enhance the coordination of human service transportation. UWR intends to break down the barriers between programs and set the stage for local and state partnerships that generate common-sense solutions and deliver A-plus performance for those individuals who depend on transportation services to participate fully in community life. The UWR initiatives include: (1) Promotion of coordinated local transportation planning among federally-assisted programs funding transportation, (2) removal of federal barriers to coordination of transportation services, (3) United We Ride state and local leadership awards, (4) State United We Ride Coordination Grants, (5) National Mobility Services for All Americans Demonstration Program creating one call transportation call centers for

consumers and (6) Help Along the Way technical assistance coordinated by the National Resource Center on Human Service Transportation Coordination.

Congress and the Executive Branch are interested in ensuring that various human service transportation activities funded by various federal programs are better coordinated. The General Accounting Office (GAO) issued a report on ''Transportation Disadvantaged Populations'' (June 2003) that identified 62 different federal programs across eight federal agencies that provide funding that may be used to support community transportation services.

The report points out that there are multiple public and private agencies that provide human service transportation in any one community and services vary greatly in terms of eligibility requirements, hours or scope of operation, specific destinations and quality.

Given the multiplicity of programs and the significant dollar amounts spent, more effective coordination is needed to ensure better service to more people. This is especially true when federal, state and local budgets for human service activities are under extreme financial pressure.

As also indicated by GAO, many objectives have been achieved; however, the fragmentation and lack of coordination within supporting agencies continue to be a challenge.

On February 24, 2004, President Bush signed an Executive Order 13330 on Human Service Transportation Coordination establishing the Federal Interagency Coordinating Council on Access and Mobility and requiring attention to the obstacles outlined by GAO.

The United We Ride initiative includes a State Coordination Grant that provides support to help states provide leadership and assistance to localities to develop more coordinated and improved human service transportation delivery systems in accordance with the objectives set forth by the President in Executive Order 13330.

Respondents: State and local government, business or other for-profit institutions, and nonprofit institutions.

Estimated Annual Burden on Respondents: 40 hours for each of the 50 respondents.

Estimated Total Annual Burden: 2,000 hours.

Frequency: Annual.

Issued: May 19, 2008.

Ann M. Linnertz,

Associate Administrator for Administration.

[FR Doc. E8–11705 Filed 5–30–08; 8:45 am]

BILLING CODE 4910–57–M

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Announcement of Project Selections for FY 2008 Bus and Bus Facilities Discretionary Program Funds

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice.

SUMMARY: The U.S. Department of Transportation (DOT) Federal Transit Administration (FTA) announces the discretionary selection of projects that will be funded using the unallocated Fiscal Year (FY) 2008 Bus and Bus Facilities Program funds.

FOR FURTHER INFORMATION CONTACT: The appropriate FTA Regional Administrator for grant-specific issues; or Kimberly Sledge, Office of Program Management, 202–366–2053, for general information about the Bus and Bus Facilities Program.

SUPPLEMENTARY INFORMATION:

Bus and Bus Facilities Program

A total of $96.02 million is available for discretionary allocation under the Bus and Bus Facilities Program (Bus Program) in FY 2008. FTA published a notice of funding availability on March 23, 2007, inviting proposals for funding under the FY 2007 program. Proposals submitted addressed a number of FTA priorities under the program, including replacement of vehicles that had met their useful life criteria, fleet expansion to improve service, bus related facilities, and investment in rural transportation systems. FTA received proposals totaling over $3.2 billion in response to the NOFA.

FTA reviewed all proposals submitted and rated them based on the criteria specified in the NOFA. FTA was not able to fund any of the meritorious projects submitted in response to the March 23, 2007, NOFA using FY 2007 discretionary funding; however, FTA has elected to utilize the proposals submitted in response to that NOFA to distribute most of the discretionary Bus Program funds that remain available in FY 2008.

Of the amount allocated, $9.60 million—or 10 percent of total program availability—is made available to the Chicago Transit Authority to support its request to the U.S. Department of Transportation's Solicitation of Proposals for its Congestion-Reduction Demonstration Initiative, issued November 13, 2007. The 26 other projects selected for funding reflect a number of urbanized areas of various sizes as well as several statewide requests for funding to meet State-defined urban and rural bus and bus facility capital needs.

Projects selected for funding are shown in Table 1 that accompanies this announcement.

Issued in Washington, DC, this 28th day of May, 2008.

James S. Simpson,

Administrator.

Table 1

FY 2008 Discretionary Bus and Bus Facilities Projects

State	Project ID	Project Recipient	Allocation
AZ	D2008-BUSP-001	City of Tucson	3,000,000
AZ	D2008-BUSP-002	Regional Public Transportation Authority, Valley Metro (Pheonix)	3,000,000
GA	D2008-BUSP-003	Cobb County Transit	1,000,000
IA	D2008-BUSP-004	University of Iowa/Cambus	1,000,000
IL	D2008-BUSP-005	Chicago Transit Authority	9,602,078
KY	D2008-BUSP-006	Kentucky Transportation Cabinet	4,587,354
MI	D2008-BUSP-007	Ann Arbor Transportation Authority	757,428
MI	D2008-BUSP-008	Capital Area Transportation Authority (Lansing)	1,000,000
MO	D2008-BUSP-009	Bi-State Development Agency	3,000,000
NC	D2008-BUSP-010	Chapel Hill Transit	3,000,000
NC	D2008-BUSP-011	Charlotte Area Transit System	5,000,000
NC	D2008-BUSP-012	Durham Area Transit Authority	3,000,000
NH	D2008-BUSP-013	New Hampshire Department of Transportation	1,772,800
NV	D2008-BUSP-014	Regional Transportation Commission of Southern Nevada (Las Vegas)	5,000,000
NY	D2008-BUSP-015	Capital District Transportation Authority (Albany)	2,000,000
NY	D2008-BUSP-016	New York Metropolitan Transporation Authority, New York City Transit	7,000,000
OK	D2008-BUSP-017	Oklahoma Department of Transportation	3,000,000
OR	D2008-BUSP-018	Lane Transit District (Eugene)	1,000,000
PA	D2008-BUSP-019	Pennsylvania Department of Transportation	2,075,000
SD	D2008-BUSP-020	Prairie Hills Transit (Spearfish)	1,598,000
TX	D2008-BUSP-021	Dallas Area Rapid Transit	9,000,000
TX	D2008-BUSP-022	Metropolitan Transit Authority of Harris County	7,000,000
TX	D2008-BUSP-023	Texas Department of Transportation	11,628,120
TX	D2008-BUSP-024	VIA Metropolitan Transit Authority (San Antonio)	2,000,000
VA	D2008-BUSP-025	Greater Richmond Transit Company	1,000,000
VA	D2008-BUSP-026	Transportation District Commission of Hampton Roads	2,000,000
WI	D2008-BUSP-027	Metro Transit System (Madison)	2,000,000
Total Allocation			**$ 96,020,780**

[FR Doc. E8–12241 Filed 5–30–08; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

International Standards on the Transport of Dangerous Goods; Public Meeting

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation.

ACTION: Notice of public meeting.

SUMMARY: This notice is to advise interested persons that PHMSA will conduct a public meeting in preparation for the 33rd session of the United Nation's Sub-Committee of Experts on the Transport of Dangerous Goods (UNSCOE) to be held June 30–July 9, 2008 in Geneva, Switzerland. In addition, PHMSA is soliciting comments relative to any potential new work items which may be considered for inclusion in its international agenda.

DATES: Wednesday, June 18, 2008; 9:30 a.m.–1:30 p.m.

ADDRESSES: The meeting will be held at the new DOT Headquarters, West Building, Oklahoma City Conference Room, 1200 New Jersey Avenue, SE., Washington, DC 20590.

Conference Call Capability Information: Call-in capability will be provided for this meeting. To participate by telephone, dial 1 (888) 395–1810 and enter participant passcode 63672. During the call, please press *6 to mute/unmute your individual line. This will ensure participants are not subjected to any background noise from individual lines.

FOR FURTHER INFORMATION CONTACT: Mr. Duane Pfund, Director, Office of International Standards, Office of Hazardous Materials Safety, Department of Transportation, Washington, DC 20590; (202) 366–0656.

SUPPLEMENTARY INFORMATION: The primary purpose of this meeting will be to prepare for the 33rd session of the UNSCOE and to discuss draft U.S. positions on UNSCOE proposals. The 33rd session of the UNSCOE is the third meeting in the current biennium cycle. The UNSCOE will consider proposals for the 16th Revised Edition of the United Nations Recommendations on the Transport of Dangerous Goods Model Regulations which will come into force in the international regulations from January 1, 2011. Topics to be covered during the public meetings include: Transport of limited quantities and consumer commodities, provisions for training of personnel, use of electronic documentation, subsidiary labeling for toxic by inhalation liquids, requirements for cryogenic receptacles, requirements for lithium batteries, fumigated units and dry ice, harmonization with the IAEA Regulations for the safe transport of radioactive materials, guiding principles for the development of the Model Regulations, and various miscellaneous proposals related to listing, classification, and hazard communication.

Finally, PHMSA is soliciting comments on how to further enhance harmonization for international transport of hazardous materials. PHMSA is developing a five year plan to address international harmonization and welcomes input on items which stakeholders believe should be included in this plan.

The public is invited to attend without prior notification. Due to the heightened security measures participants are encouraged to arrive early to allow time for security checks necessary to obtain access to the building. In lieu of conducting a public meeting after the 33rd session of the UNSCOE to present the results of the session, PHMSA will place a copy of the Sub-Committee's report and an updated copy of the pre-meeting summary document on PHMSA's Hazardous Materials Safety Homepage at *http://hazmat.dot.gov/regs/intl/intstandards.htm.*

Documents

Copies of documents for the UNSCOE meeting and the meeting agenda may be obtained by downloading them from the United Nations Transport Division's web site at:*http://www.unece.org/trans/main/dgdb/dgsubc/c32008.html.* This site may also be accessed through PHMSA's Hazardous Materials Safety Web site at *http://hazmat.dot.gov/regs/intl/intstandards.htm.* PHMSA' s site provides additional information regarding the UNSCOE and related matters such as a summary of decisions taken at previous sessions of the UNSCOE.

Issued in Washington, DC, on May 22, 2008.

Theodore L. Willke,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. E8–12060 Filed 5–30–08; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF THE TREASURY

Departmental Offices; Proposed Collections; Comment Requests

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to comment on the revision of an information collection that is proposed for approval by the Office of Management and Budget. The Office of International Affairs within the Department of the Treasury is soliciting comments concerning Treasury International Capital Form D, Report of Holdings of, and Transactions in, Financial Derivatives Contracts with Foreign Residents.

DATES: Written comments should be received on or before August 1, 2008 to be assured of consideration.

ADDRESSES: Direct all written comments to Dwight Wolkow, International Portfolio Investment Data Systems, Department of the Treasury, Room 5422, 1500 Pennsylvania Avenue, NW., Washington, DC 20220. In view of possible delays in mail delivery, please also notify Mr. Wolkow by e-mail (*dwight.wolkow@do.treas.gov*), FAX (202–622–2009) or telephone (202–622–1276).

FOR FURTHER INFORMATION CONTACT: Copies of the proposed forms and instructions are available on the Treasury's TIC Forms Web page, *http://www.treas.gov/tic/forms.html.* Requests for additional information should be directed to Mr. Wolkow.

SUPPLEMENTARY INFORMATION: *Title:* Treasury International Capital Form D, Report of Holdings of, and Transactions in, Financial Derivatives Contracts with Foreign Residents.

OMB Control Number: 1505–0199.

Abstract: Form D is part of the Treasury International Capital (TIC) reporting system, which is required by law (22 U.S.C. 286f; 22 U.S.C. 3103; E.O. 10033; 31 CFR 128) for the purpose of providing timely information on international capital movements other than direct investment by U.S. persons. Form D is a quarterly report used to cover holdings and transactions in derivatives contracts undertaken between foreign resident counterparties and major U.S.-resident participants in derivatives markets. This information is necessary for compiling the U.S. balance of payments and international investment position accounts, and for formulating U.S. international financial and monetary policies.

Current Actions: (a) In Part 1 of Form D, eliminate memo line M.3 (code 86054); (b) collect additional information on equity and credit derivatives, under line 3 in Part 1 of Form D, on the following three new rows—line 3.a (Equity Contracts), line 3.b (Credit Derivative Contracts), and line 3.c (Other Contracts); (c) in the instructions, eliminate the choice that allowed netting of fair values by deleting the second sentence of the second paragraph of section I.E (accounting issues); (d) in order to reduce overall burden, the threshold for reporting will be changed as follows: (1) If the total notional value of worldwide holdings of derivatives (including contracts with U.S. and foreign residents, measured on a consolidated-worldwide accounting basis' for the reporter's own account and the accounts of the reporter's customers exceeds $400 billion at the end of the calendar quarter being reported, then the reporter should submit TIC Form D for that calendar quarter, the remaining quarters of the same calendar year and for the following calendar year, (2) in addition, if at any time the amount reported by a TIC D reporter for Grand Total Net Settlements (Part 1, Column 3, Row 7) exceeds $400 million (either a positive or negative value), the TIC Form D must be submitted for the following two calendar years, even if outstanding worldwide notional values fall below the $400 billion level. For example, the 2009 reporting panel will therefore be determined by outstanding notional values as well as by data previously reported on Form D. If a reporter's outstanding notional values are below $400 billion, the reporter must continue to file the TIC D report if the Grand Total Net Settlements (Part 1, Column 3, Row 7) exceeded $400 million in any quarter during the preceding two calendar years; and (e) these changes will be effective beginning with the reports as of March 31, 2009.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for profit organizations.

Form D (1505–0199)

Estimated Number of Respondents: 35.

Estimated Average Time per Respondent: Thirty (30) hours per respondent per filing, effective with the report as of March 2009. Estimated Total Annual Burden Hours: 4,300 hours, based on 4 reporting periods per year.

REQUEST FOR COMMENTS: Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record. The public is invited to submit written comments concerning: (a) Whether Form D is necessary for the proper performance of the functions of the Office of International Affairs, including whether the information will have practical uses; (b) the accuracy of the above estimate of the burdens; (c) ways to enhance the quality, usefulness and clarity of the information to be collected; (d) ways to minimize the reporting and/or record keeping burdens on respondents, including the use of information technologies to automate the collection of the data; and (e) estimates of capital or start-up costs of operation, maintenance and purchase of services to provide information.

Dwight Wolkow,

Administrator, International Portfolio Investment Data Systems.

[FR Doc. E8–12163 Filed 5–30–08; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Additional Designation of Individuals Pursuant to Executive Order 13224

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (''OFAC'') is publishing the names of four newly-designated individuals whose property and interests in property are blocked pursuant to Executive Order 13224 of September 23, 2001, ''Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism.''

DATES: The designation by the Director of OFAC of the four individuals identified in this notice, pursuant to Executive Order 13224, is effective on May 27, 2008.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Compliance Outreach & Implementation, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, tel.: 202/622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

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

Background

On September 23, 2001, the President issued Executive Order 13224 (the ''Order'') pursuant to the International Emergency Economic Powers Act, 50 U.S.C. 1701–1706, and the United Nations Participation Act of 1945, 22 U.S.C. 287c. In the Order, the President declared a national emergency to address grave acts of terrorism and threats of terrorism committed by foreign terrorists, including the September 11, 2001, terrorist attacks in New York, Pennsylvania, and at the Pentagon. The Order imposes economic sanctions on persons who have committed, pose a significant risk of committing, or support acts of terrorism. The President identified in the Annex to the Order, as amended by Executive Order 13268 of July 2, 2002, 13 individuals and 16 entities as subject to the economic sanctions. The Order was further amended by Executive Order 13284 of January 23, 2003, to reflect the creation of the Department of Homeland Security.

Section 1 of the Order blocks, with certain exceptions, all property and interests in property that are in or hereafter come within the United States or the possession or control of United States persons, of: (1) Foreign persons listed in the Annex to the Order; (2) foreign persons determined by the Secretary of State, in consultation with the Secretary of the Treasury, the Secretary of the Department of Homeland Security and the Attorney General, to have committed, or to pose a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States; (3) persons determined by the Director of OFAC, in consultation with the Departments of State, Homeland Security and Justice, to be owned or controlled by, or to act for or on behalf of those persons listed in the Annex to the Order or those persons determined to be subject to subsection 1(b), 1(c), or 1(d)(i) of the Order; and (4) except as provided in section 5 of the Order and after such consultation, if any, with foreign authorities as the Secretary of State, in consultation with the Secretary of the Treasury, the Secretary of the Department of Homeland Security and the Attorney General, deems appropriate in the exercise of his discretion, persons determined by the Director of OFAC, in consultation with the Departments of State, Homeland Security and Justice, to assist in, sponsor, or provide financial, material, or technological support for, or financial or other services to or in support of,

such acts of terrorism or those persons listed in the Annex to the Order or determined to be subject to the Order or to be otherwise associated with those persons listed in the Annex to the Order or those persons determined to be subject to subsection 1(b), 1(c), or 1(d)(i) of the Order.

On April 1, 2008, the Director of OFAC, in consultation with the Departments of State, Homeland Security, Justice and other relevant agencies, designated, pursuant to one or more of the criteria set forth in subsections 1(b), 1(c) or 1(d) of the Order, four individuals whose property and interests in property are blocked pursuant to Executive Order 13224.

The list of additional designees is as follows:

1. ASHRAF, Haji Muhammad (a.k.a. ASHRAF, Haji M.); DOB 1 Mar 1965; Passport A–374184 (Pakistan).

2. BAHAZIQ, Mahmoud Mohammad Ahmed (a.k.a. ABU 'ABD AL-'AZIZ; a.k.a. ABU ABDUL AZIZ; a.k.a. BAHAZIQ, Mahmoud; a.k.a. SHAYKH SAHIB); DOB 17 Aug 1943; alt. DOB 1943; alt. DOB 1944; POB India; nationality Saudi Arabia; Registration ID 4–6032–0048–1 (Saudi Arabia).

3. LAKHVI, Zaki-ur-Rehman (a.k.a. ARSHAD, Abu Waheed Irshad Ahmad; a.k.a. LAKVI, Zaki Ur-Rehman; a.k.a. LAKVI, Zakir Rehman; a.k.a. REHMAN, Zakir; a.k.a. UR-REHMAN, Zaki; a.k.a. ''CHACHAJEE''); Barahkoh, P.O. DO, Tehsil and District Islamabad, Pakistan; Chak No. 18/IL, Rinala Khurd, Tehsil Rinala Khurd, District Okara, Pakistan; DOB 30 Dec 1960; POB Okara, Pakistan; nationality Pakistan; National ID No. 61101–9618232–1 (Pakistan).

4. SAEED, Muhammad (a.k.a. HAFIZ SAHIB; a.k.a. SAEED, Hafiz; a.k.a. SAEED, Hafiz Mohammad; a.k.a. SAEED, Hafiz Muhammad; a.k.a. SAYED, Hafiz Mohammad; a.k.a. SAYEED, Hafez Mohammad; a.k.a. SAYID, Hafiz Mohammad; a.k.a. SYEED, Hafiz Mohammad; a.k.a. ''TATA JI''), House No. 116 E, Mohalla Johar, Town: Lahore, Tehsil:, Lahore City, Lahore District, Pakistan; DOB 5 Jun 1950; POB Sargodha, Punjab, Pakistan; nationality Pakistan; National ID No. 3520025509842–7 (Pakistan).

Dated: May 27, 2008.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. E8–12288 Filed 5–30–08; 8:45 am]

BILLING CODE 4811–45–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Tax Counseling for the Elderly (TCE) Program Availability of Application Packages

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: This document provides notice of the availability of Application Packages for the 2009 Tax Counseling for the Elderly (TCE) Program.

DATES: Application Packages are available from the IRS at this time. The deadline for submitting an application package to the IRS for the 2009 Tax Counseling for the Elderly (TCE) Program is August 2, 2008.

ADDRESSES: Application Packages may be requested by contacting: Internal Revenue Service, 5000 Ellin Road, Lanham, MD 20706, Attention: Program Manager, Tax Counseling for the Elderly Program, SE:W:CAR:SPEC:FO:OA, Building C–4, Room 168. Applications can also be submitted electronically through Grants.gov.

FOR FURTHER INFORMATION CONTACT: Mrs. Lynn Tyler, SE:W:CAR:SPEC:FO:OA, Building C–4, Room 168, Internal Revenue Service, 5000 Ellin Road, Lanham, MD 20706. The non-toll-free telephone number is (202) 283–0189.

SUPPLEMENTARY INFORMATION: Authority for the Tax Counseling for the Elderly (TCE) Program is contained in section 163 of the Revenue Act of 1978, Public Law 95–600, (92 Stat. 12810), November 6, 1978. Regulations were published in the **Federal Register** at 44 FR 72113 on December 13, 1979. Section 163 gives the IRS authority to enter into cooperative agreements with private or public non-profit agencies or organizations to establish a network of trained volunteers to provide free tax information and return preparation assistance to elderly individuals. Elderly individuals are defined as individuals age 60 and over at the close of their taxable year.

Cooperative agreements will be entered into based upon competition among eligible agencies and organizations. Because applications are being solicited before the FY 2009 budget has been approved, cooperative agreements will be entered into subject to appropriation of funds. Once funded, sponsoring agencies and organizations will receive a grant from the IRS for administrative expenses and to reimburse volunteers for expenses incurred in training and in providing tax return assistance. The Tax Counseling for the Elderly (TCE) Program is referenced in the Catalog of Federal Domestic Assistance in section 21.006.

Dated: May 6, 2008.

Michael McBride,

Chief, Oversight & Analysis.

[FR Doc. E8–12051 Filed 5–29–08; 8:45 am]

BILLING CODE 4830–01–P

U.S.–CHINA ECONOMIC AND SECURITY REVIEW COMMISSION

Notice of Open Public Hearings

AGENCY: U.S.–China Economic and Security Review Commission

ACTION: Notice of open public hearings–June 18th and 19th, 2008, Washington, DC.

SUMMARY: Notice is hereby given of the following hearings of the U.S.–China Economic and Security Review Commission.

Name: Larry Wortzel, Chairman of the U.S.–China Economic and Security Review Commission.

The Commission is mandated by Congress to investigate, assess, evaluate and report to Congress annually on ''the national security implications and impact of the bilateral trade and economic relationship between the United States and the People's Republic of China.'' Pursuant to this mandate, the Commission will hold two public hearings in Washington, DC on June 18th and 19th, 2008. The first, a full-day hearing on June 18th, will address ''Access to Information and Media Control in the People's Republic of China.'' The second, a half-day hearing on the morning of June 19th, will examine ''The Memorandum of Understanding Between the U.S. and China Regarding Prison Labor Products.''

Background

These events are the sixth and seventh in a series of public hearings the Commission will hold during its 2008 report cycle to collect input from leading academic, industry, and government experts on the impact of the economic and national security implications of the U.S. bilateral trade and economic relationship with China. The June 18th hearing, ''Access to Information and Media Control in the People's Republic of China,'' will be Co-chaired by Chairman Larry Wortzel and Commissioner Jeffrey Fiedler. This hearing will seek to examine the ways in which media censorship and restrictions on publicly available information within China can impact

the economic, diplomatic, and security relationships between China and the United States.

The June 19th hearing, ''The Memorandum of Understanding Between the U.S. and China Regarding Prison Labor Products,'' will be Co-chaired by Chairman Larry Wortzel and Commissioner Peter Videnieks. This hearing will address the formal agreements made between the U.S. and Chinese governments vis-à-vis products made with prison labor, and seek to determine the status of Chinese government compliance with these agreements.

Information on hearings, as well as transcripts of past Commission hearings, can be obtained from the USCC Web Site *http://www.uscc.gov*.

Copies of the hearing agendas will be made available on the Commission's Web site *http://www.uscc.gov* as soon as available. Any interested party may file a written statement by June 18th, 2008, by mailing to the contact below. The June 18th hearing will be held in two sessions, one in the morning and one in the afternoon; the June 19th hearing will consist of a single session in the morning. Each hearing will include both expert witness testimony, and question and answer periods between the Commissioners and the witnesses.

Date and Time: First hearing: Wednesday, June 18th, 2008, 8:30 a.m. to 4:45 p.m., Eastern Standard Time. Second hearing: Thursday, June 19th, 8:30 a.m. to 11:45 a.m., Eastern Standard Time. Detailed agendas for the hearing will be posted to the Commission's Web site at *http://www.uscc.gov* in the near future.

ADDRESSES: Both hearings will be held on Capitol Hill, in Room 418 of the Russell Senate Office Building, located at Delaware and Constitution Avenue, NE., Washington, DC 20510. Public seating is limited to about 50 people on a first come, first served basis. Advance reservations are not required.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing further information concerning the hearing should contact Kathy Michels, Associate Director for the U.S.–China Economic and Security Review Commission, 444 North Capitol Street, NW., Suite 602, Washington, DC 20001; phone: 202–624–1409, or via e-mail at *kmichels@uscc.gov*.

Authority: Congress created the U.S.–China Economic and Security Review Commission in 2000 in the National Defense Authorization Act (Public Law 106–398), as amended by Division P of the Consolidated Appropriations Resolution, 2003 (Pub. L. 108–7), as amended by Public Law 109–108 (November 22, 2005).

Dated: May 27, 2008.

Kathleen J. Michels,

Associate Director, U.S.–China Economic and Security Review Commission.

[FR Doc. E8–12152 Filed 5–30–08; 8:45 am]

BILLING CODE 1137–00–P

Federal Register

Monday,
June 2, 2008

Part II

Department of Commerce

Bureau of the Census

15 CFR Part 30

Foreign Trade Regulations: Mandatory Automated Export System Filing for All Shipments Requiring Shipper's Export Declaration Information; Final Rule

DEPARTMENT OF COMMERCE

Bureau of the Census

15 CFR Part 30

[Docket Number: 031009254–6014–03]

RIN 0607–AA38

Foreign Trade Regulations: Mandatory Automated Export System Filing for All Shipments Requiring Shipper's Export Declaration Information

AGENCY: Bureau of the Census, Commerce Department.

ACTION: Final rule.

SUMMARY: The U.S. Census Bureau (Census Bureau) issues this final rule to amend its regulations to implement provisions in the Foreign Relations Authorization Act. Specifically, the Census Bureau is requiring mandatory filing of export information through the Automated Export System (AES) or through AES*Direct* for all shipments where a Shipper's Export Declaration (SED) is required.

DATES: *Effective Date:* This rule is effective July 2, 2008.

Implementation Date: The Census Bureau will implement provisions of this rule on September 30, 2008. This will allow all affected entities sufficient time to come into compliance with this rule.

FOR FURTHER INFORMATION CONTACT: C. Harvey Monk, Jr., Assistant Director for Economic Programs, U.S. Census Bureau, Room 8K108, Washington, DC 20233–6010, by phone (301) 763–2932, by fax (301) 457–3767, or by e-mail *c.harvey.monk.jr@census.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Census Bureau is responsible for collecting, compiling, and publishing export trade statistics for the United States under the provisions of Title 13, United States Code (U.S.C.), Chapter 9, Section 301. The paper SED and the AES are the primary media used for collecting export trade data, and such data is used by the Census Bureau for statistical purposes only. The export trade data reported pursuant to this Part is referred to as Electronic Export Information (EEI). The SED and the EEI also are used for export control purposes under Title 50, U.S.C., Export Administration Act, to detect and prevent the export of certain items by unauthorized parties or to unauthorized destinations or end users. This information is exempt from public disclosure unless the Secretary of Commerce determines under the provisions of Title 13, U.S.C., Chapter 9, Section 301(g), that such exemption would be contrary to the national interest.

This rule provides that all export information for which an SED is required be filed through the AES. The AES is an electronic method for filing the paper SED information directly with the U.S. Customs and Border Protection (CBP) and the Census Bureau. The AES*Direct* is the Census Bureau's free Internet-based system for filing SED information through the AES. Future references to the AES also shall apply to AES*Direct* unless otherwise specified. In addition, with regards to postdeparture filing, the Census Bureau and CBP have agreed that the moratorium placed on Option 4 (postdeparture filing) in August 2003, will remain in effect pending further review of the postdeparture filing program.

Electronic filing strengthens the U.S. government's ability to prevent the export of certain items by unauthorized parties to unauthorized destinations and end users, because the AES aids in targeting and identifying suspicious shipments prior to export and affords the government the ability to significantly improve the quality, timeliness, and coverage of export statistics. Since July 1995, the AES has served as an information gateway for the Census Bureau and CBP to improve the reporting of export trade information, customer service, compliance with and enforcement of export laws, and to provide paperless reports of export information.

On November 29, 1999, the President signed into law the Proliferation Prevention Enhancement Act of 1999, which authorized the Secretary of Commerce to require the mandatory filing of items on the Commerce Control List (CCL) and the U.S. Munitions List (USML). Regulations implementing this requirement were effective October 2003 (see 68 FR 42533–42543). On September 30, 2002, the President signed into law the Foreign Relations Authorization Act, Public Law 107–228. This law authorized the Secretary of Commerce, with the concurrence of the Secretary of State and the Secretary of Homeland Security, to publish regulations in the **Federal Register** mandating that all persons who are required to file export information via the SED under Chapter 9 of Title 13, U.S.C., file such information through the AES.

The Foreign Relations Authorization Act further authorized the Secretary of Commerce to issue regulations regarding imposition of penalties, both civil and criminal, for the delayed filing, failure to file, false filing of export information, and/or using the AES to further any illegal activity. The Act provided for administrative proceedings for imposition of a civil penalty for violation(s) of Public Law 107–228. Finally, the Act authorized the Secretary of Commerce to designate employees of the Office of Export Enforcement of the Department of Commerce (DOC) to conduct investigations and perform the enforcement functions in Title 13, U.S.C., Chapter 9, and the Commissioner of Customs to designate employees of the Customs Service to enforce and conduct investigations under the same provisions. The latter authority is now exercised by the U.S. Immigration and Customs Enforcement (ICE) and CBP officials in the U.S. Department of Homeland Security (DHS). In addition, by Memorandum of Understanding dated September 25, 2005, the Secretary delegated the authority to enforce sections 304 and 305 of Title 13, U.S.C., and 15 CFR, part 30 to the Secretary of Homeland Security. Nothing in this rule is intended to restrict the authority of DHS under Section 343 of the Trade Act of 2002.

In the February 17, 2005, **Federal Register** (70 FR 8200), the Census Bureau published a Notice of Proposed Rulemaking (NPR) and request for comments on the regulations implementing the mandatory requirement to file export information through the AES or AES*Direct* for all shipments where SED information is required. Public comments were requested through April 18, 2005. A summary of comments received from the export trade community and the Census Bureau's response to those comments are presented in this rule.

Response to Comments

The Census Bureau received 45 letters and/or e-mails commenting on the NPR published in the **Federal Register** on February 17, 2005, (70 FR 8200). All the letters and/or e-mails contained comments on two or more issues. A summary of the comments and the Census Bureau's responses are provided below.

The major concerns were as follows:

1. *Clarify the filing requirement for Electronic Export Information (EEI).* Several commentors questioned whether the filing requirements had changed under the mandatory AES versus filing the paper SED. In addition, the commentors wanted clarification regarding the filing of EEI for Puerto Rico and U.S. territories. The requirements for filing EEI have not changed. All persons currently required

to file the SED will be required to file the same information through the AES. The requirements to file EEI for goods shipped to the United States from Puerto Rico, goods shipped to Puerto Rico from the United States, and goods shipped to the U.S. Virgin Islands from the United States or Puerto Rico, remain unchanged.

2. *Status of the use of the External Transaction Number (XTN) and the Internal Transaction Number (ITN).* Commentors wanted clarification on when the XTN and the ITN could be used under the new regulations. Under the Final Rule, only the ITN is acceptable as the proof of filing citation. The ITN confirms that the shipment information has been accepted in the AES. The XTN will no longer be accepted as a proof of filing.

3. *Clarify the time frame for filing EEI.* Commentors indicated they were unclear about the time frames for filing in the AES. The time frame varies according to method of transportation for predeparture filing. For State Department USML shipments, refer to the International Traffic in Arms Regulations (ITAR) (22 CFR 120–130), § 123.22, for the specific requirements concerning filing time frames. For non-USML shipments, file the EEI as follows: (1) For vessel cargo, the U.S. Principal Party in Interest (USPPI) or authorized agent shall file the EEI as required by § 30.6 and provide the filing citation or exemption legend to the exporting carrier 24 hours prior to loading cargo on the vessel at the U.S. port where the cargo is laden; (2) for air cargo, the USPPI or authorized agent shall file the EEI as required by § 30.6 and provide the filing citation or exemption legend to the exporting carrier, including air express couriers, no later than two hours prior to the scheduled departure time of the aircraft; (3) for truck cargo, the USPPI or authorized agent shall file the EEI as required by § 30.6 and provide the filing citation or exemption legend to the exporting carrier no later than one hour prior to the arrival of the truck at the U.S. border to go foreign; (4) for rail cargo, the USPPI or authorized agent shall file the EEI as required by § 30.6 and provide the filing citation or exemption legend to the exporting carrier no later then two hours prior to the time the cargo arrives at the U.S. border to go foreign; (5) for mail and cargo shipped by other methods, except pipeline exports, the USPPI or authorized agent shall file the EEI as required by § 30.6 and provide the filing citation or exemption legend to the exporting carrier no later than two hours prior to exportation; (6) for pipeline exports, the USPPI or authorized agent shall file the EEI as required by § 30.6 and provide the filing citation or exemption legend to the operator of the pipeline within four days following the end of each calendar month; and, (7) for postdeparture filing, by approved USPPIs, in accordance with § 30.5(c), the USPPI or authorized agent shall file the EEI as required by § 30.6 and provide the filing citation or exemption legend to the exporting carrier no later than ten calendar days from the date of export.

4. *Clarify Option 4 (Postdeparture) filing requirements.* Commentors wanted clarification regarding parties that would be approved for postdeparture filing. In agreement with the Census Bureau and CBP, the moratorium placed on Option 4 (postdeparture filing) on August 15, 2003 (see notice at *http://www.census.gov/aes*) will remain in effect pending further review of the postdeparture filing program.

5. *Amend the regulations to reduce or eliminate the $2,500 exemption level.* Several commentors proposed that the Census Bureau remove or reduce the current $2,500 exemption level. The Census Bureau believes that removing the $2,500 exemption level for reporting would substantially increase the reporting burden on the exporting community, especially on small businesses. This change would increase the number of shipments reported each month by approximately 4,000,000. In addition, the Census Bureau and CBP do not have the resources to process the additional workload.

6. *Amend the downtime requirements.* Commentors were concerned that export shipments would be delayed if the AES became unavailable. The Census Bureau has found that during its 12 years in operation, the AES has demonstrated a high level of reliability in performance. The system has been available to users 99 percent of the time. For this reason, the Census Bureau has determined that mandatory filing through the AES would not cause a substantial delay in export shipments. In the unlikely event that the AES is unavailable, the filer of a USML shipment shall not be allowed to export until the AES is operational and the filer is able to acquire an ITN. See § 30.4(b)(1) for more information. For non-USML shipments, the regulation provides for a downtime filing citation to allow goods to be exported. See § 30.4(b)(2) for more information.

7. *Clarify the requirements for power of attorney or written authorization.* Commentors were concerned that the language regarding the requirement for power of attorney or written authorization was drafted incorrectly. The Census Bureau reviewed the NPR regarding the requirement and found an instance where it stated ''power of attorney and written authorization,'' and it should read ''power of attorney or written authorization.'' This language has been changed in the Final Rule. In addition, a commentor questioned whether the language had been changed regarding the power of attorney or written authorization requirement. The Census Bureau did not change the language or the requirement for power of attorney or the need for written authorization that currently exists in the regulations.

8. *Clarify manner in which fines and penalties will be enforced and how a filer submits a voluntary self-disclosure.* Several commentors were concerned about which agency would enforce the penalty provisions of the Foreign Trade Regulations (FTR). Pursuant to the authority in Public Law 107–228, the Secretary of Commerce has delegated authority for enforcement to the Bureau of Industry and Security's (BIS) Office of Export Enforcement (OEE) and the DHS. The Census Bureau has worked with CBP and the BIS to develop regulations implementing the process and requirements for submitting a notification disclosing a violation or suspected violation of the FTR. These regulations are found in Subpart H, § 30.74 Voluntary Self-Disclosure.

9. *Amend a number of definitions in the definition section of the proposed rule.* Several commentors proposed changes to definitions contained in the NPR. The Census Bureau revised the following definitions in § 30.1:

Booking. The Census Bureau revised this definition to add ''truck and train'' as methods of transportation. The Census Bureau made this revision as a result of public comments.

Carrier. The Census Bureau deleted ''non-vessel operating common carriers'' because a commentor felt that the term could cause confusion and the Census Bureau agreed.

Commerce Control List (CCL). The Census Bureau revised the definition to provide the location of CCL items in the Export Administration Regulations (EAR).

Commodity. The Census Bureau deleted this term and the corresponding definition because commentors indicated that it was too general.

Domicile. The Census Bureau deleted this term because it is no longer used in the FTR.

Exceptions. This term was changed to ''license exception'' and moved accordingly.

Exclusions. The Census Bureau added this definition as a result of comments that requested clarification of this term.

Export Control Classification Number (ECCN). This definition was revised to clarify the description and purpose of this number.

Filers. The Census Bureau added this definition as a result of comments that requested clarification of this term.

Filing Electronic Export Information. The Census Bureau added this definition as a result of comments that requested clarification of this term.

Foreign Entity. The Census Bureau added this definition as a result of comments that requested clarification of this term.

Foreign Principal Party in Interest (FPPI). The Census Bureau revised this definition because it was inconsistent with the regulations defining the responsibilities of the parties to an export transaction. Therefore the Census Bureau revised this definition to ensure clarity.

Merchandise. The Census Bureau revised this term and corresponding definition in accordance with industry standards as commentors indicated that it was too general.

Service Center. The Census Bureau added this definition as a result of comments that requested clarification of this term.

Transmitting Electronic Export Information. The Census Bureau added this definition as a result of comments that requested clarification of this term.

Ultimate Consignee. The Census Bureau revised this definition to expand the definition of ultimate consignee to also include a party or designee that is located abroad and actually receives the export shipment. The definition was also revised to provide examples of the ultimate consignee. The Census Bureau revised the definition as a result of comments that indicated that the definition was inaccurate.

Violation of the FTR. The Census Bureau added this definition to clarify what constitutes a violation.

10. *Amend the proposed rule to make it a requirement that the agent of FPPI provides the USPPI with a copy of the power of attorney or written authorization from the FPPI.* Commentors were concerned about the requirement to provide information to an agent of the FPPI in a routed export transaction. The Census Bureau has revised § 30.3(e)(2) of the FTR to require the agent of the FPPI, upon request, to provide the USPPI with a copy of power of attorney or the written authorization giving the agent the authority to file the EEI on behalf of the FPPI before the USPPI provides the required information necessary to complete the EEI filings.

11. *Clarify whether an export license or license exemption is required for exports from U.S. territories. Also clarify whether paper SEDs are required by CBP for items that are controlled by the Department of State or the BIS.* The commentor's request for clarification on whether an export license or license exemption or items that are controlled by the Department of State or the BIS is required for export from U.S. territories is outside the scope of the Foreign Trade Regulations. The commentor's question should be addressed to the Department of State and the BIS. Neither the Census Bureau nor CBP requires EEI or a paper SED for goods shipped from U.S. territories including, Guam Island, American Samoa, Wake Island, Midway Island, and the Northern Mariana Islands to foreign countries or areas and goods shipped between the United States and these territories.

12. *Amend the proposed rule to address the treatment of split shipments by air.* Several commentors were concerned about having to identify the piece count details of shipments that are split among multiple flights. The commentors indicated that the regulations regarding the treatment of split shipments by air would have a substantial impact on air carriers. Commentors provided no further information. The Census Bureau reviewed this section of the NPR and found that the requirement was not changed from the previous regulations and remains appropriate. This requirement has existed for more than 20 years.

13. *Amend the proposed rule to relax the security requirements regarding reporting computer viruses and the requirement that the AES Administrator change administrator codes or passwords for security purposes when employees leave the company.* Several commentors were concerned that these requirements would be a burden to the AES filers. The requirement to notify the Census Bureau Foreign Trade Division's Security Officer when a virus infection occurs only applies to systems connected to the AES*Direct*. This procedure is a security requirement for the purpose of maintaining the federal government's system certification for AES*Direct*. The requirement to change the password when an employee leaves the company only applies to employees leaving the company who had direct access to the AES § 30.5(d)(2). This is not a new requirement and remains appropriate.

14. *Amend the regulations by dropping Subpart F—Import Requirements.* One commentor believes that having import regulations in 15 CFR 30, and also in 19 CFR is confusing to the trade. More than one federal agency has jurisdiction over imports, therefore, it is appropriate for regulations to exist in more than one place. While CBP regulations (19 CFR) cover most of the requirements for filing import information, there are additional statistical requirements specific to the Census Bureau that are found in the FTR (15 CFR) and that are not the subject of CBP regulations.

15. *Amend the proposed rule § 30.52—Foreign Trade Zones (FTZ).* Commentors are concerned that language in § 30.52 did not describe some of the activities of FTZs. The Census Bureau reviewed the proposed language changes and replaced the word ''enter'' with ''are admitted into'' in the introductory paragraph and the word ''mode'' with ''method'' in § 30.52(h) to more accurately reflect the activities of the zones.

16. *Create a registration number to be used in place of the Employer Identification Number (EIN) or Social Security Number (SSN).* A commentor was concerned about providing the EIN or SSN to a FPPI's agent or placing the EIN or SSN on the proof of filing citation. The Census Bureau agrees that a registration number should be created so that filers', USPPI's, or agents' EIN or SSN can be kept confidential. The Census Bureau is currently working with CBP to develop a system that allows the reporting of registration numbers, and will address this issue in a future rulemaking.

17. *Clarify the filing of foreign waterborne in-transit shipments by the U.S. Army Corps of Engineers.* A commentor believes that the U.S. Army Corps of Engineers should not be responsible for reporting EEI on export of in-transit shipments. Previously, the Census Bureau, the U.S. Army Corps of Engineers, and the Maritime Administration jointly collected in-transit information for vessel shipments. This joint collection activity dates back to 1948, with the Census Bureau designated as the primary collection agency. In 1996, under joint agreement among the Census Bureau, U.S. Army Corps of Engineers, the Maritime Administration, and the Office of Management and Budget (OMB), the U.S. Army Corps of Engineers was designated the primary data collection agency for vessel in-transit data. Thus, it is the responsibility of the U.S. Army Corps of Engineers to collect data regarding vessel in-transit shipments leaving the United States. This does not, however, affect or alter the

responsibility of USPPIs and others to comply with other agency in-transit requirements such as those required by CBP. (See *e.g.*, 19 CFR 18)

18. *Redesign the Vessel Transportation Module (VTM) of the AES to allow paperless submissions of proof of filing citations and exemption legends and revise the FTR to require the paperless submission of the proof of filing citation and exemption legends.* Several commentors from the vessel shipping lines wanted to submit electronic manifests and wanted to receive the proof of filing citation and exemption legends from the filers electronically. The Census Bureau determined that this proposal would require a significant redesign of the AES, VTM, and the AES Commodity Module, and would likely need to be developed as a part of CBP's Automated Commercial Environment development. At this time, neither CBP nor the Census Bureau has the resources available to implement this proposal. Until the implementation of a system that has the capability described by the commentor, the AES will continue to require the filer to provide the vessel carriers with the proof of filing citations or the exemption legends.

19. *Clarify the retention of export information and the authority to require proof of documentation of EEI.* Several commentors indicated that the requirements of § 30.10 were unclear. The Census Bureau agreed, and the section was completely revised to clarify the requirements for retaining export information and to eliminate the requirement to retain paper certification notices. In the course of clarifying this section, the Census Bureau determined that it was not necessary for filers to retain paper copies of certain documents. In order to reduce the recordkeeping burdens on filers, the Census Bureau eliminated the requirement that AES filers retain a paper copy of the Letter of Intent to participate in the AES and the requirement that AESDirect and/or AESPcLink filers print and maintain a copy of their electronic certification notice. In addition, the Census Bureau modified this section to add a note describing its responsibilities with respect to the retention and maintenance of EEI.

20. *Amend the rule to provide exemption from filing EEI for temporary exports including carnets.* Several commentors believe that the regulation should state that temporary exports are exempt from filing. The Census Bureau's regulations have always exempted temporary exports, such as carnets, from filing requirements. However, the Census Bureau agrees that carnets should be expressly stated in regulations and thus it has been added to that exemption in § 30.37. However, temporary exports that require an export license, temporary exports destined for a country listed in Country Group E:1 as set forth in Supplement 1 to 15 CFR 740, or an ITAR licensing exemption are not exempt.

21. *Amend the filing citation and exemption legend requirements.* Several commentors requested changes in language with respect to the filing citations and exemption legends requirement because it was inconsistent with industry practice. The Census Bureau made several changes to the language to reflect industry practice with respect to who must provide exemption legends (see § 30.7).

22. *Clarify the procedures for responding to fatal error messages when filing postdeparture.* A commentor stated that § 30.9(b) did not take postdeparture filing into account. The Census Bureau has reviewed the section and has revised the Final Rule to address postdeparture filings. If a filer encounters a fatal error when filing a postdeparture shipment, the filer must resubmit the EEI no later than ten calendar days after export.

23. *Clarify that estimated date of departure can be used if the actual date of departure is not known.* A commentor was concerned that sometimes the filer may not know the actual date of departure. The Census Bureau acknowledges that there are times when the filer may not know the actual date of departure. In these instances, the filer may provide an estimated departure date. However, it is the USPPI's or the authorized filing agent's responsibility to transmit accurate export information as known at the time of filing in the AES and transmit any changes to that information as soon as they are known.

24. *Clarify whether export shipments to Mexico and Canada must be filed in AES.* A commentor questioned whether SEDs are required to be filed for shipments destined to Canada and Mexico. All export shipments to Mexico valued over $2,500 or shipments that require an export license, a license exemption, or a Kimberley Process Certificate for rough diamonds classified under the 6-digit Harmonized Schedule subheadings 7102.10, 7102.21, and 7102.31, are required to be reported in the AES. Export shipments to Canada are not required to be filed through the AES, unless they require an export license, a license exemption, or a Kimberley Process Certificate for rough diamonds classified under the 6-digit Harmonized Schedule subheadings 7102.10, 7102.21, and 7102.31. See §§ 30.2(a) and 30.36.

25. *Amend the proposed rule regarding the annotation of proof of filing citations, 15 CFR § 30.7.* A commentor requested that the Census Bureau limit the length of the AES downtime filing citation to no more than 32 characters. The Census Bureau acknowledges that the filing citation may be lengthy, and thus may result in mistakes. Therefore, the Census Bureau has removed the ''shipment reference number'' from the downtime citation to make the AES downtime filing citation less than 32 characters.

26. *Amend § 30.7 Annotating Proof of Filing Citation.* The commentor requested that the Census Bureau amend the regulations to define the difference between an authorized agent and an exporting carrier when both roles are fulfilled by the same, affiliated, or controlled subsidiary legal entity. The Census Bureau reviewed the request and § 30.7 was revised to define the different roles of authorized agents and carriers.

27. *Clarify that intangible exports of software and technology are exempt from the EEI requirements.* A commentor requested that the Census Bureau confirm that EEI is not required for intangible exports of software and technology. The Census Bureau's FTR does not require the reporting of intangible exports of software and technology. However, the Department of State, and/or the DOC may require separate filings for intangible exports of software and technology and technical data that require a license. The Census Bureau recommends that the Department of State and DOC be contacted regarding their specific licensing requirements.

28. *Amend the proposed rule by removing the carrier name and Standard Carrier Alpha Code (SCAC) as data elements.* One commentor requested that carrier name and SCAC be removed as data elements. The Census Bureau is unable to discontinue collection of these data elements because each remains a statistical and enforcement requirement.

29. *Amend the proposed rule regarding responsibilities in a routed export transaction.* A commentor requested language be added to § 30.3(e), ''Parties are free to structure transactions as they wish and to delegate functions and tasks as they deem necessary, as long as the transactions comply with the FTR.'' The Census Bureau considered the proposal and decided that the addition of the proposed language would create confusion rather than clarity. In a routed

export transaction the authorized agent of the FPPI shall be responsible for filing the EEI accurately and timely in accordance with the FTR.

30. *Amend the rule by adding a note to § 30.3.* A commentor requested that the Census Bureau revise the FTR to be consistent with the EAR. The Census Bureau added a note to § 30.3 to alert filers that the definition used for exporter in the EAR is different from the definition used for the USPPI in the FTR because of each agency's distinct obligations and requirements. Therefore, due to the different mission of each agency, conformity of documentation is not required in the FTR.

31. *Amend the proposed rule, § 30.37(a)—Miscellaneous Exemptions.* A commentor requested that the Census Bureau confirm if the miscellaneous exemption for goods valued $2,500 or less can be used if the domestic value and the foreign value are each under $2,500, even if their total value exceeds $2,500. The Census Bureau's FTR requires that items of domestic or foreign origin under the same commodity classification number should always be reported separately and listed only if either is valued over $2,500.

Changes to the Proposed Rule Made by This Final Rule

After consideration of the comments received, the Census Bureau revised certain provisions and added several provisions in the Final Rule to address the concerns of the commentors and to clarify the requirements of the rule. The changes made in this Final Rule are as follows:

1. Section 30.2(a)(ii) is amended to clarify that goods previously admitted to customs warehouses or FTZs moving under CBP bond between Puerto Rico and United States and to the U.S. Virgin Islands from the United States or Puerto Rico shall require filing EEI. This change is in response to concerns addressed in item 15 in the ''Response to Comments'' section.

2. Section 30.2(a)(iv) is amended to clarify exemptions in Subpart D by deleting (A), specific references to Office of Foreign Assets Control regulations, renumbering existing (B) through (E) to (A) through (D), and adding a new (E) to clarify a BIS requirement. This change was made to provide clarity and consistency.

3. Section 30.2(d)(2) is amended by deleting ''* * * when an export license or license exemption is not required,'' because currently no export license is required for the following U.S. territories: Guam Island, American Samoa, Wake Island, Midway Island, and the Northern Mariana Islands. This change was in response to concerns addressed in item 11 in the ''Response to Comments'' section.

4. In response to item 20 in the ''Response to Comments'' section, § 30.3(b)(2)(iv) is deleted because it relates to an exemption for reexports that is addressed in § 30.37. Section 30.3(b)(2)(v) is renumbered § 30.3(b)(2)(iv). A new § 30.3(b)(2)(v) has been added to provide clarification on who shall be the USPPI when goods are imported for consumption and reexported without being changed or enhanced. This change was made during internal agency review.

5. Section 30.3(e)(1) is amended to clarify the language describing the treatment of a routed export transaction if the FPPI agrees to allow the USPPI to file EEI. This change is in response to concerns addressed in item 10 in the ''Response to Comments'' section. Also, § 30.3(e)(1) is amended by adding a note to paragraph (e)(1) that was inadvertently dropped in the proposed rule.

6. Section 30.3(e)(2) is amended to clarify the authorized agents responsibilities in a routed export transaction. This change is in response to concerns addressed in item 10 in the ''Response to Comments'' section.

7. Section 30.3(e)(2)(xiii) and (xiv) is amended by adding a clarifying note to this paragraph that was inadvertently dropped in the proposed rule. This change was made to provide clarity and consistency.

8. Section 30.3(e)(1) is amended by adding a clarifying note to this section that was inadvertently dropped in the proposed rule. This change is in response to concerns addressed in item 29 in the ''Response to Comments'' section.

9. Section 30.3(f) is amended to clarify that in a routed export transaction the USPPI is not required to provide the agent of the FPPI with a power of attorney or written authorization. This change is in response to concerns addressed in item 10 in the ''Response to Comments'' section.

10. Section 30.6(a)(18) is amended by deleting shipments under carnet from the list of export codes. This listing of carnets in the export codes was in error. This change is made to ensure consistency with the response to concerns addressed in item 20 in the ''Response to Comments'' section.

11. Section 30.6(b)(13) is amended to specify that an entry number is required for goods withdrawn from a FTZ and exported. This change is in response to concerns addressed in item 15 in the ''Response to Comments'' section.

12. Section 30.10 is amended to clarify the requirements for the retention of EEI and the authority to require production of documentation of EEI. This change is in response to concerns addressed in item 19 in the ''Response to Comments'' section.

13. Section 30.37 is amended by adding exemptions (q), (r), (s), and (t) that were not included in the proposed rule. This change was made to provide clarity and consistency.

14. Section 30.4(b)(2)(i) is amended to read: ''(i) For vessel cargo, the USPPI or authorized agent shall file the EEI required by § 30.6 and provide the filing citation or exemption legend to the exporting carrier 24 hours prior to the cargo being loaded on the vessel at the U.S. port where the cargo is laden.'' This change is in response to concerns addressed in item 21 in the ''Response to Comments'' section.

15. Section 30.4(b)(2)(iv) is amended to read: ''(iv) For rail cargo, the USPPI or the authorized agent shall file the EEI, required by § 30.6, and provide the filing citation or exemption legend to the exporting carrier no later than two hours prior to the time train arrives at the U.S. border to go foreign.'' This change is in response to concerns addressed in item 21 in the ''Response to Comments'' section.

16. Section 30.45(a) is amended by deleting ''* * * U.S. possessions'' and replacing it with ''the U.S. Virgin Islands.'' The reference to U.S. territories was too broad. Also language was added to clarify that CBP may require a variety of documents, depending upon the method of transportation, to contain the proof of filing citation or exemption legend. This change is in response to concerns addressed in item 21 in the ''Response to Comments'' section.

17. Section 30.45(f) is amended to clarify by method of transportation when the carrier must obtain the filing citations or exemption legends. This change is in response to concerns addressed in item 21 in the ''Response to Comments'' section.

18. Section 30.37 is amended to include carnets as temporary exports that should have been included in the proposed rule. This change is in response to concerns addressed in item 20 in the ''Response to Comments'' section.

19. Section 30.71(b)(1) is amended by adding a note to paragraph (b)(1), which notes an inflation adjustment to penalty provision of Subpart H. This change was made as a result of the Adjustment for Inflation Final Rule effective December

14, 2004, and provided for by the Debt Collection Improvement Act of 1996, Public Law 104–134.

20. Subpart H is amended by adding § 30.74, Voluntary Self-Disclosure, to specify how to disclose violations or suspected violations of the FTR. This change is in response to concerns addressed in item 8 in the ''Response to Comments'' section.

21. Sections 30.2(c)(1), 30.5(a), and 30.5(c) are amended to clarify that the letter of intent to participate in AES must be filed electronically at *www.aesdirect.gov.* This change was made to eliminate the requirement to submit the paper letter of intent and to be consistent with a pure electronic environment because filing the information electronically reduces the burden on both trade and the government.

22. Section 30.1 is amended to clarify a number of definitions. These changes are in response to concerns addressed in item 9 in the ''Response to Comments'' section.

23. Section 30.5(d)(1) is amended to clarify that the requirement to change password only applies to employees leaving the company that had direct access to the AES. This change is in response to concerns addressed in item 13 in the ''Response to Comments'' section.

24. Section 30.9(b) is amended to clarify that fatal errors for EEI filed postdeparture must be corrected as soon as possible, but no later than ten days after departure if filed postdeparture. This change is in response to concerns addressed in item 22 in the ''Response to Comments'' section.

25. Section 30.7 is amended by deleting the filing citation from the section and adding an Appendix D to Part 30 AES Filing Citation, Exemption and Exclusion Legends. In addition, the Census Bureau limited the length of the AES downtime filing citation to no more than 32 characters. These changes were in response to concerns addressed in item 25 of the ''Response to Comments'' section and to provide clarity and consistency.

26. Appendix A to Part 30—Format for Letter of Intent has been removed. The Appendix B sample of Power of Attorney and written authorization has been renamed A.

27. Appendix B to Part 30—AES Filing Codes have been added to provide one reference for all the filing codes.

28. Appendix C to Part 30—Summary of Exemptions and Exclusions from EEI filing is being added to provide a summary of all FTR exemptions and exclusions.

29. Appendix D to Part 30—AES Filing Citation, Exemption and Exclusion Legends are being added to provide a summary of all citations and legends.

30. Appendix E to Part 30—FTSR to FTR Concordances are being added to provide a crosswalk between the FTSR and FTR.

31. Appendix F to Part 30—FTR to FTSR Concordances are being added to provide a crosswalk between the FTR and FTSR.

Program Requirements

To comply with the requirements of Public Law 107–228, the Census Bureau is amending in its entirety the FTSR to specify the requirements for the mandatory reporting of all export information through the AES when a SED was required. All future references to the SED shall be referred to as AES EEI.

The Census Bureau is making the following changes to Title 15, Code of Federal Regulations (CFR), part 30:

- Rename the FTSR to ''Part 30—Foreign Trade Regulations'' to more accurately reflect the scope of the revised regulations implementing full mandatory AES filing, such as the inclusion of Department of State requirements and the advanced filing requirement implemented by CBP.
- Remove requirements for filing a paper SED (Option 1), Commerce Form 7525–V, from Title 15 CFR 30, so that the AES will be the only mode for filing information previously required by the SED.
- Remove requirements for filing the in-transit SED, ENG Form 7513, from 15 CFR 30. Responsibility for ENG Form 7513 was transferred to the U.S. Department of the Army, U.S. Army Corps of Engineers.
- In § 30.2(a)(2), language was included to specify the four optional means for filing EEI. Two of those methods require the development of AES software using the Automated Export System Trade Interface Requirements (AESTIR).
- Section 30.2(d), lists types of export transactions outside the scope of the FTR. The list of out-of-scope transactions included in § 30.2(d) is not all-inclusive, but includes those types of shipments about which the Census Bureau receives frequent inquiries. These types of shipments are to be excluded from EEI filing.
- In § 30.3, language was included to specify that in a ''routed'' transaction, the USPPI can compile and transmit export information on behalf of the FPPI when agreed upon by the FPPI. This language is consistent with the language of § 758.3 of the EAR and permits the USPPI to act as an agent of the FPPI upon the written authorization by the FPPI.
- In § 30.4, the time and place-of-filing requirements for presenting proof of filing citations, postdeparture filing citations, and/or exemption legends are specified. Specific time and place-of-filing requirements are included in the FTR in accordance with provisions of § 341(a) of Public Law 107–210, the Trade Act of 2002. With the exception of the State Department, USML shipments under the control of the ITAR and shipments approved for postdeparture filing, the appropriate proof of filing citations and/or exemption legends are required to be provided to the exporting carrier within specified time frames depending on the mode of transportation used. For example, proof of filing citations for vessel cargo shall be provided to the exporting carrier no later than 24 hours prior to departure of the vessel from the U.S. port where the cargo is laden. Time and place-of-filing requirements for other modes of transportation also are presented in § 30.4 of the FTR.
- In § 30.4(b)(1) and § 30.4(b)(3) specify how to file EEI and acquire an ITN when AES, AES*Direct* or the participant's AES is unavailable for filing.
- In § 30.5(c), the postdeparture (formerly Option 4) approval procedures were removed. Certification and approval requirements for postdeparture filing of EEI were strengthened to address U.S. national security concerns and interests. Applications submitted by USPPIs for postdeparture filing will be subjected to closer scrutiny by the Census Bureau and other federal government partnership agencies participating in the AES postdeparture filing review process. Under the revised postdeparture filing requirements: (1) Authorized agents may no longer apply for postdeparture filing status on behalf of individual USPPIs. Only USPPIs may apply; (2) USPPIs must demonstrate the ability to meet the AES predeparture filing requirements by filing EEI through the AES before being approved for the postdeparture filing privilege; (3) USPPIs must meet a minimum number of shipments requirement before being authorized to file postdeparture; and (4) partnership agencies of the U.S. government shall determine whether or not a USPPI poses a significant threat to U.S. national security before granting the applicant postdeparture filing status.
- In § 30.6, language was added delineating the specific procedure for reporting the value of goods to the AES when inland freight and insurance

charges are not known at the time of exportation. When goods are sold at a point other than the port of export, freight, insurance, and other charges required to move the goods from their U.S. point of origin to the carrier at the port of export must be added to the selling price (or cost, if not sold) of the goods. Where the actual amount of freight, insurance, and other domestic charges are not available, an estimate of the domestic cost must be made and added to the cost or selling price of the goods to obtain the value to be reported to the AES.

• In § 30.6, a Routed Export Transaction Indicator and a Vehicle Identification Qualifier were added to the list of data elements to be reported through the AES. Both the Routed Export Transaction Indicator and the Vehicle Identification Qualifier indicate the conditions of other data elements reported to the AES. The Routed Export Transaction Indicator gives an indication of whether or not the EEI reported represents a routed export transaction. The Vehicle Identification Qualifier, when reported, identifies the type of vehicle number reported.

• In § 30.6, the Date of Arrival and the Waiver of Prior Notice Indicator were removed from the list of data elements that should be reported through the AES. These data elements were previously required to overcome disparities in reporting requirements for certain export shipments sent between the United States and Puerto Rico. With mandatory AES reporting, the Date of Arrival and Waiver of Prior Notice Indicator are no longer required, since shipments sent between the United States and Puerto Rico will no longer be reported differently from other export shipments.

• Subpart B sets forth export control and export licensing issues relevant to 15 CFR 30. This subpart adds references to export control and licensing requirements of the Department of State and other federal agencies. General guidelines for obtaining export control and licensing information also are presented for use by preparers and filers of EEI. The purpose of this subpart is to consolidate references to export control issues. No new requirements are introduced.

• In § 30.29, the language that describes the proper manner for reporting cost of repairs and/or alterations to goods, and the reporting of the value of replacement parts exported was revised. The FTSR did not specifically describe the manner in which these export transactions should be reported. Goods previously imported for repair and alteration only, and reexported, shall only include the value for parts and labor. Goods exported as replacement parts shall only include the value of the replacement part. No new requirements are specified in § 30.29.

• Subpart E sets forth carrier and manifest issues pertaining to provisions relevant to 15 CFR 30. Carrier and manifest issues are consolidated in Subpart E. Requirements for SEDs being attached to the manifest are replaced with requirements for proof of filing citations and/or exemption legends to be shown on the bill of lading, air waybill, or other commercial loading documents attached to the manifest. Specific requirements for annotating the bill of lading, air waybill, or other commercial loading documents are included in § 30.7, Subpart A of Part 30.

• Subpart F sets forth requirements for import shipments relevant to 15 CFR 30, including requirements for the electronic filing of statistical data for shipments imported into FTZs. Currently, requirements for electronically reporting FTZ admissions are included in the Census Bureau's ''Automated Foreign Trade Zone Reporting Program'' manual. Instructions to import filers on where to obtain information on reporting import data are added to Subpart F. Requirements for information on imports of goods into Guam are excluded from the FTR since Guam collects its own information on goods entering and leaving the area.

• A new Subpart H was created to cover the FTR penalty provisions formerly addressed in § 30.95 of the FTSR. New penalty provisions addressed in Subpart H of this part describe the increase in penalties imposed for violations from $100 to $1,000 for each day of delinquency, to a maximum from $1,100 to $10,000 per violation. In addition, the penalty provisions provide for situations when the filer knowingly fails to file, files false and/or misleading information and other violations of the FTR where a civil penalty shall not exceed $10,000 per violation and a criminal penalty shall not exceed $10,000 or imprisonment for no more than five years, or both, per violation. Finally, Subpart H provides for the enforcement of these penalty provisions by the BIS' Office of Export Enforcement (OEE) and the DHS's CBP, and ICE.

• Other nonsubstantive revisions were made to include language incorporated from the FTSR to clarify the intent of the provisions in the FTR.

The Department of State and DHS concur with the provisions contained in this Final Rule.

Rulemaking Requirements

Regulatory Flexibility Act

The Chief Counsel for Regulation of the DOC certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that this rule will not have a significant impact on a substantial number of small entities. The factual basis for this certification was published in the proposed rule and is not repeated here. No comments were received regarding the economic impact of this rule. As a result, a final regulatory flexibility analysis is not required and none was prepared.

Executive Orders

This rule has been determined to be not significant for purposes of Executive Order 12866. It has been determined that this rule does not contain policies with Federalism implications as that term is defined under Executive Order 13132.

Paperwork Reduction Act

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act (PRA), unless that collection of information displays a current, valid OMB control number. This rule contains a collection-of-information subject to the requirements of the PRA (44 U.S.C. 3501 *et seq.*) and that has been approved under OMB control number 0607–0152. The estimated burden hours for filing the SED information through the AES and related documents (*e.g.*, the AES Participant Application (APA) and AES*Direct*) are 752,000. In addition, this rule contains a collection of information that has been approved under OMB control numbers: OMB No. 1651–0022 (Entry Summary—CBP–7501), OMB No. 1651–0027 (Record of Vessel, Foreign Repair, or Equipment—CBP–226), and OMB No. 1651–0029 (Application for Foreign Trade Zone Admission and Status Designation—CBP–214). The public's reporting burden for the collection-of-information requirements includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection-of-information requirements.

List of Subjects in 15 CFR Part 30

Economic statistics, Exports, Foreign trade, Reporting and recordkeeping requirements.

■ For the reason stated in the preamble, the Census Bureau revises 15 CFR part 30 to read as follows:

PART 30—FOREIGN TRADE REGULATIONS

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30.2 General requirements for filing Electronic Export Information (EEI).
30.3 Electronic Export Information filer requirements, parties to export transactions, and responsibilities of parties to export transactions.
30.4 Electronic Export Information filing procedures, deadlines, and certification statements.
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Appendix F To Part 30—FTR to FTSR Concordance

Authority: 5 U.S.C. 301; 13 U.S.C. 301–307; Reorganization plan No. 5 of 1990 (3 CFR 1949–1953 Comp., p.1004); Department of Commerce Organization Order No. 35–2A, July 22, 1987, as amended and No. 35–2B, December 20, 1996, as amended; Public Law 107–228, 116 Stat. 1350.

Subpart A—General Requirements

§ 30.1 Purpose and definitions.

(a) This part sets forth the Foreign Trade Regulations (FTR) as required under the provisions of Title 13, United States Code (U.S.C.), Chapter 9, section 301. These regulations are revised pursuant to provisions of the Foreign Relations Authorization Act, Public Law 107–228 (the Act). This Act authorizes the Secretary of Commerce, with the concurrence of the Secretary of State and the Secretary of Homeland Security, to publish regulations mandating that all persons who are required to file export information under Chapter 9 of 13 U.S.C., file such information through the Automated Export System (AES) for all shipments where a Shipper's Export Declaration (SED) was previously required. The law further authorizes the Secretary of Commerce to issue regulations regarding imposition of civil and criminal penalties for violations of the provisions of the Act and these regulations.

(b) Electronic filing through the AES strengthens the U.S. government's ability to prevent the export of certain items to unauthorized destinations and/or end users because the AES aids in targeting, identifying, and when necessary confiscating suspicious or illegal shipments prior to exportation.

(c) Definitions used in the FTR. As used in this part, the following definitions apply:

AES applicant. The USPPI or authorized agent who applies to the Census Bureau for authorization to report export information electronically to the AES, or through AES*Direct* or its related applications.

AES*Direct.* A free Internet application supported by the Census Bureau that allows USPPIs, their authorized agent, or the authorized agent of the FPPI to transmit EEI through the AES via the Internet at *http://www.aesdirect.gov.*

AES downtime filing citation. A statement used in place of a proof of filing citation when the AES or AES*Direct* computer systems experiences a major failure. The downtime filing citation must appear on the bill of lading, air waybill, export shipping instructions, or other commercial loading documents.

AES participant application (APA). An electronic submission of an individual or a company's desire to participate in the AES. It sets forth a commitment to develop, maintain, and adhere to CBP and Census Bureau performance requirements and operational standards.

Air waybill. The shipping document used for the transportation of air freight includes conditions, limitations of liability, shipping instructions, description of commodity, and applicable transportation charges. It is generally similar to a straight non-

negotiable bill of lading and is used for similar purposes.

Annotation. An explanatory note (*e.g.*, proof of filing citation, postdeparture filing citation, AES downtime filing citation, exemption, or exclusion legend) placed on the bill of lading, air waybill, export shipping instructions, or other loading document.

Authorized agent. An individual or legal entity physically located in or otherwise under the jurisdiction of the United States that has obtained power of attorney or written authorization from a USPPI or FPPI to act on its behalf, and for purposes of this part, to complete and file the EEI.

Automated Broker Interface (ABI). A CBP system through which an importer or licensed customs broker can electronically file entry and entry summary data on goods imported into the United States.

Automated Export System (AES). The system, including AESDirect, for collecting EEI information (or any successor document) from persons exporting goods from the United States, Puerto Rico, or the U.S. Virgin Islands; between Puerto Rico and the United States; and to the U.S. Virgin Islands from the United States or Puerto Rico.

Automated Export System Trade Interface Requirements (AESTIR). The document that describes the operational requirements of the AES. The AESTIR presents record formats and other reference information used in the AES.

Automated Foreign Trade Zone Reporting Program (AFTZRP). The electronic reporting program used to transmit statistical data on goods admitted into a FTZ directly to the Census Bureau.

Bill of lading (BL). A document that establishes the terms of a contract between a shipper and a transportation company under which freight is to be moved between specified points for a specified charge. Usually prepared by the authorized agent on forms issued by the carrier, it serves as a document of title, a contract of carriage, and a receipt for goods.

Bond. An instrument used by CBP as security to ensure the payment of duties, taxes and fees and/or compliance with certain requirements such as the submission of manifest information.

Bonded warehouse. An approved private warehouse used for the storage of goods until duties or taxes are paid and the goods are properly released by CBP. Bonds must be posted by the warehouse proprietor and by the importer to indemnify the government if the goods are released improperly.

Booking. A reservation made with a carrier for a shipment of goods on a specific voyage, flight, truck or train.

Bureau of Industry and Security (BIS). This bureau within the U.S. Department of Commerce is concerned with the advancement of U.S. national security, foreign policy, and economic interests. The BIS is responsible for regulating the export of sensitive goods and technologies; enforcing export control, antiboycott, and public safety laws; cooperating with and assisting other countries on export control and strategic trade issues; and assisting U.S. industry to comply with international arms control agreements.

Buyer. The principal in the export transaction that purchases the commodities for delivery to the ultimate consignee. The buyer and ultimate consignee may be the same.

Cargo. Goods being transported.

Carnet. An international customs document that allows the carnet holder to import into the United States or export to foreign countries certain goods on a temporary basis without the payment of duties.

Carrier. An individual or legal entity in the business of transporting passengers or goods. Airlines, trucking companies, railroad companies, shipping lines, pipeline companies, and slot charterers are all examples of carriers.

Civil penalty. A monetary penalty imposed on a USPPI, authorized agent, FPPI, carrier, or other party to the transaction for violating the FTR, including failing to file export information, filing false or misleading information, filing information late, and/or using the AES to further any illegal activity, and/or violating any other regulations of this part.

Commerce Control List (CCL). A list of items found in Supplement No. 1 to Part 774 of the EAR. Supplement No. 2 to Part 774 of the EAR contains the General Technology and Software Notes relevant to entries contained in the CCL.

Compliance alert. An electronic response sent to the filer by the AES when the shipment was not reported in accordance with this part (*e.g.*, late filing). The filer is required to review their filing practices and take steps to conform with export reporting requirements.

Consignee. The person or entity named in a freight contract, a contract of carriage that designates to whom goods have been consigned, and that has the legal right to claim the goods at the destination.

Consignment. Delivery of goods from a USPPI (the consignor) to an agent (consignee) under agreement that the agent sells the goods for the account of the USPPI.

Container. A uniform, reusable metal ''box'' in which goods are shipped by vessel, truck, or rail as defined in the International Convention for Safe Containers, as amended (TIAS 9037; 29 U.S.T. 3709).

Controlling agency. The agency responsible for the license determination on specified goods exported from the United States.

Cost of goods sold. Cost of goods is the sum of expenses incurred in the USPPI acquisition or production of the goods.

Country of origin. The country where the goods were mined, grown, or manufactured or where each foreign material used or incorporated in a good underwent a change in tariff classification indicating a substantial transformation under the applicable rule of origin for the good. The country of origin for U.S. imports are reported in terms of the International Standards Organization (ISO) codes designated in the Schedule C, Classification of Country and Territory Designations.

Country of ultimate destination. The country where the goods are to be consumed, further processed, stored, or manufactured, as known to the USPPI at the time of export.

Criminal penalty. For the purpose of this part, a penalty imposed for knowingly or willfully violating the FTR, including failing to file export information, filing false or misleading information, filing information late, and/or using the AES to further illegal activity. The criminal penalty includes fines, imprisonment, and/or forfeiture.

Customs broker. An individual or entity licensed to enter and clear imported goods through CBP for another individual or entity.

Destination. The foreign location to which a shipment is consigned.

Distributor. An agent who sells directly for a supplier and maintains an inventory of the supplier's products.

Domestic exports. Goods that are grown, produced, or manufactured in the United States, and commodities of foreign origin that have been changed in the United States, including changes made in a U.S. FTZ, from the form in which they were imported, or that have been enhanced in value or improved in condition by further processing or manufacturing in the United States.

Drayage. The charge made for hauling freight, carts, drays, or trucks.

Dun & Bradstreet Number (DUNS). The DUNS Number is a unique 9-digit identification sequence that provides identifiers to single business entities

while linking corporate family structures together.

Dunnage. Materials placed around cargo to prevent shifting or damage while in transit.

Duty. A charge imposed on the import of goods. Duties are generally based on the value of the goods (ad valorem duties), some other factor, such as weight or quantity (specific duties), or a combination of value and other factors (compound duties).

Electronic export information (EEI). The electronic export data as filed in the AES. This is the electronic equivalent of the export data formerly collected as Shipper's Export Declaration (SED) information and now mandated to be filed through the AES or AESDirect.

Employer identification number (EIN). The USPPI's Internal Revenue Service (IRS) EIN is the 9-digit numerical code as reported on the Employer's Quarterly Federal Tax Return, Treasury Form 941.

End user. The person abroad that receives and ultimately uses the exported or reexported items. The end user is not an authorized agent or intermediary, but may be the FPPI or ultimate consignee.

Enhancement. A change or modification to goods that increases their value or improves their condition.

Entry number. Consists of a three-position entry filer code and a seven-position transaction code, plus a check digit assigned by the entry filer as a tracking number for goods entered into the United States.

Equipment number. The identification number for shipping equipment, such as container or igloo (Unit Load Device (ULD)) number, truck license number, or rail car number.

Exclusions. Transactions outside of the scope of the FTR that are excluded from the requirement of filing EEI.

Exemption. A specific reason as cited within this part that eliminates the requirement for filing EEI.

Exemption legend. A notation placed on the bill of lading, air waybill, export shipping instructions, or other commercial loading document that describes the basis for not filing EEI for an export transaction. The exemption legend shall reference the number of the section or provision in the FTR where the particular exemption is provided (See Appendix D to this part).

Export. To send or transport goods out of a country.

Export Administration Regulations (EAR). Regulations administered by the BIS that, among other things, provide specific instructions on the use and types of export licenses required for certain commodities, software, and technology. These regulations are located in 15 CFR parts 730 through 774.

Export control. Governmental control of exports for statistical or strategic and short supply or national security purposes, and/or for foreign policy purposes.

Export Control Classification Number (ECCN). The number used to identify items on the CCL, Supplement No. 1 to Part 774 of the EAR. The ECCN consists of a set of digits and a letter. Items that are not classified under an ECCN are designated ''EAR99.'' Section 738.2 of the EAR describes the ECCN format.

Export license. A controlling agency's document authorizing export of particular goods in specific quantities or values to a particular destination. Issuing agencies include, but are not limited to, the U.S. State Department; the BIS; the Bureau of Alcohol, Tobacco, and Firearms; and the Drug Enforcement Administration permit to export.

Export statistics. The measure of quantity and value of goods (except for shipments to U.S. military forces overseas) moving out of the United States to foreign countries, whether such goods are exported from within the Customs territory of the United States, a CBP bonded warehouse, or a U.S. Foreign Trade Zone (FTZ).

Export value. The value of the goods at the U.S. port of export. The value shall be the selling price (or the cost if the goods are not sold), including inland or domestic freight, insurance, and other charges to the U.S. seaport, airport, or land border port of export. Cost of goods is the sum of expenses incurred in the USPPI's acquisition or production of the goods. (See § 30.6(a)(17)).

Fatal error message. An electronic response sent to the filer by the AES when invalid or missing data has been encountered, the EEI has been rejected, and the information is not on file in the AES. The filer is required to immediately correct the problem, correct the data, and retransmit the EEI.

Filers. Those USPPIs or authorized agents (of either the USPPI or the FPPI) who have been approved to file EEI directly in the AES system or AES*Direct* Internet application.

Filing electronic export information. The act of entering the EEI in the AES.

Foreign entity. A person that temporarily enters into the United States and purchases or obtains goods for export. This person does not physically maintain an office or residence in the United States. This is a special class of USPPI.

Foreign exports. Commodities of foreign origin that have entered the United States for consumption, for entry into a CBP bonded warehouse or U.S. FTZ, and which, at the time of exportation, are in substantially the same condition as when imported.

Foreign principal party in interest (FPPI). The party shown on the transportation document to whom final delivery or end-use of the goods will be made. This party may be the ultimate consignee.

Foreign Trade Zone (FTZ). Specially licensed commercial and industrial areas in or near ports of entry where foreign and domestic goods, including raw materials, components, and finished goods, may be brought in without being subject to payment of customs duties. Goods brought into these zones may be stored, sold, exhibited, repacked, assembled, sorted, graded, cleaned, or otherwise manipulated prior to reexport or entry into the country's customs territory.

Forwarding agent. The person in the United States who is authorized by the principal party in interest to facilitate the movement of the cargo from the United States to the foreign destination and/or prepare and file the required documentation.

Goods. Merchandise, supplies, raw materials, and products or any other item identified by a Harmonized Tariff System (HTS) code.

Harmonized system. A method of classifying goods for international trade developed by the Customs Cooperation Council (now the World Customs Organization).

Harmonized Tariff Schedule of the United States (HTSUS). An organized listing of goods and their duty rates, developed by the U.S. International Trade Commission, which is used by CBP as the basis for classifying imported products, including establishing the duty to be charged and providing statistical information about imports and exports.

Imports. All goods physically brought into the United States, including:

(1) Goods of foreign origin, and

(2) Goods of domestic origin returned to the United States without substantial transformation affecting a change in tariff classification under an applicable rule of origin.

Inbond. A procedure administered by CBP under which goods are transported or warehoused under CBP supervision until the goods are either formally entered into the customs territory of the United States and duties are paid, or until they are exported from the United States. The procedure is so named because the cargo moves under a bond (financial liability assured by the principal on the bond) from the gateway seaport, airport, or land border port and remains ''inbond'' until CBP releases the

cargo at the inland Customs point or at the port of export.

Inland freight. The cost to ship goods between points inland and the seaport, airport, or land border port of exportation, other than baggage, express mail, or regular mail.

Intermediate consignee. The person or entity in the foreign country who acts as an agent for the principal party in interest with the purpose of effecting delivery of items to the ultimate consignee. The intermediate consignee may be a bank, forwarding agent, or other person who acts as an agent for a principal party in interest.

Internal Transaction Number (ITN). The AES generated number assigned to a shipment confirming that an EEI transaction was accepted and is on file in the AES.

International Standards Organization (ISO) Country Codes. The 2-position alphabetic ISO code for countries used to identify countries for which shipments are reportable.

International Traffic in Arms Regulations (ITAR). Regulations administered by the Directorate of Defense Trade Controls within the U.S. State Department that provide for the control of the export and temporary import of defense articles and defense services. These regulations are located in 22 CFR 120–130.

Interplant correspondence. Records or documents from a U.S. firm to its subsidiary or affiliate, whether in the United States or overseas.

In-transit. Goods shipped through the United States, Puerto Rico, or the U.S. Virgin Islands from one foreign country or area to another foreign country or area without entering the consumption channels of the United States.

License applicant. The person who applies for an export or reexport license. (For example, obtaining a license for commodities, software, or technology that are listed on the CCL.)

License exception. An authorization that allows a USPPI or other appropriate party to export or reexport under stated conditions, items subject to the EAR that would otherwise require a license under the EAR. The BIS License Exceptions are currently contained in Part 740 of the EAR (15 CFR part 740).

Loading document. A document that establishes the terms of a contract between a shipper and a transportation company under which freight is to be moved between points for a specific charge. It is usually prepared by the shipper and actuated by the carrier and serves as a document of title, a contract of carriage, and a receipt for goods. Examples of loading documents include the air waybill, inland bill of lading, ocean bill of lading, and through bill of lading.

Manifest. A collection of documents, including forms, such as the cargo declaration and annotated bills of lading, that lists and describes the cargo contents of a carrier, container, or warehouse. Carriers required to file manifests with CBP Port Director must include an AES filing citation, or exemption or exclusion legend for all cargo being transported.

Merchandise. Goods, wares, and chattels of every description, and includes merchandise the exportation of which is prohibited, and monetary instruments as defined in 31 U.S.C. 5312.

Method of transportation. The method by which goods arrive in or are exported from the United States by way of seaports, airports, or land border crossing points. Methods of transportation include vessel, air, truck, rail, or other.

North American Free Trade Agreement (NAFTA). The formal agreement, or treaty, among Canada, Mexico, and the United States to promote trade amongst the three countries. It includes measures for the elimination of tariffs and nontariff barriers to trade, as well as numerous specific provisions concerning the conduct of trade and investment.

Office of Foreign Assets Control (OFAC). An agency within the U.S. Department of the Treasury that administers and enforces economic and trade sanctions based on U.S. foreign policy and national security goals against targeted foreign countries, terrorists, international narcotics traffickers, and those engaged in activities related to the proliferation of weapons of mass destruction. The OFAC acts under Presidential wartime and national emergency powers, as well as authority granted by specific legislation, to impose controls on transactions and freeze foreign assets under U.S. jurisdiction.

Order party. The person in the United States that conducts the direct negotiations or correspondence with the foreign purchaser or ultimate consignee and who, as a result of these negotiations, receives the order from the FPPI. If a U.S. order party directly arranges for the sale and export of goods to the FPPI, the U.S. order party shall be listed as the USPPI in the EEI.

Packing list. A list showing the number and kinds of items being shipped, as well as other information needed for transportation purposes.

Partnership agencies. U.S. government agencies that have statistical and analytical reporting and/or monitoring and enforcement responsibilities related to AES postdeparture filing privileges.

Party ID type. Identifies whether the Party ID is an EIN, SSN, DUNS, or Foreign Entity reported to the AES, *i.e.*, E=EIN, S=SSN, D=DUNS, T=Foreign Entity.

Person. Any natural person, corporation partnership or other legal entity of any kind, domestic or foreign.

Port of export. The seaport or airport where the goods are loaded on the exporting carrier that is taking the goods out of the United States, or the port where exports by overland transportation cross the U.S. border into a foreign country. In the case of an export by mail, use port code 8000.

Postdeparture filing. The privilege granted to approved USPPIs for their EEI to be filed up to 10 calendar days after the date of export, *i.e.*, the date the goods are scheduled to cross the U.S. border.

Postdeparture filing citation. A notation placed on the bill of lading, air waybill, export shipping instructions, or other commercial loading documents that states that the EEI will be filed after departure of the carrier. (See Appendix D of this part.)

Power of attorney. A legal authorization, in writing, from a USPPI or FPPI stating that the agent has authority to act as the principal party's true and lawful agent for purposes of preparing and filing the EEI in accordance with the laws and regulations of the United States.

Primary benefit. Receiving the majority payment or exchange of item of value or other legal consideration resulting from an export trade transaction; usually monetary.

Principal parties in interest. Those persons in a transaction that receive the primary benefit, monetary or otherwise, from the transaction. Generally, the principals in a transaction are the seller and the buyer. In most cases, the forwarding or other agent is not a principal party in interest.

Proof of filing citation. A notation placed on the bill of lading, air waybill, export shipping instructions, or other commercial loading document, usually for carrier use, that provides evidence that the EEI has been filed and accepted in the AES.

Reexport. For statistical purposes: These are exports of foreign-origin goods that have previously entered the United States, Puerto Rico, or the U.S. Virgin Islands for consumption, entry into a CBP bonded warehouse, or a U.S. FTZ, and at the time of exportation, have undergone no change in form or condition or enhancement in value by

further manufacturing in the United States, Puerto Rico, the U.S. Virgin Islands, or U.S. FTZs. For the purpose of goods subject to export controls (*e.g.*, U.S. Munitions List (USML) articles) these are shipments of U.S.-origin products from one foreign destination to another.

Related party transaction. A transaction involving trade between a USPPI and an ultimate consignee where either party owns directly or indirectly 10 percent or more of the other party.

Remission. The cancellation or release from a penalty, including fines, and/or forfeiture, under this part.

Retention. The necessary act of keeping all documentation pertaining to an export transaction for a period of at least five years for an EEI filing, or a time frame designated by the controlling agency for licensed shipments, whichever is longer.

Routed export transaction. A transaction in which the FPPI authorizes a U.S. agent to facilitate export of items from the United States on its behalf and prepare and file the EEI.

Schedule B. The Statistical Classification of Domestic and Foreign Commodities Exported from the United States. These 10-digit commodity classification numbers are administered by the Census Bureau and cover everything from live animals and food products to computers and airplanes. It should also be noted that all import and export codes used by the United States are based on the Harmonized Tariff System.

Schedule C. The Classification of Country and Territory Designations. The Schedule C provides a list of country of origin codes. The country of origin is reported in terms of the International Standards Organization codes.

Schedule D. The Classification of CBP districts and ports. The Schedule D provides a list of CBP districts and ports and the corresponding numeric codes used in compiling U.S. foreign trade statistics.

Schedule K. The Classification of Foreign Ports by Geographic Trade Area and Country. The Schedule K lists the major seaports of the world that directly handle waterborne shipments in the foreign trade of the United States, and includes numeric codes to identify these ports. This schedule is maintained by the U.S. Army Corps of Engineers.

Seller. A principal in the transaction, usually the manufacturer, producer, wholesaler, or distributor of the goods, that receives the monetary benefit or other consideration for the exported goods.

Service center. A company, entity, or organization which has been certified and approved to only transmit complete EEI to the AES.

Shipment. Unless as otherwise provided, all goods being sent from one USPPI to one consignee to a single country of destination on a single conveyance and on the same day.

Shipment reference number. A unique identification number assigned to the shipment by the filer for reference purposes. This number must remain unique for a period of five years.

Shipper's Export Declaration. The DOC paper form used under the FTSR to collect information from a person exporting from the United States. This form was used for compiling the official U.S. export statistics for the United States and for export control purposes.

Shipping weight. The total weight of a shipment in kilograms including goods and packaging.

Split shipment. A shipment booked for export on one aircraft, but split by the carrier and sent on two or more aircrafts of the same carrier.

Subzone. A special purpose foreign trade zone established as part of a foreign trade zone project with a limited purpose that cannot be accommodated within an existing zone. Subzones are often established to serve the needs of a specific company and may be located within an existing facility of the company.

Tariff schedule. A comprehensive list or schedule of goods with applicable duty rates to be paid or charged for each listed article as it enters or leaves a country.

Transmitting electronic export information. The act of sending the completed EEI to the AES.

Transportation reference number. A reservation number assigned by the carrier to hold space on the carrier for cargo being shipped. It is the booking number for vessel shipments and the master air waybill number for air shipments, the bill of lading number for rail shipments, and the freight or pro bill for truck shipments.

Ultimate consignee. The person, party, or designee that is located abroad and actually receives the export shipment. This party may be the end user or the FPPI.

United States Munitions List (USML). Articles and services designated for defense purposes under the ITAR and specified in 22 CFR 121.

Unlading. The physical removal of cargo from an aircraft, truck, rail, or vessel.

U.S. Customs and Border Protection (CBP). CBP is the unified border agency within the DHS charged with the management, control, and protection of our Nation's borders at and between the official ports of entry to the United States. CBP is charged with keeping terrorist and terrorist weapons from entering the country and enforcing customs, immigration, agricultural and countless other laws of the United States.

U.S. Immigration and Customs Enforcement (ICE). An agency within the DHS that is responsible for enforcing customs, immigration and related laws and investigating violations of laws to secure the Nation's borders.

U.S. principal party in interest (USPPI). The person or legal entity in the United States that receives the primary benefit, monetary or otherwise, from the export transaction. Generally, that person or entity is the U.S. seller, manufacturer, or order party, or the foreign entity while in the United States when purchasing or obtaining the goods for export.

Vehicle Identification Number (VIN). A number issued by the manufacturer and used for the identification of a self-propelled vehicle.

Verify message. An electronic response sent to the filer by the AES when an unlikely condition is found.

Violation of the FTR. Failure of the USPPI, FPPI, authorized agent of the USPPI, FPPI, carrier, or other party to the transaction to comply with the requirements set forth in 15 CFR 30, for each export shipment.

Warning message. An electronic response sent to the filer by the AES when certain incomplete and conflicting data reporting conditions are encountered.

Wholesaler/distributor. An agent who sells directly for a supplier and maintains an inventory of the supplier's products.

Written authorization. A legal authorization, in writing, by the USPPI or FPPI stating that the agent has authority to act as the USPPI's or FPPI's true and lawful agent for purposes of preparing and filing the EEI in accordance with the laws and regulations of the United States.

Zone admission number. A unique and sequential number assigned by a FTZ operator or user for shipments admitted to a zone.

§ 30.2 General requirements for filing Electronic Export Information (EEI).

(a) *Filing requirements*—(1) The EEI shall be filed through the AES by the United States Principal Party In Interest (USPPI), the USPPI's authorized agent, or the authorized U.S. agent of the Foreign Principal Party In Interest (FPPI) for all exports of physical goods,

including shipments moving pursuant to orders received over the Internet. The Automated Export System (AES) is the electronic system for collecting Shipper's Export Declaration (SED) (or any successor document) information from persons exporting goods from the United States, Puerto Rico, Foreign Trade Zones (FTZs) located in the United States or Puerto Rico, the U.S. Virgin Islands, between Puerto Rico and the United States, and to the U.S. Virgin Islands from the United States or Puerto Rico. Exceptions, exclusions, and exemptions to this requirement are provided for in paragraph (d) of this section and Subpart D of this part. References to the AES also shall apply to AES*Direct* unless otherwise specified. For purposes of the regulations in this part, the SED information shall be referred to as EEI. Filing through the AES shall be done in accordance with the definitions, specifications, and requirements of the regulations in this part for all export shipments, except as specifically excluded in § 30.2(d) or exempted in Subpart D of this part, when shipped as follows:

(i) To foreign countries or areas, including free (foreign trade) zones located therein (see § 30.36 for exemptions for shipments from the United States to Canada) from any of the following:

(A) The United States, including the 50 states and the District of Columbia.

(B) Puerto Rico.

(C) FTZs located in the United States or Puerto Rico.

(D) The U.S. Virgin Islands.

(ii) Between any of the following nonforeign areas including goods previously admitted to customs warehouses or FTZs and moving under a U.S. Customs and Border Protection (CBP) bond:

(A) To Puerto Rico from the United States.

(B) To the United States from Puerto Rico.

(C) To the U.S. Virgin Islands from the United States or Puerto Rico.

(iii) The EEI shall be filed for goods moving as described in paragraphs (a)(1)(i) and (ii) of this section by any mode of transportation. (Instructions for filing EEI for vessels, aircraft, railway cars, and other carriers when sold while outside the areas described in paragraphs (a)(1)(i) and (ii) are covered in § 30.26.)

(iv) Notwithstanding exemptions in Subpart D, EEI shall be filed for the following types of export shipments, regardless of value:

(A) Requiring a Department of Commerce, Bureau of Industry and Security (BIS) license (15 CFR 730–774).

(B) Requiring a Department of State, Directorate of Defense Trade Controls (DDTC) license under the International Traffic in Arms Regulations (ITAR) (22 CFR Parts 120 through 130).

(C) Subject to the ITAR, but exempt from license requirements.

(D) Requiring a Department of Justice, Drug Enforcement Administration (DEA) export permit (21 CFR 1312).

(E) Destined for a country listed in Country Group E:1 as set forth in Supplement 1 to 15 CFR 740.

(F) Requiring an export license issued by any other federal government agency.

(G) Classified as rough diamonds under 6-digit HS subheadings 7102.10, 7102.21, and 7102.31.

(2) *Filing methods.* The USPPI has four means for filing EEI: use AES*Direct*; develop AES software using the AESTIR (see *http://www.cbp.gov/xp/cgov/export/aes/*); purchase software developed by certified vendors using the AESTIR; or use an authorized agent. An FPPI can only use an authorized agent in a routed export transaction.

(b) *General requirements*—(1) The EEI shall be filed prior to exportation (see § 30.4) unless the USPPI has been approved to submit export data on a postdeparture basis (see § 30.5(c)). Shipments requiring a license or license exemption may be filed postdeparture only when the appropriate licensing agency has granted the USPPI authorization. See Subpart B of this part.

(2) Specific data elements required for EEI filing are contained in § 30.6.

(3) The AES downtime procedures provide uniform instructions for processing export transactions when the AES or AES*Direct* or the computer system of an AES participant is unavailable for transmission. (See § 30.4(b)(1) and § 30.4(b)(3).)

(4) Instructions for particular types of transactions and exemptions from these requirements are found in Subparts C and D of this part.

(5) The EEI is required to be filed in the AES prior to export for shipments by vessel going directly to the countries identified in U.S. Customs and Border Protection regulations 19 CFR 4.75(c) and by aircraft going directly or indirectly to those countries. (See U.S. Customs and Border Protection regulations 19 CFR 122.74(b)(2).)

(c) *Certification and filing requirements.* Filers of EEI shall be required to meet application, certification, and filing requirements before being approved to submit EEI. Steps leading toward approval for the AES or the AES*Direct* filing include the following processes: (See § 30.5 for specific application, certification, and filing standards applicable to AES and AES*Direct* submissions.)

(1) Submission of an electronic AES Participant Application (APA) for AES filing or submission of an online registration for filing through *http://www.census.gov/aes*.

(2) Successful completion of certification testing for AES or for AES*Direct* filing.

(d) *Exclusions from filing EEI.* The following types of transactions are outside the scope of this part and shall be excluded from EEI filing:

(1) Goods shipped under CBP bond through the United States, Puerto Rico, or the U.S. Virgin Islands from one foreign country or area to another where such goods do not enter the consumption channels of the United States.

(2) Goods shipped from the U.S. territories and goods shipped between the United States and these territories do not require EEI filing. However, goods transiting U.S. territories to foreign destinations require EEI filing.

(3) Electronic transmissions and intangible transfers. (See Subpart B of this part for export control requirements for these types of transactions.)

(4) Goods shipped to Guantanamo Bay Naval Base in Cuba from the United States, Puerto Rico, or the U.S. Virgin Islands and from Guantanamo Bay Naval Base to the United States, Puerto Rico, or the U.S. Virgin Islands. (See § 30.39 for filing requirements for shipments exported by the U.S. Armed Services.)

(e) *Penalties.* Failure of the USPPI, the authorized agent of either the USPPI or the FPPI, the exporting carrier, or any other person subject thereto to comply with any of the requirements of the regulations in this part renders such persons subject to the penalties provided for in Subpart H of this part.

§ 30.3 Electronic Export Information filer requirements, parties to export transactions, and responsibilities of parties to export transactions.

(a) *General requirements.* The filer of EEI for export transactions is either the USPPI, the authorized agent, or the authorized U.S. agent of the FPPI. All EEI submitted to the AES shall be complete, correct, and based on personal knowledge of the facts stated or on information furnished by the parties to the export transaction. The filer shall be physically located in the United States at the time of filing, have an EIN or SSN, or DUNS number and be certified to report in the AES. The filer is responsible for the truth, accuracy, and completeness of the EEI, except insofar as that party can demonstrate

that he or she reasonably relied on information furnished by other responsible persons participating in the transaction. All parties involved in export transactions, including U.S. authorized agents, should be aware that invoices and other commercial documents may not necessarily contain all the information needed to prepare the EEI. The parties shall ensure that all information needed for reporting to the AES, including correct export licensing information, is provided to the authorized agent for the purpose of correctly preparing the EEI.

(b) *Parties to the export transaction*—(1) *Principal parties in interest.* Those persons in a transaction that receive the primary benefit, monetary or otherwise, are considered principal parties to the transaction. Generally, the principal parties in interest in a transaction are the seller and buyer. In most cases, the forwarding or other agent is not a principal party in interest.

(2) *USPPI.* For purposes of filing EEI, the USPPI is the person or legal entity in the United States that receives the primary benefit, monetary or otherwise, from the transaction. Generally, that person or entity is the U.S. seller, manufacturer, order party, or foreign entity purchasing or obtaining goods for export. The foreign entity shall be listed as the USPPI if it is in the United States when the items are purchased or obtained for export. The foreign entity shall then follow the provisions for filing the EEI specified in § 30.3 and § 30.6 pertaining to the USPPI.

(i) If a U.S. manufacturer sells goods directly to an entity in a foreign area, the U.S. manufacturer shall be listed as the USPPI in the EEI.

(ii) If a U.S. manufacturer sells goods, as a domestic sale, to a U.S. buyer (wholesaler/distributor) and that U.S. buyer sells the goods for export to a FPPI, the U.S. buyer (wholesaler/distributor) shall be listed as the USPPI in the EEI.

(iii) If a U.S. order party directly arranges for the sale and export of goods to a foreign entity, the U.S. order party shall be listed as the USPPI in the EEI.

(iv) If a customs broker is listed as the importer of record when entering goods into the United States for immediate consumption or warehousing entry, the customs broker may be listed as the USPPI in the EEI if the goods are subsequently exported without change or enhancement.

(v) If a foreign person is listed as the importer of record when entering goods into the United States for immediate consumption or warehousing entry, the customs broker who entered the goods, may be listed as the USPPI in the EEI if the goods are subsequently exported without change or enhancement.

(3) *Authorized agent.* The agent shall be authorized by the USPPI or, in the case of a routed export transaction, the agent shall be authorized by the FPPI to prepare and file the EEI. In a routed export transaction, the authorized agent can be the ''exporter'' for export control purposes as defined in 15 CFR 772.1 of the U.S. Department of Commerce EAR. However, the authorized agent shall not be shown as the USPPI in the EEI unless the agent acts as a USPPI in the export transaction as defined in paragraphs (b)(2)(iii), (iv), and (v) of this section.

(c) *General responsibilities of parties in export transactions*—(1) *USPPI responsibilities.*

(i) The USPPI can prepare and file the EEI itself, or it can authorize an agent to prepare and file the EEI on its behalf. If the USPPI prepares the EEI itself, the USPPI is responsible for the accuracy and timely transmission of all the export information reported to the AES.

(ii) When the USPPI authorizes an agent to file the EEI on its behalf, the USPPI is responsible for:

(A) Providing the authorized agent with accurate and timely export information necessary to file the EEI.

(B) Providing the authorized agent with a power of attorney or written authorization to file the EEI (see paragraph (f) of this section for written authorization requirements for agents).

(C) Retaining documentation to support the information provided to the authorized agent for filing the EEI, as specified in § 30.10.

(2) *Authorized agent responsibilities.* The agent, when authorized by a USPPI to prepare and file the EEI for an export transaction, is responsible for performing the following activities:

(i) Accurate preparation and timely filing of the EEI based on information received from the USPPI and other parties involved in the transaction.

(ii) Obtaining a power of attorney or written authorization to file the EEI.

(iii) Retaining documentation to support the information reported to the AES, as specified in § 30.10.

(iv) Upon request, providing the USPPI with a copy of the export information filed in a mutually agreed upon format.

(d) *Filer responsibilities.* Responsibilities of USPPIs and authorized agents filing EEI are as follows:

(1) Filing complete and accurate information (see § 30.4 for a delineation of filing responsibilities of USPPIs and authorized agents).

(2) Filing information in a timely manner in accordance with the provisions and requirements contained in this part.

(3) Responding to fatal errors, warning, verify and reminder messages, and compliance alerts generated by the AES in accordance with provisions and requirements contained in this part.

(4) Providing the exporting carrier with the required proof of filing citations or exemption legends in accordance with provisions contained in this part.

(5) Promptly filing corrections or cancellations to EEI in accordance with provisions contained in § 30.9.

(6) Retaining all necessary and proper documentation related to EEI transactions in accordance with provisions contained in this part (see § 30.10 for specific requirements for retaining and producing documentation for export shipments).

(e) *Responsibilities of parties in a routed export transaction.* The Census Bureau recognizes ''routed export transactions'' as a subset of export transactions. A routed export transaction is a transaction in which the FPPI authorizes a U.S. agent to facilitate the export of items from the United States and to prepare and file EEI.

(1) *USPPI responsibilities.* In a routed export transaction, the FPPI may authorize or agree to allow the USPPI to prepare and file the EEI. If the FPPI agrees to allow the USPPI to file the EEI, the FPPI must provide a written authorization to the USPPI assuming the responsibility for filing. The USPPI may authorize an agent to file the EEI on its behalf. If the USPPI or its agent prepares and files the EEI, it shall retain documentation to support the EEI filed. If the FPPI agrees to allow the USPPI to file EEI, the filing of the export transaction shall be treated as a routed export transaction. If the FPPI authorizes an agent to prepare and file the EEI, the USPPI shall retain documentation to support the information provided to the agent for preparing the EEI as specified in § 30.10 and provide the agent with the following information to assist in preparing the EEI:

(i) Name and address of the USPPI.

(ii) USPPI's EIN or SSN.

(iii) State of origin (State).

(iv) FTZ if applicable.

(v) Commercial description of commodities.

(vi) Origin of goods indicator: Domestic (D) or Foreign (F).

(vii) Schedule B or HTSUSA, Classification Commodity Code.

(viii) Quantities/units of measure.

(ix) Value.

(x) Export Control Classification Number (ECCN) or sufficient technical information to determine the ECCN.

(xi) All licensing information necessary to file the EEI for commodities where the Department of State, the Department of Commerce, or other U.S. government agency issues a license for the commodities being exported, or the merchandise is being exported under a license exemption or license exception.

(xii) Any information that it knows will affect the determination of license authorization (see Subpart B of this part for additional information on licensing requirements).

Note to Paragraph (e)(1) of this section: For items in paragraph (e) (1) (ix), (x),(xi) and (xii) of this section, where the FPPI has assumed responsibility for determining and obtaining license authority see requirements set forth in 15 CFR 758.3 of the EAR.

(2) *Authorized agent responsibilities.* In a routed export transaction, if an authorized agent is preparing and filing the EEI on behalf of the FPPI, the authorized agent must obtain a power of attorney or written authorization from the FPPI and prepare and file the EEI based on information obtained from the USPPI or other parties involved in the transaction. The authorized agent shall be responsible for filing the EEI accurately and timely in accordance with the FTR. Upon request, the authorized agent will provide the USPPI with a copy of the power of attorney or written authorization from the FPPI. The authorized agent shall also retain documentation to support the EEI reported through the AES. The agents shall upon request, provide the USPPI with the data elements in paragraphs (e)(1)(i) through (xii) of this section as submitted through the AES. The authorized agent shall provide the following export information through the AES:

(i) Date of export.

(ii) Transportation Reference Number.

(iii) Ultimate consignee.

(iv) Intermediate consignee, if applicable.

(v) Authorized agent name and address.

(vi) EIN, SSN, or DUNS number of the authorized agent.

(vii) Country of ultimate destination.

(viii) Method of transportation.

(ix) Carrier identification and conveyance name.

(x) Port of export.

(xi) Foreign port of unloading.

(xii) Shipping weight.

(xiii) ECCN.

(xiv) License or license exemption information.

Note to Paragraph (e)(2) of this section: For items in paragraphs (e)(2)(xiii) and (xiv) of this section, where the FPPI has assumed responsibility for determining and obtaining license authority, see requirements set forth in 15 CFR 758.3 of the EAR.

(f) *Authorizing an agent.* In a power of attorney or other written authorization, authority is conferred upon an agent to perform certain specified acts or kinds of acts on behalf of a principal (see 15 CFR 758.1(h) of the EAR). In cases where an authorized agent is filing EEI to the AES, the agent shall obtain a power of attorney or written authorization from a principal party in interest to file the information on its behalf. A power of attorney or written authorization should specify the responsibilities of the parties with particularity and should state that the agent has authority to act on behalf of a principal party in interest as its true and lawful agent for purposes of creating and filing EEI in accordance with the laws and regulations of the United States. In routed export transactions the USPPI is not required to provide an agent of the FPPI with a power of attorney or written authorization.

Note to § 30.3: The EAR defines the ''exporter'' as the person in the United States who has the authority of a principal party in interest to determine and control the sending of items out of the United States (see 15 CFR 772 of the EAR). For statistical purposes ''exporter'' is not defined in the FTR. Instead, however, the USPPI is defined in the FTR.

For purposes of licensing responsibility under the EAR, the U.S. agent of the FPPI may be the ''exporter'' or applicant on the license in certain routed export transactions (see 15 CFR 758.3 of the EAR). Therefore, due to the differences in export reporting requirements among Federal agencies, conformity of documentation is not required in the FTR.

§ 30.4 Electronic Export Information filing procedures, deadlines, and certification statements.

Two electronic filing options (predeparture and postdeparture) for transmitting EEI are available to the USPPI or authorized agent. The electronic postdeparture filing takes into account that complete information concerning export shipments may not always be available prior to exportation and accommodates these circumstances by providing, when authorized, for filing of EEI after departure. For example, for exports of seasonal and agricultural commodities, only estimated quantities, values, and consignees may be known prior to exportation. The procedures for obtaining certification as an AES filer and for applying for authorization to file on a postdeparture basis are described in § 30.5.

(a) *EEI transmitted predeparture.* The EEI shall always be transmitted prior to departure for the following types of shipments:

(1) Used self-propelled vehicles as defined in 19 CFR 192.1 of U.S. Customs and Border Protection regulations.

(2) Essential and precursor chemicals requiring a permit from the DEA;

(3) Shipments defined as ''sensitive'' by Executive Order;

(4) Shipments where a U.S. government agency requires predeparture filing;

(5) Shipments defined as ''routed export transactions'' (see § 30.3(e));

(6) Shipments to countries where complete outbound manifests are required prior to clearing vessels or aircraft for export (see U.S. Customs and Border Protection regulations 19 CFR 4.75(c) and 122.74(b)(2) for a listing of these countries);

(7) Items identified on the USML of the ITAR (22 CFR 121);

(8) Exports that require a license from the BIS, unless the BIS has approved postdeparture filing privileges for the USPPI;

(9) Shipments of rough diamonds classified under HS subheadings 7102.10, 7102.21, and 7102.31 and exported (reexported) in accordance with the Kimberley Process; and

(10) Shipments for which the USPPI has not been approved for postdeparture filing.

(b) *Filing deadlines for EEI transmitted predeparture.* The USPPI or the authorized agent shall file the required EEI and have received the AES ITN no later than the time period specified as follows:

(1) For USML shipments, refer to the ITAR (22 CFR 120 through 130) for specific requirements concerning predeparture filing time frames. In addition, if a filer is unable to acquire an ITN because the AES is not operating, the filer shall not export until the AES is operating and an ITN is acquired.

(2) For non-USML shipments, file the EEI and provide the ITN as follows:

(i) For vessel cargo, the USPPI or the authorized agent shall file the EEI required by § 30.6 and provide the filing citation or exemption legend to the exporting carrier twenty-four hours prior to loading cargo on the vessel at the U.S. port where the cargo is laden.

(ii) For air cargo, including cargo being transported by Air Express Couriers, the USPPI or the authorized agent shall file the EEI required by § 30.6 and provide the filing citation or

exemption legend to the exporting carrier no later than two (2) hours prior to the scheduled departure time of the aircraft.

(iii) For truck cargo, including cargo departing by Express Consignment Couriers, the USPPI or the authorized agent shall file the EEI required by § 30.6 and provide the filing citation or exemption legend to the exporting carrier no later than one (1) hour prior to the arrival of the truck at the United States border to go foreign.

(iv) For rail cargo, the USPPI or the authorized agent shall file the EEI required by § 30.6 and provide the filing citation or exemption legend to the exporting carrier no later than two (2) hours prior to the time the train arrives at the U.S. border to go foreign.

(v) For mail and cargo shipped by other methods, except pipeline, the USPPI or the authorized agent shall file the EEI required by § 30.6 and provide the filing citation or exemption legend to the exporting carrier no later than two (2) hours prior to exportation. (See § 30.46 for filing deadlines for shipments sent by pipeline.)

(vi) For all other modes, the USPPI or the authorized agent shall file the required EEI no later than two (2) hours prior to exportation.

(3) For non-USML shipments when the AES is unavailable, use the following instructions:

(i) If the participant's AES is unavailable, the filer must delay the export of the goods or find an alternative filing method;

(ii) If AES or AES*Direct* is unavailable, the goods may be exported and the filer must:

(A) Provide the appropriate downtime filing citation as described in § 30.7(b) and Appendix D; and

(B) Report the EEI at the first opportunity AES is available.

(c) *EEI transmitted postdeparture.* Postdeparture filing is only available for approved USPPIs and provides for the electronic filing of the data elements required by § 30.6 no later than ten calendar days from the date of exportation. For USPPIs approved for postdeparture filing, all shipments (other than those for which predeparture filing is specifically required), by all methods of transportation, may be exported with the filing of EEI made postdeparture. Certified AES authorized agents or service centers may transmit information postdeparture on behalf of USPPIs approved for postdeparture filing, or the approved USPPI may transmit the data postdeparture itself. However, authorized agents or service centers will not be approved for postdeparture filing.

(d) *Proof of filing citation and exemption and exclusion legends.* The USPPI or the authorized agent shall provide the exporting carrier with the proof of filing citation and exemption and exclusion legends as described in § 30.7.

§ 30.5 Electronic Export Information filing application and certification processes and standards.

Prior to filing EEI, the USPPI or the authorized agent must be certified to file through the AES. A service center shall be certified to transmit electronically to the AES. The USPPI, authorized agent, or service center may use a software package designed by a certified vendor to file EEI through the AES. Once an authorized agent has successfully completed the certification process, any USPPI using that agent does not have to be certified. The certified authorized agent shall have a properly executed power of attorney or written authorization from the USPPI or FPPI, and be physically located in the United States to file EEI through the AES. The USPPI or authorized agent that utilizes a certified software vendor or service center shall complete certification testing. Service centers may only transmit export information; they may not prepare and file export information unless they have authorization from the USPPI in the form of a power of attorney or written authorization, thus making them authorized agents. The USPPI seeking approval for postdeparture filing privileges shall be approved before they or their authorized agent may file on a postdeparture basis.

(a) *AES application process*—(1) *AES Participation Application.* The USPPI or authorized agent who chooses to file through the AES and seek approval for postdeparture filing privileges, must submit a complete on-line LOI at *http://www.census.gov/aes.*

(2) *AESDirect registration.* The USPPI or authorized agent who chooses to file through AES*Direct* shall also complete the online AES*Direct* registration form at *http://www.aesdirect.gov.* After submitting the registration, an AES*Direct* filing account is created for the filing company. The person designated as the account administrator is responsible for activating the account and completing the certification process as discussed in paragraph (b)(2) of this section.

(b) *Certification process*—(1) *AES certification process.* The USPPI or authorized agent shall perform an initial two-part communication test to ascertain whether its system is capable of both transmitting data to, and receiving data from, the AES. The USPPI or authorized agent shall demonstrate specific system application capabilities. The capability to correctly handle these system applications is the prerequisite to certification for participation in the AES. The USPPI or authorized agent shall successfully transmit the AES certification test. CBP's and/or Census Bureau's client representatives provide assistance during certification testing. These representatives make the sole determination as to whether or not the USPPI or authorized agent qualifies for certification. Upon successful completion of certification testing, the USPPI's or authorized agent's status is moved from testing mode to operational status. The AES filers may be required to repeat the certification testing process at any time. The Census Bureau will provide the AES filer with a certification notice after the USPPI or authorized agent has been approved for operational status. The certification notice will include:

(i) The date that filers may begin transmitting data;

(ii) Reporting instructions; and

(iii) Examples of the required AES proof of filing citations, postdeparture filing citations, AES downtime filing citation, and exemption legends.

(2) AES*Direct certification process.* To become certified for AES*Direct*, filers shall demonstrate knowledge of this part and the ability to successfully transmit EEI. Upon successful completion of the certification testing, notification by e-mail will be sent to the account administrator when an account is fully activated for filing via AES*Direct*. Certified filers should print and retain the page congratulating the filer on passing the test.

(c) *Postdeparture filing approval process.* The USPPI may apply for postdeparture filing privileges by submitting a postdeparture filing application at *http://www.census.gov/aes.* An authorized agent may not apply on behalf of a USPPI. The Census Bureau will distribute the LOI to CBP and the other federal government partnership agencies participating in the AES postdeparture filing review process. Failure to meet the standards of the Census Bureau, CBP or any of the partnership agencies is reason for denial of the AES applicant for postdeparture filing privileges. Each partnership agency will develop its own internal postdeparture filing acceptance standards, and each agency will notify the Census Bureau of the USPPI's success or failure to meet that agency's

acceptance standards. Any partnership agency may require additional information from USPPIs that are applying for postdeparture filing. The Census Bureau will notify the USPPI of the decision to either deny or approve their application for postdeparture filing privileges within thirty (30) calendar days of receipt of the postdeparture filing application by the Census Bureau, or if a decision cannot be reached at that time, the USPPI will be notified of an extension for a final decision as soon as possible after the thirty (30) calendar days.

(1) *Grounds for denial of postdeparture filing status.* The Census Bureau may deny a USPPI's application for postdeparture filing privileges for any of the following reasons:

(i) There is no history of filing for the USPPI through the AES.

(ii) The USPPI's volume of EEI reported through the AES does not warrant participation in postdeparture filing.

(iii) The USPPI or its authorized agent has failed to submit EEI through the AES in a timely and accurate manner.

(iv) The USPPI has a history of noncompliance with the Census Bureau export regulations contained in this part.

(v) The USPPI has been indicted, convicted, or is currently under investigation for a felony involving a violation of federal export laws or regulations and the Census Bureau has evidence of probable cause supporting such violation, or the USPPI is in violation of Census Bureau export regulations contained in this part.

(vi) The USPPI has made or caused to be made in the LOI a false or misleading statement or omission with respect to any material fact.

(vii) The USPPI would pose a significant threat to national security interests such that its participation in postdeparture filing should be denied.

(viii) The USPPI has multiple violations of either the EAR (15 CFR 730 through 774) or the ITAR (22 CFR 120 through 130) within the last three (3) years.

(2) *Notice of denial.* A USPPI denied postdeparture filing privileges by other agencies shall contact those agencies regarding the specific reason(s) for nonselection and for their appeal procedures. A USPPI denied postdeparture filing status by the Census Bureau will be provided with a specific reason for nonselection and a Census Bureau point of contact in an electronic notification letter. A USPPI may appeal the Census Bureau's nonselection decision by following the appeal procedure and reapplication procedure provided in paragraph (c)(5) of this section.

(3) *Revocation of postdeparture filing privileges*—(i) *Revocation by the Census Bureau.* The Census Bureau may revoke postdeparture filing privileges of an approved USPPI for the following reasons:

(A) The USPPI's volume of EEI reported in the AES does not warrant continued participation in postdeparture filing;

(B) The USPPI or its authorized agent has failed to submit EEI through the AES in a timely and accurate manner;

(C) The USPPI has made or caused to be made in the LOI a false or misleading statement or omission with respect to material fact;

(D) The USPPI submitting the LOI has been indicted, convicted, or is currently under investigation for a felony involving a violation of federal export laws or regulations and the Census Bureau has evidence of probable cause supporting such violation, or the AES applicant is in violation of export rules and regulations contained in this part;

(E) The USPPI has failed to comply with existing export regulations or has failed to pay any outstanding penalties assessed in connection with such noncompliance; or

(F) The USPPI would pose a significant threat to national security interests such that its continued participation in postdeparture filing should be terminated.

(ii) *Revocation by other agencies.* Any of the other agencies may revoke a USPPI's postdeparture filing privileges with respect to transactions subject to the jurisdiction of that agency. When doing so, the agency shall notify both the Census Bureau and the USPPI whose authorization is being revoked.

(4) *Notice of revocation.* Approved postdeparture filing USPPIs whose postdeparture filing privileges have been revoked by other agencies shall contact those agencies for their specific revocation and appeal procedures. When the Census Bureau makes a determination to revoke an approved USPPI's postdeparture filing privileges, the USPPI will be notified electronically of the reason(s) for the decision. In most cases, the revocation shall become effective when the USPPI has either exhausted all appeal procedures, or thirty (30) calendar days after receipt of the notice of revocation, if no appeal is filed. However, in cases judged to affect national security, revocations shall become effective immediately upon notification.

(5) *Appeal procedure.* Any USPPI whose request for postdeparture filing privileges has been denied by the Census Bureau or whose postdeparture filing privileges have been revoked by the Census Bureau may appeal the decision by filing an appeal within thirty (30) calendar days of receipt of the notice of decision. Appeals should be addressed to the Chief, Foreign Trade Division, U.S. Census Bureau, Washington, DC 20233–6700. The Census Bureau will issue a written decision to the USPPI within thirty (30) calendar days from the date of receipt of the appeal by the Census Bureau. If a written decision is not issued within thirty (30) calendar days, the Census Bureau will forward to the USPPI a notice of extension within that time period. The USPPI will be provided with the reasons for the extension of this time period and an expected date of decision. The USPPIs who have had their postdeparture filing status denied or revoked may not reapply for this privilege for one year following written notification of the denial or revocation.

(d) *Electronic Export Information filing standards.* The data elements required for filing EEI are contained in § 30.6. When filing EEI, the USPPI or authorized agent shall comply with the data transmission procedures determined by CBP and the Census Bureau and shall agree to stay in complete compliance with all export rules and regulations in this part. Failure of the USPPI or the authorized agent of either the USPPI or FPPI to comply with these requirements constitutes a violation of the regulations in this part, and renders such principal party or the authorized agent subject to the penalties provided for in Subpart H of this part. In the case of AES*Direct*, when submitting a registration form to AES*Direct*, the registering company is certifying that it will be in compliance with all applicable export rules and regulations. This includes complying with the following security requirements:

(1) AES*Direct* user names, administrator codes, and passwords are to be kept secure by the account administrator and not disclosed to any unauthorized user or any persons outside the registered company.

(2) Registered companies are responsible for those persons having access to the user name, administrator code, and password. If an employee with direct access to the user name, administrator code, and password leaves the company or otherwise is no longer an authorized user, the company shall immediately change the password and administrator code in the system to ensure the integrity and confidentiality of Title 13 data.

(3) Antivirus software shall be installed and set to run automatically on all computers that access AES*Direct*. All AES*Direct* registered companies will maintain subscriptions with their antivirus software vendor to keep antivirus lists current. Registered companies are responsible for performing full scans of these systems on a regular basis, but not less than every thirty (30) days, to ensure the elimination of any virus contamination. If the registered company's computer system is infected with a virus, the company shall contact the Census Bureau's Foreign Trade Division Computer Security Officer and refrain from using AES*Direct* until it is virus free. Failure to comply with these requirements will result in immediate loss of privilege to use AES*Direct* until the registered company can establish to the satisfaction of the Census Bureau's Foreign Trade Division Computer Security Officer that the company's computer systems accessing AES*Direct* are virus free.

(e) *Monitoring the filing of EEI.* The USPPI's or the authorized agent's AES filings will be monitored and reviewed for quality, timeliness, and coverage. The Census Bureau will provide performance reports to USPPIs and authorized agents who file EEI. The Census Bureau will take appropriate action to correct specific situations where the USPPI or authorized agent fails to maintain acceptable levels of data quality, timeliness, or coverage.

(f) *Support.* The Census Bureau provides online services that allow the USPPI and the authorized agent to seek assistance pertaining to AES and this part. For AES assistance, filers may send an e-mail to *ASKAES@census.gov* and for FTR assistance, filers may send an e-mail to *FTDREGS@census.gov.* AES*Direct* is supported by a help desk available twelve (12) hours a day from 7 a.m. to 7 p.m. EST, seven (7) days a week. Filers can obtain contact information from the Web site *http://www.aesdirect.gov.*

§ 30.6 Electronic Export Information data elements.

The information specified in this section is required for shipments transmitted to the AES. The data elements identified as ''mandatory'' shall be reported for each transaction. The data elements identified as ''conditional'' shall be reported if they are required for or apply to the specific shipment. The data elements identified as ''optional'' may be reported at the discretion of the USPPI or the authorized agent.

(a) *Mandatory data elements are as follows:*

(1) *USPPI and USPPI identification.* The name, address, identification, and contact information of the USPPI shall be reported to the AES as follows:

(i) *Name of the USPPI.* In all export transactions, the name listed in the USPPI field in the EEI shall be the USPPI in the transaction. (See § 30.1 for the definition of the USPPI and § 30.3 for details on the USPPI's reporting responsibilities.)

(ii) *Address of the USPPI.* In all EEI filings, the USPPI shall report the address or location (no post office box number) from which the goods actually begin the journey to the port of export. For example, the EEI covering goods laden aboard a truck at a warehouse in Georgia for transport to Florida for loading onto a vessel for export to a foreign country shall show the address of the warehouse in Georgia. For shipments with multiple origins, report the address from which the commodity with the greatest value begins its export journey. If such information is not known, report the address in state in which the commodities are consolidated for export.

(iii) *USPPI identification number.* The USPPI's EIN or SSN. The USPPI shall report its own IRS EIN in the USPPI field of the EEI. If the USPPI has only one EIN report that EIN. If the USPPI has more than one EIN, report an EIN that the USPPI also uses to report employee wages and withholdings, not an EIN used to report only company earnings or receipts. If, and only if, no IRS EIN has been assigned to the USPPI, the USPPI's own SSN shall be reported to the AES. Use of another company's EIN or another individual's SSN is prohibited. The appropriate Party Type code shall be reported through the AES. When a foreign entity is in the United States when the items are purchased or obtained for export, the foreign entity is the USPPI for filing purposes. In such situations, when the foreign entity does not have an EIN or SSN, it shall report in the EEI a DUNS number, border crossing number, passport number, or any number assigned by CBP.

(iv) *Contact information.* Show contact name and telephone number.

(2) *Date of export.* The date of export is the date when goods are scheduled to leave the port of export on the exporting carrier that is taking the goods out of the United States.

(3) *Ultimate consignee.* The ultimate consignee is the person, party, or designee that is located abroad and actually receives the export shipment. The name and address of the ultimate consignee, whether by sale in the United States or abroad or by consignment, shall be reported in the EEI. The ultimate consignee as known at the time of export shall be reported. For shipments requiring an export license, the ultimate consignee shall be the person so designated on the export license or authorized to be the ultimate consignee under the applicable license exemption in conformance with the EAR or ITAR, as applicable. For goods sold en route, report the appropriate ''To be Sold En Route'' indicator in the EEI, and report corrected information as soon as it is known (see § 30.9 for procedures on correcting AES information).

(4) *U.S. state of origin.* The U.S. state of origin is the 2-character postal code for the state in which the goods begin their journey to the port of export. For example, a shipment covering goods laden aboard a truck at a warehouse in Georgia for transport to Florida for loading onto a vessel for export to a foreign country shall show Georgia as the state of origin. The U.S. state of origin may be different from the U.S. state where the goods were produced, mined, or grown. For shipments of multi-state origin, reported as a single shipment, report the U.S. state of the commodity with the greatest value. If such information is not known, report the state in which the commodities are consolidated for export.

(5) *Country of ultimate destination.* The country of ultimate destination is the country in which the goods are to be consumed or further processed or manufactured. The country of ultimate destination is the code issued by the ISO.

(i) *Shipments under an export license or license exemption.* For shipments under an export license or license exemption issued by the Department of State, DDTC, or the Department of Commerce, BIS, the country of ultimate destination shall conform to the country of ultimate destination as shown on the license. In the case of a Department of State license, the country of ultimate destination is the country specified with respect to the end user. For goods licensed by other government agencies refer to their specific requirements concerning providing country of destination information.

(ii) *Shipments not moving under an export license.* The country of ultimate destination is the country known to the USPPI at the time of exportation. The country to which the goods are being shipped is not the country of ultimate destination if the USPPI has knowledge at the time the goods leave the United States that they are intended for reexport or transshipment in their

present form to another known country. For goods shipped to Canada, Mexico, Panama, Hong Kong, Belgium, United Arab Emirates, The Netherlands, or Singapore, for example, special care should be exercised before reporting these countries as the ultimate destination, since these are countries through which goods from the United States are frequently transshipped. If the USPPI does not know the ultimate destination of the goods, the country of destination to be shown is the last country, as known to the USPPI at the time of shipment from the United States, to which the goods are to be shipped in their present form. (For instructions as to the reporting of country of destination for vessels sold or transferred from the United States to foreign ownership, see § 30.26.)

(iii) For goods to be sold en route, report the country of the first port of call and then report corrected information as soon as it is known.

(6) *Method of transportation.* The method of transportation is the means by which the goods are exported from the United States.

(i) *Conveyances exported under their own power.* The mode of transportation for aircraft, vessels, or locomotives (railroad stock) transferring ownership or title and moving out of the United States under its own power is the mode of transportation by which the conveyance moves out of the United States.

(ii) *Exports through Canada, Mexico, or other foreign countries for transshipment to another destination.* For transshipments through Canada, Mexico, or another foreign country, the mode of transportation is the mode of the carrier transporting the goods out of the United States.

(7) *Conveyance name/carrier name.* The conveyance name/carrier name is the name of the conveyance/carrier transporting the goods out of the United States as known at the time of exportation. For exports by sea, the conveyance name is the vessel name. For exports by air, rail, or truck, the carrier name is that which corresponds to the carrier identification as specified in paragraph (a)(8) of this section. Terms, such as airplane, train, rail, truck, vessel, barge, or international footbridge are not acceptable. For shipments by other methods of transportation, including mail, fixed methods (pipeline), the conveyance/carrier name is not required.

(8) *Carrier identification.* The carrier identification specifies the carrier that transports the goods out of the United States. The carrier transporting the goods to the port of export and the carrier transporting the goods out of the United States may be different. For transshipments through Canada, Mexico, or another foreign country, the carrier identification is that of the carrier that transports the goods out of the United States. The carrier identification is the Standard Carrier Alpha Code (SCAC) for vessel, rail, and truck shipments or the International Air Transport Association (IATA) code for air shipments. For other valid method of transportation, including mail, fixed modes (pipeline), and passenger, hand carried the carrier identification is not required. The National Motor Freight Traffic Association (NMFTA) issues and maintains the SCAC. (See *http://www.nmfta.org.*) The IATA issues and maintains the IATA codes. (See *http://www.census.gov/trade* for a list of IATA codes.)

(9) *Port of export.* The port of export is the seaport or airport where the goods are loaded on the exporting carrier that is taking the goods out of the United States, or the port where exports by overland transportation cross the U.S. border into a foreign country. The port of export shall be reported in terms of Schedule D, ''Classification of CBP Districts and Ports.'' Use port code 8000 for shipments by mail.

(i) *Vessel and air exports involving several ports of exportation.* For goods loaded aboard a carrier in a port of lading, where the carrier stops at several ports before clearing to the foreign country, the port of export is the first port where the goods were loaded on the exporting carrier. For goods off-loaded from the original conveyance to another conveyance (even if the aircraft or vessel belongs to the same carrier) at any of the ports, the port where the goods were loaded on the last conveyance before going foreign is the port of export.

(ii) *Exports through Canada, Mexico, or other foreign countries for transshipment to another destination.* For transshipments through Canada, Mexico, or another foreign country to a third country, the port of export is the location where the goods are loaded on the carrier that is taking the goods out of the United States.

(10) *Related party indicator.* Used to indicate when a transaction involving trade between a USPPI and an ultimate consignee where either party owns directly or indirectly 10 percent or more of the other party.

(11) *Domestic or foreign indicator.* Indicates if the goods exported are of domestic or foreign origin. Report foreign goods separately from goods of domestic production even if the commodity classification number is the same.

(i) *Domestic.* Exports of domestic goods include: Those commodities that are grown, produced, or manufactured (including commodities incorporating foreign components) in the United States, including goods exported from U.S. FTZs, Puerto Rico, or the U.S. Virgin Islands; and those articles of foreign origin that have been enhanced in value or changed from the form in which they were originally imported by further manufacture or processing in the United States, including goods exported from U.S. FTZs, Puerto Rico, or the U.S. Virgin Islands.

(ii) *Foreign.* Exports of foreign goods include those commodities that are grown, produced, or manufactured in foreign countries that entered the United States including goods admitted to U.S. FTZs as imports and that, at the time of exportation, have undergone no change in form or condition or enhancement in value by further manufacture in the United States, in U.S. FTZs, in Puerto Rico, or in the U.S. Virgin Islands.

(12) *Commodity classification number.* Report the 10-digit commodity classification number as provided in Schedule B, *Statistical Classification of Domestic and Foreign Commodities Exported from the United States* in the EEI. The 10-digit commodity classification number provided in the Harmonized Tariff Schedule of the United States (HTSUSA) may be reported in lieu of the Schedule B commodity classification number except as noted in the headnotes of the HTSUSA. The HTSUSA is a global classification system used to describe most world trade in goods. Furnishing the correct Schedule B or HTSUSA number does not relieve the USPPI or the authorized agent of furnishing a complete and accurate commodity description. When reporting the Schedule B number or HTSUSA number, the decimals shall be omitted. (See *http://www.census.gov/trade* for a list of Schedule B classification numbers.)

(13) *Commodity description.* Report the description of the goods shipped in English in sufficient detail to permit verification of the Schedule B or HTSUSA number. Clearly and fully state the name of the commodity in terms that can be identified or associated with the language used in Schedule B or HTSUSA (usually the commercial name of the commodity), and any and all characteristics of the commodity that distinguish it from commodities of the same name covered by other Schedule B or HTSUSA

classifications. If the shipment requires a license, the description reported in the EEI shall conform with that shown on the license. If the shipment qualifies for a license exemption, the description shall be sufficient to ensure compliance with that license exemption. However, where the description on the license does not state all of the characteristics of the commodity that are needed to completely verify the commodity classification number, as described in this paragraph, report the missing characteristics, as well as the description shown on the license, in the commodity description field of the EEI.

(14) *Primary unit of measure.* The unit of measure shall correspond to the primary quantity as prescribed in the Schedule B or HTSUSA. If neither Schedule B nor HTSUSA specifies a unit of measure for the item, an ''X'' is required in the unit of measure field.

(15) *Primary quantity.* The quantity is the total number of units that correspond to the first unit of measure specified in the Schedule B or HTSUSA. Where the unit of measure is in terms of weight (grams, kilograms, metric tons, etc.), the quantity reflects the net weight, not including the weight of barrels, boxes, or other bulky coverings, and not including salt or pickle in the case of salted or pickled fish or meats. For a few commodities where ''content grams'' or ''content kilograms'' or some similar weight unit is specified in Schedule B or HTSUSA, the quantity may be less than the net weight. The quantity is reported as a whole unit only, without commas or decimals. If the quantity contains a fraction of a whole unit, round fractions of one-half unit or more up and fractions of less than one-half unit down to the nearest whole unit. (For example, where the unit for a given commodity is in terms of ''tons,'' a net quantity of 8.4 tons would be reported as 8 for the quantity. If the quantity is less than one unit, the quantity is 1.)

(16) *Shipping weight.* The shipping weight is the weight in kilograms, which includes the weight of the commodity, as well as the weight of normal packaging, such as boxes, crates, barrels, etc. The shipping weight is required for exports by air, vessel, rail, and truck, and required for exports of household goods transported by all methods. For exports (except household goods) by mail, fixed transport (pipeline), or other valid methods, the shipping weight is not required and shall be reported as zero. For containerized cargo in lift vans, cargo vans, or similar substantial outer containers, the weight of such containers is not included in the shipping weight. If the shipping weight is not available for each Schedule B or HTSUSA item included in one or more containers, the approximate shipping weight for each item is estimated and reported. The total of these estimated weights equals the actual shipping weight of the entire container or containers.

(17) *Value.* In general, the value to be reported in the EEI shall be the value of the goods at the U.S. port of export. The value shall be the selling price as defined in this paragraph (or the cost if the goods are not sold), including inland or domestic freight, insurance, and other charges to the U.S. seaport, airport, or land border port of export. Cost of goods is the sum of expenses incurred in the USPPI acquisition or production of the goods. Report the value to the nearest dollar; omit cents. Fractions of a dollar less than 50 cents should be ignored, and fractions of 50 cents or more should be rounded up to the next dollar.

(i) *Selling price.* The selling price for goods exported pursuant to sale, and the value to be reported in the EEI, is the USPPI's price to the FPPI (the foreign buyer). Deduct from the selling price any unconditional discounts, but do not deduct discounts that are conditional upon a particular act or performance on the part of the foreign buyer. For goods shipped on consignment without a sale actually having been made at the time of export, the selling price to be reported in the EEI is the market value at the time of export at the U.S. port.

(ii) *Adjustments.* When necessary, make the following adjustments to obtain the value.

(A) Where goods are sold at a point other than the port of export, freight, insurance, and other charges required in moving the goods from their U.S. point of origin to the exporting carrier at the port of export or border crossing point shall be added to the selling price (as defined in paragraph (a)(17)(i) of this section) for purposes of reporting the value in the EEI.

(B) Where the actual amount of freight, insurance, and other domestic costs is not available, an estimate of the domestic costs shall be made and added to the cost of the goods or selling price to derive the value to be reported in the EEI. Add the estimated domestic costs to the cost or selling price of the goods to obtain the value to be reported in the EEI.

(C) Where goods are sold at a ''delivered'' price to the foreign destination, the cost of loading the goods on the exporting carrier, if any, and freight, insurance, and other costs beyond the port of export shall be subtracted from the selling price for purposes of reporting value in the EEI. If the actual amount of such costs is not available, an estimate of the costs should be subtracted from the selling price.

(D) Costs added to or subtracted from the selling price in accordance with the instructions in this paragraph (a)(17)(ii) should not be shown separately in the EEI, but the value reported should be the value after making such adjustments, where required, to arrive at the value of the goods at the U.S. port of export.

(iii) *Exclusions.* Exclude the following from the selling price of goods exported.

(A) Commissions to be paid by the USPPI to its agent abroad or commissions to be deducted from the selling price by the USPPI's agent abroad.

(B) The cost of loading goods on the exporting carrier at the port of export.

(C) Freight, insurance, and any other charges or transportation costs beyond the port of export.

(D) Any duties, taxes, or other assessments imposed by foreign countries.

(iv) For definitions of the value to be reported in the EEI for special types of transactions where goods are not being exported pursuant to commercial sales, or where subsidies, government financing or participation, or other unusual conditions are involved, see Subpart C of this part.

(18) *Export information code.* A code that identifies the type of export shipment or condition of the exported items (*e.g.*, goods donated for relief or charity, impelled shipments, shipments under the Foreign Military Sales program, household goods, and all other shipments). (For the list of the codes see Appendix B.)

(19) *Shipment reference number.* A unique identification number assigned by the filer that allows for the identification of the shipment in the filer's system. The number must be unique for five years.

(20) *Line number.* A number that identifies the specific commodity line item within a shipment.

(21) *Hazardous material indicator.* An indicator that identifies whether the shipment is hazardous as defined by the Department of Transportation.

(22) *Inbond code.* The code indicating whether the shipment is being transported under bond.

(23) *License code/license exemption code.* The code that identifies the commodity as having a federal government agency requirement for a license, permit, license exception or exemption or that no license is required.

(24) *Routed export transaction indicator.* An indicator that identifies that the shipment is a routed export transaction as defined in § 30.3.

(25) *Shipment filing action request indicator.* An indicator that allows the filer to add, change, replace, or cancel an export shipment transaction.

(26) *Line item filing action request indicator.* An indicator that allows the filer to add, change, or delete a commodity line within an export shipment transaction.

(27) *Filing option indicator.* An indicator of whether the filer is reporting export information predeparture or postdeparture. See § 30.4 for more information on EEI filing options.

(b) *Conditional data elements are as follows:*

(1) *Authorized agent and authorized agent identification.* If an authorized agent is used to prepare and file the EEI, the following information shall be provided to the AES.

(i) *Authorized agent's identification number.* Report the authorized agent's own EIN, SSN, or DUNS in the EEI for the first shipment and for each subsequent shipment. Use of another company's or individual's EIN or other identification number is prohibited. The party ID type (E=EIN, S=SSN, etc.) shall be identified.

(ii) *Name of the authorized agent.* Report the name of the authorized agent. The authorized agent is that person or entity in the United States that is authorized by the USPPI or the FPPI to prepare and file the EEI or the person or entity, if any, named on the export license. (See § 30.3 for details on the specific reporting responsibilities of authorized agents and Subpart B of this part for export control licensing requirements for authorized agents.)

(iii) *Address of the authorized agent.* Report the address or location (no post office box number) of the authorized agent. The authorized agent's address shall be reported with the initial shipment. Subsequent shipments may be identified by the agent's identification number.

(iv) *Contact information.* Report the contact name and telephone number.

(2) *Intermediate consignee.* The name and address of the intermediate consignee (if any) shall be reported. The intermediate consignee acts in a foreign country as an agent for the principal party in interest or the ultimate consignee for the purpose of effecting delivery of the export shipment to the ultimate consignee. The intermediate consignee is the person named as such on the export license or authorized to act as such under the applicable general license and in conformity with the EAR.

(3) *FTZ identifier.* If goods are removed from the FTZ and not entered for consumption, report the FTZ identifier. This is the unique identifier assigned by the Foreign Trade Zone Board that identifies the FTZ, subzone or site from which goods are withdrawn for export.

(4) *Foreign port of unlading.* The foreign port of unlading is the foreign port in the country where the goods are removed from the exporting carrier. The foreign port does not have to be located in the country of destination. For exports by sea to foreign countries, not including Puerto Rico, the foreign port of unlading is the code in terms of Schedule K, *Classification of Foreign Ports by Geographic Trade Area and Country.* For exports by sea or air between the United States and Puerto Rico, the foreign port of unlading is the code in terms of Schedule D, *Classification of CBP Districts and Ports.* The foreign port of unlading is not required for exports by other modes of transportation, including rail, truck, mail, fixed (pipeline), or air (unless between the U.S. and Puerto Rico).

(5) *Export license number/CFR citation/KPC number.* License number, permit number, citation, or authorization number assigned by the Department of Commerce, BIS; Department of State, DDTC; Department of the Treasury, OFAC; Department of Justice, DEA; Nuclear Regulatory Commission; or any other federal government agency.

(6) *Export Control Classification Number (ECCN).* The number used to identify items on the CCL, Supplement No. 1 to Part 774 of the EAR. The ECCN consists of a set of digits and a letter. Items that are not classified under an ECCN are designated ''EAR99''.

(7) *Secondary unit of measure.* The unit of measure that corresponds to the secondary quantity as prescribed in the Schedule B or HTSUSA. If neither Schedule B nor HTSUSA specifies a secondary unit of measure for the item, the unit of measure is not required.

(8) *Secondary quantity.* The total number of units that correspond to the secondary unit of measure, if any, specified in the Schedule B or HTSUSA. See the definition of primary quantity for specific instructions on reporting the quantity as a weight and whole unit, rounding fractions.

(9) *Vehicle Identification Number (VIN)/Product ID.* The identification number found on the reported used vehicle. For used self-propelled vehicles that do not have a VIN, the Product ID is reported. ''Used'' vehicle refers to any self-propelled vehicle where the equitable or legal title to which has been transferred by a manufacturer, distributor, or dealer to an ultimate purchaser. See U.S. Customs and Border Protection regulations 19 CFR 192.1 for more information on exports of used vehicles.

(10) *Vehicle ID qualifier.* The qualifier that identifies the type of used vehicle number reported. The valid codes are V for VIN and P for Product ID.

(11) *Vehicle title number.* The number issued by the Motor Vehicle Administration.

(12) *Vehicle title state code.* The 2-character postal code for the state or territory that issued the vehicle title.

(13) *Entry number.* The entry number must be reported for goods that are entered in lieu of being transported under bond for which the importer of record is a foreign entity or, for reexports of goods withdrawn from a FTZ for which a NAFTA deferred duty claim (entry type 08) could have been made, but that the importer elected to enter for consumption under CBP entry type 06. For goods imported into the United States for export to a third country of ultimate destination, where the importer of record on the entry is a foreign entity, the USPPI will be the authorized agent designated by the foreign importer for service of process. The USPPI, in this circumstance, is required to report the import entry number.

(14) *Transportation reference number (TRN).* The TRN is as follows:

(i) *Vessel shipments.* Report the booking number for vessel shipments. The booking number is the reservation number assigned by the carrier to hold space on the vessel for cargo being exported. The TRN is required for all vessel shipments.

(ii) *Air shipments.* Report the master air waybill number for air shipments. The air waybill number is the reservation number assigned by the carrier to hold space on the aircraft for cargo being exported. The TRN is optional for air shipments.

(iii) *Rail shipments.* Report the bill of lading (BL) number for rail shipments. The BL number is the reservation number assigned by the carrier to hold space on the rail car for cargo being exported. The TRN is optional for rail shipments.

(iv) *Truck shipments.* Report the freight or pro bill number for truck shipments. The freight or pro bill number is the number assigned by the carrier to hold space on the truck for cargo being exported. The freight or pro bill number correlates to a bill of lading number, air waybill number or trip

number for multimodal shipments. The TRN is optional for truck shipments.

(15) *Department of State Requirements.*

(i) *DDTC registration number.* The number assigned by the DDTC to persons who are required to register per Part 122 of the ITAR (22 CFR 120 through 130), and have an authorization (license or exemption) from DDTC to export the article.

(ii) *DDTC Significant Military Equipment (SME) indicator.* A term used to designate articles on the USML (22 CFR 121) for which special export controls are warranted because of their capacity for substantial military utility or capability. See § 120.7 of the ITAR 22 CFR 120 through 130 for a definition of SME and § 121.1 for items designated as SME articles.

(iii) *DDTC eligible party certification indicator.* Certification by the U.S. exporter that the exporter is an eligible party to participate in defense trade. See 22 CFR 120.1(c). This certification is required only when an exemption is claimed.

(iv) *DDTC USML category code.* The USML category of the article being exported (22 CFR 121).

(v) *DDTC Unit of Measure (UOM).* This unit of measure is the UOM covering the article being shipped as described on the export authorization or declared under an ITAR exemption.

(vi) *DDTC quantity.* This quantity is for the article being shipped. The quantity is the total number of units that corresponds to the DDTC UOM code.

(vii) *DDTC exemption number.* The exemption number is the specific citation from the ITAR (22 CFR 120 through 130) that exempts the shipment from the requirements for a license or other written authorization from DDTC.

(viii) *DDTC export license line number.* The line number of the State Department export license that corresponds to the article being exported.

(16) *Kimberley Process Certificate (KPC) number.* The unique identifying number on the KPC issued by the United States KPC authority that must accompany any export shipment of rough diamonds. Rough diamonds are classified under 6-digit HS subheadings 7102.10, 7102.21, and 7102.31. Enter the KPC number in the license number field excluding the 2-digit U.S. ISO country code.

(c) *Optional data elements:*

(1) *Seal number.* The security seal number placed on the equipment or container.

(2) *Equipment number.* Report the identification number for the shipping equipment, such as container or igloo number (Unit Load Device (ULD)), truck license number, or rail car number.

§ 30.7 Annotating the bill of lading, air waybill, or other commercial loading documents with proof of filing citations, and exemption legends.

(a) Items identified on the USML shall meet the predeparture reporting requirements identified in the ITAR (22 CFR 120 through 130) for the U.S. State Department requirements concerning the time and place of filing. For USML shipments, the proof of filing citations shall include the statement in ''AES,'' followed by the returned confirmation number provided by the AES when the transmission is accepted, referred to as the ITN.

(b) For shipments other than USML, the USPPI or the authorized agent is responsible for annotating the proper proof of filing citation or exemption legend on the first page of the bill of lading, air waybill, export shipping instructions or other commercial loading documents. The USPPI or the authorized agent must provide the proof of filing citation or exemption legend to the exporting carrier. The carrier must annotate the proof of filing citation, exemption or exclusion legends on the carrier's outbound manifest when required. The carrier is responsible for presenting the appropriate proof of filing citation or exemption legend to CBP Port Director at the port of export as stated in Subpart E of this part. Such presentation shall be without material change or amendment of the proof of filing citation, postdeparture filing citation, AES downtime filing citation, or exemption legend as provided to the carrier by the USPPI or the authorized agent. The proof of filing citation will identify that the export information has been accepted as transmitted. The postdeparture filing citation, AES downtime filing citation, or exemption legend will identify that no filing is required prior to export. The proof of filing citations, postdeparture filing citations, or exemption legends shall appear on the bill of lading, air waybill or other commercial loading documentation and shall be clearly visible. The AES filing citation, exemption or exclusion legends are provided for in Appendix D. The exporting carrier shall annotate the manifest or other carrier documentation with the AES filing citations, exemption or exclusions legends.

(c) Exports of rough diamonds classified under HS subheadings 7102.10, 7102.21, and 7102.31, in accordance with the Clean Diamond Trade Act, will require the proof of filing citation, as stated in paragraph (b) of this section, and report the proof of filing citation on the KPC.

§ 30.8 Time and place for presenting proof of filing citations, and exemption and exclusions legends.

The following conditions govern the time and place to present proof of filing citations, postdeparture filing citations, AES downtime filing citation, exemption or exclusion legends. The USPPI or the authorized agent is required to deliver the proof of filing citations, postdeparture filing citations, AES downtime filing citation, exemption or exclusion legends required in § 30.4(e) to the exporting carrier. See Appendix D of this part for the properly formatted proof of filing citations, exemption or exclusion legends. Failure of the USPPI or the authorized agent of either the USPPI or FPPI to comply with these requirements constitutes a violation of the regulations in this part and renders such principal party or the authorized agent subject to the penalties provided for in Subpart H of this part.

(a) *Postal exports.* The proof of filing citations, postdeparture filing citations, AES downtime filing citation, and/or exemption and exclusions legends for items being sent by mail, as required in § 30.2, shall be presented to the postmaster with the packages at the time of mailing. The postmaster is required to deliver the proof of filing citations and/or exemption legends prior to export.

(b) *Pipeline exports.* The proof of filing citations or exemption and exclusion legends for items being sent by pipeline shall be presented to the operator of a pipeline no later than four calendar days after the close of the month.

(c) *Exports by other methods of transportation.* For exports sent other than by mail or pipeline, the USPPI or the authorized agent is required to deliver the proof of filing citations, and/or exemption and exclusion legends to the exporting carrier in accord with the time periods set forth in § 30.4(b).

§ 30.9 Transmitting and correcting Electronic Export Information.

(a) The USPPI or the authorized filing agent is responsible for electronically transmitting accurate EEI as known at the time of filing in the AES and transmitting any changes to that information as soon as they are known. Corrections, cancellations, or amendments to that information shall be electronically identified and transmitted to the AES for all required fields as soon as possible. The provisions of this paragraph relating to the reporting of corrections, cancellations, or

amendments to EEI, shall not be construed as a relaxation of the requirements of the rules and regulations pertaining to the preparation and filing of EEI. Failure to correct the EEI is a violation of the provisions of this part.

(b) For shipments where the USPPI or the authorized agent has received an error message from AES, the corrections shall take place as required. Fatal error messages are sent to filers when EEI is not accepted in the AES. These errors must be corrected and EEI resubmitted prior to export for shipments filed predeparture and as soon as possible for shipments filed postdeparture but not later than ten calendar days after departure. Failure to respond to fatal error messages or otherwise transmit corrections to the AES constitutes a violation of the regulations in this part and renders such principal party or authorized agent subject to the penalties provided for in Subpart H of this part. For EEI that generates a warning message, the correction shall be made within four (4) calendar days of receipt of the original transmission. For EEI that generates a verify message, the correction, when warranted, shall be made within four calendar days of receipt of the message. A compliance alert indicates that the shipment was not reported in accordance with regulation. The USPPI or the authorized agent is required to review filing practices and take whatever corrective actions are required to conform with export reporting requirements.

§ 30.10 Retention of export information and the authority to require production of documents.

(a) *Retention of export information.* All parties to the export transaction (owners and operators of export carriers, USPPIs, FPPIs and/or authorized agents) shall retain documents pertaining to the export shipment for five years from the date of export. If the Department of State or other regulatory agency has recordkeeping requirements for exports that exceed the retention period specified in this part, then those requirements prevail. The USPPI or the authorized agent of the USPPI or FPPI may request a copy of the electronic record or submission from the Census Bureau as provided for in Subpart G of this part. The Census Bureau's retention and maintenance of AES records does not relieve filers from requirements in § 30.10.

(1) AES filers shall retain a copy of the electronic certification notice from the Census Bureau showing the filer's approved operational status. The electronic certification notice shall be retained for as long as the filer submits EEI through the AES.

(2) AES*Direct* filers shall retain a copy of the electronic certification notice obtained during the AES*Direct* certification. The electronic certification notice shall be retained for as long as the filer submits EEI through AES*Direct.*

(b) *Authority to require production of documents.* For purposes of verifying the completeness and accuracy of information reported as required under § 30.6, and for other purposes under the regulations in this part, all parties to the export transaction (owners and operators of the exporting carriers, USPPIs, FPPIs, and/or authorized agents) shall provide upon request to the Census Bureau, CBP, ICE, BIS and other participating agencies EEI, shipping documents, invoices, orders, packing lists, and correspondence as well as any other relevant information bearing upon a specific export transaction at anytime within the five year time period.

Note to § 30.10: Section 1252(b)(2) of Public Law 106–113, Proliferation Prevention Enhancement Act of 1999, required the Department of Commerce to print and maintain on file a paper copy or other acceptable back-up record of the individual's submission at a location selected by the Secretary of Commerce. The Census Bureau will maintain a data base of EEI filed in AES to ensure that requirements of Public Law 106–113 are met and that all filers can obtain a validated record of their submissions.

§§ 30.11–30.14 [Reserved]

Subpart B—Export Control and Licensing Requirements

§ 30.15 Introduction.

(a) For export shipments to foreign countries, the EEI is used both for statistical and for export control purposes. All parties to an export transaction must comply with all relevant export control regulations, as well as the requirements of the statistical regulations of this part. For convenience, references to provisions of the EAR, ITAR, CBP, and OFAC regulations that affect the statistical reporting requirements of this part have been incorporated into this part. For regulations and information concerning other agencies that exercise export control and licensing authority for particular types of commodity shipments, a USPPI, its authorized agent, or other party to the transaction shall consult the appropriate agency regulations.

(b) In addition to the reporting requirements set forth in § 30.6, further information may be required for export control purposes by the regulations of CBP, BIS, State Department, or the U.S. Postal Service under particular circumstances.

(c) This part requires the retention of documents or records pertaining to a shipment for five years from the date of export. All records concerning license exceptions or license exemptions shall be retained in the format (including electronic or hard copy) required by the controlling agency's regulations. For information on recordkeeping retention requirements exceeding the requirements of this part, refer to the regulations of the agency exercising export control authority for the specific shipment.

(d) In accordance with the provisions of Subpart G of this part, information from the EEI is used solely for official purposes, as authorized by the Secretary of Commerce, and any unauthorized use is not permitted.

§ 30.16 Export Administration Regulations.

The EAR issued by the U.S. Department of Commerce, BIS, also contain some additional reporting requirements pertaining to EEI (see 15 CFR 730–774).

(a) The EAR requires that export information be filed for shipments from U.S. Possessions to foreign countries or areas. (see 15 CFR 758.1(b) and 772.1, definition of the United States.)

(b) Requirements to place certain export control information in the EEI are found in the EAR.

§ 30.17 Customs and Border Protection regulations.

Refer to the DHS's CBP regulations, 19 CFR 192, for information referencing the advanced electronic submission of cargo information on exports for screening and targeting purposes pursuant to the Trade Act of 2002. The regulations also prohibit postdeparture filing of export information for certain shipments, and contain other regulatory provisions affecting the reporting of EEI. CBP's regulations can be obtained from the U.S. Government Printing Office's Web site at *www.gpoaccess.gov*.

§ 30.18 Department of State regulations.

(a) The USPPI or the authorized agent shall file export information, when required, for items on the USML of the ITAR (22 CFR 121). Information for items identified on the USML, including those exported under an export license exemption, shall be filed prior to export.

(b) Refer to the ITAR 22 CFR 120–130 for requirements regarding information required for electronically reporting export information for USML shipments and filing time requirements.

(c) Department of State regulations can be found at *http://www.state.gov*.

§ 30.19 Other Federal agency regulations.

Other Federal agencies have requirements regarding the reporting of certain types of export transactions. The USPPIs and/or authorized agents are responsible for adhering to these requirements.

§§ 30.20–30.24 [Reserved]

Subpart C—Special Provisions and Specific-Type Transactions

§ 30.25 Values for certain types of transactions.

Special procedures govern the values to be reported for shipments of the following unusual types:

(a) *Subsidized exports of agricultural products.* Where provision is made for the payment to the USPPI for the exportation of agricultural commodities under a program of the Department of Agriculture, the value required to be reported for EEI is the selling price paid by the foreign buyer minus the subsidy.

(b) *General Services Administration (GSA) exports of excess personal property.* For exports of GSA excess personal property, the value to be shown in the EEI will be ''fair market value,'' plus charges when applicable, at which the property was transferred to GSA by the holding agency. These charges include packing, rehabilitation, inland freight, or drayage. The estimated ''fair market value'' may be zero, or it may be a percentage of the original or estimated acquisition costs. (Bill of lading, air waybill, and other commercial loading documents for such shipments will bear the notation ''Excess Personal Property, GSA Regulations 1–III, 303.03.'')

§ 30.26 Reporting of vessels, aircraft, cargo vans, and other carriers and containers.

(a) Vessels, locomotives, aircraft, rail cars, trucks, other vehicles, trailers, pallets, cargo vans, lift vans, or similar shipping containers are not considered ''shipped'' in terms of the regulations in this part, when they are moving, either loaded or empty, without transfer of ownership or title, in their capacity as carriers of goods or as instruments of such carriers, and EEI is not required.

(b) However, EEI shall be filed for such items, when moving as goods pursuant to sale or other transfer from ownership in the United States to ownership abroad. If a vessel, car, aircraft, locomotive, rail car, vehicle, or container, whether in service or newly built or manufactured, is sold or transferred to foreign ownership while in the Customs territory of the United States or at a port in such area, EEI shall be reported in accordance with the general requirements of the regulations in this part, identifying the port through or from which the vessel, aircraft, locomotive, rail car, car, vehicle, or container first leaves the United States after sale or transfer. If the vessel, aircraft, locomotive, rail car, car, vehicle, or shipping container is outside the Customs territory of the United States at the time of sale or transfer to foreign ownership, EEI shall be reported identifying the last port of clearance or departure from the United States prior to sale or transfer. The country of destination to be shown in the EEI for vessels sold foreign is the country of new ownership. The country for which the vessel clears, or the country of registry of the vessel, should not be reported as the country of destination in the EEI unless such country is the country of new ownership.

§ 30.27 Return of exported cargo to the United States prior to reaching its final destination.

When goods reported as exported from the United States are not exported or are returned without having been entered into a foreign destination, the filer shall cancel the EEI.

§ 30.28 ''Split shipments'' by air.

When a shipment by air covered by a single EEI submission is divided by the exporting carrier at the port of export where the manifest is filed, and part of the shipment is exported on one aircraft and part on another aircraft of the same carrier, the following procedures shall apply:

(a) The carrier shall deliver the manifest to CBP Port Director with the manifest covering the flight on which the first part of the split shipment is exported and shall make no changes to the EEI. However, the manifest shall show in the ''number of packages'' column the actual portion of the declared total quantity being carried and shall carry a notation to indicate ''Split Shipment.'' All manifests with the notation ''Split Shipment'' will have identical ITNs.

(b) On each subsequent manifest covering a flight on which any part of a split shipment is exported, a prominent notation ''SPLIT SHIPMENT'' shall be made on the manifest for identification. On the last shipment, the notation shall read ''SPLIT SHIPMENT, FINAL.'' Each subsequent manifest covering a part of a split shipment shall also show in the ''number of packages'' column only the goods carried on that particular flight and a reference to the total amount originally declared for export (for example, 5 of 11, or 5/11). Immediately following the line showing the portion of the split shipment carried on that flight, a notation will be made showing the air waybill number shown in the original EEI and the portions of the originally declared total carried on each previous flight, together with the number and date of each such previous flight (for example, air waybill 123; 1 of 2, flight 36A, June 6 SPLIT SHIPMENT; 2 of 2, flight 40X, June 6 SPLIT SHIPMENT, FINAL).

(c) Since the complete EEI was filed for the entire shipment initially, additional electronic reporting will not be required for these subsequent shipments.

§ 30.29 Reporting of repairs and replacements.

These guidelines will govern the reporting of the following:

(a) The return of goods previously imported for repair and alteration only and other returns to the foreign shipper of temporary imported goods (declared as such on importation) shall have Schedule B or HTSUSA classification commodity number 9801.10.0000. The value reported in the EEI shall include parts and labor. The value of the original product shall not be included.

(b) Goods that are covered under warranty.

(1) Goods that are reexported after repair under warranty shall follow the procedures in paragraph (a) of this section. It is recommended that the bill of lading, air waybill, or other loading documents include the statement, ''This product was repaired under warranty.''

(2) Goods that are replaced under warranty at no charge to the customer shall include the statement, ''Product replaced under warranty, value for EEI purposes'' on the bill of lading, air waybill, or other commercial-loading documents. Place the notation below the proof of filing citation or exemption legend on the commercial document. Report the value of the replacement parts only.

§§ 30.30–30.34 [Reserved]

Subpart D—Exemptions From the Requirements for the Filing of Electronic Export Information

§ 30.35 Procedure for shipments exempt from filing requirements.

Where an exemption from the filing requirement is provided in this subpart of this part, a legend describing the basis for the exemption shall be made on the first page of the bill of lading, air waybill, or other commercial loading document for carrier use, or on the carrier's outbound manifest. The exemption legend shall reference the

number of the section or provision in this part where the particular exemption is provided (see Appendix D of this part).

§ 30.36 Exemption for shipments destined to Canada.

(a) Except as noted in § 30.2(a)(1)(iv), and in paragraph (b) of this section, shipments originating in the United States where the country of ultimate destination is Canada are exempt from the EEI reporting requirements of this part.

(b) This exemption does not apply to the following types of export shipments:

(1) Sent for storage in Canada, but ultimately destined for third countries.

(2) Exports moving from the United States through Canada to a third destination shall be reported in the same manner as for all other exports. The USPPI or authorized agent shall follow the instructions as contained in this part for preparing and filing the EEI.

(3) Requiring a Department of State, DDTC, export license under the ITAR (22 CFR 120–130).

(4) Requiring a Department of Commerce, BIS, export license under the EAR (15 CFR 730–774).

(5) Subject to the ITAR, but exempt from license requirements.

(6) Classified as rough diamonds under the 6-digit HS subheadings (7102.10, 7102.21, or 7102.31).

§ 30.37 Miscellaneous exemptions.

Filing EEI is not required for the following kinds of shipments. However, the Census Bureau has the authority to periodically require the reporting of shipments that are normally exempt from filing.

(a) Except as noted in § 30.2(a)(1)(iv), exports of commodities where the value of the commodities shipped from one USPPI to one consignee on a single exporting carrier, classified under an individual Schedule B or HTSUSA commodity classification code, is $2,500 or less. This exemption applies to individual Schedule B or HTSUSA commodity classification codes regardless of the total shipment value. In instances where a shipment contains a mixture of individual Schedule B or HTSUSA commodity codes valued $2,500 or less and individual Schedule B or HTSUSA commodity classification codes valued over $2,500, only those commodity classification codes valued over $2,500 need to be reported. If the filer reports multiple items of the same Schedule B or HTSUSA code, this exemption only applies if the total value of exports for the Schedule B or HTSUSA code is $2,500 or less.

(b) Tools of trade and their containers that are usual and reasonable kinds and quantities of commodities and software intended for use by individual USPPIs or by employees or representatives of the exporting company in furthering the enterprises and undertakings of the USPPI abroad. Commodities and software eligible for this exemption are those that do not require an export license or that are exported as tools of the trade under a license exception of the EAR (15 CFR 740.9), and are subject to the following provisions:

(1) Are owned by the individual USPPI or exporting company.

(2) Accompany the individual USPPI, employee, or representative of the exporting company.

(3) Are necessary and appropriate and intended for the personal and/or business use of the individual USPPI, employee, or representative of the company or business.

(4) Are not for sale.

(5) Are returned to the United States no later than one (1) year from the date of export.

(6) Are not shipped under a bill of lading or an air waybill.

(c) Shipments from one point in the United States to another point in the United States by routes passing through Canada or Mexico.

(d) Shipments from one point in Canada or Mexico to another point in the same country by routes through the United States.

(e) Shipments transported inbond through the United States and exported from another U.S. port or transshipped and exported directly from the port of arrival. (When goods are shipped through the United States for export to a third country of ultimate destination, but are first entered for consumption or for warehousing in the United States, the EEI shall be filed when the goods are exported from the United States.) Shipments transported inbond through the United States by vessel are subject to the filing requirements of the U.S. Army Corps of Engineers. Shipments transported inbond through the United States which require an export license are subject to the filing requirements of the licensing Federal agency.

(f) Exports of technology and software as defined in 15 CFR 772 of the EAR that do not require an export license are exempt from filing requirements. However, EEI is required for mass-market software. For purposes of this part, mass-market software is defined as software that is generally available to the public by being sold at retail selling points, or directly from the software developer or supplier, by means of over-the-counter transactions, mail-order transactions, telephone transactions, or electronic mail-order transactions, and designed for installation by the user without further substantial technical support by the developer or supplier.

(g) Shipments to foreign libraries, government establishments, or similar institutions, as provided in § 30.40(d).

(h) Shipments as authorized under License Exception GFT for gift parcels and humanitarian donations (see 15 CFR 740.12 of the EAR).

(i) Diplomatic pouches and their contents.

(j) Human remains and accompanying appropriate receptacles and flowers.

(k) Shipments of interplant correspondence, executed invoices and other documents, and other shipments of company business records from a U.S. firm to its subsidiary or affiliate. This excludes highly technical plans, correspondence, etc. that could be licensed.

(l) Shipments of pets as baggage, accompanied or unaccompanied, of persons leaving the United States, including members of crews on vessels and aircraft.

(m) Carriers' stores, not shipped under a bill of lading or an air waybill (including goods carried in ships aboard carriers for sale to passengers), supplies, and equipment for departing vessels, planes, or other carriers, including usual and reasonable kinds and quantities of bunker fuel, deck engine and steward department stores, provisions and supplies, medicinal and surgical supplies, food stores, slop chest articles, and saloon stores or supplies for use or consumption on board and not intended for unlading in a foreign country, and including usual and reasonable kinds and quantities of equipment and spare parts for permanent use on the carrier when necessary for proper operation of such carrier and not intended for unlading in a foreign country. Hay, straw, feed, and other appurtenances necessary to the care and feeding of livestock while en route to a foreign destination are considered part of carriers' stores of carrying vessels, trains, planes, etc.

(n) Dunnage, not shipped under a bill of lading or an air waybill, of usual and reasonable kinds and quantities necessary and appropriate to stow or secure cargo on the outgoing or any immediate return voyage of an exporting carrier, when exported solely for use as dunnage and not intended for unlading in a foreign country.

(o) Shipments of aircraft parts and equipment; food, saloon, slop chest, and related stores; and provisions and supplies for use on aircraft by a U.S. airline to its own installations, aircraft, and agents abroad, under EAR License

Exception AVS for aircraft and vessels (see 15 CFR 740.15(c)).

(p) Filing EEI is not required for the following types of commodities when they are not shipped as cargo under a bill of lading or an air waybill and do not require an export license, but the USPPI shall be prepared to make an oral declaration to CBP Port Director, when required: baggage and personal effects, accompanied or unaccompanied, of persons leaving the United States, including members of crews on vessels and aircraft.

(q) Temporary exports, except those that require licensing, whether shipped or hand carried, (*e.g.*, carnet) that are exported from and returned to the United States in less than one year (12 months) from the date of export.

(r) Goods previously imported under a Temporary Import Bond for return in the same condition as when imported including: goods for testing, experimentation, or demonstration; goods imported for exhibition; samples and models imported for review or for taking orders; goods imported for participation in races or contests, and animals imported for breeding or exhibition and goods imported for use by representatives of foreign governments or international organizations or by members of the armed forces of a foreign country. Goods that were imported under bond for processing and reexportation are not covered by this exemption.

(s) Issued banknotes and securities, and coins in circulation exported as evidence of financial claims. The EEI must be filed for unissued bank notes and securities and coins not in circulation (such as banknotes printed in the United States and exported in fulfillment of the printing contract, or as parts of collections), which should be reported at their commercial or current value.

(t) Documents used in international transactions, documents moving out of the United States to facilitate international transactions including airline tickets, internal revenue stamps, liquor stamps, and advertising literature. Exports of such documents in fulfillment of a contract for their production, however, are not exempt and must be reported at the transaction value for their production.

§ 30.38 Exemption from the requirements for reporting complete commodity information.

The following type of shipments will require limited reporting of EEI when goods are shipped under a bill of lading or an air waybill. In such cases, Schedule B or HTSUSA commodity classification codes and domestic/foreign indicator shall not be required.

(a) Usual and reasonable kinds and quantities of wearing apparel, articles of personal adornment, toilet articles, medicinal supplies, food, souvenirs, games, and similar personal effects and their containers.

(b) Usual and reasonable kinds and quantities of furniture, household effects, household furnishings, and their containers.

(c) Usual and reasonable kinds and quantities of vehicles, such as passenger cars, station wagons, trucks, trailers, motorcycles, bicycles, tricycles, baby carriages, strollers, and their containers provided that the above-indicated baggage, personal effects, and vehicular property: (See U.S. Customs and Border Protection regulations 19 CFR 192 for separate CBP requirements for the exportation of used self-propelled vehicles.)

(1) Shall include only such articles as are owned by such person or members of his/her immediate family;

(2) Shall be in his/her possession at the time of or prior to his/her departure from the United States for the foreign country;

(3) Are necessary and appropriate for the use of such person or his/her immediate family;

(4) Are intended for his/her use or the use of his/her immediate family; and

(5) Are not intended for sale.

§ 30.39 Special exemptions for shipments to the U.S. Armed Services.

Filing of EEI is not required for any and all commodities, whether shipped commercially or through government channels, consigned to the U.S. Armed Services for their exclusive use, including shipments to armed services exchange systems. This exemption does not apply to articles that are on the USML and thus controlled by the ITAR and shipments that are not consigned to the U.S. Armed Services, regardless of whether they may be for their ultimate and exclusive use.

§ 30.40 Special exemptions for certain shipments to U.S. government agencies and employees.

Filing EEI is not required for the following types of shipments to U.S. government agencies and employees:

(a) Office furniture, office equipment, and office supplies shipped to and for the exclusive use of U.S. government offices.

(b) Household goods and personal property shipped to and for the exclusive and personal use of U.S. government employees.

(c) Food, medicines, and related items and other commissary supplies shipped to U.S. government offices or employees for the exclusive use of such employees, or to U.S. government employee cooperatives or other associations for subsequent sale or other distribution to such employees.

(d) Books, maps, charts, pamphlets, and similar articles shipped by U.S. government offices to U.S. or foreign libraries, government establishments, or similar institutions.

§§ 30.41–30.44 [Reserved]

Subpart E—General Carrier and Manifest Requirements

§ 30.45 General statement of requirements for the filing of carrier manifests with proof of filing citations for the electronic submission of export information or exemption legends when Electronic Export Information filing is not required.

(a) *Requirement for filing carrier manifest.* Carriers transporting goods from the United States, Puerto Rico, or the U.S. Virgin Islands to foreign countries; from the United States or Puerto Rico to the U.S. Virgin Islands; or between the United States and Puerto Rico; shall not be granted clearance and shall not depart until complete manifests or other required documentation (for ocean, air, and rail carriers) have been delivered to CBP Port Director in accordance with all applicable requirements under CBP regulations. CBP may require any of the following: bill of lading, air waybill, export shipping instructions, manifest, train consist, or other commercial loading document. The required document shall contain the appropriate AES proof of filing citations, covering all cargo for which the EEI is required, or exemption legends, covering cargo for which EEI need not be filed by the regulations of this part. Such annotation shall be without material change or amendment of proof of filing citations or exemption and exclusion legends as provided to the carrier by the USPPI or its authorized agent.

(1) *Vessels.* Vessels transporting goods as specified (except vessels exempted by paragraph (a)(4) of this section) shall file a complete manifest. Manifests may be filed via paper or electronically through the AES Vessel Transportation Module as provided in CBP Regulations, 19 CFR 4.63 and 4.76.

(i) *Bunker fuel.* The manifest (including vessels taking bunker fuel to be laden aboard vessels on the high seas) clearing for foreign countries shall show the quantities and values of bunker fuel taken aboard at that port for fueling use of the vessel, apart from such quantities as may have been laden on vessels as cargo.

(ii) *Coal and fuel oil.* The quantity of coal shall be reported in metric tons (1000 kgs or 2240 pounds), and the quantity of fuel oil shall be reported in barrels of 158.98 liters (42 gallons). Fuel oil shall be described in such manner as to identify diesel oil as distinguished from other types of fuel oil.

(2) *Aircraft.* Aircraft transporting goods shall file a complete manifest as required in CBP Regulations 19 CFR 122.72–122.76. The manifest shall be filed with CBP Port Director at the port where the goods are laden. For shipments from the United States to Puerto Rico, the manifests shall be filed with CBP Port Director at the port where the goods are unladed in Puerto Rico.

(3) *Rail carriers.* Rail carriers transporting goods shall file a car manifest or train consist with CBP Port Director at the border port of export in accordance with 19 CFR 123.

(4) *Carriers not required to file manifests.* Carriers exempted from filing manifests under applicable CBP regulations are required, upon request, to present to CBP Port Director, the proof of filing citation or exemption and exclusion legends for each shipment.

(5) *Penalties.* Failure of the carrier to file a manifest as required constitutes a violation of the regulations in this part and renders such carrier subject to the penalties provided for in Subpart H of this part.

(b) *Partially exported shipments.* Except as provided in paragraph (c) of this section, when a carrier identifies, prior to filing the manifest, that a portion of the goods covered by a single EEI transaction has not been exported on the intended carrier, it shall be noted on the manifest submitted to CBP. The carrier shall notify the USPPI or the authorized agent of changes to the commodity data, and the USPPI or the authorized agent shall electronically transmit the corrections, cancellations, or amendments as soon as they are known in accordance with § 30.9. Failure by the carrier to correct the manifest constitutes a violation of the provisions of the regulations in this part and renders the carrier subject to the penalties provided for in Subpart H of this part.

(c) *''Split shipments'' by air.* When a shipment by air covered by a single EEI transmission is exported in more than one aircraft of the carrier, the ''split shipment'' procedure provided in § 30.28 shall be followed by the carrier in delivering manifests with the proof of filing citation or exemption legend to CBP Port Director.

(d) *Attachment of commercial documents.* The manifest shall carry a notation that values stated are as presented on the bills of lading, cargo lists, export shipping documents or other commercial documents. The bills of lading, cargo lists, export shipping documents or other commercial documents shall be securely attached to the manifest in such a manner as to constitute one document. The manifest shall reference the statement ''Cargo as per bills of lading attached'' or ''Cargo as per commercial forms attached.'' Also required on the face of each bill of lading shall be the information required by the manifest for cargo covered by that document.

(e) *Exempt items.* For any item for which EEI is not required by the regulations in this part, a notation on the manifest shall be made by the carrier as to the basis for the exemption. In cases where a manifest is not required and EEI is not required, an oral declaration to CBP Port Director shall be made as to the basis for the exemption.

(f) *Proof of filing citations and exemption legends.*

(1) Ocean and air exporting carriers shall not accept paper SEDs under any circumstances nor load cargo that does not have all proof of filing citations, exemption or exclusion legends as provided for in Appendix D.

(2) Ocean and air exporting carriers are subject to the penalties provided for in Subpart H of this part if the exporting carrier;

(i) Accepts paper SEDs for cargo or,

(ii) Loads cargo without all proof of filing citations, exemption or exclusion legends as provided for in Appendix D.

(3) Truck exporting carriers shall not accept paper SEDs under any circumstances nor cross the border into a foreign country without a proof of filing citations, exemption or exclusion legends for cargo being exported as provided for in Appendix D. Truck exporting carriers accepting paper SEDs for cargo being exported into foreign countries, or carrying cargo into foreign countries without a proof of filing citation, exemption or exclusion legends in their possession are subject to the penalties provided for in Subpart H of this part.

(4) Rail exporting carriers shall not accept paper SEDs under any circumstance nor cross the border into a foreign country without a proof of filing citations, exemption or exclusion legends for cargo being exported as provided in Appendix D. Rail exporting carriers accepting paper SEDs for cargo being exported into foreign countries, or carrying cargo into foreign countries without required proof of filing citations, exemption or exclusion legends in their possession are subject to the penalties provided for in Subpart H of this part.

§ 30.46 Requirements for the filing of export information by pipeline carriers.

The operator of a pipeline may transport goods to a foreign country without the prior filing of the proof of filing citations, exemption or exclusion legends, on the condition that within four calendar days following the end of each calendar month the operator will deliver to CBP Port Director the proof of filing citations, exemption or exclusion legends covering all exports through the pipeline to each consignee during the month.

§ 30.47 Clearance or departure of carriers under bond on incomplete manifest.

(a) For purposes of the regulations in this part, except when carriers are transporting merchandise from the United States to Puerto Rico, clearance (where clearance is required) or permission to depart (where clearance is not required) may be granted to any carrier by CBP Port Director prior to filing of a complete manifest as required under the regulations of this part or prior to filing by the carrier of all filing U.S. Customs and Border Protection regulations citations, exclusion, and/or exemption legends, provided there is a bond as specified in 19 CFR 4.75, 4.76, and 122.74. The conditions of the bond shall be that a complete manifest, where a manifest is required by the regulations in this part and all required filing citations, exclusion, and/or exemption legends shall be filed by the carrier no later than the fourth business day after clearance (where clearance is required) or departure (where clearance is not required) of the carrier except as otherwise specifically provided in paragraph (a)(1), (2), and (3) of this section.

(1) For manifests submitted electronically through AES, the condition of the bond shall be that the manifest and all required filing citations, exclusion, and/or exemption legends shall be completed not later than the tenth business day after departure from each port.

(2) For rail carriers to Canada, the conditions of the bond shall be that manifest and all filing citations, exclusion, and/or exemption legends shall be filed not later than the fifteenth business day after departure.

(3) For carriers under bond on incomplete manifest, the carrier must file prior to departure a list of filing citations, exclusion, and/or exemption legends for export shipments aboard the conveyance. The list of filing citations, exclusion and/or exemption legends

shall be presented to a CBP Export Control Officer at the port of exit prior to departure.

(b) In the event that any required manifest and all required filing citations, exclusion and/or exemption legends are not filed by the carrier within the period provided by the bond, then a penalty of $1,100 shall be exacted for each day's delinquency beyond the prescribed period, but not more than $10,000 per violation.

(c) Remission or mitigation of the penalties for manifest violations provided herein may be granted by CBP as the Administering Authority. Prior disclosure of a manifest violation of this section shall be made in writing to CBP Port Director in the port of export as the Administering Authority.

§§ 30.48–30.49 [Reserved]

Subpart F—Import Requirements

§ 30.50 General requirements for filing import entries.

Electronic entry summary filing through the ABI, paper import entry summaries (CBP–7501), or paper record of vessel foreign repair or equipment purchase (CBP–226) shall be completed by the importer or its licensed import broker and filed directly with CBP in accordance with 19 CFR. Information on all mail and informal entries required for statistical and CBP purposes shall be reported, including value not subject to duty. Upon request, the importer or import broker shall provide the Census Bureau with information or documentation necessary to verify the accuracy of the reported information, or to resolve problems regarding the reported import transaction received by the Census Bureau.

(a) Import information for statistical purposes shall be filed for goods shipped as follows:

(1) Entering the United States from foreign countries.

(2) Admitted to U.S. FTZs.

(3) From the U.S. Virgin Islands.

(4) From other nonforeign areas (except Puerto Rico).

(b) Sources for collecting import statistics include the following:

(1) CBP's ABI Program (see 19 CFR Subpart A, Part 143).

(2) CBP–7501 paper entry summaries required for individual transactions (see 19 CFR Subpart B, Part 142).

(3) CBP–226, Record of Vessel Foreign Repair or Equipment Purchase (see 19 CFR 4.7 and 4.14).

(4) CBP–214, Application for Foreign Trade Zone Admission and/or Status Designation (Statistical copy).

(5) Automated Foreign Trade Zone Reporting Program (AFTZRP).

§ 30.51 Statistical information required for import entries.

The information required for statistical purposes is, in most cases, also required by CBP regulations for other purposes. Refer to CBP Web site at *http://www.cbp.gov* to download ''Instructions for Preparation of CBP–7501,'' for completing the paper entry summary documentation (CBP–7501). Refer to the Customs and Trade Automated Interface Requirements for instructions on submitting an ABI electronic record, or instructions for completing CBP–226 for declaring any equipment, repair parts, materials purchased, or expense for repairs incurred outside of the United States.

§ 30.52 Foreign Trade Zones.

Foreign goods admitted into FTZs shall be reported as a general import. When goods are withdrawn from a FTZ for export to a foreign country, the export shall be reported in accordance with § 30.2. When goods are withdrawn for domestic consumption or entry into a bonded warehouse, the withdrawal shall be reported on CBP–7501 or through the ABI in accordance with CBP regulations. (This section emphasizes the reporting requirements contained in CBP regulations 19 CFR 146, ''Foreign Trade Zones.'') When foreign goods are admitted into a FTZ, the zone operator is required to file CBP–214, ''Application for Foreign Trade Zone Admission and/or Status Designation.'' Refer to CBP Web site for instructions on completing CBP–214. Per 19 CFR 146.32(a), the applicant for admission shall present CBP–214 to the Port Director and shall include the statistical (pink) copy, CBP–214(A), for transmittal to the Census Bureau, unless the applicant makes arrangements for the electronic transmission of statistical information to the Census Bureau through the AFTZRP. Companies operating in FTZs interested in reporting CBP–214 statistical information electronically on a monthly basis shall apply directly to the Census Bureau. Monthly electronic reports shall be filed with the Census Bureau no later than the tenth (10) calendar day of the month following the report month. Participation in the Census Bureau program does not relieve companies of the responsibility to file CBP–214 with CBP. The following data items are required to be filed, in the AFTZRP, for statistical purposes. (Use the instructions and definitions provided in 19 CFR 146 for completing these fields.):

(a) HTSUSA Classification Code.
(b) Country of Origin.
(c) Country Sub-code.
(d) U.S. Port of Entry.
(e) U.S. Port of Unlading.
(f) Transaction Type.
(g) Statistical Month.
(h) Method of Transportation.
(i) Company Authorization Symbol.
(j) Carrier Code.
(k) Foreign Port of Lading.
(l) Date of Exportation.
(m) Date of Importation.
(n) Special Program Indicator Field.
(o) Unit of Quantity.
(p) CBP (dutiable) Value.
(q) Gross (shipping) Weight.
(r) Charges.
(s) U.S. Value.
(t) FTZ/Subzone Number.
(u) Zone Admission Number.
(v) Vessel Name.
(w) Serial Number.
(x) Trade Identification.
(y) Admission Date.

§ 30.53 Import of goods returned for repair.

Import entries covering U.S. goods imported temporarily for repair or alteration and reexport are required to show the following statement: ''Imported for Repair and Reexport'' on CBP–7501 or in the ABI entry. Whenever goods are returned to the United States after undergoing either repair, alteration, or assembly under HTS heading 9802, the country of origin shall be shown as the country in which the repair, alteration, or assembly is performed. When the goods are for reexport and meet all of the requirements for filing the EEI, file according to the instructions provided in § 30.2, except for the following data items:

(a) *Value*. Report the value of the repairs, including parts and labor. Do not report the value of the original product. If goods are repaired under warranty, at no charge to the customer, report the cost to repair as if the customer were being charged.

(b) *Schedule B Classification Code*. Report Schedule B commodity classification code 9801.10.0000 for goods reexported after repair.

§ 30.54 Special provisions for imports from Canada.

(a) When certain softwood lumber products described under HTSUSA subheadings 4407.1001, 4409.1010, 4409.1090, and 4409.1020 are imported from Canada, import entry records are required to show a valid Canadian region of manufacture code. The Canadian region of manufacture is determined on a first mill basis (the point at which the item was first manufactured into a covered lumber product). Canadian region of manufacture is the first region where the

subject goods underwent a change in tariff classification to the tariff classes cited in this paragraph. The Canadian region code should be transmitted in the electronic ABI summaries. The Canadian region of manufacture code should replace the region of origin code on CBP–7501, entry summary form. These requirements apply only for imports of certain softwood lumber products for which the region of origin is Canada.

(b) All other imports from Canada, including certain softwood lumber products not covered in paragraph (a) of this section, will require the twoletter designation of the Canadian region of origin to be reported on U.S. entry summary records. This information is required only for U.S. imports that under applicable CBP rules of origin are determined to originate in Canada. For nonmanufactured goods determined to be of Canadian origin, the region of origin is defined as the region where the exported goods were originally grown, mined, or otherwise produced. For goods of Canadian origin that are manufactured or assembled in Canada, with the exception of the certain softwood lumber products described in paragraph (a) of this section, the region of origin is that in which the final manufacture or assembly is performed prior to exporting that good to the United States. In cases where the region in which the goods were manufactured, assembled, grown, mined, or otherwise produced is unknown, the region in which the Canadian vendor is located can be reported. For those reporting on paper forms the region of origin code replaces the region of origin code on the CBP–7501, entry summary form.

(c) All electronic ABI entry summaries for imports originating in Canada also require the Canadian region of origin code to be transmitted for each entry summary line item.

(d) The region of origin code replaces the region of origin code only for imports that have been determined, under applicable CBP rules, to originate in Canada. Valid Canadian region/territory codes are:

XA—Alberta
XB—New Brunswick
XD—British Columbia Coastal
XE—British Columbia Interior
XM—Manitoba
XN—Nova Scotia
XO—Ontario
XP—Prince Edward Island
XQ—Quebec
XS—Saskatchewan
XT—Northwest Territories
XV—Nunavut
XW—Newfoundland
XY—Yukon

§ 30.55 Confidential information, import entries, and withdrawals.

The contents of the statistical copies of import entries and withdrawals on file with the Census Bureau are treated as confidential and will not be released without authorization by CBP, in accordance with 19 CFR 103.5 relating to the copies on file in CBP offices. The importer or import broker must provide the Census Bureau with information or documentation necessary to verify the accuracy or resolve problems regarding the reported import transaction.

(a) The basic responsibility for obtaining and providing the information required by the general statistical headnotes of the HTSUSA rests with the person filing the import entry. This is provided for in section 484(a) of the Tariff Act, 19 CFR 141.61(e) of CBP regulations, and § 30.50 of this subpart. CBP Regulations 19 CFR 141.61(a) specify that the entry summary data clearly set forth all information required.

(b) 19 CFR 141.61(e) of CBP regulations provides that penalty procedures relating to erroneous statistical information shall not be invoked against any person who attempts to comply with the statistical requirements of the General Statistical Notes of the HTSUSA. However, in those instances where there is evidence that statistical suffixes are misstated to avoid quota action, or a misstatement of facts is made to avoid import controls or restrictions related to specific commodities, the importer or its licensed broker should be aware that the appropriate actions will be taken under 19 U.S.C. 1592, as amended.

§§ 30.56–30.59 [Reserved]

Subpart G—General Administrative Provisions

§ 30.60 Confidentiality of Electronic Export Information.

(a) *Confidential status.* The EEI collected pursuant to this Part is confidential, to be used solely for official purposes as authorized by the Secretary of Commerce. The collection of EEI by the Department of Commerce has been approved by the Office of Management and Budget (OMB). The information collected is used by the Census Bureau for statistical purposes only and by the BIS for export control purposes. In addition, EEI is used by other federal government agencies, such as the Department of State, CBP, and ICE for export control and other federal government agencies such as the Bureau of Economic Analysis, Bureau of Labor Statistics, and Bureau of Transportation Statistics for statistical purposes. Except as provided for in paragraph (e) of this section, information collected pursuant to this Part shall not be disclosed to anyone by any officer, employee, contractor, agent of the federal government or other parties with access to the EEI other than to the USPPI, or the authorized agent of the USPPI or the transporting carrier. Such disclosure shall be limited to that information provided by each party pursuant to this Part.

(b) *Supplying EEI for official purposes.*

(1) The EEI may be supplied to federal agencies for official purposes, defined to include, but not limited to:

(i) Verification and investigation of export shipments, including penalty assessments, for export control and compliance purposes,

(ii) Providing proof of export; and

(iii) Statistical purposes;

(iv) Circumstances to be determined in the national interest pursuant to 13 U.S.C., § 301(g) and paragraph (e) of this section.

(2) The EEI may be supplied to the USPPI, or authorized agents of USPPI and carriers for compliance and audit purposes. Such disclosure shall be limited to that information provided to the AES by each party.

(c) *Supplying EEI for nonofficial purposes.* The official report of the EEI submitted to the United States Government shall not be disclosed by the USPPI, or the authorized agent, or representative of the USPPI for ''nonofficial purposes,'' either in whole or in part, or in any form including but not limited to electronic transmission, paper printout, or certified reproduction. ''Nonofficial purposes'' are defined to include but not limited to use of the official EEI:

(1) In support of claims by the USPPI or its authorized agent for exemption from Federal or state taxation;

(2) By the U.S. Internal Revenue Service for purposes not related to export control or compliance;

(3) By state and local government agencies, and nongovernmental entities or individuals for any purpose; and

(4) By foreign governments for any purposes.

(d) *Copying of information to manifests.* Because the ocean manifest can be made public under provision of CBP regulations, no information from the EEI, except the ITN, filing citation, exemptions or exclusion legends, shall be copied to the outward manifest of ocean carriers.

(e) *Determination by the Secretary of Commerce.* Under 13 U.S.C. 301(g), the

EEI is exempt from public disclosure unless the Secretary or delegate determines that such exemption would be contrary to the national interest. The Secretary or his or her delegate may make such information available, if he or she determines it is in the national interest, taking such safeguards and precautions to limit dissemination as deemed appropriate under the circumstances. In recommendations or decisions regarding such actions, it shall be presumed to be contrary to the national interest to provide EEI for purposes set forth in paragraph (c) of this section. In determining whether, under a particular set of circumstances, it is contrary to the national interest to apply the exemption, the maintenance of confidentiality and national security shall be considered as important elements of national interest. The unauthorized disclosure of confidential EEI granted under National Interest Determination renders such persons subject to the civil penalties provided for in Subpart H of this part.

(f) *Penalties*. Disclosure of confidential EEI by any officer, employee, contractor, or agent of the federal government, except as provided for in paragraphs (a) and (e) of this section renders such persons subject to the civil penalties provided for in Subpart H of this part.

§ 30.61 Statistical classification schedules.

The following statistical classification schedules are referenced in this part. These schedules, may be accessed through the Census Bureau's Web site at *http://www.census.gov/trade*.

(a) *Schedule B—Statistical Classification for Domestic and Foreign Commodities Exported from the United States*, shows the detailed commodity classification requirements and 10-digit statistical reporting numbers to be used in preparing EEI, as required by these regulations.

(b) *Harmonized Tariff Schedules of the United States Annotated for Statistical Reporting*, shows the 10-digit statistical reporting number to be used in preparing import entries and withdrawal forms.

(c) *Schedule C*—Classification of Country and Territory Designations for U.S. Foreign Trade Statistics.

(d) *Schedule D*—Classification of CBP Districts and Ports.

(e) *Schedule K*—Classification of Foreign Ports by Geographic Trade Area and Country.

(f) *International Air Transport Association (IATA)*—Code of the carrier for air shipments. These are the air carrier codes to be used in reporting EEI, as required by the regulations in this part.

(g) *Standard Carrier Alpha Code (SCAC)*—Classification of the carrier for vessel, rail and truck shipments, showing the carrier codes necessary to prepare EEI, as required by the regulations in this part.

§ 30.62 Emergency exceptions.

The Census Bureau and CBP may jointly authorize the postponement of or exception to the requirements of the regulations in this Part as warranted by the circumstances in individual cases of emergency where strict enforcement of the regulations would create a hardship. In cases where export control requirements also are involved, the concurrence of the regulatory agency and CBP also will be obtained.

§ 30.63 Office of Management and Budget control numbers assigned pursuant to the Paperwork Reduction Act.

(a) *Purpose*. This subpart will comply with the requirements of the Paperwork Reduction Act (PRA), 44 U.S.C. 3507(f), which requires that agencies display a current control number assigned by the Director of OMB for each agency information collection requirement.

(b) *Display*.

15 CFR section where identified and described	Current OMB control No.
§§ 30.1 through 30.99	0607–0152

§§ 30.64–30.69 [Reserved]

Subpart H—Penalties

§ 30.70 Violation of the Clean Diamond Trade Act.

Public Law 108–19, the Clean Diamond Trade Act (the Act), section 8(c), authorizes CBP and ICE, as appropriate, to enforce the laws and regulations governing exports of rough diamonds, including those with respect to the validation of the Kimberley Process Certificate by the exporting authority. The Treasury Department's OFAC also has enforcement authority pursuant to section 5(a) of the Act, Executive Order 13312, and Rough Diamonds Control Regulations (31 CFR 592). CBP, ICE, and the OFAC, pursuant to section 5(a) of the Act, are further authorized to enforce provisions of section 8(a) of the Act, that provide for the following civil and criminal penalties:

(a) *Civil penalties*. A civil penalty not to exceed $10,000 may be imposed on any person who violates, or attempts to violate, any order or regulation issued under the Act.

(b) *Criminal penalties*. For the willful violation or attempted violation of any license, order, or regulation issued under the Act, a fine not to exceed $50,000, shall be imposed upon conviction or:

(1) If a natural person, imprisoned for not more than ten years, or both;

(2) If an officer, director, or agent of any corporation, who willfully participates in such violation, imprisoned for not more than ten years, or both.

§ 30.71 False or fraudulent reporting on or misuse of the Automated Export System.

(a) *Criminal penalties*—(1) *Failure to file; submission of false or misleading information*. Any person, including USPPIs, authorized agents or carriers, who knowingly fails to file or knowingly submits, directly or indirectly, to the U.S. Government, false or misleading export information through the AES, shall be subject to a fine not to exceed $10,000 or imprisonment for not more than five years, or both, for each violation.

(2) *Furtherance of illegal activities*. Any person, including USPPIs, authorized agents or carriers, who knowingly reports, directly or indirectly, to the U.S. Government any information through or otherwise uses the AES to further any illegal activity shall be subject to a fine not to exceed $10,000 or imprisonment for not more than five years, or both, for each violation.

(3) *Forfeiture penalties*. Any person who is convicted under this subpart shall, in addition to any other penalty, be subject to forfeiting to the United States:

(i) Any of that person's interest in, security of, claim against, or property or contractual rights of any kind in the goods or tangible items that were the subject of the violation.

(ii) Any of that person's interest in, security of, claim against, or property or contractual rights of any kind in tangible property that was used in the export or attempt to export that was the subject of the violation.

(iii) Any of that person's property constituting, or derived from, any proceeds obtained directly or indirectly as a result of this violation.

(4) *Exemption*. The criminal fines provided for in this subpart are exempt from the provisions of 18 U.S.C. 3571.

(b) *Civil penalties*—(1) *Failure to file or delayed filing violations.* A civil penalty not to exceed $1,100 for each day of delinquency beyond the applicable period prescribed in § 30.4, but not more than $10,000 per violation, may be imposed for failure to

information or reports in connection with the exportation or transportation of cargo.

(2) *Filing false/misleading information, furtherance of illegal activities and penalties for other violations.* A civil penalty not to exceed $10,000 per violation may be imposed for each violation of provisions of this part other than any violation encompassed by paragraph (b)(1) of this section. Such penalty may be in addition to any other penalty imposed by law.

(3) *Forfeiture penalties.* In addition to any other civil penalties specified in this section, any property involved in a violation may be subject to forfeiture under applicable law.

Note to Paragraph (b): The Civil Monetary Penalties; Adjustment for Inflation Final Rule effective December 14, 2004, adjusted the penalty in Title 13, Chapter 9, Section 304, United States Code from $1,000 to $10,000 to $1,100 to $10,000.

§ 30.72 Civil penalty procedures.

(a) *General.* Whenever a civil penalty is sought for a violation of this part, the charged party is entitled to receive a formal complaint specifying the charges and, at his or her request, to contest the charges in a hearing before an administrative law judge. Any such hearing shall be conducted in accordance with 5 U.S.C. 556 and 557.

(b) *Applicable law for delegated function.* If, pursuant to 13 U.S.C. 306, the Secretary delegates functions addressed in this part to another agency, the provisions of law of that agency relating to penalty assessment, remission or mitigation of such penalties, collection of such penalties, and limitations of action and compromise of claims shall apply.

(c) *Commencement of civil actions.* If any person fails to pay a civil penalty imposed under this subpart, the Secretary may request the Attorney General to commence a civil action in an appropriate district court of the United States to recover the amount imposed (plus interest at currently prevailing rates from the date of the final order). No such action may be commenced more than five years after the date the order imposing the civil penalty becomes final. In such action, the validity, amount, and appropriateness of such penalty shall not be subject to review.

(d) *Remission and mitigation.* Any penalties imposed under § 30.71(b)(1) and (b)(2) may be remitted or mitigated, if:

(1) The penalties were incurred without willful negligence or fraud; or

(2) Other circumstances exist that justify a remission or mitigation.

(e) *Deposit of payments in General Fund of the Treasury.* Any amount paid in satisfaction of a civil penalty imposed under this subpart shall be deposited into the general fund of the Treasury and credited as miscellaneous receipts, other than a payment to remit a forfeiture which shall be deposited into the Treasury Forfeiture fund.

§ 30.73 Enforcement.

(a) *Department of Commerce.* The BIS's OEE may conduct investigations pursuant to this part. In conducting investigations, BIS may, to the extent necessary or appropriate to the enforcement of this part, exercise such authorities as are conferred upon BIS by other laws of the United States, subject, as appropriate, to policies and procedures approved by the Attorney General.

(b) *Department of Homeland Security (DHS).* ICE and CBP may enforce the provisions of this part and ICE, as assisted by CBP may conduct investigations under this part.

§ 30.74 Voluntary self-disclosure.

(a) *General policy.* The Census Bureau strongly encourages disclosure of any violation or suspected violation of the FTR. Voluntary self-disclosure is a mitigating factor in determining what administrative sanctions, if any, will be sought. The Secretary of Commerce has delegated all enforcement authority under 13 U.S.C. Chapter 9, to the BIS and the DHS.

(b) *Limitations.*

(1) The provisions of this section apply only when information is provided to the Census Bureau for its review in determining whether to seek administrative action for violations of the FTR.

(2) The provisions of this section apply only when information is received by the Census Bureau for review prior to the time that the Census Bureau, or any other agency of the United States Government, has learned the same or substantially similar information from another source and has commenced an investigation or inquiry in connection with that information.

(3) While voluntary self-disclosure is a mitigating factor in determining what corrective actions will be required by the Census Bureau and/or whether the violation will be referred to the BIS to determine what administrative sanctions, if any, will be sought, it is a factor that is considered together with all other factors in a case. The weight given to voluntary self-disclosure is within the discretion of the Census Bureau and the BIS, and the mitigating effect of voluntary self-disclosure may be outweighed by aggravating factors. Voluntary self-disclosure does not prevent transactions from being referred to the Department of Justice (DOJ) for criminal prosecution. In such a case, the BIS or the DHS would notify the DOJ of the voluntary self-disclosure, but the consideration of that factor is within the discretion of the DOJ.

(4) Any person, including USPPIs, authorized agents, or carriers, will not be deemed to have made a voluntary self-disclosure under this section unless the individual making the disclosure did so with the full knowledge and authorization of senior management.

(5) The provisions of this section do not, nor should they be relied on to, create, confer, or grant any rights, benefits, privileges, or protection enforceable at law or in equity by any person, business, or entity in any civil, criminal, administrative, or other matter.

(c) *Information to be provided*—(1) *General.* Any person disclosing information that constitutes a voluntary self-disclosure should, in the manner outlined below, if a violation is suspected or a violation is discovered, conduct a thorough review of all export transactions for the past five years where violations of the FTR are suspected and notify the Census Bureau as soon as possible.

(2) *Initial notification.*

(i) The initial notification must be in writing and be sent to the address in paragraph (c)(5) of this section. The notification must include the name of the person making the disclosure and a brief description of the suspected violations. The notification should describe the general nature, circumstances, and extent of the violations. If the person making the disclosure subsequently completes the narrative account required by paragraph (c)(3) of this section, the disclosure will be deemed to have been made on the date of the initial notification for purposes of paragraph (b)(2) of this section.

(ii) Disclosure of suspected violations that involve export of items controlled, licensed, or otherwise subject to the jurisdiction by a department or agency of the federal government should be made to the appropriate federal department or agency.

(3) *Narrative account.* After the initial notification, a thorough review should be conducted of all export transactions where possible violations of the FTR are suspected. The Census Bureau recommends that the review cover a

period of five years prior to the date of the initial notification. If the review goes back less than five years, there is a risk that violations may not be discovered that later could become the subject of an investigation. Any violations not voluntarily disclosed do not receive consideration under this section. However, the failure to make such disclosures will not be treated as a separate violation unless some other section of the FTR or other provision of law requires disclosure. Upon completion of the review, the Census Bureau should be furnished with a narrative account that sufficiently describes the suspected violations so that their nature and gravity can be assessed. The narrative account should also describe the nature of the review conducted and measures that may have been taken to minimize the likelihood that violations will occur in the future. The narrative account should include:

(i) The kind of violation involved, for example, failure to file EEI, failure to correct fatal errors, failure to file timely corrections;

(ii) Describe all data required to be reported under the FTR that was either not reported or reported incorrectly;

(iii) An explanation of when and how the violations occurred;

(iv) The complete identities and addresses of all individuals and organizations, whether foreign or domestic, involved in the activities giving rise to the violations; and

(v) A description of any mitigating circumstances.

(4) *Electronic Export Information.* Report all data required under the FTR that was not reported. Report corrections for all data reported incorrectly. All reporting of unreported data or corrections to previously reported data shall be made through the AES.

(5) *Where to make voluntary self-disclosures.* With the exception of voluntary disclosures of manifest violations under § 30.47 (c), the information constituting a voluntary self-disclosure or any other correspondence pertaining to a voluntary self-disclosure may be submitted to: Chief, Foreign Trade Division, U.S. Census Bureau, Room 6K032, Washington, DC 20233–6700, by phone 1–800–549–0595, by fax (301) 763–8835, or by e-mail *FTDRegs@census.gov.*

(d) *Action by the Census Bureau.* After the Census Bureau has been provided with the required narrative, it will promptly notify CBP, ICE, and the OEE of the voluntary disclosure, acknowledge the disclosure by letter, provide the person making the disclosure with a point of contact, and take whatever additional action, including further investigation, it deems appropriate. As quickly as the facts and circumstances of a given case permit, the Census Bureau may take any of the following actions:

(1) Inform the person or company making the voluntary self-disclosure of the action to be taken.

(2) Issue a warning letter or letter setting forth corrective measures required.

(3) Refer the matter, if necessary, to the OEE for the appropriate action.

§§ 30.75–30.99 [Reserved]

BILLING CODE 3510–07–P

Appendix A to Part 30–Sample for Power of Attorney and Written Authorization
SAMPLE FORMAT: Power of Attorney

POWER OF ATTORNEY
U.S. PRINCIPAL PARTY IN INTEREST/AUTHORIZED AGENT

Know all men by these presents, that_____, the
(Name of U.S. Principal Party in Interest (USPPI))
USPPI organized and doing business under the laws of the State or Country of
_____ and having an office and place of business
at_____hereby
(Address of USPPI)
authorizes_____, (Authorized Agent)
(Name of Authorized Agent)
of_____
(Address of Authorized Agent)
to act for and on its behalf as a true and lawful agent and attorney of the U.S. Principal Party in Interest (USPPI) for, and in the name, place, and stead of the USPPI, from this date, in the United States either in writing, electronically, or by other authorized means to: act as authorized agent for export control, U.S. Census Bureau (Census Bureau) reporting, and U.S. Customs and Border Protection (CBP) purposes. Also, to prepare and transmit any Electronic Export Information (EEI) or other documents or records required to be filed by the Census Bureau, CBP, the Bureau of Industry and Security, or any other U.S. Government agency, and perform any other act that may be required by law or regulation in connection with the exportation or transportation of any goods shipped or consigned by or to the USPPI, and to receive or ship any goods on behalf of the USPPI.

The USPPI hereby certifies that all statements and information contained in the documentation provided to the authorized agent and relating to exportation will be true and correct. Furthermore, the USPPI understands that civil and criminal penalties may be imposed for making false or fraudulent statements or for the violation of any United States laws or regulations on exportation.

This power of attorney is to remain in full force and effect until revocation in writing is duly given by the U.S. Principal Party in Interest and received by the Authorized Agent.

IN WITNESS WHEREOF, _____ caused these
(Full Name of USPPI/USPPI Company)
presents to be sealed and signed:

Witness: _____ Signature:_____
Capacity: _____
Date:_____

Sample Written Authorization
SAMPLE FORMAT: Written Authorization

WRITTEN AUTHORIZATION TO PREPARE OR TRANSMIT ELECTRONIC EXPORT INFORMATION

I, _____, authorize
(Name of U.S. Principal Party in Interest)
_____ to act as authorized agent for
(Name of Authorized Agent)
export control, U.S. Customs, and Census Bureau purposes to transmit such export information electronically that may be required by law or regulation in connection with the exportation or transportation of any goods on behalf of said U.S. Principal Party in Interest. The U.S. Principal Party in Interest certifies that necessary and proper documentation to accurately transmit the information electronically is and will be provided to the said Authorized Agent. The U.S. Principal Party in Interest further understands that civil and criminal penalties may be imposed for making false or fraudulent statements or for the violation of any U.S. laws or regulations on exportation and agrees to be bound by all statements of said authorized agent based upon information or documentation provided by the U.S. Principal Party in Interest to said authorized agent.

Signature: _____
(U.S. Principal Party in Interest)
Capacity: _____
Date: _____

BILLING CODE 3510–07–C

Appendix B to Part 30—AES Filing Codes

Part I—Method of Transportation Codes

10 Vessel
11 Vessel Containerized
12 Vessel (Barge)
20 Rail
21 Rail Containerized
30 Truck
31 Truck Containerized
32 Auto
33 Pedestrian
34 Road, Other
40 Air
41 Air Containerized
50 Mail
60 Passenger, Hand Carried
70 Fixed Transport (Pipeline and Powerhouse)

Part II—Export Information Codes

TP Temporary exports of domestic merchandise
IP Shipments of merchandise imported under a Temporary Import Bond for further manufacturing or processing
IR Shipments of merchandise imported under a Temporary Import Bond for repair
CH Shipments of goods donated for charity
FS Foreign Military Sales
OS All other exports
HV Shipments of personally owned vehicles
HH Household and personal effects
TE Temporary exports to be returned to the United States
TL Merchandise leased for less than a year
IS Shipments of merchandise imported under a Temporary Import Bond for return in the same condition
CR Shipments moving under a carnet
GP U.S. Government shipments
MS Shipments consigned to the U.S. Armed Forces
GS Shipments to U.S. Government agencies for their use
UG Gift parcels under Bureau of Industry and Security License Exception GFT
DD Other exemptions:
Currency
Airline tickets
Bank notes
Internal revenue stamps
State liquor stamps
Advertising literature
Shipments of temporary imports by foreign entities for their use
RJ Inadmissible merchandise
(For Manifest Use Only by AES Carriers)
AE Shipment information filed through AES
(See §§ 30.50 through 30.58 for information on filing exemptions.)

Part III—License Codes

Department of Commerce, Bureau of Industry and Security (BIS), Licenses

C30 Licenses issued by BIS authorizing an export, reexport, or other regulated activity.
C31 SCL—Special Comprehensive License
C32 NLR—No License Required (controlled for other than or in addition to Anti-Terrorism)
C33 NLR—No License Required (All others, including Anti-Terrorism controls ONLY)
C35 LVS—Limited Value Shipments
C36 GBS—Shipments to B Countries
C37 CIV—Civil End Users
C38 TSR—Restricted Technology and Software
C40 TMP—Temporary Imports, Exports, and Re-exports
C41 RPL—Servicing and Replacement of Parts and Equipment
C42 GOV—Government and International Organizations
C43 GFT—Gift Parcels and Humanitarian Donations
C44 TSU—Technology and Software—Unrestricted
C45 BAG—Baggage
C46 AVS—Aircraft and Vessels (AES not required)
C47 APR—Additional Permissive Re-exports
C48 KMI—Key Management Intrastructure
C49 TAPS—Trans-Alaska Pipeline Authorization Act
C50 ENC—Encryption Commodities and Software
C51 AGR—License Exception Agricultural Commodities
C53 APP—Adjusted Peak Performance (Computers)
C54 SS–WRC—Western Red Cedar
C55 SS–Sample—Crude Oil Samples
C56 SS–SPR—Strategic Petroleum Reserves

C57 VEU—Validated End User Authorization

Nuclear Regulatory Commission (NRC) Codes

N01 NRC Form 250/250A—NRC Form 250/250A
N02 NRC General License—NRC 'General' Export License

Department of State, Directorate of Defense Trade Controls (DDTC) Codes

SAG—Agreements
SCA—Canadian ITAR Exemption
S00—License Exemption Citation
S05—DSP–5—Permanent export of unclassified defense articles and services
S61—DSP–61—Temporary import of unclassified articles
S73—DSP–73—Temporary export of unclassified articles
S85—DSP–85—Temporary or permanent import or export of classified articles
S94—DSP–94—Foreign Military Sales

Department of Treasury, Office of Foreign Assets Control (OFAC) Codes

T10—OFAC Specific License
T11—OFAC General License
T12—Kimberley Process Certificate Number

Other License Types

OPA—Other Partnership Agency License

For export license exemptions under International Traffic in Arms Regulations, refer to 22 CFR 120–130 of the ITAR for the list of export license exemptions.

Part IV—In-Bond Codes

70 Not In Bond
36 Warehouse Withdrawal for Immediate Exportation
37 Warehouse Withdrawal for Transportation and Exportation
67 Immediate Exportation from a Foreign Trade Zone
68 Transportation and Exportation from a Foreign Trade Zone

Appendix C to Part 30—Summary of Exemptions and Exclusions from EEI Filing

A. EEI is not required for the following types of shipments:[1]

1. Exemption for shipments destined to Canada (§ 30.36).

2. Valued $2,500 or less per Schedule B/HTSUSA classification for commodities shipped from one USPPI to one consignee on a single carrier (§ 30.37(a)).

3. Tools of the trade and their containers that are usual and reasonable kinds and quantities of commodities and software intended for use by individual USPPIs or by employees or representatives of the exporting company in furthering the enterprises and undertakings of the USPPI abroad (§ 30.37(b)).

4. Shipments from one point in the United States to another point in the United States by routes passing through Canada or Mexico (§ 30.37(c)).

5. Shipments from one point in Canada or Mexico to another point in the same country by routes through the United States (§ 30.37(d)).

6. Shipments transported inbond through the United States for export to a third country and exported from another U.S. port or transshipped and exported directly from the port of arrival never having made entry into the United States. If entry for consumption or warehousing in the United States is made, then an EEI is required if the goods are then exported to a third country from the United States (§ 30.37(e)).

7. Exports of technology and software as defined in 15 CFR 772 of the EAR that do not require an export license. However, EEI is required for mass-market software (§ 30.37(f)).

8. Shipments to foreign libraries, government establishments, or similar institutions, as provided in FTR Subpart D § 30.40 (d). (§ 30.37(h)).

9. Shipments as authorized under License Exception GFT for gift parcels and humanitarian donations (EAR 15 CFR 740.12); § 30.37(i)).

10. Diplomatic pouches and their contents (§ 30.37(j)).

11. Human remains and accompanying appropriate receptacles and flowers (§ 30.37(k)).

12. Shipments of interplant correspondence, executed invoices and other documents, and other shipments of company business records from a U.S. firm to its subsidiary or affiliate. This excludes highly technical plans, correspondence, etc. that could be licensed (§ 30.37(l)).

13. Shipments of pets as baggage (§ 30.37(m)).

14. Carrier's stores, not shipped under a bill of lading or an air waybill, supplies and equipment, including usual and reasonable kinds and quantities of bunker fuel, deck engine and steward department stores, provisions and supplies, medicinal and surgical supplies, food stores, slop chest articles, and saloon stores or supplies for use or consumption on board and not intended for unlading in a foreign country. (See Table 5 if shipped under a bill of lading or an air waybill (§ 30.37(n)).

15. Dunnage not shipped under a bill of lading or an air waybill, of usual and reasonable kinds and quantities not intended for unlading in a foreign country (§ 30.37(o)).

16. Shipments of aircraft parts and equipment; food, saloon, slop chest, and related stores; and provisions and supplies for use on aircraft by a U.S. airline. (EAR license exception (AVS) for aircraft and vessels 15 CFR 740.15(c); § 30.37(p)).

17. Baggage and personal effects, accompanied or unaccompanied, of persons leaving the United States including members of crews on vessels and aircraft, when they are not shipped as cargo under a bill of lading or an air waybill and do not require an export license (§ 30.37(q)).

18. Temporary exports, whether shipped or hand carried, (*e.g.*, carnet) that are exported from or returned to the United States in less than one year (12 months) from date of export (§ 30.37(r)).

19. Goods previously imported under Temporary Import Bond for return in the same condition as when imported including: goods for testing, experimentation, or demonstration; goods imported for exhibition; samples and models imported for review or for taking orders; goods for imported for participation in races or contests; and animals imported for breeding or exhibition and imported for use by representatives of foreign government or international organizations or by members of the armed forces of a foreign country. Goods that were imported under bond for processing and re-exportation are not covered by this exemption (§ 30.37(s)).

20. Issued banknotes and securities and coins in circulation exported as evidence of financial claims. The EEI must be filed for unissued bank notes and securities and coins not in circulation (such as bank notes printed in the United States and exported in fulfillment of the printing contract or as part of collections), which should be reported at their commercial or current value (§ 30.37(t)).

21. Documents used in international transactions, documents moving out of the United States to facilitate international transactions including airline tickets, internal revenue stamps, liquor stamps, and advertising literature. Export of such documents in fulfillment of a contract for their production, however, are not exempt and must be reported at the transaction value for their production (§ 30.37(u)).

B. The following types of transactions are outside the scope of the FTR and shall be excluded from EEI filing:

1. Goods shipped under CBP bond through the United States, Puerto Rico, or the U.S. Virgin Islands from one foreign country or area to another where such goods do not enter the consumption channels of the United States.

2. Goods shipped from the U.S. territories of Guam Island, American Samoa, Wake Island, Midway Island, and Northern Mariana Islands to foreign countries or areas, and goods shipped between the U.S. and these territories (§ 30.2(d)(2)).

3. Electronic transmissions and intangible transfers. See FTR, Subpart B, for export control requirements for these types of transactions (§ 30.2(d)(3)).

4. Goods shipped to Guantanamo Bay Naval Base in Cuba from the United States, Puerto Rico, or the U.S. Virgin Islands and from Guantanamo Bay Naval Base to the United States, Puerto Rico, or the U.S. Virgin Islands. (See FTR Subpart D § 30.39 for filing requirements for shipments exported by the U.S. Armed Services.) (§ 30.2(d)(4)).

[1] Exemption from the requirements for reporting complete commodity information is covered in § 30.38; Special exemptions for shipments to the U.S. Armed Services and covered in § 30.39; and Special exemptions for certain shipments to U.S. Government agencies and employees are covered in § 30.40.

Appendix D to Part 30

AES FILING CITATION, EXEMPTION AND EXCLUSION LEGENDS

I. USML Proof of Filing Citation	AES ITN Example: AES X20060101987654.
II. AES Proof of Filing Citation subpart A § 30.7	AES ITN Example: AES X20060101987654.
III. AES Postdeparture Citation-USPPIUSPPI is filing the EEI	AESPOST USPPI EIN mm/dd/yyyy Example: AESPOST 12345678912 01/01/2006.
IV. Postdeparture Citation-Agent	AESPOST USPPI EIN—Filer ID mm/dd/yyyy Example: AESPOST 12345678912—987654321 01/01/2006.
V. AES Downtime Citation-Use only when AES or AES*Direct* is unavailable.	AESDOWN Filer ID mm/dd/yyyy Example: AESDOWN 123456789 01/01/2006.
VI. Standard Exclusions are found in 15 CFR 30, Subpart A, § 30.2(d)(1) through § 30.2(d)(4).	
The following types of transactions shall be excluded from EEI filing:	
(1) Goods Shipped from U.S. territories	NOEEI § 30.2(d)(site corresponding number).
(2) Goods Shipped to or from Guantanamo Bay Naval Base in Cuba and the United States.	
(3) Inbond Shipments through the United States, Puerto Rico, and the U.S. Virgin Islands.	
VII. Exemption for Shipments to Canada	NOEEI § 30.36.
VIII. Exemption for Low-Value Shipments	NOEEI § 30.37(a).
IX. Miscellaneous Exemption Statements are found in 15 CFR 30 Subpart D § 30.37(b) through § 30.37(u).	NOEEI § 30.37 (site corresponding alphabet).
X. Special Exemption for Shipments to the U.S. Armed Forces	NOEEI § 30.39
XI. Special Exemptions for Certain Shipments to U.S. Government Agencies and Employees (Exemption Statements are found in 15 CFR 30 Subpart D § 30.40(a) through § 30.40(d).	NOEEI § 30.40 (site corresponding alphabet).
XII. Split Shipments by Air ''Split Shipments'' should be referenced as such on the manifest in accordance with provisions contained in § 30.28, ''Split Shipments by Air.'' The notation should be easily identifiable on the manifest.	AES ITN SS Example: AES X20060101987654 SS.
It is preferable to include a reference to a split shipment in the exemption statements cited in the example, the notation SS should be included at the end of the appropriate exemption statement.	
Proof of filing citations by pipeline	NOEEI § 30.8(b).

Appendix E to Part 30—FTSR to FTR Concordance

FTSR	FTSR regulatory topic	FTR	FTR regulatory topic
Subpart A—General Requirements—USPPI			
30.1	General statement of requirement for Shipper's Export Declarations (SEDs).	30.2	General requirements for filing Electronic Export Information (EEI).
30.1(a)	General requirements for filing SEDs		General requirements for filing EEI.
30.1(b)	General requirements for reporting regarding method of transportation.		NA.
30.1(c)	AES as an alternative to SED reporting		NA.
30.1(d)	Electronic transmissions and intangible transfers	30.2(d)(3)	Exclusions from filing EEI.
30.2	Related export control requirements	30.15	Export control and licensing requirements introduction.
		30.16	EAR requirements for export information on shipments from U.S. Possessions to foreign destinations or areas.
		30.17	Customs and Border Protection Regulations.
30.3	Shipper's Export Declaration forms		NA.
30.4	Preparation and signature of Shipper's Export Declarations (SED).	30.3	Electronic Export Information filer requirements, parties to export transactions, responsibilities of parties to export transactions.
30.4(a)	General requirements (SED)	30.3(a)	General Requirements.
		30.3(b)	Parties to the export transaction.
30.4(b)	Responsibilities of parties in export transactions	30.3(c)	General responsibilities of parties in export transactions.
		30.3(d)	Filer responsibilities.
30.4(c)	Responsibilities of parties in a routed export transactions.	30.3(e)	Responsibilities of parties in a routed export transaction.
30.4(d)	Information on the Shipper's Export Declaration (SED) or Automated Export System (AES) record.	30.3(a)	General requirements.
30.4(e)	Authorizing a forwarding or other agent	30.3(f)	Authorizing an agent.
30.4(f)	Format requirements for SEDs		NA.
30.5	Number and copies of Shipper's Export Declaration required.		NA.

FTSR	FTSR regulatory topic	FTR	FTR regulatory topic
30.6	Requirements as to separate Shipper's Export Declarations.		NA.
30.7	Information required on Shipper's Export Declarations		NA.
30.8	Additional information required on shipper's Export Declaration for In-Transit Goods (ENG Form 7513).		NA.
30.9	Requirements for separation and alignment of items on shipper's Export Declarations.		NA.
30.10	Continuation sheets for Shipper's Export Declaration		NA.
30.11	Authority to require production of document	30.10(b)	Authority to require production of documents and retaining electronic data.
30.12	Time and place for presenting the SED, exemption legends or proof of filing citations.	30.4	Electronic export information filing procedures, deadlines, and certification statements.
		30.8	Time and place for presenting proof of filing citations, postdeparture filing citations, AES downtime citations, and exemption legends.
30.15	Procedure for presentation of declarations covering shipments from an interior point.		NA.
30.16	Corrections to Shipper's Export Declarations	30.9	Transmitting and correcting Electronic Export Information.
Subpart B—General Requirements—Exporting Carriers			
30.20	General statement of requirement for the filing of manifests * * *.	30.45	General statement of requirements for the filing of carrier manifests with proof of filing.
30.20(a)	Carriers transporting merchandise from the United States, Puerto Rico, or U.S. territories to foreign countries.	30.45(a)	Requirements for filing carrier manifest.
30.20(b)	For carriers transporting merchandise from the United States to Puerto Rico.	30.45(a)	Requirements for filing carrier manifest.
30.20(c)	Except as otherwise specifically provided, declarations should not be filed at the place where the shipment originates.	30.45(a)	Requirements for filing carrier manifest.
30.20(d)	For purposes of these regulations, the port of exportation is defined as * * *.	30.1(c)	Definition used with EEI.
30.21	Requirements for the filing of Manifests	30.45	General statement of requirements for the filing of carrier manifests with proof of filing citations for the electronic submission of export information or exemption legends when EEI is not required.
30.21(a)	Vessel	30.45(a)(1)	Vessel.
30.21(b)	Aircraft	30.45(a)(2)	Aircraft.
30.21(c)	Rail Carrier	30.45(a)(3)	Rail Carrier.
30.21(d)	Carriers not required to file manifests	30.45(a)(4)	Carriers not required to file manifests.
30.22(a)	Requirements for the filing of SEDs or AES exemption legends and AES proof of filing citations by departing carriers.	30.8	Time and place for presenting proof of filing citation, exemption, and exclusion legends.
30.22(b)	The exporting carrier shall be responsible for the accuracy of the following items of information.		NA.
30.22(c)	Except as provided in paragraph (d) of this section, when a transportation company finds, prior to the filing of declarations and manifest as provided in paragraph (a) of this section, that due to circumstances beyond the control of the transportation company or to inadvertence, a portion of the merchandise covered by an individual Shipper's Export Declaration has not been exported on the intended carrier.		NA.
30.22(d)	When a shipment by air covered by a single Shipper's Export Declaration is divided by the transportation company and exported in more than one aircraft of the transportation.	30.45(c)	Split shipments by air.
30.22(e)	Exporting carriers are authorized to amend incorrect shipping weights reported on Shipper's Export Declarations.		NA.
30.23	Requirements for the filing of Shipper's Export Declarations by pipeline carriers.	30.46	Requirements for the filing of export information by pipeline carriers.
30.24	Clearance or departure of carriers under bond on incomplete manifest on Shipper's Export Declarations.	30.47	Clearance or departure of carriers under bond on incomplete manifests.
Subpart C—Special Provisions Applicable Under Particular Circumstances			
30.30	Values for certain types of transactions	30.25	Values for certain types of transactions.
30.31	Identification of certain nonstatistical and other unusual transactions.	30.29	Reporting of repairs and replacements.
30.31(a)	Merchandise exported for repair only, and other temporary exports.	30.29(a)	The return of goods previously imported for repair * * *.

FTSR	FTSR regulatory topic	FTR	FTR regulatory topic
30.31(b)	The return of merchandise previously imported for repair only.	30.29(b)	Goods that are covered under warranty and other temporary exports.
30.31(c)	Shipments of material in connection with construction, maintenance, and related work being done on projects for the U.S. Armed Forces.		NA.
30.33	Vessels, planes, cargo vans, and other carriers and containers sold foreign.	30.26	Reporting of vessels, aircraft, cargo vans, and other carriers and containers.
30.34	Return of exported cargo to the United States prior to reaching its final destination.	30.27	Return of exported cargo to the United States prior to reaching its final destination.
30.37	Exceptions from the requirement for reporting complete commodity detail on the Shipper's Export Declaration.	30.38	Exemption from the requirements for reporting complete commodity information.
30.37(a)	Where it can be determined that particular types of U.S. Government shipments, or shipments for government projects, are of such nature that they should not be included in the export statistics.	30.39	Special exemptions for shipments to the U.S. Armed Services. (Note, this section does not specifically address construction materials nor related work being done on projects).
30.37(b)	Special exemptions to specific portions of the requirements of § 30.7 with respect to the reporting of detailed information.		NA.
30.39	Authorization for reporting statistical information other than by means of individual Shipper's Export Declarations filed for each shipment.		NA.
30.40	Single declaration for multiple consignees		NA.
30.41	"Split shipments" by air	30.28	"Split shipments" by air.
Subpart D—Exemptions From the Requirements for the Filing of Shipper's Export Declarations			
30.50	Procedure for shipments exempt from the requirements for Shipper's Export Declarations.	30.35	Procedure for shipments exempt from filing requirements.
30.51	Government shipments not generally exempt	30.39	Special exemption for shipments to the U.S. Armed Services.
30.52	Special exemptions for shipments to the U.S. Armed Services.	30.39	Special exemptions for shipments to the U.S. Armed Services.
30.53	Special exemptions for certain shipments to U.S. Government agencies and employees.	30.40	Special exemptions for certain shipments to U.S. Government agencies and employees.
30.53(e)	All commodities shipped to and for the exclusive use of the Panama Canal Zone or the Panama Canal Company.		NA.
30.55	Miscellaneous exemptions	30.37	Miscellaneous exemptions.
30.55(a)	Diplomatic pouches and their contents	30.37(i)	Diplomatic pouches and their contents.
30.55(b)	Human remains and accompanying appropriate receptacles and flowers.	30.37(j)	Human remains and accompanying appropriate receptacles and flowers.
30.55(c)	Shipments from one point in the United States to another thereof by routes passing through Mexico.	30.37(c)	Shipments from one point in the United States to another point in the United States by routes passing through Canada or Mexico.
30.55(d)	Shipments from one point in Mexico to another point thereof by routes through the United States.	30.37(d)	Shipments from one point in Canada or Mexico to another point in the same country by routes through the United States.
30.55(e)	Shipments, other than by vessel, or merchandise for which no validated export licenses are required, transported in-bond through the United States, and exported from another U.S. port, or transshipped and exported directly from the port of arrival.	30.37(e)	Shipments, transported in-bond through the United States, and exported from another U.S. port, or transshipped and exported directly from the port of arrival.
30.55(f)	Shipments to foreign libraries, government establishments, or similar institutions, as provided in § 30.53(d).	30.37(g)	Shipments to foreign libraries, government establishments, or similar institutions, as provided in § 30.40(d).
30.55(g)	Shipments of single gift parcels as authorized by the Bureau of Industry and Security under License Exception GFT, see 15 CFR 740.12 of the EAR.	30.37(h)	Shipments authorized by License Exception GFT for gift parcels, humanitarian donations.
30.55(h)	Except as noted in paragraph (h)(2) of this section, exports of commodities where the value of the commodities shipped from one exporter to one consignee on a single exporting carrier, classified under an individual Schedule B number, is $2,500 or less.	30.37(a)	Except as noted in § 30.2(a)(e)(iv), exports of commodities where the value of the commodities shipped USPPI to one consignee on a single exporting carrier, classified under an individual Schedule B or HTSUSA commodity classification code, is $2,500 or less.
30.55(i)	Shipments of interplant correspondence, executed invoices, and other documents and other shipments of company business records from a U.S. firm to its subsidiary or affiliate.	30.37(k)	Shipments of interplant correspondence, executed invoices, and other documents and other shipments of company business records from a U.S. firm to its subsidiary or affiliate.
30.55(j)	Shipments of pets as baggage, accompanied or unaccompanied, of persons leaving the United States, including members of crews on vessels and aircraft.	30.37(l)	Shipments of pets as baggage, accompanied or unaccompanied, of persons leaving the United States, including members of crews on vessels and aircraft.

FTSR	FTSR regulatory topic	FTR	FTR regulatory topic
30.55(k)	Shipments for use in connection with NASA tracking systems under Office of Export Administration Project License DL–5355–S.		NA.
30.55(l)	Shipments of aircraft parts and equipment, and food, saloon, slop chest, and related stores, provisions, and supplies for use on aircraft by a U.S. airline to its own installations, aircraft, and agent aboard, under Department of Commerce, Office of Export Administration General License, RCS.		NA.
30.55(m)	Shipments for use in connection with NOAA operations under the Office of Export Administration General License G–NOAA.		NA.
30.55(n)	Exports of technology and software as defined in 15 CFR 772 of the EAR that do not require an export license.	30.37(f)	Exports of technology and software as defined in 15 CFR 772 of the EAR that do not require an export license.
30.55(o)	Intangible exports of software and technology, such as downloaded software and technical data, including technology and software that requires an export license and mass market software exported electronically.	30.2(d)(3)	Intangible exports of software and technology, such as downloaded software and technical data, including technology and software that requires an export license and mass market software exported electronically.
30.56	Conditional Exemptions	30.37	Miscellaneous exemptions.
30.56(a)	Baggage and personal effects * * *	30.38	Exemption from the requirements for reporting complete commodity information.
30.56(b)	Tools of trade * * *	30.37(b)	Tools of trade * * *.
30.56(c)	Carriers' stores * * *	30.37(m)	Carriers' stores * * *.
30.56(d)	Dunnage * * *	30.37(n)	Dunnage * * *.
30.57	Information on export declarations for shipments of types of goods covered by § 30.56 not conditionally exempt.		NA.
30.58	Exemption for shipments from the United States to Canada.	30.36	Exemption for shipments destined to Canada.
Subpart E—Electronic Filing Requirements—Shipper's Export Information			
30.60	General requirements for filing export and manifest data electronically using the Automated Export System (AES).	30.2	General requirements for filing Electronic Export Information.
30.60(a)	Participation		NA.
30.60(b)	Letter of Intent	30.5(a)(1)	Postdeparture filing application.
30.60(c)	General filing and transmission requirements	30.4	NA.
30.60(d)	General responsibilities of exporters, filing agents, and sea carriers—.	30.3	Electronic Export Information filer requirements, parties to export transactions, and responsibilities of parties to export transactions.
30.61	Electronic filing options	30.4	Electronic Export Information filing procedure, deadlines, and certification statement.
30.62	AES Certification, qualifications, and standards	30.5	EEI filing application and certification processes and standards.
30.63	Information required to be reported electronically through AES (data elements).	30.6	Electronic Export Information data elements.
30.64	Transmitting and correcting AES information	30.9	Transmitting and correcting Electronic Export Information.
30.65	Annotating the proper exemption legends or proof of filing citations for shipments transmitted electronically.	30.7	Annotating the bill of lading, air waybill, and other commercial loading documents with the proper proof of filing citations, approved postdeparture filing citations, downtime filing citation, or exemption legends.
30.66	Recordkeeping and requirements	30.5(f)	Support.
30.66	Support, documentation, and recordkeeping requirements.	30.10	Retention of export information and the authority to require production of documents.
Subpart F—General Requirements—Importers			
30.70	Statistical information required on import entries	30.50	General requirements for filing import entries.
		30.51	Statistical information required for import entries.
30.80	Imports from Canada	30.54	Special provisions for imports from Canada.
30.81	Imports of merchandise into Guam		NA.
30.82	Identification of U.S. merchandise returned for repair and reexport.	30.53	Import of goods returned for repair.
30.83	Statistical copy of mail and informal entries		NA.
Subpart H—General Administrative Provisions			
30.90	Confidential information, import entries, and withdrawals.	30.55	Confidentiality information, import entries, and withdrawals.
30.91	Confidential information, Shipper's Export Declarations	30.60	Confidentiality of Electronic Export Information.

FTSR	FTSR regulatory topic	FTR	FTR regulatory topic
30.92	Statistical classification schedules	30.61	Statistical classification schedules.
30.93	Emergency exceptions	30.62	Emergency exceptions.
30.94	Instructions to CBP		NA.
30.95	Penalties for violations		Subpart H.
30.95(a)	Exports (reexports) of rough diamonds	30.70	Violation of the Clean Diamond Trade Act.
30.95(b)	Exports of other than rough diamonds	30.71	False or fraudulent reporting.
30.99	OMB control numbers assigned pursuant to the Paperwork Reduction Act.	30.63	Office of Management and Budget control numbers assigned pursuant to the Paperwork Reduction Act.

Appendix F to Part 30—FTR to FTSR Concordance

FTR	FTR regulatory topic	FTSR	FTSR regulatory topic
	Subpart A—General Requirements		
30.1	Purpose and definitions	NA	NA.
30.2	General requirements for filing Electronic Export Information.	30.1	General statement of requirement for Shipper's Export Declarations.
30.2(a)	Filing Requirements		Filing Requirements.
30.2(b)	General requirements.		NA.
30.2(c)	Certification and filing requirements		NA.
30.2(d)	(d) Exclusions from filing EEI		NA.
30.2(e)	(e) Penalties		NA.
30.3	Electronic Export Information filer requirements, parties to export transactionns, and responsibilities of parties to export transactions.	30.4	Preparation and signature of Shipper's Export Declaration.
30.4	Electronic Export Information filing procedures, deadlines, and certification statements.	30.61	Electronic filing options.
30.4(a)	EEI transmitted predeparture	30.61(a)	EEI transmitted predeparture.
30.4(b)	Filing deadlines for EEI transmitted predeparture		NA.
30.4(c)	EEI transmitted postdeparture	30.61(b)	EEI transmitted post departure.
30.4(d)	Proof of filing citation or exemption legend	30.12(d)	Exports file via AES.
30.5	Electronic Export Information filing application and certification processes and standards.	30.62	AES Certification, qualifications, and standards.
30.5(a)	AES application process	30.60(b)	AES Participant Application.
30.5(b)	Certification process	30.66	Recordkeeping and requirements.
30.5(c)	Postdeparture filing approval process.		
30.5(d)	Electronic Export Information filing standards.		
30.5(e)	Monitoring the filing of Electronic Export Information.		
30.5(f)	Support.		
30.6	Electronic Export Information data elements	30.63	Information required to be reported electronically through AES (data elements).
30.7	Annotating the bill of lading * * *	30.65	Annotating the proper exemption legends or proof of filing citations * * *.
30.8	Time and place for preenting proof of filing citations, postdeparture filing citations, downtime filing citation, or exemption legends.	30.12	Time and place for presenting the SED, exemption legends, or proof of filing citations.
30.9	Transmitting and correcting Electronic Export Information.	30.64	Transmitting and correcting AES information.
		30.16	Corrections to Shipper's Export Declarations.
30.10(a)	Retention of Export information	30.66	Support, documentation and recordkeeping, and documentation requirements.
30.10(b)	Authority to require production of documents	30.11	Authority to require production of documents.
	Subpart B—Export Control and Licensing Requirements		
30.15	Introduction	30.2	Related export control requirements.
30.16	Export Administration Regulations	30.2	Related export control requirements.
30.17	Customs and Border Protection Regulations	30.2	Related export control requirements.
30.18	Department of State Regulations	30.2	Related export control requirements.
30.19	Other Federal agency regulations	30.2	Related export control requirements.
	Subpart C—Special Provisions and Specific-Type Transactions		
30.25	Values for certain types of transactions	30.30	Values for certain types of transactions.
30.26	Reporting of vessels, aircraft, cargo vans, and other carriers and containers.	30.33	Vessels, planes, cargo vans, and other carriers and containers sold foreign.
30.27	Return of exported cargo to the United States prior to reaching its final destination.	30.34	Return of exported cargo to the United States prior to reaching its final destination.
30.28	"Split shipments" by air	30.41	"Split shipments" by air.

FTR	FTR regulatory topic	FTSR	FTSR regulatory topic
30.29	Reporting of repairs and replacements	30.31	Identification of certain nonstatistical and other unusual transactions.
Subpart D—Exemptions From the Requirements for the Filing of Electronic Export Information			
30.35	Procedure for shipments exempt from filing requirements.	30.50	Procedure for shipments exempt from the requirements for SEDs.
30.36	Exemption for shipments destined to Canada	30.58	Exemption for shipments from the United states to Canada.
30.37	Miscellaneous exemptions	30.55	Miscellaneous exemptions.
		30.55	Conditional exemptions.
30.37(a)	Except as noted in § 30.2(a)(1)(iv), exports of commodities where the value * * * is $2,500 or less.		Except as noted in paragraph h(2) of this section, exports of commodities where the value * * * is $2,500 or less.
30.37(b)	Tools of trade * * *	30.56(b)	Tools of trade * * *.
30.37(c)	Shipments from one point in the United States to another point in the United States by routes passing through Canada or Mexico	30.55(c)	Shipments from one point in the United States to another thereof by routes passing through Mexico.
		30.58(a)	* * * this exemption also applies to shipments from one point in the United States or Canada to another point thereof * * *.
30.37(d)	Shipments from one point in Canada or Mexico to another point thereof by routes through the United States	30.55(d)	Shipments from one point in Canada or Mexico to another point in the same country by routes through the United States.
		30.58(a)	* * * this exemption also applies to shipments from one point in the United States or Canada to another point thereof * * *.
30.37(e)	Shipments transported inbound through the United States * * *.	30.55(e)	Shipments, other than by vessel, or merchandise for which no validated licenses required, transported inbound through the United States * * *.
30.37(f)	Exports of technology and software as defined in 15 CFR of the EAR that do not require an export license * * *.	30.55(n)	Exports of technology and software as defined in 15 CFR 772 of the EAR that do not require an export license * * *.
30.37(g)	Shipments to foreign libraries, government establishments, or similar institutions, as provided in § 30.40(d).		Shipments to foreign libraries, government establishments, or similar institutions, as provided in § 30.53(d).
30.37(h)	Shipments as authorized under License Exception GFT for gift parcels and humanitarian donations.	30.55(g)	Shipments of single gift parcels as authorized by the Bureau of Industry and Security under license exception GFT.
30.37(i)	Diplomatic pouches and their contents	30.55(a)	Diplomatic pouches and their contents.
30.37(j)	Human remains and accompanying appropriate receptacles and flowers.	30.55(b)	Human remains and accompanying appropriate receptacles and flowers.
30.37(k)	Shipments of interplant correspondence, executed invoices and other documents, and other shipments of company business records from a U.S. firm to its subsidiary or affiliate.	30.55(i)	Shipments of interplant correspondence, executed invoices and other documents, and other shipments of company business records from a U.S. firm to its subsidiary or affiliate.
30.37(l)	Shipments of pets as baggage, accompanied or unaccompanied, of persons leaving the United States, including members of crews on vessels and aircraft.	30.55(j)	Shipments of pets as baggage, accompanied or unaccompanied, of persons leaving the United States, including members of crews on vessels and aircraft.
30.37(m)	Carriers' stores * * *	30.56(c)	Carriers' stores * * *.

FTR	FTR regulatory topic	FTSR	FTSR regulatory topic
30.37(n)	Dunnage * * *	30.56(d)	Dunnage * * *.
30.37(o)	Shipments of aircraft parts and equipment; food, saloon, slop chest, and related stores, * * *.	30.55(l)	Shipments of aircraft parts and equipment; food, saloon, slop chest, and related stores, * * *.
30.37(p)	Baggage and personal effects not shipped as cargo under a bill of lading or an air waybill and not requiring an export license * * *.	30.56(a)	Baggage and personal effects not shipped as cargo under a bill of lading or an air waybill and not requiring an export license * * *.
30.37(q)	Temporary exports, whether shipped or hand carried (*e.g.* carnet), which are exported from or returned to the United States in less than one year (21 months) from the date of export	30.31(a)	* * * and other temporary exports.
		30.37(a)(2)	Temporary exports by or to U.S. Government agencies.
30.37(r)	Goods previously imported under a Temporary Import Bond for return in the same condition as when imported * * *.	30.31(b)	* * * and other returns to the foreign shipper of other temporarily imported merchandise.
30.37(s)	Issued bank notes and securities and coins in circulation exported as evidence of financial claims.		NA.
30.37(t)	Documents used in international transactions * * *		NA.
30.38	Exemption from the requirements for reporting complete commodity information.	30.56	Conditional exemptions.
30.38(a)	Usual and reasonable kinds and quantities of wearing apparel, articles of personal adornment, toilet articles, medicinal supplies, food, souvenirs, games, and similar personal effects and their containers.	30.56(a)(1)	Usual and reasonable kinds and quantities of wearing apparel, articles of personal adornment, toilet articles, medicinal supplies, food, souvenirs, games, and similar personal effects and their containers.
30.38(b)	Usual and reasonable kinds and quantities of furniture, household effects, household furnishings, and their containers.	30.56(a)(2)	Usual and reasonable kinds and quantities of furniture, household effects, household furnishings, and their containers.
30.38(c)	Usual and reasonable kinds and quantities of vehicles, such as passenger cars, station wagons, trucks, * * *.	30.56(a)(3)	Usual and reasonable kinds and quantities of vehicles, such as passenger cars, station wagons, trucks, * * *.
30.39	Special exemptions for certain shipments to U.S. Government agencies and employees.	30.53	Special exemptions for certain shipments to U.S. Government agencies and employees
30.40	Special exemptions for certain shipments to U.S. Government agencies and employees.	30.53	Special exemptions for certain shipments to U.S. Government agencies and employees
Subpart E—General Carrier and Manifest Requirements			
30.45	General statement of requirements for the filing of carrier manifests with proof of filing citations	30.20	General statement of requirements for the filing of manifests * * *.
		30.21	Requirements for the filing of manifests.
		30.22	Requirements for filing of Shipper's Export Declarations by departing carriers.
30.46	Requirements for the filing of export information by pipeline carriers.	30.23	Requirement for the filing of Shipper's Export declarations by pipeline carriers.
30.47	Clearance or departure of carriers under bond on incomplete manifests.	30.24	Clearance or departure of carriers under bond on incomplete manifest * * *.
Subpart F—Import Requirements			
30.50	General requirements for filing import entries	30.70	Statistical information required on import entries.
30.53	Import of goods returned for repair	30.82	Identification of U.S. merchandise returned for repair and reexport.
30.54	Special provisions for imports from Canada	30.80	Imports from Canada.
30.55	Confidential information, import entries, and withdrawals.	30.90	Confidential information import entries, and withdrawals.
Subpart G—General Administrative Provisions			
30.60	Confidentiality of Electronic Export Information	30.91	Confidential information, Shipper's Export Declaration.
30.61	Statistical classification schedules	30.92	Statistical classification schedules.

FTR	FTR regulatory topic	FTSR	FTSR regulatory topic
30.62	Emergency exceptions	30.93	Emergency exceptions.
30.63	Office of Management and Budget control numbers assigned pursuant to the Paperwork Reduction Act.	30.99	OMB control numbers assigned pursuant to the Paperwork Reduction Act.
Subpart H—Penalties			
30.70	Violation of the Clean Diamond Trade Act	30.95(a)	Penalties for violations for export (reexport) of rough diamonds.
30.71	False or fraudulent reporting on or misuse of the Automated Export System.	30.95(b)	Penalties for violations of exports other than diamonds.
30.71(a)	Criminal penalties.		
30.71(b)	Civil penalties.		
30.72	Civil penalty procedures		NA.
30.73	Enforcement		NA.
30.73(a)	Department of Commerce.		
30.73(b)	Department of Homeland Security.		
30.74	Voluntary self-disclosure		NA.
30.75–30.99	[Reserved].		

Dated: May 20, 2008.

Steve H. Murdock,

Director, Bureau of the Census.

[FR Doc. E8–12133 Filed 5–30–08; 8:45 am]

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Federal Register

Monday,
June 2, 2008

Part III

Department of Education

34 CFR Part 222
Impact Aid Programs; Proposed Rule

DEPARTMENT OF EDUCATION

34 CFR Part 222

[DOCKET ID ED–2008–OESE–0008]

RIN 1810–AB00

Impact Aid Programs

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to amend regulations governing the Impact Aid program under Title VIII of the Elementary and Secondary Education Act of 1965 (Act), as amended by the No Child Left Behind Act of 2001. The program, in general, provides assistance for maintenance and operations costs to local educational agencies (LEAs) that are affected by Federal activities. These proposed regulations are necessary to clarify and improve the administration of payments under section 8002 of the Act relating to the Federal acquisition of real property.

DATES: We must receive your comments on or before July 2, 2008.

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments by fax or by e-mail. Please submit your comments only one time, in order to ensure that we do not receive duplicate copies. In addition, please include the Docket ID at the top of your comments.

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* to submit your comments electronically. Information on using Regulations.gov, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under ''How To Use This Site.''
- *Postal Mail, Commercial Delivery, or Hand Delivery.* If you mail or deliver your comments about these proposed regulations, address them to Catherine Schagh, Director, Impact Aid Program, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202–6244.

Privacy Note: The Department's policy for comments received from members of the public (including those comments submitted by mail, commercial delivery, or hand delivery) is to make these submissions available for public viewing in their entirety on the Federal eRulemaking Portal at *http://www.regulations.gov*. Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available on the Internet.

FOR FURTHER INFORMATION CONTACT: Catherine Schagh, Director, Impact Aid Program, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202–6244. Telephone: (202) 260–3858 or via the Internet, at: *Impact.Aid@ed.gov.*

If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

SUPPLEMENTARY INFORMATION:

Invitation To Comment

We invite you to submit comments about these proposed regulations. The Secretary is particularly interested in comments on proposed § 222.23, in the following areas:

- *§ 222.23(a)(3) and (c)(1) (Excluding from the base value of the expected use categories of the eligible Federal property a portion allocated to accommodate anticipated non-assessed or tax-exempt uses):*

(1) Based on the highest and best use of taxable adjacent properties, can local officials determine the proportion of the eligible Federal property in each use category that likely would be exempt from local real property taxes (e.g., roads, parks, and other municipal uses) if the Federal property were privatized?

(2) Would it be appropriate to establish a standard proportion for each use category of eligible Federal property that would be allocated to anticipated non-assessed or tax-exempt uses? If so, what would be reasonable figures to use for this purpose?

- *§ 222.23(c)(2)(i) (Minimum number of adjacent properties):*

(1) Could local officials readily find a minimum number of adjacent properties for each identified use category (assessment classification) for determining the base values of those categories and the estimated assessed value (EAV) of the eligible Federal property?

(2) If so, is 10 a reasonable minimum number of adjacent properties for each identified use category of adjacent property?

(3) If 10 is not a reasonable minimum number, what other minimum number would be reasonable?

(4) Should different minimum numbers of taxable adjacent properties be applied to different LEAs (*e.g.*, LEAs that contain taxable property of less than $100 million in total assessed value might be required to use at least 10 properties, and LEAs that contain taxable property equal to $100 million or more in total assessed value might be required to use at least 30 properties)?

- *§ 222.23(d)(2) (Using recent sales):*

Is it possible for a local official to identify readily the data needed to determine the proportion of sales that are ''recent sales'' as defined in proposed § 222.23(e)(3) (that is, the number of taxable properties in an assessment classification that have transferred ownership within the three most recent years for which data are available) for each type of taxable adjacent property and the total number of properties in that assessment classification?

- *§ 222.23(e)(1) (Definition of ''adjacent''):*

(1) Could local officials implement a definition of *adjacent* property that generally means the closest taxable parcels, and includes parcels further than one mile from the perimeter of the Federal property only in extremely rare circumstances?

(2) Would the proposed definition allow the local official generally to select at least 10 taxable properties in each expected use category (assessment classification) to determine a base value for that category?

(3) If not, what maximum distance from the perimeter of the eligible Federal property would be reasonable for adjacent properties?

Affected LEAs will have ample opportunity to comment on the specific provisions of the proposed regulations and to share the document with their local assessment officials. We expect that the final regulations will be effective for fiscal year (FY) 2010 applications, which we anticipate will be due February 2, 2009. In addition, the proposed changes generally would affect only the last step of the payment formula and, thus, would have a limited impact on overall applicant revenues.

To ensure that your comments have maximum effect in developing the final regulations, we urge you to identify clearly the specific section or sections of the proposed regulations that each of your comments addresses and to arrange your comments in the same order as the proposed regulations.

We invite you to assist us in complying with the specific requirements of Executive Order 12866 and its overall requirement of reducing regulatory burden that might result from these proposed regulations. Please let us know of any further opportunities we should take to reduce potential costs or increase potential benefits while

preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about these proposed regulations by accessing Regulations.gov. You may also inspect the comments, in person, in room 3E107, 400 Maryland Avenue, SW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record

On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for these proposed regulations. If you want to schedule an appointment for this type of aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Background

These proposed regulations would amend regulations implementing the Payments for Federal Property portion of the Impact Aid program, authorized under section 8002 of the Act. Current regulations implementing the section 8002 program are found in 34 CFR 222.20 through 222.23.

As described more fully in this notice under *Summary of Proposed Regulations*, the Secretary proposes revisions to § 222.21, concerning how an LEA establishes eligibility for section 8002 payments, and § 222.23, concerning how a local official determines an aggregate estimated assessed value (EAV) for the eligible Federal property upon which section 8002 payments are based. In accordance with the Department's Principles for Regulating, these proposed regulations are essential to promoting quality and equality of opportunity in education.

The amendments to § 222.21 would provide greater flexibility to applicants in documenting their eligibility for assistance under section 8002 of the Act, thereby providing more equitable treatment for applicants that are affected by specific record retention policies. The amendments to § 222.23 would provide more specificity for local tax officials who establish the EAV of Federal property, and would result in greater uniformity in the methods used to establish those values, eliminate inequities in current practices, and make the determinations of EAVs more consistent and reliable.

Summary of Proposed Regulations

Following is a summary of the proposed regulatory provisions. We discuss substantive issues under the sections of the proposed regulations to which they pertain. Generally, we do not address proposed regulatory provisions that are technical or otherwise minor in effect.

Section 222.21 What requirements must a local educational agency meet concerning Federal acquisition of real property within the local educational agency?

Statute: Section 8002(a)(1) of the Act provides that LEAs are eligible for assistance if, among other things, the United States owns property in that LEA that has been acquired since 1938 and that had an assessed value (determined as of the time or times of acquisition) aggregating 10 percent or more of the assessed value of all real property in the LEA (at the time or times of acquisition or, in certain specified cases, in the first year preceding or succeeding acquisition).

Current Regulations: Section 222.21(d) lists the documents that an applicant must submit to demonstrate that the 10 percent threshold described in the Act has been satisfied. Section 222.21(d)(1) provides that new applicants may use only original records prepared by legally authorized officials at the time of Federal acquisition, or facsimiles such as microfilms of those records. Redeterminations of eligibility may be based only on records of the type described in § 222.21(d)(1) or Departmental records. Section 222.21(e) provides that the Secretary does not base determinations or redeterminations of eligibility on secondary documentation such as estimates, certifications, or appraisals.

Proposed Regulations: We propose to amend § 222.21(d)(1) to expand the scope of records upon which the Secretary determines or redetermines eligibility under section 8002(a)(1) of the Act. Under the proposed regulations, if the forms of records currently specified in the regulations are unavailable, the Secretary would have the discretion to base the determinations on other records the Secretary deems to be appropriate and reliable for establishing eligibility under section 8002(a)(1) of the Act, such as Federal agency records or local historical records. In addition, we propose to amend § 222.21(e) to provide that the Secretary does not base a determination or redetermination of eligibility on secondary documentation if that documentation is in the nature of an opinion, such as estimates, certifications, or appraisals.

Reasons: The Secretary is proposing these regulations to provide greater flexibility to applicants in documenting their eligibility for assistance under section 8002 of the Act, thereby promoting quality and equality in education. These changes would allow eligibility to be based on alternative records to the original tax records if such other reliable alternative records exist. In some jurisdictions, record retention standards are resulting in the planned destruction of tax records, which under the current regulations makes it difficult and sometimes impossible for new applicants to establish eligibility for section 8002 payments. This increased flexibility would allow those applicants to establish eligibility if they can locate alternative reliable records.

However, under proposed § 222.21(e), secondary documentation that is in the nature of an opinion, such as estimates, certifications, or appraisals, could not be used as the basis for establishing section 8002 eligibility. Such records are not reliable evidence of a property's actual assessed value for taxation purposes, upon which an LEA's eligibility for assistance under section 8002 is based.

Section 222.23 How does a local educational agency determine the aggregate assessed value of its eligible Federal property for its section 8002 payment?

Statute: The amount of an LEA's section 8002 assistance is based, in part, on a determination of the aggregate assessed value of the eligible Federal property in the LEA. Section 8002(b)(3) of the Act provides that the local official responsible for assessing the value of real property for the purpose of levying property taxes shall determine that aggregate assessed value of the eligible Federal property on the basis of the highest and best use of property adjacent to the eligible Federal property as of the time that the value is determined.

Current Regulations: Section 222.23 describes how the local official determines the aggregate assessed value of eligible Federal property. In brief, the regulations provide that the local official first determines (estimates) a fair market value (FMV) of the eligible Federal property based on the highest and best use of taxable properties adjacent to the eligible Federal property (§ 222.23(a)(1)). The local official then determines a section 8002 assessed value for each eligible Federal property by adjusting the FMV by any

percentage, ratio, index, or other factor that is used for taxable property. The regulations provide that, in making this adjustment, the official may assume that there was a transfer of ownership of the eligible Federal property for the year in which the section 8002 assessed value is being determined (§ 222.23(a)(2)). The official then calculates a section 8002 aggregate assessed value for all eligible Federal property in the LEA by totaling the section 8002 assessed values for all eligible Federal property in the LEA (§ 222.23(a)(3)). The regulations also provide definitions of the terms *adjacent* and *highest and best use* (§ 222.23(b)(1) and (2), respectively) and examples to further explain the regulatory requirements and definitions.

Proposed Regulations and Rationale: We propose a number of changes to § 222.23. First, we propose in new paragraphs (a)(1) through (a)(6) to outline the process local officials must use in determining the aggregate assessed value of Federal property and to clarify that the aggregate assessed value of the Federal property that the local officials determine is an estimate (estimated assessed value or EAV). The EAV established for section 8002 payment purposes is different than a tax-exempt value that a jurisdiction may be required by State law to establish for the Federal property and carry on its tax-exempt property rolls. Next we propose to redesignate current paragraph (b) (Definitions) as paragraph (e), and to add new paragraphs (b), (c), and (d) that describe in detail the specific steps in the overall process outlined in new paragraph (a).

We are proposing these amendments to provide more specificity for local tax officials who establish the EAV of Federal property and greater uniformity in the establishment of those values, eliminate inequitable inflation in the value of the eligible Federal property, and provide more reliability in the determination of EAVs. These improvements in determining EAVs will promote quality and equality in education. Our rationale for specific provisions is described in the following discussion.

General (§ 222.23(a))

Proposed paragraphs (a)(1) through (a)(6) would describe the overall process local officials would use to determine the aggregate EAV of eligible Federal property. Proposed paragraph (a)(1) would provide, as required by section 8002(b)(3) of the Act, that a local official who is responsible for assessing the value of real property located in the jurisdiction of the LEA for levying a property tax makes the determination of the section 8002 aggregate EAV.

Proposed paragraph (a)(2) would specify that the local official first would categorize proportionately the types of expected uses of the eligible Federal property in each Federal installation or area in the LEA, based on the highest and best uses of taxable properties adjacent to the eligible Federal property, and then allocate the eligible Federal property acres accordingly to each of those expected uses. The specific process for categorizing the expected uses and allocating the Federal acres to those proportions would be described in proposed paragraph (b).

Under proposed paragraph (a)(3), the local official would determine a base value for each category of expected use of the eligible Federal property in each Federal installation or area. The specific process for establishing the base values of the expected use categories would be described in proposed paragraphs (c) and (d). As explained in more detail later in this section, this process would exclude a proportion for non-assessed and tax-exempt uses and specify a minimum sample size, a three-year cycle, and an allowable number of recent sales.

Proposed paragraph (a)(4) would describe how the local official determines a section 8002 EAV for each category of expected use of the eligible Federal property in each Federal installation or area. Under this provision, the local official would determine the EAV by adjusting the base value for that category, which is established as described in paragraph (a)(3), by any percentage, ratio, index, or other factor that the official would use to determine the assessed value if the eligible Federal property were taxable.

Under proposed paragraph (a)(5), the local official determines a total section 8002 EAV for each Federal installation or area by adding the assessed values determined for each category of eligible Federal property in that Federal installation or area. Finally, proposed paragraph (a)(6) describes how the local official determines the section 8002 aggregate EAV for all Federal property in the LEA.

Categorizing Expected Uses (§ 222.23(b))

Proposed paragraph (b) would detail how local officials would categorize proportionately the types of expected uses of eligible Federal property based on the highest and best uses of taxable adjacent properties. Once this step is complete, the local official would multiply each proportion of the taxable adjacent properties by the total acres of the eligible Federal property to derive the number of acres in each category for the eligible Federal property.

Determining the Base Value for Expected Use Categories (§ 222.23(c))

Proposed paragraph (c) details how the local official would establish a base value for each category of expected use of the eligible Federal property. First, as explained in proposed paragraph (c)(1), the local official would identify the taxable use portions of the eligible Federal property by allocating a proportion of the eligible Federal property acres identified for each use category to expected non-assessed or tax-exempt uses, such as schools, parks, churches, and roads. The local official would base these proportions on the amount of area the official believes normally would comprise the non-assessed or tax-exempt uses in that assessment category. (The non-assessed or tax-exempt proportions would likely vary for different categories of taxable property.) The local official then would multiply the non-assessed or tax-exempt proportion(s) by the number of acres in each expected use category of the eligible Federal property to determine the number of acres attributable to non-assessed or tax-exempt uses. Next, the local official would subtract the number of acres attributable to non-assessed or tax-exempt uses from the number of acres of eligible Federal property in each expected use category to determine the taxable use portion of that category.

Under proposed paragraph (c)(2), for the portions of the eligible Federal property allocated for taxable uses, the local official would calculate a base value for each expected use category from a selected sample of taxable adjacent properties representing the highest and best uses of the taxable adjacent properties for each category.

Minimum number of taxable adjacent properties. Currently, as a matter of policy, we encourage local officials to select at least three taxable adjacent parcels to determine the base value for each expected use category (assessment classification) for the eligible Federal property. Some local officials use significantly more than three parcels. We believe that a sample size of more than three would lead to greater reliability in the resulting base value figure and in the overall EAV of the eligible Federal property. The purpose of the proposed changes is to standardize, at a reasonable number of 10, the minimum number of taxable adjacent properties that all section 8002 applicants must use to establish those base value figures.

Accordingly, under proposed paragraph (c)(2)(i), we would require all

local officials to use at least 10 taxable adjacent properties to determine the base value of each expected use category (assessment classification). As described elsewhere in the preamble under *Invitation to Comment*, we specifically request comments on this proposed minimum number.

Under the proposed regulations in paragraph (c)(2)(i), if at least three but fewer than 10 taxable adjacent properties are available for an expected use category, the local official would identify the taxable adjacent property with the lowest value per acre and replicate that property as many times as necessary to reach a total of 10 properties in combination with the available taxable adjacent parcels.

If fewer than three taxable adjacent properties exist in a particular expected use category, generally the local official would not use that category in determining the assessed value of the eligible Federal property. However, the proposed regulations provide that, in extremely rare circumstances, the local official could use fewer than three parcels for a particular use category if the Secretary determines it to be necessary and reasonable.

For example, if one taxable property adjacent to the eligible Federal property is a golf course, which is a separate assessment classification in that jurisdiction, the Secretary could determine that it was necessary and reasonable to allow the local official to use only that one golf course for that applicable use category rather than disallowing the category for lack of a sufficient number of taxable adjacent properties. (Under the proposed changes to the definition of *highest and best use* in paragraph (e)(2)(iii), the local official would also have to have determined that the Federal property is physically adaptable for use as a golf course and that there would be a need or demand for a golf course if the property were not federally owned.)

After selecting the adjacent properties for each expected use category to serve as the basis for valuing the eligible Federal property, the local official would calculate an average per acre value for the taxable portion of each expected use category in accordance with proposed paragraph (c)(2)(ii). The local official then would determine the base value for each expected use category by multiplying the average per acre value by the number of acres of eligible Federal property in that expected use category, as described in proposed paragraph (c)(2)(iii).

Additional Procedures for Determining Base Values (§ 222.23(d))

Proposed paragraph (d) would detail the following additional procedures that the local official would be required to apply in establishing a base value for each category of expected use of the eligible Federal property.

Three-year cycle. Under proposed paragraph (d)(1), the local official would allocate expected uses for the eligible Federal property and select taxable adjacent properties only once every three years. The year for which that determination occurs would be referred to as the base year. In the following two years, the local official would determine the section 8002 EAV of eligible Federal property under section 8002(b)(3) of the Act by using the same allocation of expected uses and the same adjacent properties selected for the base year, but updating the values and acreage of the selected taxable adjacent properties.

Under this proposal, in non-base years (that is, the two program application years following the base year), the local official could remove a taxable adjacent property selected for the base year only if that adjacent property became unsuitable for determining the base value for the expected use category of the eligible Federal property. A taxable adjacent property would be considered unsuitable only under the following circumstances:

(1) a changed assessment classification (for example, an originally selected agricultural parcel was subdivided into residential parcels);

(2) a change to tax-exempt status; or

(3) a change in the original character upon which its selection was based (for example, the improvement on an originally selected improved parcel is destroyed, or an improvement is built on an originally selected unimproved parcel).

If a previously selected adjacent property became unsuitable during the three-year cycle, the local official would be required to substitute a suitable taxable adjacent parcel of the same assessment classification as the original adjacent property. In the absence of any suitable parcel for substitution, the requirements for using a minimum number of taxable adjacent properties (minimum sample size) in proposed paragraph (c)(2)(i) would still apply.

Limiting transfer-of-ownership assumption (recent sales). Second, under proposed paragraph (d)(2), local officials would no longer be permitted to assume a total transfer in ownership of the eligible Federal property. Currently, § 222.23(a)(2) allows tax officials to assume a transfer of ownership of the eligible Federal property for the year in which the section 8002 EAV is being determined, by using taxable adjacent properties that all have recently sold. This option originally was included in the regulations to provide flexibility to localities in determining the valuation of the eligible Federal property, including those jurisdictions that re-assess real property primarily upon resale.

Under this assumption, some LEAs have selected all new adjacent parcels each year that are only recent sales. This practice has resulted in disparities among LEAs in the relative rate of increase of maximum section 8002 payments. We do not believe that it is reasonable to assume that the eligible Federal property, if privatized, would change ownership in its entirety every year.

Therefore, we propose to replace current § 222.23(a)(2) with paragraph (d)(2)(i), to allow local officials to use a maximum number of recent sales to determine the base value for each identified expected use category. That number is based on the proportion that results when the number of taxable properties in each expected use category that has transferred ownership (i.e., sold) over a three year-period is divided by the total number of taxable properties in the specific expected use category for the most recent year for which data are available. The three-year period would be established by an accompanying new definition of *recent* sales in proposed paragraph (e)(3), which would define *recent sales* or *recently sold* as meaning taxable properties that have transferred ownership within the three most recent years for which data are available. Under proposed paragraph (d)(2)(ii), the local official then would multiply the total number of taxable adjacent properties selected by that proportion to determine how many recently sold taxable adjacent properties the official could include among the taxable adjacent properties used to establish the base value for that expected use category.

As required by section 8002(b)(3) of the Act, this proposed approach still results in the EAV of the eligible Federal property being based on the highest and best use of adjacent properties. Under the proposed approach, the local official would take those highest and best uses of adjacent properties into consideration by using them as the basis for categorizing and allocating the expected uses of the eligible Federal property, and then by establishing base values for those expected use categories with a

selected sample of those adjacent properties.

If applying the recent sales proportion to the total number of selected adjacent properties results in a fraction, proposed paragraph (d)(2)(ii) would require the local official to round the fraction down to the nearest whole number. For example, if the proportion of recent sales over a three-year period in an expected use category is six percent and the local official selects 10 adjacent properties, only .6 of those adjacent properties, or zero adjacent properties (by operation of rounding down) could be recent sales.

In some cases, an LEA may be located in and have eligible Federal property in more than one taxing jurisdiction. In those cases, by operation of State law, more than one local official is responsible for establishing the EAV for eligible Federal property in that LEA and, therefore, would establish separate EAVs for the eligible section 8002 Federal property in each respective taxing jurisdiction.

Definitions (§ 222.23(e))

We propose the following changes to redesignated paragraph (e):

• *Adjacent* (redesignated paragraph (e)(1)). The definition of *adjacent* would be amended to provide that, in most cases, *adjacent* means the taxable parcels within the LEA that are closest to the eligible Federal property. The proposed definition would specify that *adjacent* properties means properties further away from the eligible Federal property only if the Secretary determines that it is reasonable and necessary to use those properties for determining the EAV of eligible Federal property. Under the proposed definition, the term *adjacent* would mean further away than one mile from the perimeter of the eligible Federal property, or outside the LEA, only in extremely rare circumstances determined by the Secretary. This provision would help ensure that the adjacent property upon which the valuation of the eligible Federal property is based is close to the eligible Federal property and will more truly reflect what the Federal property could become if privatized.

• *Highest and best use* (redesignated paragraph (e)(2)). We propose to amend the definition of *highest and best use.* The current definition of this term in § 222.23(b)(2)(i) provides that the highest and best use of an adjacent parcel of taxable land means the fair market value based upon a ''highest and best use'' standard in accordance with State or local law and guidelines, if available, or otherwise generally a reasonable fair market value based upon the current use of the property.

Although the current definition is a reasonable interpretation of section 8002(b)(3) of the Act that requires the EAV of Federal property to be determined ''on the basis of'' the highest and best use of adjacent taxable property, LEAs have interpreted the provision to mean that each year they may base the EAV of Federal property exclusively on the assessed value of adjacent taxable properties that have recently transferred ownership. In some cases, this has led to unreasonably inflated EAVs of eligible property. We view this approach to be unreasonable as it is effectively based on the implausible assumption that an entire Federal property, which is often a quite extensive tract of land, changes hands in its entirety every year.

Accordingly, the Secretary is proposing to amend the definition of *highest and best use* in redesignated paragraph (e)(2)(i) by eliminating the references to ''fair market value.'' Local officials still would be required to use the highest and best use of taxable adjacent properties to categorize the expected uses of the eligible Federal property under proposed paragraphs (a)(2) and (b), and to establish the base values of the expected use categories of that eligible Federal property under proposed paragraphs (a)(3), (c), and (d). This approach would be consistent with the Act and permit a reasonable limitation on the use of recently sold adjacent properties in establishing the EAV of eligible property.

As noted, current § 222.23(b)(2)(i) provides that *highest and best use* is established in accordance with available State or local laws or guidelines, and includes any improvements consistent with those laws or guidelines. An additional proposed amendment to this paragraph would clarify that State or local laws or guidelines must be of general applicability and not used exclusively to value eligible Federal property. We are proposing this change to ensure consistency between the methods States and local jurisdictions use to establish highest and best use values for the eligible Federal property and the methods that they ordinarily use to value non-Federal property in the jurisdiction.

In addition, we propose to amend this definition to clarify that, to the extent State or local law or guidelines of general applicability are not available, the determination of the highest and best use would be based on the current use of the adjacent parcels, including any improvements. This clarification is consistent with current practice.

We also propose to amend the definition of *highest and best use* (in redesignated paragraph (e)(2)(i) and (iii)) to clarify that the local official may consider the most developed and profitable use for which the taxable adjacent property is physically adaptable only if that use is legally permissible and financially feasible, and for which there is a need or demand in the near future. The local official also takes into consideration the same factors with respect to the eligible Federal property. As with the adjacent properties, the proposed regulations would require that the Federal property be physically adaptable for the various uses upon which its EAV is being based and that there be a need or demand in the near future for those uses if the property was not in Federal ownership. We believe that these additional requirements are necessary to reflect realistic highest and best use values of the adjacent properties, and to apply those values realistically to the eligible Federal property. The proposed regulations would prohibit a local official from basing the highest and best use on potential uses that are speculative or remote.

• *Recent sales* or *recently sold* (new paragraph (e)(3)). Finally, as noted previously, proposed paragraph (e)(3) would define *recent sales* or *recently sold* to mean taxable properties that have transferred ownership within the most recent three years for which data are available. This timeframe for recent sales should benefit small LEAs that have fewer taxable properties and fewer annual sales than larger, more developed LEAs tend to have.

We also have added more examples throughout the proposed regulations, and a number of illustrative tables, to assist LEAs and local tax officials in understanding these proposed changes.

Executive Order 12866

Under Executive Order 12866, the Secretary must determine whether this regulatory action is ''significant'' and therefore subject to the requirements of the Executive order and review by OMB. Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action likely to result in a rule that may (1) have an annual effect on the economy of $100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments, or communities in a material way (also referred to as an ''economically significant'' rule); (2) create serious inconsistency or otherwise interfere with an action taken or planned by

another agency; (3) materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) create novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive order. The Secretary has determined that this regulatory action is not significant under the Executive order.

1. Potential Costs and Benefits

Under Executive Order 12866, we have assessed the potential costs and benefits of this regulatory action.

The potential costs associated with the proposed regulations are those resulting from statutory requirements and those we have determined to be necessary for administering this program effectively, fairly, and efficiently.

In general, the proposed regulations would provide more specificity with respect to local officials' selection of adjacent parcels upon which they base their valuation of the Federal property. These more specific rules generally would reduce burden by eliminating the need for lengthy consultations with Department staff, multiple revisions to valuation submissions, and application amendments. Although one of the regulatory changes would require local officials to select a minimum number (generally 10) of properties on which to base the valuation of the Federal property and, therefore, may require some local officials to add more properties than they currently are using, any resulting increase in the local official's time for this task would be offset by the accompanying regulatory change to reduce the selection cycle from every year to once every three years.

These proposed regulations will provide the following benefits for section 8002 applicants: greater uniformity in how local officials value the eligible Federal property in each of their jurisdictions; elimination of inequitable inflation in the value of the eligible Federal property; and greater reliability and consistency in the valuation process nationwide. In assessing the potential costs and benefits, both quantitative and qualitative, of this regulatory action, we have determined that the benefits would justify the costs.

We have also determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

2. Clarity of the Regulations

Executive Order 12866 and the Presidential memorandum on ''Plain Language in Government Writing'' require each agency to write regulations that are easy to understand.

The Secretary invites comments on how to make these proposed regulations easier to understand, including answers to questions such as the following:

- Are the requirements in the proposed regulations clearly stated?
- Do the proposed regulations contain technical terms or other wording that interferes with their clarity?
- Does the format of the proposed regulations (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity?
- Would the proposed regulations be easier to understand if we divided them into more (but shorter) sections? (A ''section'' is preceded by the symbol ''§ '' and a numbered heading; for example, § 222.21 What requirements must a local educational agency meet concerning Federal acquisition of real property within the local educational agency?)
- Could the description of the proposed regulations in the **SUPPLEMENTARY INFORMATION** section of this preamble be more helpful in making the proposed regulations easier to understand? If so, how?
- What else could we do to make the proposed regulations easier to understand?

Send any comments that concern how the Department could make these proposed regulations easier to understand to the person listed in the **ADDRESSES** section of the preamble.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities. The entities that would be affected by these proposed regulations are LEAs receiving Federal funds under this program, a substantial number of which (over 90 percent) are small entities.

However, the proposed regulations would not have a significant economic impact on those small entities because the proposed regulations generally would decrease rather than increase any regulatory burden and decrease the necessity for Federal supervision. This is because the proposed regulations would establish a three-year cycle, rather than the current annual cycle, for section 8002 applicants to submit information on the taxable adjacent parcels upon which the Federal property valuation is based.

Overall, the regulations will benefit small LEAs by providing more uniformity, consistency and reliability in Federal property valuation for all section 8002 applicants, by allocating a proportion of the Federal property for expected non-assessed or tax-exempt uses, standardizing the minimum sample size of taxable properties and providing more uniformity in the proportions of recently sold properties that may be selected. These proposed changes will result in a more equitable distribution of the limited funds available, including for small LEAs.

In any case, although limiting the number of recent sales that an LEA may use and other changes that would be made by these proposed regulations may result in reduced Federal property valuations in some cases, the proposed changes generally would have only a minor economic effect on most section 8002 applicants, including small LEAs. This is because small LEAs depend much more heavily on State and local revenue than on Federal revenue. In addition, for most LEAs, these proposed regulations affect only that portion of Federal section 8002 revenue that is distributed under the last step of the payment formula (section 8002(h)(4)(B) of the Act), which is based on the maximum section 8002 payment calculation that takes into account the Federal property valuation. Those affected section 8002 revenues constitute less than one percent of the average total annual revenue from all sources received by these small LEAs, and, for that reason, any reduction in those revenues would not have a significant economic impact.

Paperwork Reduction Act of 1995

Section 222.23 contains information collection requirements related to the submission of an applicant's section 8002 application. The section 8002 application form, and the regulation that requires it (34 CFR 222.3) are approved under OMB number 1810–0036, with an expiration date of June 30, 2008. Table 1 of that approved application (Tax Assessor's Valuation of Section 8002-eligible Federal Property) requires each applicant LEA's tax assessment official (local official) to certify the accuracy and completeness of certain information about the eligible section 8002 property, including its aggregate EAV as required by section 8002(b)(3) of the ESEA, and summary information upon which that value was derived.

Proposed § 222.23 would make several changes to the information that the local official must obtain and use in determining the aggregate EAV of the Federal property. However, for the

reasons explained below, the Secretary believes that these changes would not result in an increase in the paperwork collection burden.

Proposed § 222.23(a)(3) and (c)(1) would require local officials to identify the taxable use portions of the eligible Federal property by excluding a proportion of each expected use category that the local official would allocate to accommodate anticipated non-assessed or tax-exempt uses. We propose this change to avoid overstating the aggregate EAV of the eligible Federal property upon which section 8002 payments are based, which otherwise might occur if a portion of the property is included that likely would remain exempt from real property taxation if no longer federally owned.

In addition, proposed § 222.23(c)(2)(i) would require local officials to obtain a minimum sample size of 10 adjacent properties for each type of property, rather than using a lesser number of properties. We propose this change to standardize the minimum sample size and provide greater consistency and reliability in payments. Federal property valuations must be established as consistently as possible to achieve equity in LEAs' payments, which payments are based in part upon those valuations and are mutually dependent upon one another due to lack of full funding for the program.

Although the change in the minimum sample size may increase the burden for some LEAs, it will reduce or have no effect on the collection burden of others that currently obtain a higher number of sample properties. In any event, the Secretary believes that both of these changes will be offset by the following simultaneous burden reductions: (1) In proposed § 222.23(d)(1), moving from an annual to a three-year sample selection cycle; and (2) in proposed § 222.23(d)(2), limiting the number of recent sales that a local official may select in each base selection year, which likely will lead to fewer new selections of sample properties.

If you want to comment on the information collection requirements, please send your comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for U.S. Department of Education. Send these comments by e-mail to *OIRA_DOCKET@omb.eop.gov* or by fax to (202) 395–6974. You may also send a copy of these comments to the Department representative named in the **ADDRESSES** section of this preamble.

We consider your comments on these collections of information in—

- Deciding whether the proposed collections are necessary for the proper performance of our functions, including whether the information will have practical use;
- Evaluating the accuracy of our estimate of the burden of the proposed collections, including the validity of our methodology and assumptions;
- Enhancing the quality, usefulness, and clarity of the information we collect; and
- Minimizing the burden on those who must respond. This includes exploring 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.

OMB is required to make a decision concerning the collections of information contained in these proposed regulations between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, to ensure that OMB gives your comments full consideration, it is important that OMB receives the comments within 30 days of publication. This does not affect the deadline for your comments to us on the proposed regulations.

Intergovernmental Review

This program is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

Assessment of Educational Impact

The Secretary particularly requests comments on whether these proposed regulations would require transmission of information that any other agency or authority of the United States gathers or makes available.

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(Catalog of Federal Domestic Assistance Number 84.041, Impact Aid-Maintenance and Operations)

List of Subjects in 34 CFR Part 222

Education, Education of children with disabilities, Educational facilities, Elementary and secondary education, Federally affected areas, Grant programs—education, Indians—education, Public housing, Reports and recordkeeping requirements, School construction, Schools.

Dated: May 28, 2008.

Kerri L. Briggs,

Assistant Secretary for Elementary and Secondary Education.

For the reasons discussed in the preamble, the Secretary proposes to amend part 222 of title 34 of the Code of Federal Regulations as follows:

PART 222—IMPACT AID PROGRAMS

1. The authority citation for part 222 continues to read as follows:

Authority: 20 U.S.C. 7701–7714, unless otherwise noted.

2. Section 222.21 is amended by revising the introductory text in paragraph (a), and revising paragraphs (d)(1) and (e).

The revisions read as follows:

§ 222.21 What requirements must a local educational agency meet concerning Federal acquisition of real property within the local educational agency?

(a) For an LEA with an otherwise approvable application to be eligible to receive financial assistance under section 8002 of the Act, the LEA must meet the requirements in subpart A of this part and § 222.22. In addition, unless otherwise provided by statute as meeting the requirements in section 8002(a)(1)(C), the LEA must document—

* * * * *

(d) Except as provided under paragraph (a)(2) of this section, the Secretary's determinations and redeterminations of eligibility under this section are based on the following documents:

(1) For a new section 8002 applicant or newly acquired eligible Federal property, only upon—

(i) Original records as of the time(s) of Federal acquisition of real property, prepared by a legally authorized official, documenting the assessed value of that real property;

(ii) Facsimiles, such as microfilm, or other reproductions of those records; or

(iii) If the documents specified in paragraphs (d)(1)(i) and (ii) are unavailable, other records that the Secretary determines to be appropriate and reliable for establishing eligibility

under section 8002(a)(1) of the Act, such as Federal agency records or local historical records.

* * * * *

(e) The Secretary does not base the determination or redetermination of an LEA's eligibility under this section upon secondary documentation that is in the nature of an opinion, such as estimates, certifications, or appraisals.

* * * * *

3. Section 222.23 is revised to read as follows:

§ 222.23 How does a local educational agency determine the aggregate assessed value of its eligible Federal property for its section 8002 payment?

(a) *General.* A local educational agency (LEA) determines the aggregate assessed value of its eligible Federal property for its section 8002 payment as follows:

(1) A local official who is responsible for assessing the value of real property located in the jurisdiction of the LEA for levying a property tax makes the determination of the section 8002 aggregate assessed value, based on estimated assessed values (EAVs) for the eligible Federal property in the jurisdiction.

(2) The local official first categorizes proportionately the types of expected uses of the eligible Federal property in each Federal installation or area (*e.g.*, Federal forest) based on the highest and best uses of taxable properties adjacent to the eligible Federal property (adjacent properties), and allocates the amount of acres of the eligible Federal property to each of those expected uses, in accordance with paragraph (b) of this section.

(3) For each category of expected use of the eligible Federal property identified in accordance with paragraph (a)(2) of this section for each Federal installation or area, the local official then determines a base value in accordance with paragraphs (c) and (d) of this section.

(4) The local official next determines a section 8002 EAV for each category of expected use of the eligible Federal property in each Federal installation or area. The official determines that EAV by adjusting the base value for that category established in accordance with paragraph (a)(3) of this section, by any percentage, ratio, index, or other factor that the official would use to determine the assessed value (as defined in § 222.20) of the eligible Federal property to generate local real property tax revenues for current expenditures if that eligible Federal property were taxable. (This process is illustrated in Example 7 and Table 7–2 at the end of this section.)

(5) The local official then determines a total section 8002 EAV for each Federal installation or area in the LEA by adding together the assessed values determined pursuant to paragraph (a)(4) of this section for all property use categories of eligible Federal property in that Federal installation or area.

(6) The local official determines a section 8002 aggregate assessed value for the LEA as follows:

(i) If the LEA contains a single Federal installation or area with eligible Federal property, the total section 8002 EAV determined pursuant to paragraph (a)(5) of this section constitutes the section 8002 aggregate assessed value for the LEA.

(ii) If the LEA contains more than one Federal installation or area with eligible Federal property, the local official calculates the section 8002 aggregate assessed value for all of the eligible Federal property in the LEA by adding together the section 8002 total EAVs determined pursuant to paragraph (a)(5) of this section for all Federal installations and areas containing eligible Federal property within the LEA. (This process is illustrated in Example 7 and Table 7–2 at the end of this section.)

(b) *Categorizing expected uses.* (1) The local official categorizes the expected uses of the eligible Federal property, in accordance with paragraph (a)(2) of this section, by—

(i) Identifying the types of tax assessment classifications representing the highest and best uses of the taxable adjacent property (*e.g.*, residential, commercial, agricultural); and

(ii) Determining the relative proportions of taxable adjacent properties, based on acreage, devoted to each of those tax assessment classifications that represent the highest and best uses (*e.g.*, agricultural—50 percent; residential—40 percent; commercial—10 percent).

(2) The local official then determines the allocation of each of those expected uses to the eligible Federal property acres by multiplying each of the proportions determined under paragraph (b)(1)(ii) of this section by the total acres of the eligible Federal property in that Federal installation or area.

(c) *Determining the base value for expected use categories.* The local official determines a base value for each category of expected use of the eligible Federal property in accordance with paragraph (a)(3) of this section as follows:

(1) The local official first identifies the taxable use portion of the eligible Federal property acres in each expected use category as follows:

(i) The local official allocates a proportion (percentage) of the eligible Federal property acres identified for each expected use category under paragraph (b)(2) of this section to expected non-assessed or tax-exempt uses, such as public open space, schools, churches, and roads. The local official bases these proportions on the actual non-assessed or tax-exempt uses for each category of taxable property in the LEA.

(ii) The local official then determines the number of acres attributable to non-assessed or tax-exempt uses for each expected use category by multiplying the non-assessed or tax-exempt proportions identified in paragraph (c)(1)(i) of this section by the number of acres in each expected use category determined pursuant to paragraph (b)(2) of this section.

Example 1 (Allocation of Proportion of Eligible Federal Property to Non-Assessed or Tax-exempt Uses): The eligible Federal property (1,000 acres) is surrounded by properties that are classified for tax purposes according to their highest and best uses as residential (40 percent) and agricultural (60 percent) property. For the residential category (400 acres), the local official determines that approximately 20 percent would be devoted to non-assessed or tax-exempt uses, such as roads, parks, churches, and schools. The local official multiplies that proportion (.20) by the number of eligible Federal acres allocated to the residential category (400 acres) to determine the number of eligible Federal acres (80 acres) that likely would not be assessed for taxation or would be tax-exempt if the Federal Government no longer owned that property, as illustrated in the chart at the end of this example (Table 1–1). The local official follows a similar process for the proportion of the eligible Federal property the official allocated to agricultural use.

TABLE 1.—PROPORTION OF RESIDENTIAL CATEGORY OF SECTION 8002 ELIGIBLE FEDERAL PROPERTY ALLOCATED TO NON-ASSESSED OR TAX-EXEMPT USES

(1)	Allocated proportion (2)	Eligible Federal acres allocated to expected use category (col. 2 x acres in expected use category) (3)
Residential portion of eligible Federal property (400 acres)		
Allocated by local official for non-assessed or tax-exempt uses	20%	80
Allocated for taxable residential use	80%	320
Total	100%	400

(iii) The local official then calculates the number of acres attributable to taxable use for each expected use category by subtracting the number of acres attributable to non-assessed or tax-exempt uses determined under paragraph (c)(1)(ii) of this section from the total number of acres of eligible Federal property in that use category identified in paragraph (b)(2) of this section.

(2) For the taxable use portion determined under paragraph (c)(1)(iii) of this section for each expected use category, the local official then calculates a base value as follows:

(i) The local official selects from each expected use category identified pursuant to paragraph (b)(1)(i) of this section a minimum sample size of 10 taxable adjacent properties that represent the highest and best uses of the taxable adjacent properties. The official identifies the value of each selected taxable adjacent property that is recorded on the assessment records for that property before any adjustment, ratio, percentage, or other factor is applied to establish a taxable (assessed) value. If at least three but fewer than 10 taxable adjacent properties exist in an identified use category, the local official calculates a per acre value for each adjacent property and then identifies which of those properties has the lowest per-acre value. The official replicates that adjacent property's value and acreage as many times as needed until the combination of actual and replicated adjacent properties reaches 10 in number. In extremely rare circumstances, the local official may use fewer than three parcels for a particular tax assessment classification if doing so is determined by the Secretary to be necessary and reasonable.

Example 2 (Minimum Sample Size of Adjacent Properties): The eligible Federal property is surrounded by properties that are classified for tax purposes according to their highest and best uses as residential, commercial, and agricultural property. The local official selects at least 10 taxable adjacent parcels from each of the residential and agricultural property classifications as the basis for valuing the eligible Federal property.

In the commercial classification, however, only six taxable adjacent properties exist. The lowest per-acre valued parcel, Parcel A, is valued at $6,000 per acre. As illustrated in Table 2–1, the local official selects all six of the commercial taxable adjacent properties, and then replicates Parcel A's value and acreage four more times to reach the minimum number of 10 properties for that classification.

(ii) The local official then calculates an average per-acre value for the taxable portion of each expected use category by totaling the values (following application of any equalization factors, if relevant) and acres of the actual and any replicated adjacent properties and dividing the total value by the total number of acres in those properties, as illustrated in the following chart (Table 2–1).

TABLE 2–1.—AVERAGE PER-ACRE VALUE OF MINIMUM SAMPLE SIZE OF ADJACENT PROPERTIES

Selected adjacent properties—commercial classification (1)	Value (2)	Acres (3)	Value per acre (4)
1 Parcel A	$150,000	25	$6,000
2 Parcel B	1,200,000	30	40,000
3 Parcel C	750,000	.25	3,000,000
4 Parcel D	1,000,000	40	25,000
5 Parcel E	500,000	5	100,000
6 Parcel F	250,000	.5	500,000
7 Replicated Parcel A	150,000	25	6,000
8 Replicated Parcel A	150,000	25	6,000
9 Replicated Parcel A	150,000	25	6,000
10 Replicated Parcel A	150,000	25	6,000
Total	4,450,000	200.75	NA
Average value/acre (total col. 2/total col. 3)			22,166.87

(iii) The local official then multiplies the average per-acre value calculated under paragraph (c)(2)(ii) of this section for the taxable portion of the expected use category by the number of acres of eligible Federal property in that expected use category, determined in accordance with paragraph (b)(2) of this section to calculate the base value for that category.

(d) *Additional procedures for determining base values.* The local official applies the following additional procedures in determining a base value for each category of expected use of the eligible Federal property, in accordance with paragraph (a)(3) of this section:

(1) The local official determines base values on a three-year cycle, as follows:

(i) The local official allocates expected uses to the eligible Federal property in accordance with paragraph (b)(2) of this section and selects taxable adjacent properties in accordance with paragraph (c)(2)(i) of this section once every three years (base year).

(ii) For each of the following two application years, the local official uses the same allocation of expected uses of the

eligible Federal property and the same taxable adjacent parcels selected for the base year, but updates the values and acreages of the selected taxable adjacent parcels.

(iii) If a previously selected taxable adjacent property becomes unsuitable for determining the base value for the expected use category because that property changes assessment classification, becomes tax-exempt, or undergoes a change in character from the time that the property was selected for the base year, the local official substitutes a similar taxable adjacent property from the same expected use category (assessment classification) in accordance with the requirements in paragraph (c)(2)(i) of this section.

Example 3 (Three-Year Cycle for Selected Adjacent Properties): For the fiscal year (FY) 2010 section 8002 application, the local official selects 15 residential taxable adjacent properties to use as the basis for valuing a portion of the eligible Federal property, and provides the value and acreages of each of those properties for the previous year (2009). The local official must use those same properties for the following two application years (2011 and 2012), assuming that those properties retain the same assessment classification, remain taxable, and do not undergo a change in the original character upon which their selection was based. For each of those following two years, the local official updates the values and acreages of each selected residential taxable adjacent property based on the preceding year's tax data (2010 and 2011, respectively).

However, during that two-year period, one of the residential taxable adjacent properties changes in character because the residential improvement is destroyed. That change to the original character makes the property unsuitable to include in the selected group of residential taxable adjacent properties for the remaining two years of the three-year period. Accordingly, the local official substitutes a residential taxable adjacent property that is similar to the originally selected property (*i.e.*, an improved residential adjacent property of similar value and size) to retain the same number and variety of taxable adjacent properties in that expected use category as originally selected.

(2)(i) When selecting taxable adjacent properties for the base year in accordance with paragraph (c)(2)(i) of this section, the local official may include taxable adjacent properties that are recent sales (as defined in paragraph (e)(3) of this section), among other taxable adjacent properties, up to the following proportion:

$$\frac{\text{number of recent sales in each expected use category for the three most recent years for which data are available}}{\text{total number of taxable properties in the expected use category for the most recent year for which data are available}}$$

Example 4 (Proportion of Recent Sales in Assessment Classification): Beginning with the most recent year for which data are available (2007), the local official determines that 40 taxable agricultural properties sold or otherwise transferred ownership in that tax jurisdiction during the three most recent years for which data are available (2005 through 2007) and that there were 500 taxable agricultural properties during 2007 (the most recent year for which data are available). (If a particular property sold more than once during the three most recent years for which data are available, the local official counts each sale.) The local official determines the proportion of sales for taxable agricultural property as follows:

$$\frac{\text{number of agricultural sales in last three years for which data are available (40)}}{\text{total number of agricultural properties in most recent year for which data are available (500)}} = \text{proprotion of recent sales (.08 or 8 percent)}$$

(ii) The local official determines the number of recent sales the official may include with other selected taxable adjacent properties for that expected use category as follows:

$$\text{proportion (percentage) of recent sales for the expected use category (calculated under paragraph (d)(2)(i) of this section)} \times \text{total number of taxable adjacent properties selected for that expected use category}$$

If the resulting number is a fraction, the local official rounds down to the nearest whole number to determine the maximum number of recent sales that the official may include for that expected use category.

Example 5 (Number of Recent Sales Local Official May Use To Determine the Base Value for Each Expected Use Category of Eligible Federal Property): The eligible section 8002 Federal property in the LEA is a federally owned forest. Based on the highest and best uses of taxable adjacent properties, three expected use categories (assessment classifications) of properties surround that forest: residential, commercial, and agricultural. After identifying and excluding a non-assessed or tax-exempt proportion for each expected use category of the eligible Federal property, in accordance with paragraphs (a)(3) and (c)(1) of this section, the local official selects ten taxable adjacent properties each for the residential and commercial use categories, and 20 taxable adjacent properties for the agricultural use category in determining the base value for the taxable portion of each expected use category of the eligible Federal property.

During the three most recent years for which data are available, ten percent of the residential properties in the tax jurisdiction were sold, six percent of the commercial properties were sold, and eight percent of the agricultural properties were sold. As illustrated in the following chart, of the ten residential adjacent properties selected, the local official may select only one recent sale (ten percent (.10 × 10 residential adjacent properties = one) to use in determining the base value for that expected use category of the eligible Federal property.

For the commercial classification, six percent of the taxable properties in the tax jurisdiction were recent sales. As illustrated in the following chart, the local official may not select any recent sales for that expected use category because six percent (.06) of the 10 selected commercial adjacent properties is less than one whole number, and rounding down therefore results in 0 (six percent (.06) × 10 commercial adjacent properties = .6 of a property).

Finally, as illustrated in the following chart, for the 20 selected agricultural adjacent

properties, the local official may use one recent sale for that expected use category, because eight percent (.08) of the 20 properties equals 1.6 properties (eight percent (.08) × 20 agricultural adjacent properties = 1.6) and rounding down to the nearest whole number results in one property.

TABLE 5–1.—NUMBER OF RECENT SALES LOCAL OFFICIAL MAY USE TO DETERMINE THE BASE VALUE FOR EACH EXPECTED USE CATEGORY OF ELIGIBLE FEDERAL PROPERTY

		Residential	Commercial	Agricultural
1	Proportion (percent) of recent sales for expected use category	10% (.10)	6% (.06)	8% (.08)
2	Total selected adjacent properties	10	10	20
3	Row 1 x Row 2	1.0	.6	1.6
4	Number of "recent sales" local official may include among other taxable adjacent properties in determining a base value for the expected use category of the eligible Federal property.	1	0	1

(e) *Definitions.* The following terms used in this section are defined as follows:

(1) *Adjacent* means next to or close to the eligible Federal property as follows:

(i) In most cases, the term *adjacent* means the closest taxable parcels within the LEA.

(ii) The term *adjacent* means properties further away from the eligible Federal property than described in paragraph (e)(1)(i) of this section only if the Secretary determines that it is necessary and reasonable to use those more distant properties to determine the EAV of eligible Federal property.

(iii) The Secretary considers the term *adjacent* to mean properties further than one mile from the perimeter of the eligible Federal property or outside the LEA only in extremely rare circumstances determined by the Secretary.

(2)(i) *Highest and best use* of adjacent property is determined based on a highest and best use standard in accordance with State or local law or guidelines of general applicability, if available, that is not used exclusively for the eligible Federal property and includes any improvements on that property to the extent consistent with those laws or guidelines. To the extent that State or local law or guidelines of general applicability are not available, highest and best use generally must be based on the current use of the taxable adjacent property (including any improvements). In determining the highest and best use, the local official also may consider the most developed and profitable use for which the taxable adjacent property is physically adaptable, if that use is legally permissible and financially feasible, and for which there is a need or demand in the near future.

(ii) The local official—

(A) May not base the highest and best use of taxable adjacent property on potential uses that are speculative or remote; and

(B) Must consider the extent to which the eligible Federal property is physically adaptable for those expected uses and the extent to which those uses would be needed if the property were not in Federal ownership.

Example 6 (Determining the Highest and Best Use of Taxable Adjacent Properties as the Basis for EAV): If a Federal installation to be valued is bordered by residential and commercial/industrial properties, the local official takes into consideration those various highest and best uses (residential and commercial/industrial) in determining the EAV of the eligible Federal property as described in paragraphs (a) and (c)(2)(i) of this section.

Under that process, using acres, the local official first determines the relative proportions of adjacent properties devoted to each of those highest and best uses. For example, the local official determines that the highest and best uses of the adjacent properties are residential (60 percent) and commercial/industrial (40 percent). However, before allocating the acres of the eligible Federal property (1,000 acres) to those uses as described in paragraphs (a)(2) and (b) of this section, the local official must consider whether the Federal property is adaptable for and there is a need for those uses, in accordance with paragraph (e)(2)(ii)(B) of this section.

For example, if the Federal property is hilly and rocky or contains a large area of marshland, it may not be practical for the property to be developed primarily as residential property. Using his or her professional judgment, the local official may decide that it would be more appropriate to designate 50 percent of the acres as vacant or woodland or some other taxable classification that would indicate that improvements would likely not be located on that property. This may also affect the proportion of the property that would be designated as commercial/industrial because some of those commercial/industrial uses would support the area designated for residential use. Thus, the local official designates the remaining 50 percent of the acres as 20 percent residential and 30 percent commercial/industrial.

After the local official determines the appropriate proportions of expected uses, the official then multiplies those proportions by the total number of eligible Federal acres (1,000) to determine the number of eligible Federal acres in each expected use category, resulting in the following: residential (20 percent or 200 acres), vacant (50 percent or 500 acres), and commercial/industrial (30 percent or 300 acres). The local official then determines the base value for the taxable use portion of each expected use category under paragraph (c)(2) of this section, beginning by selecting a sample of properties that represents the highest and best uses of the taxable adjacent properties. In selecting the sample, the local official must consider whether the Federal property would support the same degree of development as the taxable adjacent properties selected (e.g., density, size, and improvements) and whether there would be a need for that type and degree of development in the near future. The local official then makes any necessary adjustments to the sample.

(3) *Recent sales* or *recently sold* means taxable properties that have transferred ownership within the three most recent years for which data are available.

Example 7 (Calculation of Section 8002 EAV for Eligible Federal Property): Two different Federal properties are located within an LEA—a Federal forest (100 eligible acres) and a naval facility (1,000 eligible acres). Based on the highest and best uses of taxable adjacent properties, and as described more specifically below, the local official establishes an EAV for the eligible Federal property in the LEA of $92,577,000 in the base year of a three-year cycle. That EAV is based on categorizing the Federal forest as 100 percent (100 acres) woodland expected use, and the naval facility as 60 percent (600 acres) residential expected use and 40 percent (400 acres) commercial/industrial expected use.

The taxing jurisdiction determines the assessed value for taxable property by multiplying the value of the property by a single assessment ratio applicable to the property's assessment category. In this case, the applicable assessment ratios are: woodland property—30 percent of the property's value; residential property—60 percent of the property's value; and commercial/industrial property—75 percent of the property's value.

Federal forest (100 eligible Federal acres). The local official first determines the type of expected use categories (assessment classifications) and respective proportions to use in valuing the eligible Federal property, based on the highest and best use of the taxable adjacent properties. In this case, the local official categorizes 100 percent of the Federal forest as being in the woodland use category (assessment classification) based on the highest and best use of taxable adjacent properties, and multiplies that proportion by the total number of eligible Federal acres (100), to determine the number of Federal acres attributable to the woodland use category (100 acres).

The local official then determines a base value for each category of expected use of the eligible Federal property as described in paragraphs (a)(3), (c), and (d) of this section. The official first determines the taxable use portion for each expected use category, as

described in paragraph (c)(1) of this section, by excluding the proportion of the total area of each use category of the eligible Federal property that the official determines should be allocated to non-assessed or tax-exempt uses.

Based on the general proportion of non-assessed or tax-exempt uses for woodland property, the local official allocates 10 percent of the woodland acres for non-assessed or tax-exempt purposes, and multiplies that proportion by the total number of acres of eligible Federal property categorized as woodland (100 acres), resulting in 10 acres attributable to a non-assessed or tax-exempt proportion of woodland. The local official then subtracts that non-assessed or tax-exempt portion (10 acres) from the total acres of eligible Federal property in that expected use category (100 acres), resulting in 90 acres attributable to the taxable portion of the woodland expected use category.

The local official then selects a sample of taxable adjacent properties from the expected use category (woodland), as described in paragraphs (c)(2) and (d) of this section, and uses that sample to establish a base value for that category. The sample includes at least the minimum required number of taxable adjacent properties (generally at least ten) from the woodland category. In addition, in selecting that sample of properties, the local official uses only the allowable proportion of recent sales, calculated as described in paragraph (d)(2) of this section. In selecting the specific taxable adjacent properties that make up that sample, and that reflect the highest and best uses of the adjacent taxable properties in accordance with paragraph (c)(2)(i) of this section, the local official also considers whether the Federal property is adaptable for and whether there would be a need for those specific types of properties, such as in size and improvements, in accordance with paragraph (e)(2)(ii)(B) of this section.

The local official calculates the average value per acre ($1,000) of the selected sample of taxable adjacent woodland properties. The local official then multiplies the number of acres attributable to the taxable portion of the woodland expected use category (90 acres) by the average value per acre ($1,000) of the selected taxable woodland adjacent properties, resulting in a base value for the woodland use category of the Federal forest of $90,000.

The local official then determines the section 8002 EAV for the Federal forest as described in paragraph (a)(4) of this section by multiplying the base value established for the woodland portion of the property ($90,000) by 30 percent (the assessment ratio for woodland property), resulting in a section 8002 EAV of $27,000 for the Federal forest.

Naval facility (1,000 total eligible Federal acres). The local official first determines the type of expected use categories (assessment classifications) and respective proportions to use in valuing the eligible Federal property. For the naval facility, the local official determines that the relative mix of taxable adjacent properties, based on their highest and best uses, is 60 percent residential and 40 percent commercial/industrial. The local official multiplies those proportions by the total eligible Federal acres in the naval facility (1,000), resulting in 600 acres (60 percent × 1,000 acres = 600 acres) to be valued as residential expected use and 400 acres (40 percent × 1,000 acres = 400 acres) to be valued as commercial/industrial expected use.

The local official then determines a base value for each of those expected use categories of the eligible Federal property. For the residential expected use category, the local official allocates 20 percent for non-assessed or tax-exempt uses, and multiplies that proportion by the number of eligible Federal acres allocated to that expected use category (600 acres), resulting in 120 acres allocated to non-assessed or tax-exempt uses. The local official excludes those 120 acres by subtracting them from the total number of residential acres (600 acres), resulting in 480 acres allocated to taxable residential uses for the residential portion of the eligible Federal property in the naval facility.

For the commercial/industrial expected use category, the local official allocates 15 percent for non-assessed or tax-exempt uses, and multiplies that proportion by the number of eligible Federal acres allocated to that expected use category (400 acres), resulting in 60 acres allocated to non-assessed or tax-exempt uses. The local official excludes those 60 acres by subtracting them from the total number of commercial/industrial acres (400 acres), resulting in 340 acres allocated to taxable commercial/industrial uses for the commercial/industrial portion of the eligible Federal property in the naval facility.

The local official then selects a sample of taxable adjacent properties from each identified use category, as described in paragraphs (c)(2) and (d) of this section, which the official uses to establish a base value for each of those expected use categories. That sample includes at least the minimum required number of taxable adjacent properties (generally at least 10) for each expected use category. In addition, in selecting the sample of properties, the official uses only the allowable proportion of recent sales, calculated as described in paragraph (d)(2) of this section.

In considering whether the specific group of taxable adjacent properties selected reflects the highest and best uses of the adjacent taxable properties in accordance with paragraph (c)(2)(i) of this section, the local official also considers whether the Federal property is adaptable for and whether there would be a need for those specific types of properties, in accordance with paragraphs (c)(2)(i) and (e)(2)(ii)(B) of this section.

For example, if the official selects 10 residential parcels that are all small, such as one quarter (.25) of an acre or less, and uses those parcels to determine an EAV for a large area of Federal property, the result may exaggerate what would likely happen to that property if it were available for development. If the official uses only these small parcels (e.g., .25 acres each) for the 480 acres allocated to taxable residential uses for the residential portion of the eligible Federal property, the official would be projecting that approximately 1,920 small residential lots would be developed on that Federal property (.25 × 1,920 = 480) if the property was no longer in Federal ownership. The Department believes that it may be extremely speculative that 480 acres of the property would develop into this number of residential properties, and that this result would not reflect the local official's intention. In that case, the official would identify other taxable adjacent parcels of varying sizes to provide a more accurate picture of how the Federal property would be developed if it were on the tax rolls.

Similarly, with respect to improvements, if the local official selected taxable adjacent properties that all were improved parcels, the official would be projecting that all of the 480 acres allocated to taxable residential uses for the residential portion of the eligible Federal property would be improved. If the residential taxable adjacent parcels are a mixture of improved and unimproved properties, that projection also may be speculative based on the number of improvements that reasonably would be needed for the current and any expected new population. If the assumption is not reasonable that the entire 480 acres would be improved, then the local official would make adjustments accordingly in the sample of taxable adjacent properties by adding some unimproved residential parcels to the sample.

For the portion of the naval facility allocated to taxable residential use, the local official calculates the aggregate per acre value ($100,000) of the selected sample of residential adjacent properties as described in paragraph (c)(2)(ii) of this section. The local official then multiplies the number of acres allocated to the taxable residential portion (480 acres) by the average value per acre ($100,000) of the sample of residential adjacent properties to determine the base value ($48,000,000) for that portion of the eligible Federal property, as described in paragraph (c)(2)(iii) of this section. The local official determines a section 8002 EAV for that residential portion by multiplying the $48 million by 60 percent (assessment ratio for residential property), resulting in $28,800,000 as described in paragraph (a)(4) of this section.

Similarly, for the portion of the naval facility allocated to taxable commercial/industrial use, the local official calculates an aggregate per acre value ($250,000) of the selected sample of commercial/industrial taxable adjacent properties as described in paragraph (c)(2)(ii) of this section. The local official then multiplies the number of eligible Federal property acres allocated to the taxable commercial/industrial portion (340 acres) by the average value per acre of the selected commercial/industrial adjacent properties ($250,000) to determine the base value for that portion of the eligible Federal property ($85,000,000), as described in paragraph (c)(2)(iii) of this section. The local official determines a section 8002 EAV for that commercial/industrial portion by multiplying the $85,000,000 by 75 percent (the assessment ratio for commercial/industrial property), resulting in $63,750,000 as described in paragraph (a)(4) of this section.

The local official then calculates the total section 8002 EAV for the entire naval facility as described in paragraph (a)(5) of this section by adding the figures for the residential portion ($28,800,000) and the commercial/industrial portion ($63,750,000), resulting in a total section 8002 EAV for the entire naval facility of $92,550,000.

Total section 8002 property in the LEA. Finally, the local official determines the aggregate section 8002 assessed value for the LEA as described in paragraph (a)(6) of this section by adding the section 8002 EAV for the Federal forest ($27,000), and the total section 8002 EAV for the naval facility ($92,550,000), resulting in an aggregate assessed value of $92,577,000.

This entire process is illustrated in Tables 7–1 and 7–2 below:

TABLE 7–1.—ALLOCATION OF SECTION 8002 ELIGIBLE FEDERAL PROPERTY TO NON-TAXABLE AND TAXABLE USES FOR DETERMINING BASE VALUES

Tax classifications of adjacent properties based on highest and best use (1)	Proportion of eligible Federal property allocated to property use categories (2)	Total acres allocated to property use categories (col. 2 × eligible acres) (3)	Proportion allocated to non-assessed or tax-exempt uses (4)	Acres allocated to non-assessed or tax-exempt uses (col. 4 × col. 3) (5)	Acres allocated to taxable uses and used to determine base values (col. 3 − col. 5) (6)
Federal Forest (100 eligible acres)					
Woodland	100%	100	10%	10	90
Subtotal		100		10	90
Naval Facility (1,000 eligible acres)					
Residential	60%	600	20%	120	480
Commercial/industrial	40%	400	15%	60	340
Subtotal	100%	1,000		180	820
Total		1,100		190	910

TABLE 7–2.—CALCULATION OF SECTION 8002 BASE VALUES, SECTION 8002 ESTIMATED ASSESSED VALUES (EAVS), AND AGGREGATE ASSESSED VALUE

Classification of adjacent parcels (1)	Federal acres allocated for taxable use (table 7–1, col. 6) (2)	Average value/acre of taxable adjacent parcels (3)	Base value of eligible Federal property (col. 3 x col. 4) (4)	Assessment ratio (5)	Section 8002 EAVs and aggregate assessed value (6)
Federal Forest (90 eligible acres allocated for *taxable* use (see Table 7–1, column 6))					
Woodland	90	$1,000	$90,000	30%	$27,000
Subtotal	90		90,000		27,000
Naval Facility (820 eligible Federal acres allocated for *taxable* use (see Table 6–1, column 6))					
Residential	480	100,000	48,000,000	60%	28,800,000
Commercial/Industrial	340	250,000	85,000,000	75%	63,750,000
Subtotal	820		133,000,000		92,550,000
Total (Aggregate Assessed Value)			133,090,000		92,577,000

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REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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Boeing Model 737 Airplanes; comments due by 6-12-08; published 4-28-08 [FR E8-09193]

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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 "P L U S" (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. 3035/P.L. 110–238

To temporarily extend the programs under the Higher Education Act of 1965. (May 30, 2008; 122 Stat. 1558)

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CFR CHECKLIST

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An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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Title	Stock Number	Price	Revision Date
1	(869–064–00001–7)	5.00	[4] Jan. 1, 2008
2	(869–064–00002–5)	8.00	Jan. 1, 2008
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70–89	(869–062–00187–8)	14.00	Oct. 1, 2007
90–139	(869–062–00188–6)	44.00	Oct. 1, 2007
140–155	(869–062–00189–4)	25.00	Oct. 1, 2007
156–165	(869–062–00190–8)	34.00	Oct. 1, 2007
166–199	(869–062–00191–6)	46.00	Oct. 1, 2007
200–499	(869–062–00192–4)	40.00	Oct. 1, 2007
500–End	(869–062–00193–2)	25.00	Oct. 1, 2007
47 Parts:			
0–19	(869–062–00194–1)	61.00	Oct. 1, 2007
20–39	(869–062–00195–9)	46.00	Oct. 1, 2007
40–69	(869–062–00196–7)	40.00	Oct. 1, 2007
70–79	(869–062–00197–5)	61.00	Oct. 1, 2007
80–End	(869–062–00198–3)	61.00	Oct. 1, 2007
48 Chapters:			
1 (Parts 1–51)	(869–062–00199–1)	63.00	Oct. 1, 2007
1 (Parts 52–99)	(869–062–00200–9)	49.00	Oct. 1, 2007
2 (Parts 201–299)	(869–062–00201–7)	50.00	Oct. 1, 2007
3–6	(869–062–00202–5)	34.00	Oct. 1, 2007

Title	Stock Number	Price	Revision Date
7–14	(869–062–00203–3)	56.00	Oct. 1, 2007
15–28	(869–062–00204–1)	47.00	Oct. 1, 2007
29–End	(869–062–00205–0)	47.00	Oct. 1, 2007
49 Parts:			
1–99	(869–062–00206–8)	60.00	Oct. 1, 2007
100–185	(869–062–00207–6)	63.00	Oct. 1, 2007
186–199	(869–062–00208–4)	23.00	Oct. 1, 2007
200–299	(869–062–00208–1)	32.00	Oct. 1, 2007
300–399	(869–062–00210–6)	32.00	Oct. 1, 2007
400–599	(869–062–00210–3)	64.00	Oct. 1, 2007
600–999	(869–062–00212–2)	19.00	Oct. 1, 2007
1000–1199	(869–062–00213–1)	28.00	Oct. 1, 2007
1200–End	(869–062–00214–9)	34.00	Oct. 1, 2007
50 Parts:			
1–16	(869–062–00215–7)	11.00	Oct. 1, 2007
17.1–17.95(b)	(869–062–00216–5)	32.00	Oct. 1, 2007
17.95(c)–end	(869–062–00217–3)	32.00	Oct. 1, 2007
17.96–17.99(h)	(869–062–00218–1)	61.00	Oct. 1, 2007
17.99(i)–end and 17.100–end	(869–062–00219–0)	47.00	[8] Oct. 1, 2007
18–199	(869–062–00226–3)	50.00	Oct. 1, 2007
200–599	(869–062–00221–1)	45.00	Oct. 1, 2007
600–659	(869–062–00222–0)	31.00	Oct. 1, 2007
660–End	(869–062–00223–8)	31.00	Oct. 1, 2007
CFR Index and Findings Aids	(869–062–00050–2)	62.00	Jan. 1, 2007
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Subscription (mailed as issued)		406.00	2008
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Complete set (one-time mailing)		332.00	2006

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 2005, through January 1, 2006. The CFR volume issued as of January 1, 2005 should be retained.

[5] No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2007. The CFR volume issued as of April 1, 2000 should be retained.

[6] No amendments to this volume were promulgated during the period April 1, 2006 through April 1, 2007. The CFR volume issued as of April 1, 2006 should be retained.

[7] No amendments to this volume were promulgated during the period July 1, 2006, through July 1, 2007. The CFR volume issued as of July 1, 2006 should be retained.

[8] No amendments to this volume were promulgated during the period October 1, 2005, through October 1, 2007. The CFR volume issued as of October 1, 2005 should be retained.

[9] No amendments to this volume were promulgated during the period October 1, 2006, through October 1, 2007. The CFR volume issued as of October 1, 2006 should be retained.

TABLE OF EFFECTIVE DATES AND TIME PERIODS—JUNE 2008

This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

DATE OF FR PUBLICATION	15 DAYS AFTER PUBLICATION	30 DAYS AFTER PUBLICATION	45 DAYS AFTER PUBLICATION	60 DAYS AFTER PUBLICATION	90 DAYS AFTER PUBLICATION
June 2	Jun 17	Jul 2	Jul 17	Aug 1	Sep 2
June 3	Jun 18	Jul 3	Jul 18	Aug 4	Sep 2
June 4	Jun 19	Jul 7	Jul 21	Aug 4	Sep 2
June 5	Jun 20	Jul 7	Jul 21	Aug 4	Sep 3
June 6	Jun 23	Jul 7	Jul 21	Aug 5	Sep 4
June 9	Jun 24	Jul 9	Jul 24	Aug 8	Sep 8
June 10	Jun 25	Jul 10	Jul 25	Aug 11	Sep 8
June 11	Jun 26	Jul 11	Jul 28	Aug 11	Sep 9
June 12	Jun 27	Jul 14	Jul 28	Aug 11	Sep 10
June 13	Jun 30	Jul 14	Jul 28	Aug 12	Sep 11
June 16	Jul 1	Jul 16	Jul 31	Aug 15	Sep 15
June 17	Jul 2	Jul 17	Aug 1	Aug 18	Sep 15
June 18	Jul 3	Jul 18	Aug 4	Aug 18	Sep 16
June 19	Jul 7	Jul 21	Aug 4	Aug 18	Sep 17
June 20	Jul 7	Jul 21	Aug 4	Aug 19	Sep 18
June 23	Jul 8	Jul 23	Aug 7	Aug 22	Sep 22
June 24	Jul 9	Jul 24	Aug 8	Aug 25	Sep 22
June 25	Jul 10	Jul 25	Aug 11	Aug 25	Sep 23
June 26	Jul 11	Jul 28	Aug 11	Aug 25	Sep 24
June 27	Jul 14	Jul 28	Aug 11	Aug 26	Sep 25
June 30	Jul 15	Jul 30	Aug 14	Aug 29	Sep 29