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Washington, DC 20002

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2008–0171; Airspace Docket No. 08–AAL–5]

Revision of Class E Airspace; Deadhorse, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises Class E airspace at Deadhorse, AK, to provide adequate controlled airspace to contain aircraft executing Standard Instrument Approach Procedures (SIAPs). Eight Standard Instrument Approach Procedures (SIAPs) and a textual Departure Procedure (DP) are being amended for the Deadhorse Airport. This action revises existing Class E airspace upward from the surface and from 700 feet (ft.) and 1,200 ft. above the surface at Deadhorse Airport, Deadhorse, AK.

DATES: *Effective Date:* 0901 UTC, July 31, 2008. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Gary Rolf, AAL–538G, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; e-mail: *gary.ctr.rolf@faa.gov.* Internet address: *http://www.alaska.faa.gov/at.*

SUPPLEMENTARY INFORMATION:

History

On Monday, March 31, 2008, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise Class E airspace upward from 700 ft. above the surface and from 1,200 ft. above the surface at Deadhorse, AK (73 FR 16792). The action was proposed in order to create Class E airspace sufficient in size to contain aircraft while executing SIAPs for the Deadhorse Airport. The Notice of Proposed Rulemaking contained an error in the airspace description. The 035° bearing should have been listed as 075°, and the 255° bearing in the Class E2 description was inadvertently left out. Additionally, the correct 4.1-mile radius in the Class E2 description as erroneously listed with a 2.4-mile value. These errors have been corrected in the rule. Class E controlled airspace extending upward from the surface and from 700 ft. and 1,200 ft. above the surface in the Deadhorse Airport area is revised by this action.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments were received. The rule is adopted as proposed.

The area will be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as surface areas are published in paragraph 6002 of FAA Order 7400.9R, *Airspace Designations and Reporting Points*, signed August 15, 2007, and effective September 15, 2007, which is incorporated by reference in 14 CFR 71.1. The Class E airspace areas designated as 700/1,200 ft. transition areas are published in paragraph 6005 of FAA Order 7400.9R, *Airspace Designations and Reporting Points*, signed August 15, 2007, and effective September 15, 2007, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 revises Class E airspace at the Deadhorse Airport, Alaska. This Class E airspace is revised to accommodate aircraft executing amended SIAPs, and will be depicted on aeronautical charts for pilot reference. The intended effect of this rule is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at the Deadhorse Airport, Deadhorse, Alaska.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart 1, Section 40103, Sovereignty and use of airspace. Under that section, the FAA is charged with prescribing regulations to ensure the safe and efficient use of the navigable airspace. This regulation is within the scope of that authority because it creates Class E airspace sufficient in size to contain aircraft executing instrument procedures for the Deadhorse Airport and represents the FAA's continuing effort to safely and efficiently use the navigable airspace.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9R, *Airspace Designations and Reporting Points*, signed August 15, 2007, and effective September 15, 2007, is amended as follows:

Paragraph 6002 Class E Airspace Designated as Surface Areas.

* * * * *

AAL AK E2 Deadhorse, AK [Revised]

Deadhorse, Deadhorse Airport, AK
(Lat. 70°11′41″ N., long. 148°27′55″ W.)

Within a 4.1-mile radius of the Deadhorse Airport, AK, and within 2.4 miles either side of the 075° bearing from the Deadhorse Airport, AK, extending from the 4.1-mile radius to 7 miles east of the Deadhorse Airport, AK, and within 2.4 miles either side of the 255° bearing from the Deadhorse Airport, AK, extending from the 4.1-mile radius to 7 miles west of the Deadhorse Airport, AK. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6005 Class E Airspace Extending Upward from 700 Feet or More Above the Surface of the Earth.

* * * * *

AAL AK E5 Deadhorse, AK [Revised]

Deadhorse, Deadhorse Airport, AK
(Lat. 70°11′41″ N., long. 148°27′55″ W.)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Deadhorse Airport, AK; and that airspace extending upward from 1,200 feet above the surface within a 72-mile radius of the Deadhorse Airport, AK.

* * * * *

Issued in Anchorage, AK, on May 28, 2008.

Michael A. Tarr,

Acting Manager, Alaska Flight Services Information Area Group.

[FR Doc. E8–12585 Filed 6–5–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2008–0428]

Drawbridge Operation Regulation; Atlantic Intracoastal Waterway, Boca Raton, FL

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Seventh Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Spanish River Boulevard bridge across the Atlantic Intracoastal Waterway, mile 1044.9, at Boca Raton, FL. The deviation is necessary to perform rehabilitation work on the bridge. This deviation allows the bridge to operate with a five feet reduced vertical clearance, operate with single leaf openings, and/or operate with full double leaf opening pending a three hour advance notice.

DATES: This deviation is effective from 8 a.m., June 15, 2008 to 6 p.m., December 8, 2008.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2008–0428 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 Commander (dpb), Seventh Coast Guard District, 909 SE., 1st Avenue, Room 432, Miami, Florida 33131–3028 between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call Mr. Barry Dragon, Bridge Branch, Seventh Coast Guard District, at 305–415–6743. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: This deviation was requested by Coastal Marine Construction representing Florida Department of Transportation, the bridge owner, in order to complete rehabilitation and painting of the bridge spans of the Spanish Boulevard Bridge, mile 1044.9, of the Atlantic Intracoastal Waterway, Boca Raton, FL. The bridge has a vertical clearance of 25 feet in the closed position and a horizontal clearance of 90 feet. The work will require single leaf operation on the hour and half-hour with a 3 hour advance notice for a double leaf opening in order to remove personnel and equipment from the leaf areas. In addition, the vertical clearance will be reduced by five feet due to the placement of containment equipment which is required to protect the environment. The normal operating schedule for the bridge is in 33 CFR 117.261(z–3), and requires the bridge to open on the hour and half-hour. This deviation period begins on June 15, 2008 and ends on December 8, 2008. The operating schedule during this deviation period will be single leaf on the hour and half-hour with a 3 hour advance notice for a full double leaf opening. Contact the bridge tender at 561–395–5417 to request a full opening. In the case of emergencies the bridge will open as soon as practicable.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: May 29, 2008.

Robert S. Branham,

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

[FR Doc. E8–12804 Filed 6–5–08; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2008–0450]

Drawbridge Operation Regulation; Sacramento River, Sacramento, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eleventh Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Tower Drawbridge across the Sacramento River, mile 59.0, at Sacramento, California. The deviation is necessary to allow the California Department of Transportation (Caltrans) to conduct major roadwork on Interstate 5 through downtown Sacramento. This deviation allows the drawspan to remain in the

closed-to-navigation position during rush hour time periods.

DATES: This deviation is effective from 6 a.m. on June 2, 2008 through 8 p.m. on July 14, 2008.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2008–0450 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 Commander (dpw), Eleventh Coast Guard District, Building 50–2, Coast Guard Island, Alameda, CA 94501–5100, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: David H. Sulouff, Chief, Bridge Section, Eleventh Coast Guard District, telephone (510) 437–3516.

SUPPLEMENTARY INFORMATION: Caltrans requested a temporary change to the operation of the Tower Drawbridge, mile 59.0, across the Sacramento River, at Sacramento, California. The Tower Drawbridge provides a vertical clearance of 30 feet above Mean High Water in the closed-to-navigation position. The drawspan opens on signal from May 1 through October 31 from 6 a.m. to 10 p.m. and from November 1 through April 30 from 9 a.m. to 5 p.m. At all other times the drawspan shall open on signal if at least four hours notice is given, as required by 33 CFR 117.189. Navigation on the waterway is commercial and recreational. The drawspan will be secured in the closed-to-navigation position from 6 a.m. to 10 a.m. and from 3 p.m. to 8 p.m. June 2, 2008 through June 6, 2008; June 16, 2008 through June 20, 2008; June 27, 2008; June 30, 2008 through July 2, 2008; July 9, 2008 through July 11, 2008; and July 14, 2008. Special provisions have been made to accommodate commercial waterway traffic. The drawspan shall open for vessels at 6 p.m. on each Friday during the deviation period and at 6 p.m. on June 3, 2008 and June 5, 2008.

These closures will allow an unimpeded alternate route for rush hour commuter traffic, across the Tower Drawbridge, during major construction work on Interstate 5 through downtown Sacramento. This temporary deviation has been coordinated with waterway users. Adjustments to the schedule were made to minimize impacts to commercial waterway traffic. There is no anticipated levee maintenance during this deviation period. No objections to the proposed temporary deviation were raised.

Vessels that can transit the drawspan, while in the closed-to-navigation position, may continue to do so at any time.

In the event of an emergency the drawspan can be opened once road traffic is cleared.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: May 29, 2008.

J.E. Long,

Captain, U.S. Coast Guard, Acting Commander, Eleventh Coast Guard District.

[FR Doc. E8–12802 Filed 6–5–08; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2008–0429]

Drawbridge Operation Regulation: New River (South Fork), Fort Lauderdale, FL

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Seventh Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Davie Boulevard (SW Twelfth Street) Bridge, New River (South Fork), mile 0.9, at Fort Lauderdale, FL. The deviation is necessary to provide for the safety of workers in conducting maintenance on the bridge. This deviation allows the bridge to remain closed during limited hours of the day.

DATES: This deviation is effective from 7 a.m. on June 1, 2008 through 6 p.m. June 30, 2008.

ADDRESSES: Documents indicated in the preamble as being available in the docket are part of docket USCG–2008–0429 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 Commander, Seventh Coast Guard District, 909 S.E. 1st Avenue, Room 432, Miami, FL 33131–3028, between 7 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Lieberum, Bridge Branch, Seventh Coast Guard District, at 305–415–6744.

SUPPLEMENTARY INFORMATION: The consultant Reynolds, Smith & Hills CS, Inc. representing Florida Department of Transportation, the bridge owner, has requested a temporary deviation from the regulations governing the operations of the Davie Boulevard (SW Twelfth Street) Bridge, New River (South Fork), mile 0.9, at Fort Lauderdale, FL, to conduct minor repairs and painting. This bridge has a vertical clearance of 21 feet in the closed position at mean high water. The operating schedule for this bridge is published in 33 CFR 117.351(a) and requires the bridge to open on signal, except that from 7:30 a.m. to 9 a.m. and 4:30 p.m. to 6 p.m., Monday through Friday, except Federal holidays the bridge is allowed to remain closed to navigation. This deviation will allow the bridge to be closed to navigation from 7 a.m. to 1 p.m. and from 4:30 p.m. to 6 p.m., Monday through Friday; effective on June 1, 2008 and running through June 30, 2008. This deviation will allow a horizontal clearance reduction to 25 feet between the maintenance barge that will be used as a working platform and the bridge fender system from 7 a.m. to 1 p.m., Monday through Friday. The U.S. Coast Guard, Florida Department of Transportation and the Marine Industries Association of South Florida have determined that these dates and times should have the least impact on navigation. Vessels requiring less than 21 feet of vertical clearance and less than 25 feet of horizontal clearance shall be passed at any time. There is no alternate route for vessels in this location. The contractor has assured the Coast Guard that they can open the bridge within 15 minutes in the event of an emergency.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: May 29, 2008.

Robert S. Branham,

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

[FR Doc. E8–12800 Filed 6–5–08; 8:45 am]

BILLING CODE 4910–15–P

POSTAL SERVICE

39 CFR Part 111

Address Facing Standards for Presort Bundles on Pallets

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The Postal Service is revising the mailing standards requiring mailers to place presort bundles on pallets with the addresses facing up.

DATES: *Effective Date:* September 11, 2008.

FOR FURTHER INFORMATION CONTACT: Kevin Gunther at 202–268–7208.

SUPPLEMENTARY INFORMATION: The Postal Service is in the process of implementing technological changes to automate delivery sequencing for flat-size mail, through the deployment of the Flats Sequencing System (FSS). FSS will sort flat-size mailpieces into delivery sequence, increasing the efficiency of letter carriers by reducing time in sorting mail, and allowing delivery to begin earlier in the day.

Placement of presort bundles on pallets with the address side up is needed to improve efficiencies in today's processing environment and for automated preparation and induction for FSS in the future.

In today's processing applications, this new standard will aid in validating that bundles are placed on the correct pallet, improving the manual distribution of these bundles.

Comments Received: We received one comment on the proposal, from a commercial printer. The commenter recommended we revise the proposal to allow one or two columns of bundles to be placed on their edge to maximize the ''footprint'' of mail that can be placed on a pallet.

Pallets containing bundles placed on their edge will not maintain their integrity as well as pallets containing bundles that all lie flat. Allowing bundles on their edge would also lessen our ability to read the address side of a bundle, which is one objective of this standard change. In addition, we plan to use automated preparation stations to support FSS, which require bundles to lie flat on pallets. Therefore, we have decided not to adopt the recommendation.

Implementation: Effective September 11, 2008, mailers must prepare pallets, containing presort bundles with all addresses facing up, under revised DMM 705.8.5.6. We encourage mailers to make these changes as soon as possible, but no later than September 11, 2008.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

■ Accordingly, 39 CFR part 111 is amended as follows:

PART 111—[AMENDED]

■ 1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 414, 416, 3001–3011, 3201–3219, 3403–3406, 3621, 3622, 3626, 3633, and 5001.

■ 2. Revise the following sections of *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM) as follows:

Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM)

* * * * *

700 Special Standards

* * * * *

705 Advanced Preparation and Special Postage Payment Systems

* * * * *

8.0 Preparing Pallets

* * * * *

8.5 General Preparation

* * * * *

8.5.6 Mail on Pallets

* * * * *

[*Add new item i to clarify that presort bundles on pallets must be placed face up as follows:*]

i. All presort bundles on pallets must be placed with the addresses facing up.

* * * * *

Neva R. Watson,

Attorney, Legislative.

[FR Doc. E8–12148 Filed 6–5–08; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2008–0097; FRL–8576–4]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Section 110(a)(1) 8-Hour Ozone Maintenance Plan and 2002 Base-Year Inventory for the Wayne County Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania. The Pennsylvania Department of Environmental Protection (PADEP) submitted a SIP revision consisting of a maintenance plan that provides for continued attainment of the 8-hour ozone national ambient air quality standard (NAAQS) for at least 10 years after the April 30, 2004, designations, as well as, a 2002 base-year inventory for the Wayne County Area. EPA is approving the maintenance plan and the 2002 base-year inventory for the Wayne County Area as revisions to the Pennsylvania SIP in accordance with the requirements of the Clean Air Act (CAA).

DATES: *Effective Date:* This final rule is effective on July 7, 2008.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2008–0097. All documents in the docket are listed in the *www.regulations.gov* Web site. Although listed in the electronic docket, some information is not publicly available, *i.e.*, confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Pennsylvania Department of Environment Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Gregory Becoat, (215) 814–2036, or by e-mail at *becoat.gregory@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On April 14, 2008 (73 FR 20002), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Pennsylvania. The NPR proposed approval of Pennsylvania's SIP revision that establishes a maintenance plan for the Wayne County Area that provides for continued attainment of the 8-hour ozone NAAQS for at least 10 years after designation, and a 2002 base-year emissions inventory. The formal SIP revisions were submitted by PADEP on December 17, 2007. Other specific requirements of Pennsylvania's SIP revision and the rationales for EPA's proposed actions are explained in the NPR and will not be restated here. No public comments were received on the NPR.

II. Final Action

EPA is approving the maintenance plan and the 2002 base-year inventory for the Wayne County Area, submitted on December 17, 2007, as revisions to the Pennsylvania SIP. EPA is approving the maintenance plan and 2002 base-year inventory for the Wayne County Area because it meets the requirements of section 110(a)(1) of the CAA.

III. Statutory and Executive Order Reviews

A. General Requirements

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 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:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this 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.

B. Submission to Congress and the Comptroller General

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).

C. Petitions for Judicial Review

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 5, 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 approving the maintenance plan and the 2002 base-year inventory for the Wayne County Area 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, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: May 28, 2008.

William T. Wisniewski,

Acting Regional Administrator, Region III.

■ 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 NN—Pennsylvania

■ 2. In § 52.2020, the table in paragraph (e)(1) is amended by adding an entry for the 8–Hour Ozone Maintenance Plan and 2002 Base-Year Inventory for Wayne County at the end of the table to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(e) * * *

(1) * * *

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
*	*	*	*	*
8–Hour Ozone Maintenance Plan and 2002 Base-Year Inventory.	Wayne County	12/17/2007	June 6, 2008 [Insert page number where the document begins].	

* * * * *

[FR Doc. E8–12589 Filed 6–5–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2008–0228; FRL–8567–4]

Revisions to the California State Implementation Plan, Sacramento Metropolitan Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Sacramento Metropolitan Air Quality Management District (SMAQMD) portion of the California State Implementation Plan (SIP). Under authority of the Clean Air Act as amended in 1990 (CAA or the Act), we are approving a local rule that requires submission of emission statements from stationary sources that emit volatile organic compounds and oxides of nitrogen.

DATES: This rule is effective on August 5, 2008 without further notice, unless EPA receives adverse comments by July 7, 2008. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this direct final rule will not take effect.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2008–0228, by one of the following methods:

1. *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the on-line instructions.
2. *E-mail: steckel.andrew@epa.gov*.
3. *Mail or deliver:* Andrew Steckel (AIR–4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments 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 Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *http://www.regulations.gov* or e-mail. *http://www.regulations.gov* is an ''anonymous access'' system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. 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.

Docket: The index to the docket for this action is available electronically at *http://www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Mae Wang, EPA Region IX, (415) 947–4124, *wang.mae@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

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I. The State's Submittal

A. What rule did the State submit?

SMAQMD Rule 105, Emission Statement, was adopted by the SMAQMD on September 5, 1996, and submitted by the California Air Resources Board (CARB) on May 18, 1998.

On July 17, 1998, the rule submittal was found to meet the completeness criteria in 40 CFR Part 51, Appendix V, which must be met before formal EPA review.

B. Are there other versions of this rule?

The previous version of Rule 105 was adopted on May 20, 1993, and CARB submitted it to us on November 18, 1993. We approved this version of Rule 105 into the SIP on May 26, 2004 (69 FR 29880).

C. What is the purpose of the submitted rule?

Section 110(a) of the CAA requires states to submit regulations that control volatile organic compounds (VOC), oxides of nitrogen (NO_X), particulate matter, and other air pollutants which harm human health and the environment. SMAQMD Rule 105 was developed as part of the local agency's program to control these pollutants. It was also developed to establish the requirement for stationary sources of VOC and NO_X to submit emission statements, as required by the CAA. EPA's technical support document (TSD) has more information about this rule.

II. EPA's Evaluation and Action

A. How is EPA evaluating the rule?

This rule contains administrative requirements that support SMAQMD's program to implement the CAA and control emissions of VOC and NO_X. In combination with the other requirements, this rule must be enforceable (see section 110(a) of the Act) and must not relax existing requirements (see sections 110(l) and 193). EPA policy that we use to help evaluate enforceability requirements consistently includes the Bluebook (''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations,'' EPA, May 25, 1988) and the Little Bluebook (''Guidance

Document for Correcting Common VOC & Other Rule Deficiencies,'' EPA Region 9, August 21, 2001).

B. Does the rule meet the evaluation criteria?

We believe this rule is consistent with the relevant policy and guidance regarding enforceability and SIP relaxations. The TSD has more information on our evaluation.

C. EPA Recommendations To Further Improve the Rule

The TSD describes additional rule revisions that do not affect EPA's current action but are recommended for the next time the local agency modifies the rule.

D. Public Comment and Final Action

As authorized in section 110(k)(3) of the Act, EPA is fully approving the submitted rule because we believe it fulfills all relevant requirements. We do not think anyone will object to this approval, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rule. If we receive adverse comments by July 7, 2008, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on August 5, 2008. This will incorporate the rule into the federally enforceable SIP.

III. 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 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:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this 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 5, 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, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: April 11, 2008.

Jane Diamond,

Acting Regional Administrator, Region IX.

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

PART 52—[AMENDED]

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

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

Subpart F—California

■ 2. Section 52.220 is amended by adding paragraphs (c)(255)(i)(A)(*6*) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(255) * * *

(i) * * *

(A) * * *

(*6*) Rule 105, Emission Statement, adopted on April 20, 1993, and amended September 5, 1996.

* * * * *

[FR Doc. E8–12474 Filed 6–5–08; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 08–1185; MB Docket No. 08–30; RM–11419]

Television Broadcasting Services; Riverside, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document grants a channel substitution for KRCA–DT, Riverside, California, from Channel 45 to Channel 35.

DATES: The channel substitution is effective July 5, 2008.

FOR FURTHER INFORMATION CONTACT: Shaun A. Maher, Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MB Docket No. 08–30, adopted May 21, 2008, and released May 21, 2008. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 Twelfth Street, SW., Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractors, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–378–3160 or via e-mail *www.BCPIWEB.com*. This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4). Provisions of the Regulatory Flexibility Act of l980 do not apply to this proceeding.

The Commission will send a copy of this Report and Order in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 73

Television, Television broadcasting.

■ For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

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

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

■ 2. Section 73.622(i), the post-transition DTV Table of Allotments is amended by revising the entry for ''Riverside'' under ''California'' to read as follows:

§ 73.622 Digital television table of allotments.

* * * * *

(i) * * *

Community	Channel
* * * * *	
CALIFORNIA:	
* * * * *	
Riverside	35

* * * * *

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Division, Media Bureau.

[FR Doc. E8–12750 Filed 6–5–08; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 73, No. 110
Friday, June 6, 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 ENERGY

10 CFR Part 430

[Docket No. EERE–2008–BT–STD–0006]

RIN 1904–AB47

Energy Efficiency Program for Consumer Products: Public Meeting and Availability of the Framework Document for Residential Central Air Conditioners and Heat Pumps

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of public meeting and availability of the Framework Document.

SUMMARY: The Department of Energy (DOE) is initiating the rulemaking and data collection process to consider establishing amended energy conservation standards for residential central air conditioners and heat pumps. Accordingly, DOE will hold an informal public meeting to discuss and receive comments on its planned analytical approach and issues it will address in this rulemaking proceeding. DOE welcomes written comments from the public on this rulemaking. To inform stakeholders and to facilitate this process, DOE has prepared a Framework Document which details the analytical approach and identifies several issues on which DOE is particularly interested in receiving comment. A copy of the Framework Document is available at: *http://www.eere.energy.gov/buildings/appliance_standards/residential/central_ac_hp.html.*

DATES: The Department will hold a public meeting on June 12, 2008, from 9 a.m. to 4 p.m. in Washington, DC. Any person requesting to speak at the public meeting should submit such request along with a signed original and an electronic copy of the statement to be given at the public meeting before 4 p.m., June 11, 2008. Written comments on the Framework Document are welcome, especially following the public meeting, and should be submitted by July 7, 2008.

ADDRESSES: The public meeting will be held at the U.S. Department of Energy, Forrestal Building, Room 1E–245, 1000 Independence Avenue, SW., Washington, DC 20585–0121. Please note that foreign nationals participating in the public meeting are subject to advance security screening procedures. If a foreign national wishes to participate in the public meeting, please inform DOE of this fact as soon as possible by contacting Ms. Brenda Edwards at (202) 586–2945 so that the necessary procedures can be completed.

Stakeholders may submit comments, identified by docket number EERE–2008–BT–STD–0006 and/or Regulation Identifier Number (RIN) 1904–AB47, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: Brenda.Edwards@ee.doe.gov.* Include EERE–2008–BT–STD–0006 and/or RIN 1904–AB47 in the subject line of the message.
- *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE–2J, Framework Document for Central Air Conditioners and Heat Pumps, EERE–2008–BT–STD–0006 and/or RIN 1904–AB47, 1000 Independence Avenue, SW., Washington, DC 20585–0121. Please submit one signed paper original.
- *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Sixth Floor, 950 L'Enfant Plaza, SW., Washington, DC 20024. Please submit one signed paper original.

Instructions: All submissions received must include the agency name and docket number or RIN for this rulemaking found at the beginning of this notice.

Docket: For access to the docket to read background documents, a copy of the transcript of the public meeting, or comments received, go to the U.S. Department of Energy, Resource Room of the Building Technologies Program, Sixth Floor, 950 L'Enfant Plaza, SW., Washington, DC 20024, (202) 586–2945, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Please call Ms. Brenda Edwards first at the above telephone number for additional information regarding visiting the Resource Room.

FOR FURTHER INFORMATION CONTACT: Mr. Wes Anderson, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies, EE–2J, 1000 Independence Avenue, SW., Washington, DC 20585–0121. Telephone: (202) 586–7335. E-mail: *Wes.Anderson@ee.doe.gov.*

Mr. Eric Stas or Mr. Michael Kido, U.S. Department of Energy, Office of the General Counsel, GC–72, 1000 Independence Avenue, SW., Washington, DC 20585–0121. Telephone: (202) 586–9507. E-mail: *Eric.Stas@hq.doe.gov* or *Michael.Kido@hq.doe.gov.*

For information on how to submit or review public comments and on how to participate in the public meeting, contact Ms. Brenda Edwards, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE–2J, 1000 Independence Avenue, SW., Washington, DC, 20585–0121. Telephone (202) 586–2945. E-mail: *Brenda.Edwards@ee.doe.gov.*

SUPPLEMENTARY INFORMATION: Part A [1] of Title III of the Energy Policy and Conservation Act of 1975 (EPCA), Public Law 94–163, as amended by the National Energy Conservation Policy Act, Public Law 95–619, the National Appliance Energy Conservation Act of 1987, Public Law 100–12, the National Appliance Energy Conservation Amendments of 1988, Public Law 100–357, and the Energy Policy Act of 1992, Public Law 102–486, created the ''Energy Conservation Program for Consumer Products Other than Automobiles.'' (42 U.S.C. 6291–6309) The consumer products subject to this program include residential central air conditioners and central air conditioning heat pumps (hereafter referred to as central air conditioners and heat pumps).

The National Appliance Energy Conservation Act of 1987 (NAECA) established energy conservation standards for central air conditioners and heat pumps as well as requirements for determining whether these standards should be amended. Specifically,

[1] This part was originally titled Part B; however, it was redesignated Part A after Part B was repealed by Pub. L. 109–58.

NAECA established energy conservation standards for central air conditioners and heat pumps in the form of minimum limits on the seasonal energy efficiency ratio (SEER) for air conditioners and for heat pumps operating in the cooling mode, and on the heating seasonal performance factor (HSPF) for heat pumps operating in the heating mode.[2] NAECA established the following standards for central air conditioners and heat pumps: 10.0 SEER/6.8 HSPF for split systems and 9.7 SEER/6.6 HSPF for single-package systems. These standards became effective January 1, 1992 for split systems; standards for single-package systems came into effect one year later. *See* 42 U.S.C. 6295(d)(1)(A)–(B) and (2)(A)–(B). NAECA also required that DOE conduct two cycles of rulemakings to determine if more stringent standards are economically justified and technologically feasible. (42 U.S.C. 6295(d)(3)(A)–(B))

Pursuant to 42 U.S.C. 6295(b)(3)(A), DOE published a final rule in the **Federal Register** on January 22, 2001 (2001 final rule), amending the energy conservation standards for central air conditioners and heat pumps. 66 FR 7170. The amended standards increased the minimum SEER to 13 and the minimum HSPF to 7.7, excluding through-the-wall and space-constrained systems.[3] *Id.* This final rule constituted the first cycle of revised standards for central air conditioners and heat pumps.

EPCA was further amended by the Energy Policy Act of 2005 (EPACT), Public Law 109–58. In Section 141 of EPACT, Congress directed DOE to submit an initial report regarding a plan for expeditiously prescribing new or revised standards. Pursuant to section 141 of EPACT, DOE submitted an implementation report[4] to Congress in January 2006. This report included a schedule for the completion of the second rulemaking cycle of revised standards for central air conditioners and heat pumps, which called for DOE to publish a final rule by June 2011, with a standards compliance effective date of June 2016. In separate court proceedings (*New York*, v. *Bodman*, No. 05 Civ. 7807 (S.D.N.Y. filed Sept. 7, 2005) and *Natural Resources Defense Council* v. *Bodman*, No. 05 Civ. 7808 (S.D.N.Y. filed Sept. 7, 2005), the resulting consent decree (filed November 6, 2006) adopted the schedule for central air conditioners and heat pumps that DOE published in the January 2006 report to Congress (*i.e.*, publication of a final rule by June 30, 2011). This Framework Document initiates this second rulemaking cycle for central air conditioners and heat pumps.

More recently, EPCA was amended by the Energy Independence and Security Act of 2007 (EISA 2007), Public Law 110–140. In section 306 of EISA 2007, Congress directed DOE to consider regional standards for central air conditioners and heat pumps (among other products), for one or two regions in addition to a base national standard. (42 U.S.C. 6295(o)(6)) EISA 2007 states that in considering regional standards, DOE may consider regions made up of contiguous States only. Further, in section 310 of EISA 2007, Congress directed DOE to consider amended test procedures and standards for standby-mode and off-mode energy consumption by covered equipment (such as central air conditioners and heat pumps) for any standard published after July 1, 2010. (42 U.S.C. 6295(gg)(3)) Because this energy conservation standards rulemaking for central air conditioners and heat pumps will be completed in 2011, the requirement to incorporate standby-mode and off-mode energy use into the energy conservation standards analysis is applicable.

To initiate the second rulemaking cycle to consider amended energy conservation standards for central air conditioners and heat pumps, DOE has prepared a Framework Document to explain the issues, analyses, and processes it anticipates using for the development of potential energy conservation standards for central air conditioners and heat pumps. As noted above, DOE will hold a public meeting on June 12, 2008 in Washington, DC, the main focus of which will be to discuss the analyses presented and issued identified in the Framework Document. At the public meeting, the Department will make a number of presentations, invite discussion on the rulemaking process as it applies to central air conditioners and heat pumps, and solicit public comments, data, and information from participants and other stakeholders.

The Department encourages those who wish to participate in the public meeting to obtain the Framework Document and to be prepared to discuss its contents. A copy of the draft Framework Document is available at: *http://www.eere.energy.gov/buildings/appliance_standards/residential/central_ac_hp.html*

Public meeting participants need not limit their comments to the issues identified in the Framework Document. The Department is also interested in receiving views concerning other relevant issues that participants believe would affect energy conservation standards for these products and applicable test procedures. Furthermore, the Department welcomes all interested parties, whether or not they participate in the public meeting, to submit in writing by July 7, 2008, comments and information on matters addressed in the Framework Document and on other matters relevant to consideration of standards for central air conditioners and heat pumps.

The public meeting will be conducted in an informal, facilitated, conference style. There shall be no discussion of proprietary information, costs or prices, market shares, or other commercial matters regulated by U.S. antitrust laws. A court reporter will record the proceedings of the public meeting, after which a transcript will be made available for purchase from the court reporter and available on the above-referenced Web site.

After the public meeting and the close of the comment period on the Framework Document, DOE will begin collecting data, conducting the analyses as discussed in the Framework Document and at the public meeting, and reviewing the comments received.

DOE considers public participation to be a very important part of the process for setting energy conservation standards. DOE actively encourages the participation and interaction of the public during the comment period in each stage of the rulemaking process. Beginning with the Framework Document, and during each subsequent public meeting and comment period, interactions with and between members of the public provide a balanced discussion of the issues to assist DOE with the standards rulemaking process. Accordingly, anyone who would like to participate in the public meeting, receive meeting materials, or be added to the DOE mailing list to receive future

[2] NAECA established the following standards for central air conditioners and heat pumps: 10.0 SEER/6.8 HSPF for split systems, 9.7 SEER/6.6 HSPF for single-package systems.

[3] Shortly after the publication of the 2001 final rule, DOE postponed the effective date of the rule to take time to reconsider the amended standards for central air conditioners and heat pumps. DOE eventually promulgated a 12 SEER standard in a final rule published in the **Federal Register** May 23, 2002 (2002 final rule; 67 FR 36368), but the U.S. Court of Appeals for the Second Circuit ruled that DOE had done so improperly. *Natural Resources Defense Council* v. *Abraham*, 355 F.3d 179 (2d Cir. 2004). As a result, DOE published a technical amendment in the **Federal Register** on August 17, 2004, which established a 13 SEER standard for all central air conditioners and heat pumps, excluding through-the-wall and space-constrained systems. 69 FR 50997.

[4] Energy Conservation Standards Activities, January 2006. This document can be downloaded from the DOE Web site at:*http://www.eere.energy.gov/buildings/appliance_standards/2006_schedule_setting.html.*

notices and information regarding this rulemaking on central air conditioners and heat pumps, should contact Ms. Brenda Edwards at (202) 586–2945, or via e-mail at: *Brenda.Edwards@ee.doe.gov*.

Issued in Washington, DC, on June 2, 2008.

Alexander A. Karsner,

Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. E8–12753 Filed 6–5–08; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0619; Directorate Identifier 2007–NM–356–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747SR, and 747SP Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Boeing Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747SR, and 747SP series airplanes. This proposed AD would require performing repetitive operational tests of the engine fuel suction feed of the fuel system, and other related testing if necessary. This proposed AD results from a report of in-service occurrences of loss of fuel system suction feed capability, followed by total loss of pressure of the fuel feed system. We are proposing this AD to detect and correct failure of the engine fuel suction feed of the fuel system, which could result in multi-engine flameout, inability to restart the engines, and consequent forced landing of the airplane.

DATES: We must receive comments on this proposed AD by July 21, 2008.

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

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

For service information identified in this AD, contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Sue Lucier, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6438; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2008–0619; Directorate Identifier 2007–NM–356–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

We have received a report of in-service occurrences of loss of fuel system suction feed capability, followed by total loss of pressure of the fuel feed system. This condition, if not corrected, could result in multi-engine flameout, inability to restart the engines, and consequent forced landing of the airplane.

FAA's Conclusions

We have determined that it is necessary to require an operational test of the engine fuel suction feed of the fuel system, and other related testing, as applicable. Procedures for doing the operational test can be found in the maintenance manual. The other related testing is for airplanes on which deterioration in the engine RPM is found on one or both of the engines during the operational test. Failure of the engine fuel suction feed of the fuel system could result in the unsafe condition described previously.

FAA's Determination and Requirements of This Proposed AD

We are proposing this AD because we have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other airplanes of this same type design. The proposed AD would require performing repetitive operational tests of the engine fuel suction feed of the fuel system, and other related testing if necessary.

Costs of Compliance

We estimate that this proposed AD would affect 166 airplanes of U.S. registry. We also estimate that it would take 1 work-hour per product, per test, to comply with this proposed AD. The average labor rate is $80 per work-hour. Based on these figures, we estimate the cost of this proposed AD to the U.S. operators to be $13,280, or $80 per product, per test.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

You can find our regulatory evaluation and the estimated costs of compliance in the AD Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Boeing: Docket No. FAA–2008–0619; Directorate Identifier 2007–NM–356–AD.

Comments Due Date

(a) We must receive comments by July 21, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Boeing Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747SR, and 747SP series airplanes, certificated in any category.

Unsafe Condition

(d) This AD results from a report of in-service occurrences of loss of fuel system suction feed capability, followed by total loss of pressure of the fuel feed system. We are issuing this AD to detect and correct failure of the engine fuel suction feed of the fuel system, which could result in multi-engine flameout, inability to restart the engines, and consequent forced landing of the airplane.

Compliance

(e) Comply with this AD within the compliance times specified, unless already done.

Operational Test/Other Related Testing

(f) Within 30,000 flight hours after the effective date of this AD, perform an operational test of the engine fuel suction feed of the fuel system, and perform all other related testing, as applicable, before further flight, according to a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA. One approved method is the operational test in Section 28–22–00, titled ''Engine Fuel Feed System—Description and Operation,'' of the Boeing 747 Maintenance Manual; and Boeing 747 Task Card 4–28–007–05, titled ''Engine Fuel Suction Feed System,'' dated April 25, 2007. Repeat the operational test thereafter at intervals not to exceed 30,000 flight hours. Thereafter, except as provided in paragraph (g) of this AD, no alternative procedure or repeat test intervals will be allowed.

Alternative Methods of Compliance (AMOCs)

(g)(1) The Manager, Seattle ACO, FAA, ATTN: Sue Lucier, Aerospace Engineer, Propulsion Branch, ANM–140S, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6438; fax (425) 917–6590, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

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

Issued in Renton, Washington, on June 2, 2008.

Michael J. Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–12692 Filed 6–5–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0612; Directorate Identifier 2008–NM–059–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for all Boeing Model 747 airplanes. This proposed AD would require inspecting for cracks in the left- and right-side Stringer 11 longeron adjacent to the horizontal stabilizer pivot bulkhead, and related investigative and corrective actions if necessary. This proposed AD results from a report of a crack found in the right-side Stringer 11 longeron horizontal flange, adjacent to the horizontal stabilizer pivot bulkhead, during a routine maintenance inspection. We are proposing this AD to detect and correct fatigue cracking of the longeron, which can propagate and cause damage to the adjacent horizontal stabilizer pivot bulkhead. This damage could result in loss of structural integrity and consequent inability of the bulkhead to carry flight loads, which could adversely affect controllability of the airplane.

DATES: We must receive comments on this proposed AD by July 21, 2008.

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

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

For service information identified in this AD, contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Ivan Li, Aerospace Engineer, Airframe

Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6437; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2008–0612; Directorate Identifier 2008–NM–059–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

We received a report of a crack found in the right-side Stringer 11 longeron horizontal flange, adjacent to the horizontal stabilizer pivot bulkhead, during a routine maintenance inspection. The airplane had accumulated 28,311 total flight hours and 22,070 total flight cycles. The crack was visible in the exposed inboard edge of the longeron horizontal flange between the upper and lower Station 2598 horizontal stabilizer pivot bulkhead splice fittings. After removal of the fittings it was revealed that the crack had propagated and completely severed the longeron. Boeing analysis indicates that the severed longeron was a result of fatigue that had originated from a fastener hole in the longeron horizontal flange. Fatigue cracking of the longeron can propagate and cause damage to the adjacent horizontal stabilizer pivot bulkhead. This condition, if not corrected, could result in loss of structural integrity and consequent inability of the bulkhead to carry flight loads, which could adversely affect controllability of the airplane.

Relevant Service Information

We have reviewed Boeing Alert Service Bulletin 747–53A2703, dated February 14, 2008. The service bulletin describes procedures for a surface high frequency eddy current (HFEC) inspection for cracks in the left- and right-side Stringer 11 longeron exposed surfaces and edges between Stations 2598 and 2607 adjacent to the horizontal stabilizer pivot bulkhead, and related investigative and corrective actions if necessary. The procedures for the related investigative and corrective actions are as follows:

- If any crack is found during the surface HFEC inspection: The procedures describe doing a detailed inspection for cracks in the adjacent skin panel and Station 2598 of the horizontal stabilizer pivot bulkhead structure. If any crack is found in the skin panel or bulkhead structure, the crack may be repaired as specified in the 747 structural repair manual, or contact Boeing for repair data and repair. After the repair is installed, the longeron is replaced with a new longeron.
- If no crack is found during the surface HFEC inspection: The procedures describe doing an open hole HFEC inspection of the longeron for cracks at the specified fastener hole locations.
- If any crack is found during the open hole HFEC inspection: The procedures describe oversizing any cracked hole to remove the crack, and the inspection is repeated for any remaining cracks. If any crack remains after oversizing the hole to the maximum allowed diameter, the longeron is removed and a detailed inspection is done for cracks in the adjacent skin panel and Station 2598 of the horizontal stabilizer pivot bulkhead structure. If any crack is found in the skin panel or bulkhead structure, the crack is repaired as specified in the 747 structural repair manual, or the procedures recommend contacting Boeing for repair data and repair. After the repair is installed, the longeron is replaced with a new longeron. If no crack is found, a new longeron is installed.

The compliance times for the actions in the service bulletin are as follows:

- The compliance time for the initial surface HFEC inspection is before the accumulation of 20,000 total flight cycles, or within 1,500 flight cycles after the date on the service bulletin, whichever occurs later. If a new longeron is installed, the inspection is repeated before the accumulation of 20,000 flight cycles after the installation. If a longeron is repaired, or if no crack is found during the surface and open hole HFEC inspections, the applicable inspection is repeated at intervals not to exceed 3,000 flight cycles after the repair is done.

The related investigative and corrective actions are to be done before further flight after the surface HFEC inspections are done. The above compliance times and actions apply to the left and right side longerons, independently.

FAA's Determination and Requirements of This Proposed AD

We are proposing this AD because we evaluated all relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design. This proposed AD would require accomplishing the actions specified in the service information described previously, except as discussed under ''Difference Between the Proposed AD and Service Information.''

Difference Between the Proposed AD and Service Information

The service bulletin specifies to contact the manufacturer for instructions on how to repair certain conditions, but this proposed AD would require repairing those conditions in one of the following ways:

- Using a method that we approve; or
- Using data that meet the certification basis of the airplane, and that have been approved by an Authorized Representative for the Boeing Commercial Airplanes Delegation Option Authorization Organization whom we have authorized to make those findings.

Costs of Compliance

We estimate that this proposed AD would affect 165 airplanes of U.S. registry. We also estimate that it would take 3 work-hours per product to comply with this proposed AD. The average labor rate is $80 per work-hour. Based on these figures, we estimate the cost of this proposed AD to the U.S. operators to be $39,600, or $240 per product.

Authority for This Rulemaking

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

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, Section 44701: General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for

safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

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

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

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

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

You can find our regulatory evaluation and the estimated costs of compliance in the AD Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Boeing: Docket No. FAA–2008–0612; Directorate Identifier 2008–NM–059–AD.

Comments Due Date

(a) We must receive comments by July 21, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Boeing Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747–400D, 747–400F, 747SR, and 747SP series airplanes, certificated in any category.

Unsafe Condition

(d) This AD results from a report of a crack found in the right-side Stringer 11 longeron horizontal flange, adjacent to the horizontal stabilizer pivot bulkhead, during a routine maintenance inspection. We are issuing this AD to detect and correct fatigue cracking of the longeron, which can propagate and cause damage to the adjacent horizontal stabilizer pivot bulkhead. This damage could result in loss of structural integrity and consequent inability of the bulkhead to carry flight loads, which could adversely affect controllability of the airplane.

Compliance

(e) Comply with this AD within the compliance times specified, unless already done.

Inspection/Related Investigative and Corrective Actions

(f) Except as provided by paragraph (g) of this AD: At the applicable times specified in paragraph 1.E. of Boeing Alert Service Bulletin 747–53A2703, dated February 14, 2008, do a surface high frequency eddy current (HFEC) inspection for cracks in the left- and right-side Stringer 11 longeron exposed surfaces and edges between Station 2598 and 2607 adjacent to the horizontal stabilizer pivot bulkhead; and do all applicable related investigative and corrective actions before further flight, in accordance with the Accomplishment Instructions of the service bulletin, except as provided by paragraph (h) of this AD.

Exception to Compliance Times

(g) Where Boeing Alert Service Bulletin 747–53A2703, dated February 14, 2008, specifies counting the compliance time from ''. . . the date on this service bulletin,'' this AD requires counting the compliance time from the effective date of this AD.

Exception to Corrective Actions

(h) If any crack is found during any inspection required by this AD, and Boeing Alert Service Bulletin 747–53A2703, dated February 14, 2008, specifies to contact Boeing for appropriate action: Before further flight, repair using a method approved in accordance with the procedures specified in paragraph (i) of this AD.

Alternative Methods of Compliance (AMOCs)

(i)(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, ATTN: Ivan Li, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle ACO, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6437; fax (425) 917–6590 has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

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

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

Issued in Renton, Washington, on May 29, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–12712 Filed 6–5–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0620; Directorate Identifier 2007–NM–357–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747–400, –400D, and –400F Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Boeing Model 747–400, –400D, and –400F series airplanes. This proposed AD would require performing repetitive operational tests of the engine fuel suction feed of the fuel system, and other related testing if necessary. This proposed AD results from a report of in-service occurrences of loss of fuel system suction feed capability, followed by total loss of pressure of the fuel feed system. We are proposing this AD to detect and correct failure of the engine fuel suction feed of the fuel system, which could result in multi-engine flameout, inability to restart the engines, and consequent forced landing of the airplane.

DATES: We must receive comments on this proposed AD by July 21, 2008.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

• *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this AD, contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Sue Lucier, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6438; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2008–0620; Directorate Identifier 2007–NM–357–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

We have received a report of in-service occurrences of loss of fuel system suction feed capability, followed by total loss of pressure of the fuel feed system. This condition, if not corrected, could result in multi-engine flameout, inability to restart the engines, and consequent forced landing of the airplane.

FAA's Conclusions

We have determined that it is necessary to require an operational test of the engine fuel suction feed of the fuel system, and other related testing, as applicable. Procedures for doing the operational test can be found in the maintenance manual. The other related testing is for airplanes on which deterioration in the engine RPM is found on one or both of the engines during the operational test. Failure of the engine fuel suction feed of the fuel system could result in the unsafe condition described previously.

FAA's Determination and Requirements of This Proposed AD

We are proposing this AD because we have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other airplanes of this same type design. This proposed AD would require performing repetitive operational tests of the engine fuel suction feed of the fuel system, and other related testing if necessary.

Costs of Compliance

We estimate that this proposed AD would affect 79 airplanes of U.S. registry. We also estimate that it would take 1 work-hour per product, per test, to comply with this proposed AD. The average labor rate is $80 per work-hour. Based on these figures, we estimate the cost of this proposed AD to the U.S. operators to be $6,320, or $80 per product, per test.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

You can find our regulatory evaluation and the estimated costs of compliance in the AD Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Boeing: Docket No. FAA–2008–0620; Directorate Identifier 2007–NM–357–AD.

Comments Due Date

(a) We must receive comments by July 21, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Boeing Model 747 –400, –400D, and –400F series airplanes, certificated in any category.

Unsafe Condition

(d) This AD results from a report of in-service occurrences of loss of fuel system suction feed capability, followed by total loss of pressure of the fuel feed system. We are issuing this AD to detect and correct failure of the engine fuel suction feed of the fuel system, which could result in multi-engine flameout, inability to restart the engines, and consequent forced landing of the airplane.

Compliance

(e) Comply with this AD within the compliance times specified, unless already done.

Operational Test/Other Related Testing

(f) Within 30,000 flight hours after the effective date of this AD, perform an operational test of the engine fuel suction feed of the fuel system, and perform all other related testing, as applicable, before further flight, according to a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA. One approved method is the operational test in Section 28–22–00, titled ''Engine Fuel Feed System—Description and Operation,'' of the Boeing 747 Aircraft Maintenance Manual; and Boeing 747–400 Task Card 28–022–04–01, titled ''Operationally Check the Engine Fuel Suction Feed System,'' dated June 18, 2007. Repeat the operational test thereafter at intervals not to exceed 30,000 flight hours. Thereafter, except as provided in paragraph (g) of this AD, no alternative procedure or repeat test intervals will be allowed.

Alternative Methods of Compliance (AMOCs)

(g)(1) The Manager, Seattle ACO, FAA, ATTN: Sue Lucier, Aerospace Engineer, Propulsion Branch, ANM–140S, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6438; fax (425) 917–6590, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

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

Issued in Renton, Washington, on May 16, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–12725 Filed 6–5–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0613; Directorate Identifier 2008–NM–066–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300–600 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

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

One operator experienced failures of four Fuel Level Sensor-Amplifier (FLSA) and Multi Tank Indicators (MTI) units. FLSA and MTI failures have been identified as having been caused by incorrect connector sleeves material fitted to the MTI units.

Degradation of the electrical insulation sleeves of the Low-level indication lamps on the MTI on the flight deck can cause a short circuit that might result in high voltage being conveyed to the high- and low-level sensors in the outer tanks. This might cause the level sensor to heat above acceptable limits.

* * * * *

This action is necessary to prevent overheating of the fuel level sensors, which could result in a fuel tank explosion and consequent loss of the airplane. The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

DATES: We must receive comments on this proposed AD by July 7, 2008.

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

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

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1138; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2008–0613; Directorate Identifier 2008–NM–066–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued Airworthiness Directive 2008–0055, dated March 5, 2008 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

One operator experienced failures of four Fuel Level Sensor-Amplifier (FLSA) and Multi Tank Indicators (MTI) units. FLSA and MTI failures have been identified as having been caused by incorrect connector sleeves material fitted to the MTI units.

Degradation of the electrical insulation sleeves of the Low-level indication lamps on the MTI on the flight deck can cause a short circuit that might result in high voltage being conveyed to the high- and low-level sensors in the outer tanks. This might cause the level sensor to heat above acceptable limits.

For the reasons stated above, this Airworthiness Directive (AD) requires the accomplishment of wiring modifications to protect the FLSA and the Flight Warning Computers from 115V AC and 28V DC short circuits within the MTI.

This action is necessary to prevent overheating of the fuel level sensors, which could result in a fuel tank explosion and consequent loss of the airplane. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Airbus has issued Service Bulletin A300–28A6096, Revision 01, dated April 16, 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 This Proposed AD

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

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 151 products of U.S. registry. We also estimate that it would take about 5 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $80 per work-hour. Required parts would cost about $0 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these costs. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $60,400, or $400 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus: Docket No. FAA–2008–0613; Directorate Identifier 2008–NM–066–AD.

Comments Due Date

(a) We must receive comments by July 7, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Airbus Model A300–600 airplanes, certificated in any category; all certified models, all serial numbers.

Subject

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

Reason

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

One operator experienced failures of four Fuel Level Sensor-Amplifier (FLSA) and Multi Tank Indicators (MTI) units. FLSA and MTI failures have been identified as having been caused by incorrect connector sleeves material fitted to the MTI units.

Degradation of the electrical insulation sleeves of the Low-level indication lamps on the MTI on the flight deck can cause a short circuit that might result in high voltage being conveyed to the high and low level sensors in the outer tanks. This might cause the level sensor to heat above acceptable limits.

For the reasons stated above, this Airworthiness Directive (AD) requires the accomplishment of wiring modifications to protect the FLSA and the Flight Warning Computers from 115V AC and 28V DC short circuits within the MTI.

This action is necessary to prevent overheating of the fuel level sensors, which could result in a fuel tank explosion and consequent loss of the airplane.

Actions and Compliance

(f) Within 3 months after the effective date of this AD, unless already done: Modify the wiring in the right-hand electronics rack in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–28A6096, Revision 01, dated April 16, 2008. Previous accomplishment of the modification before the effective date of this AD in accordance with Airbus Service Bulletin A300–28A6096, dated October 19, 2007, meets the requirements in this paragraph.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, 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: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1138; fax (425) 227–1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

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

Related Information

(h) Refer to MCAI European Aviation Safety Agency Airworthiness Directive 2008–0055, dated March 5, 2008, and Airbus Service Bulletin A300–28A6096, Revision 01, dated April 16, 2008, for related information.

Issued in Renton, Washington, on May 29, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–12727 Filed 6–5–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0616; Directorate Identifier 2007–NM–353–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 767 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for all Boeing Model 767 airplanes. This proposed AD would require performing repetitive operational tests of the engine fuel suction feed of the fuel system, and other related testing if necessary. This proposed AD results from a report of in-service occurrences of loss of fuel system suction feed capability, followed by total loss of pressure of the fuel feed system. We are proposing this AD to detect and correct failure of the engine fuel suction feed of the fuel system, which could result in dual engine flameout, inability to restart the engines, and consequent forced landing of the airplane.

DATES: We must receive comments on this proposed AD by July 21, 2008.

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

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

For service information identified in this AD, contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Sue Lucier, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6438; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2008–0616; Directorate Identifier 2007–NM–353–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

We have received a report of in-service occurrences of loss of fuel system suction feed capability, followed by total loss of pressure of the fuel feed system. This condition, if not corrected, could result in dual engine flameout, inability to restart the engines, and consequent forced landing of the airplane.

FAA's Conclusions

We have determined that it is necessary to require an operational test of the engine fuel suction feed of the fuel system, and other related testing, as applicable. Procedures for doing the operational test can be found in the maintenance manual. The other related testing is for airplanes on which one or both of the engines stop idling in less than five minutes after starting the test. Failure of the engine fuel suction feed of the fuel system could result in the unsafe condition described previously.

FAA's Determination and Requirements of This Proposed AD

We are proposing this AD because we have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other airplanes of this same type design. This proposed AD would require performing repetitive operational tests of the engine fuel suction feed of the fuel system, and other related testing if necessary.

Costs of Compliance

We estimate that this proposed AD would affect 416 airplanes of U.S. registry. We also estimate that it would take 1 work-hour per product, per test, to comply with this proposed AD. The average labor rate is $80 per work-hour. Based on these figures, we estimate the cost of this proposed AD to the U.S. operators to be $33,280, or $80 per product, per test.

Authority for This Rulemaking

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

detail the scope of the Agency's authority.

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

Regulatory Findings

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

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

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

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

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

You can find our regulatory evaluation and the estimated costs of compliance in the AD Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Boeing: Docket No. FAA–2008–0616; Directorate Identifier 2007–NM–353–AD.

Comments Due Date

(a) We must receive comments by July 21, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Boeing Model 767–200, –300, –300F, and –400ER series airplanes, certificated in any category.

Unsafe Condition

(d) This AD results from a report of in-service occurrences of loss of fuel system suction feed capability, followed by total loss of pressure of the fuel feed system. We are issuing this AD to detect and correct failure of the engine fuel suction feed of the fuel system, which could result in dual engine flameout, inability to restart the engines, and consequent forced landing of the airplane.

Compliance

(e) Comply with this AD within the compliance times specified, unless already done.

Operational Test/Other Related Testing

(f) Within 7,500 flight hours after the effective date of this AD, perform an operational test of the engine fuel suction feed of the fuel system, and perform all other related testing, as applicable, before further flight, according to a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA. One approved method is the operational test in Section 28–22–00, titled ''Engine Fuel Feed System—Description and Operation,'' of the Boeing 767 Maintenance Manual; and Boeing 767 Task Card 28–018–02, titled ''Engine Fuel Suction Feed System,'' dated August 22, 2007. Repeat the operational test thereafter at intervals not to exceed 7,500 flight hours. Thereafter, except as provided in paragraph (g) of this AD, no alternative procedure or repeat test intervals will be allowed.

Alternative Methods of Compliance (AMOCs)

(g)(1) The Manager, Seattle ACO, FAA, ATTN: Sue Lucier, Aerospace Engineer, Propulsion Branch, ANM–140S, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6438; fax (425) 917–6590, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

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

Issued in Renton, Washington, on May 16, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–12684 Filed 6–5–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0618; Directorate Identifier 2007–NM–355–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 777 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for all Boeing Model 777 airplanes. This proposed AD would require performing repetitive operational tests of the engine fuel suction feed of the fuel system, and other related testing if necessary. This proposed AD results from a report of in-service occurrences of loss of fuel system suction feed capability, followed by total loss of pressure of the fuel feed system. We are proposing this AD to detect and correct failure of the engine fuel suction feed of the fuel system, which could result in dual engine flameout, inability to restart the engines, and consequent forced landing of the airplane.

DATES: We must receive comments on this proposed AD by July 21, 2008.

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

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

For service information identified in this AD, contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov*; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the

regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Sue Lucier, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6438; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2008–0618; Directorate Identifier 2007–NM–355–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

We have received a report of in-service occurrences of loss of fuel system suction feed capability, followed by total loss of pressure of the fuel feed system. This condition, if not corrected, could result in dual engine flameout, inability to restart the engines, and consequent forced landing of the airplane.

FAA's Conclusions

We have determined that it is necessary to require an operational test of the engine fuel suction feed of the fuel system, and other related testing, as applicable. Procedures for doing the operational test can be found in the maintenance manual. The other related testing is for airplanes on which one or both of the engines stop idling in less than five minutes after starting the test. Failure of the engine fuel suction feed of the fuel system could result in the unsafe condition described previously.

FAA's Determination and Requirements of This Proposed AD

We are proposing this AD because we have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other airplanes of this same type design. This proposed AD would require repetitive operational tests of the engine fuel suction feed of the fuel system, and other related testing if necessary.

Costs of Compliance

We estimate that this proposed AD would affect 676 airplanes of U.S. registry. We also estimate that it would take 1 work-hour per product, per test, to comply with this proposed AD. The average labor rate is $80 per work-hour. Based on these figures, we estimate the cost of this proposed AD to the U.S. operators to be $54,080, or $80 per product, per test.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

You can find our regulatory evaluation and the estimated costs of compliance in the AD Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Boeing: Docket No. FAA–2008–0618; Directorate Identifier 2007–NM–355–AD.

Comments Due Date

(a) We must receive comments by July 21, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Boeing Model 777–200, –200LR, –300, and –300ER series airplanes, certificated in any category.

Unsafe Condition

(d) This AD results from a report of in-service occurrences of loss of fuel system suction feed capability, followed by total loss of pressure of the fuel feed system. We are issuing this AD to detect and correct failure of the engine fuel suction feed of the fuel system, which could result in dual engine flameout, inability to restart the engines, and consequent forced landing of the airplane.

Compliance

(e) Comply with this AD within the compliance times specified, unless already done.

Operational Test/Other Related Testing

(f) Within 7,500 flight hours after the effective date of this AD, perform an operational test of the engine fuel suction feed of the fuel system, and perform all other related testing, as applicable, before further flight, according to a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA. One approved method is the operational test in Section 28–22–00, titled ''Engine Fuel Feed—General Description,'' of the Boeing 777 Aircraft Maintenance Manual; and Boeing 777 Task Card 28–020–02–01, titled ''Fuel Feed Manifold,'' dated May 5, 2007. Repeat the operational test thereafter at intervals not to exceed 7,500 flight hours.

Thereafter, except as provided in paragraph (g) of this AD, no alternative procedure or repeat test intervals will be allowed.

Alternative Methods of Compliance (AMOCs)

(g)(1) The Manager, Seattle ACO, FAA, ATTN: Sue Lucier, Aerospace Engineer, Propulsion Branch, ANM–140S, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 917–6438; fax (425) 917–6590, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

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

Issued in Renton, Washington, on May 16, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–12691 Filed 6–5–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0617; Directorate Identifier 2007–NM–354–AD]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Boeing Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes. This proposed AD would require performing repetitive operational tests of the engine fuel suction feed of the fuel system, and other related testing if necessary. This proposed AD results from a report of in-service occurrences of loss of fuel system suction feed capability, followed by total loss of pressure of the fuel feed system. We are proposing this AD to detect and correct failure of the engine fuel suction feed of the fuel system, which could result in dual engine flameout, inability to restart the engines, and consequent forced landing of the airplane.

DATES: We must receive comments on this proposed AD by July 21, 2008.

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

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

For service information identified in this AD, contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Sue Lucier, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6438; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2008–0617; Directorate Identifier 2007–NM–354–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

We have received a report of in-service occurrences of loss of fuel system suction feed capability, followed by total loss of pressure of the fuel feed system. This condition, if not corrected, could result in dual engine flameout, inability to restart the engines, and consequent forced landing of the airplane.

FAA's Conclusions

We have determined that it is necessary to require an operational test of the engine fuel suction feed of the fuel system, and other related testing, as applicable. Procedures for doing the operational test can be found in the maintenance manual. The other related testing is for airplanes on which one or both of the engines stop idling in less than five minutes after starting the test. Failure of the engine fuel suction feed of the fuel system could result in the unsafe condition described previously.

FAA's Determination and Requirements of This Proposed AD

We are proposing this AD because we have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other airplanes of this same type design. The proposed AD would require performing repetitive operational tests of the engine fuel suction feed of the fuel system, and other related testing if necessary.

Costs of Compliance

We estimate that this proposed AD would affect 825 airplanes of U.S. registry. We also estimate that it would take 1 work-hour per product, per test, to comply with this proposed AD. The average labor rate is $80 per work-hour. Based on these figures, we estimate the cost of this proposed AD to the U.S. operators to be $66,000, or $80 per product, per test.

Authority for This Rulemaking

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

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, Section 44701: General requirements.'' Under that section, Congress charges the FAA with

promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

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

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

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

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

You can find our regulatory evaluation and the estimated costs of compliance in the AD Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Boeing: Docket No. FAA–2008–0617; Directorate Identifier 2007–NM–354–AD.

Comments Due Date

(a) We must receive comments by July 21, 2008.

Affected ADs

(b) None.

Applicability

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

Unsafe Condition

(d) This AD results from a report of in-service occurrences of loss of fuel system suction feed capability, followed by total loss of pressure of the fuel feed system. We are issuing this AD to detect and correct failure of the engine fuel suction feed of the fuel system, which could result in dual engine flameout, inability to restart the engines, and consequent forced landing of the airplane.

Compliance

(e) Comply with this AD within the compliance times specified, unless already done.

Operational Test/Other Related Testing

(f) Within 7,500 flight hours after the effective date of this AD, perform an operational test of the engine fuel suction feed of the fuel system, and perform all other related testing, as applicable, before further flight, according to a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA. One approved method is the operational test in Section 28–22–00, titled ''Engine Fuel Feed System—Adjustment/Test,'' of the Boeing 737–600/700/800/900 Aircraft Maintenance Manual (AMM); and Boeing 737–600/700/800/900 Task Card 28–050–00–01, titled ''Engine Fuel Suction Feed,'' dated February 15, 2008. Repeat the operational test thereafter at intervals not to exceed 7,500 flight hours. Thereafter, except as provided in paragraph (g) of this AD, no alternative procedure or repeat test intervals will be allowed.

Alternative Methods of Compliance (AMOCs)

(g)(1) The Manager, Seattle ACO, FAA, ATTN: Sue Lucier, Aerospace Engineer, Propulsion Branch, ANM–140S, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6438; fax (425) 917–6590, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

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

Issued in Renton, Washington, on May 16, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–12685 Filed 6–5–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0615; Directorate Identifier 2007–NM–352–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 757 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for all Boeing Model 757 airplanes. This proposed AD would require performing repetitive operational tests of the engine fuel suction feed of the fuel system, and other related testing if necessary. This proposed AD results from a report of in-service occurrences of loss of fuel system suction feed capability, followed by total loss of pressure of the fuel feed system. We are proposing this AD to detect and correct failure of the engine fuel suction feed of the fuel system, which could result in dual engine flameout, inability to restart the engines, and consequent forced landing of the airplane.

DATES: We must receive comments on this proposed AD by July 21, 2008.

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

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

For service information identified in this AD, contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov*; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the

regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Sue Lucier, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6438; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2008–0615; Directorate Identifier 2007–NM–352–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

We have received a report of in-service occurrences of loss of fuel system suction feed capability, followed by total loss of pressure of the fuel feed system. This condition, if not corrected, could result in dual engine flameout, inability to restart the engines, and consequent forced landing of the airplane.

FAA's Conclusions

We have determined that it is necessary to require an operational test of the engine fuel suction feed of the fuel system, and other related testing, as applicable. Procedures for doing the operational test can be found in the maintenance manual. The other related testing is for airplanes on which one or both of the engines stop idling in less than five minutes after starting the test. Failure of the engine fuel suction feed of the fuel system could result in the unsafe condition described previously.

FAA's Determination and Requirements of This Proposed AD

We are proposing this AD because we have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other airplanes of this same type design. This proposed AD would require performing repetitive operational tests of the engine fuel suction feed of the fuel system, and other related testing if necessary.

Costs of Compliance

We estimate that this proposed AD would affect 673 airplanes of U.S. registry. We also estimate that it would take 1 work-hour per product, per test, to comply with this proposed AD. The average labor rate is $80 per work-hour. Based on these figures, we estimate the cost of this proposed AD to the U.S. operators to be $53,840, or $80 per product, per test.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

You can find our regulatory evaluation and the estimated costs of compliance in the AD Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Boeing: Docket No. FAA–2008–0615; Directorate Identifier 2007–NM–352–AD.

Comments Due Date

(a) We must receive comments by July 21, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Boeing Model 757–200, –200PF, –200CB, and –300 series airplanes, certificated in any category.

Unsafe Condition

(d) This AD results from a report of in-service occurrences of loss of fuel system suction feed capability, followed by total loss of pressure of the fuel feed system. We are issuing this AD to detect and correct failure of the engine fuel suction feed of the fuel system, which could result in dual engine flameout, inability to restart the engines, and consequent forced landing of the airplane.

Compliance

(e) Comply with this AD within the compliance times specified, unless already done.

Operational Test/Other Related Testing

(f) Within 7,500 flight hours after the effective date of this AD, perform an operational test of the engine fuel suction feed of the fuel system, and perform all other related testing, as applicable, before further flight, according to a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA. One approved method is the operational test in Section 28–22–00, titled ''Engine Fuel Feed System—Description/Operation,'' of the Boeing 757 Maintenance Manual; and Boeing 757 Task Card 28–013–01, titled ''Engine Fuel Suction Feed System,'' dated September 28, 2007. Repeat the operational test thereafter at intervals not

to exceed 7,500 flight hours. Thereafter, except as provided in paragraph (g) of this AD, no alternative procedure or repeat test intervals will be allowed.

Alternative Methods of Compliance (AMOCs)

(g)(1) The Manager, Seattle ACO, FAA, ATTN: Sue Lucier, Aerospace Engineer, Propulsion Branch, ANM–140S, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6438; fax (425) 917–6590, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

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

Issued in Renton, Washington, on May 16, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–12749 Filed 6–5–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0614; Directorate Identifier 2007–NM–351–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–300, –400, and –500 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for all Boeing Model 737–300, –400, and –500 series airplanes. This proposed AD would require performing repetitive operational tests of the engine fuel suction feed of the fuel system, and other related testing if necessary. This proposed AD results from a report of in-service occurrences of loss of fuel system suction feed capability, followed by total loss of pressure of the fuel feed system. We are proposing this AD to detect and correct failure of the engine fuel suction feed of the fuel system, which could result in dual engine flameout, inability to restart the engines, and consequent forced landing of the airplane.

DATES: We must receive comments on this proposed AD by July 21, 2008.

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

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

For service information identified in this AD, contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Sue Lucier, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 917–6438; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2008–0614; Directorate Identifier 2007–NM–351–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

We have received a report of in-service occurrences of loss of fuel system suction feed capability, followed by total loss of pressure of the fuel feed system. This condition, if not corrected, could result in dual engine flameout, inability to restart the engines, and consequent forced landing of the airplane.

FAA's Conclusions

We have determined that it is necessary to require an operational test of the engine fuel suction feed of the fuel system, and other related testing, as applicable. Procedures for doing the operational test can be found in the maintenance manual. The other related testing is for airplanes on which deterioration or fast changes in the engine RPM are found during the operational test. Failure of the engine fuel suction feed of the fuel system could result in the unsafe condition described previously.

FAA's Determination and Requirements of This Proposed AD

We are proposing this AD because we have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other airplanes of this same type design. This proposed AD would require performing repetitive operational tests of the engine fuel suction feed of the fuel system, and other related testing if necessary.

Costs of Compliance

We estimate that this proposed AD would affect 669 airplanes of U.S. registry. We also estimate that it would take 1 work-hour per product, per test, to comply with this proposed AD. The average labor rate is $80 per work-hour. Based on these figures, we estimate the cost of this proposed AD to the U.S. operators to be $53,520, or $80 per product, per test.

Authority for This Rulemaking

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

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, Section 44701: General requirements.'' Under that

section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

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

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

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

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

You can find our regulatory evaluation and the estimated costs of compliance in the AD Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Boeing: Docket No. FAA–2008–0614; Directorate Identifier 2007–NM–351–AD.

Comments Due Date

(a) We must receive comments by July 21, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Boeing Model 737–300, –400, and –500 series airplanes, certificated in any category.

Unsafe Condition

(d) This AD results from a report of in-service occurrences of loss of fuel system suction feed capability, followed by total loss of pressure of the fuel feed system. We are issuing this AD to detect and correct failure of the engine fuel suction feed of the fuel system, which could result in dual engine flameout, inability to restart the engines, and consequent forced landing of the airplane.

Compliance

(e) Comply with this AD within the compliance times specified, unless already done.

Operational Test/Related Testing

(f) Within 7,500 flight hours after the effective date of this AD, perform an operational test of the engine fuel suction feed of the fuel system, and perform all related testing, as applicable, before further flight, according to a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA. One approved method is the operational test in Section 28–22–00, titled ''Engine Fuel Feed System—Maintenance Practices,'' of the Boeing 737–300/400/500 Maintenance Manual (MM); and Boeing 737–300/400/500 Task Card B28–22–00–2B, titled ''Engine Fuel Suction Feed—Operational Test,'' dated July 12, 2006. Repeat the operational test thereafter at intervals not to exceed 7,500 flight hours. Thereafter, except as provided in paragraph (g) of this AD, no alternative procedure or repeat test intervals will be allowed.

Alternative Methods of Compliance (AMOCs)

(g)(1) The Manager, Seattle ACO, FAA, ATTN: Sue Lucier, Aerospace Engineer, Propulsion Branch, ANM–140S, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 917–6438; fax (425) 917–6590, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

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

Issued in Renton, Washington, on May 16, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–12752 Filed 6–5–08; 8:45 am]

BILLING CODE 4910–13–P

FEDERAL TRADE COMMISSION

16 CFR Part 317

[Project No. P082900]
RIN 3084-AB12

Prohibitions On Market Manipulation and False Information in Subtitle B of Title VIII of The Energy Independence and Security Act of 2007

AGENCY: Federal Trade Commission.

ACTION: Extension of period to submit comments in response to the Advance Notice of Proposed Rulemaking.

SUMMARY: In a **Federal Register** notice issued and announced on May 1, 2008,[1] and published in the **Federal Register** on May 7, 2008 (''Notice''),[2] the Federal Trade Commission (''Commission'' or ''FTC'') requested comment on its Advance Notice of Proposed Rulemaking (''ANPR'') in connection with its rulemaking pursuant to Section 811 of the Energy Independence and Security Act of 2007 (''EISA''). The ANPR stated that comments must be submitted on or before June 6, 2008. In response to a request to extend the comment period received on May 19, 2008, the Commission has determined to extend the comment period for an additional 15 days.

DATES: Comments addressing the Market Manipulation ANPR must be received on or before June 23, 2008.

ADDRESSES: Comments should refer to ''Market Manipulation Rulemaking, P082900'' to facilitate the organization of comments. Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with Commission Rule 4.9(c).[3]

Because paper mail in the Washington area, and specifically to the FTC, is subject to delay due to heightened security screening, please consider submitting your comments in electronic form. Comments filed in electronic form should be submitted by using the following weblink: (*https://*

[1] The Notice was announced in a press release on May 1, 2008, available at: (*http://www.ftc.gov/opa/2008/05/anpr.shtm.*)

[2] Federal Trade Commission, *Prohibitions On Market Manipulation and False Information in Subtitle B of the Energy Independence and Security Act of 2007*, 73 FR 25614 (May 7, 2008).

[3] The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. *See* Commission Rule 4.9(c), 16 CFR 4.9(c).

secure.commentworks.com/ftc-marketmanipulationANPR/)(and following the instructions on the web-based form). To ensure that the Commission considers an electronic comment, you must file it on the web-based form at the weblink (*https://secure.commentworks.com/ftc-marketmanipulationANPR/*). If this notice appears at *http://www.regulations.gov*, you may also file an electronic comment through that website. The Commission will consider all comments that regulations.gov forwards to it. You may also visit the FTC website at (*http://www.ftc.gov/opa/index.shtml*)to read the ANPR and the news release describing it.

A comment filed in paper form should include the ''Market Manipulation Rulemaking, P082900'' reference both in the text and on the envelope, and should be mailed to the following address: Federal Trade Commission, Market Manipulation Rulemaking, P.O. Box 2846, Fairfax, VA 22031-0846. This address does not accept courier or overnight deliveries. Courier or overnight deliveries should be delivered to: Federal Trade Commission/Office of the Secretary, Room H-135 (Annex G), 600 Pennsylvania Avenue, NW, Washington, DC 20580.

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives, whether filed in paper or electronic form. Comments received will be available to the public on the FTC website, to the extent practicable, at *http://www.ftc.gov*. As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC website. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy, at (*http://www.ftc.gov/ftc/privacy.htm*).

FOR FURTHER INFORMATION CONTACT: James Mongoven, Deputy Assistant Director of Policy & Coordination, Bureau of Competition, Federal Trade Commission, Market Manipulation Rulemaking, P.O. Box 2846, Fairfax, VA 22031-0846, (202) 326-3772.

SUPPLEMENTARY INFORMATION: On May 7, 2008, the Commission published an ANPR pursuant to the authority granted to it in Section 811 of the EISA to promulgate regulations prohibiting ''market manipulation'' in the petroleum industry. In that Notice, the Commission solicited comment on a variety of topics including the scope of a proposed Rule; the impact of other agencies' extant rules against market manipulation on a proposed Rule; and the effectiveness of monetary penalties in curbing behavior proscribed by a proposed Rule. The ANPR stated that the period for submitting initial comments would close on June 6, 2008.

On May 19, 2008, the Commission received a letter from counsel for the American Petroleum Institute (''API'') requesting that the Commission extend the comment deadline in the ANPR proceeding for an additional 60 days, resulting in a 90-day comment period. In its request, API advances three arguments in support of an extension of the comment period. First, API argues that additional time is needed to canvass its more than 400 members and to ''consolidate and present that information for the Commission's consideration.'' Second, API contends that the extension is necessary to ensure that there is ''sufficient time for thoughtful deliberation'' about the ''many novel and complex issues'' addressed in the ANPR. Third, API opines that ''defining 'manipulation' is inherently difficult and not within the Commission's traditional antitrust or consumer protection experience,'' and thus providing additional time to commenters will yield more carefully considered comments, which will be beneficial to the Commission as it proceeds.

The Commission is sympathetic to the concerns raised by API. The Commission, however, is not persuaded that a full 60-day extension—which would triple the time allocated by the Commission for the receipt of comments—is necessary to ensure that interested parties have an adequate opportunity to prepare and submit thoughtful responses at this stage in the proceeding. The Commission believes that a 15-day extension of the initial 30-day comment period should be sufficient to enable API and all other commenters to finalize and submit comments in response to the ANPR while avoiding unnecessary delay. Further, in the event that the Commission determines to issue a Notice of Proposed Rulemaking in this proceeding, interested parties will be afforded an additional period of time in which to submit comments in response to a proposed Rule. Accordingly, the Commission has determined to extend the comment period set forth in the ANPR until June 23, 2008.[4]

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. E8–12739 Filed 6–5–08: 8:45 am]

[BILLING CODE 6750–01–S]

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 150

RIN 3038–AC140

Revision of Federal Speculative Position Limits

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rules; withdrawal.

SUMMARY: On November 21, 2007, the Commodity Futures Trading Commission (Commission or CFTC) published a proposed rulemaking to increase the Federal speculative position limits for certain agricultural commodity contracts set out in Commission regulation 150.2 (proposed rulemaking).[1] The proposed rulemaking would have increased the single-month and all-months-combined position limits for all contracts except contracts based on oats in accordance with the formula set out in Commission regulation 150.5(c). The proposed rulemaking would have also required the aggregation of traders' positions in contracts that share substantially identical terms with regulation 150.2-enumerated contracts, regardless of whether such contracts were specifically delineated in that regulation, for the purposes of ascertaining compliance with the Federal speculative position limits. For the reasons provided below, the Commission has determined to withdraw the proposed rulemaking.

FOR FURTHER INFORMATION CONTACT: Donald Heitman, Senior Special Counsel, Division of Market Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581, telephone (202) 418–5041, facsimile number (202) 418–5507, e-mail *dheitman@cftc.gov*; or Martin Murray, Economist, Division of Market Oversight, telephone (202) 418–5276,

[4] Under Commission Rule 4.3(a), the 15-day comment period begins on Monday, June 9, 2008, the first business day after the date on which the comment period is currently scheduled to end. 16 CFR 4.3(a).

[1] Revision of Federal Speculative Position Limits, 72 FR 65483 (November 21, 2007).

facsimile number (202) 418–5507, e-mail *mmurray@cftc.gov*.

SUPPLEMENTARY INFORMATION: The Commission has long established and enforced speculative position limits for futures contracts on various agricultural commodities. The Commission periodically reviews these Federal speculative position limits, which are set out in Commission regulation 150.2.[2] On November 21, 2007, the Commission published its proposed rulemaking to increase Federal speculative position limits for all single-month and all-months-combined positions in all commodity markets enumerated in Commission regulation 150.2, except Chicago Board of Trade (CBT) Oats, based on the formula set out in Commission regulation 150.5(c). The rulemaking proposed to increase levels for single-month and all-months-combined positions for CBT Corn, Soybeans, Wheat, Soybean Oil, and Soybean Meal; Minneapolis Grain Exchange Hard Red Spring Wheat; Kansas City Board of Trade Hard Winter Wheat; and New York Board of Trade[3] Cotton No. 2. In addition, the rulemaking proposed to require the aggregation of positions in contracts that share substantially identical terms with regulation 150.2-enumerated contracts, regardless of whether such contracts were specifically delineated in that regulation, for the purposes of ascertaining traders' compliance with the Federal speculative position limits.

The Commission requested public comment by December 21, 2007. On December 31, 2007, the Commission extended the initial comment period to January 21, 2008 to give interested parties additional opportunity to comment.[4] The Commission received a total of 40 comment letters in response to its **Federal Register** publication.[5] Six letters generally favored the proposed regulations and 34 letters were generally opposed to their adoption. An Agricultural Forum held by the Commission on April 22, 2008 served as an additional venue for the presentation of views with respect to the proposed rulemaking and a related Commission proposal to adopt a risk management exemption from the Federal speculative position limits.[6]

Collectively, the comments received in response to the proposed rulemaking and at the Commission's April 22 Agricultural Forum reflected differing perspectives on a wide range of issues of substantive import to the proposed rulemaking. The issues covered by the commenters, both in favor and opposed to the Commission's proposal to revise the Federal speculative position limits, included product margin requirements, the convergence of cash and futures transaction prices, the impact of commodity-linked instruments traded on national securities exchanges on CFTC regulated transactions, the degree of transparency for market participation, and the quantification of the impact of speculative trading on market volatility. In light of the wide range of divergent positions that have been put forth by interested parties, the current market conditions for the contracts that would be affected by the proposed rulemaking, and in order to determine whether further consensus among the affected parties should be sought, the Commission has determined to withdraw the proposed rulemaking pending further consideration of the relevant issues.

Issued by the Commission this June 2, 2008, in Washington, DC.

David Stawick,

Secretary of the Commission.

[FR Doc. E8–12728 Filed 6–5–08; 8:45 am]

BILLING CODE 6351–01–P

[2] Commission regulation 150.2 imposes three types of position limits for each specified contract: a spot month limit, a single-month limit, and an all-months-combined limit. The Commission most recently adopted amendments to levels for Federal speculative position limits in 2005. *See* 70 FR 24705 (May 11, 2005).

[3] The New York Board of Trade was acquired by ICE Futures U.S. in January, 2007.

[4] 72 FR 74213 (December 31, 2007).

[5] **Federal Register** Comment File 07–014, *available at http://www.cftc.gov/lawandregulation/federalregister/federalregistercomments/2007/07–014.html*.

[6] Risk Management Exemption from Federal Speculative Position Limits, 72 FR 66097 (November 27, 2007) (to be withdrawn).

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 150

RIN 3038–AC40

Risk Management Exemption From Federal Speculative Position Limits

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rules; withdrawal.

SUMMARY: On November 27, 2007, the Commodity Futures Trading Commission (Commission or CFTC) published proposed rules to create a ''risk management exemption'' from Federal speculative position limits—the limits on the size of speculative positions that traders may hold or control in futures and futures equivalent option contracts on certain designated agricultural commodities. The Commission has determined to withdraw these proposed rules.

FOR FURTHER INFORMATION CONTACT: Donald Heitman, Senior Special Counsel, Division of Market Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581, telephone (202) 418–5041, facsimile number (202) 418–5507, electronic mail *dheitman@cftc.gov*; or John Fenton, Director of Surveillance, Division of Market Oversight, telephone (202) 418–5298, facsimile number (202) 418–5507, electronic mail *jfenton@cftc.gov*.

SUPPLEMENTARY INFORMATION: Commission regulation 150.2 imposes limits on the size of speculative positions that traders may hold or control in futures and futures equivalent option contracts on certain designated agricultural commodities named therein. Commission regulation 150.3 lists certain types of positions that may be exempted from these Federal speculative position limits.

On November 27, 2007, the Commission published proposed amendments that would provide an additional exemption from Federal speculative position limits for ''risk management positions'' (proposed rulemaking).[1] The proposal defined a risk management position as a futures or futures equivalent position, held as part of a broadly diversified portfolio of long-only or short-only futures or futures equivalent positions, that is based upon either: (1) A fiduciary obligation to match or track the results of a broadly diversified index that includes the same commodity markets in fundamentally the same proportions as the futures or futures equivalent position; or (2) a portfolio diversification plan that has, among other substantial asset classes, an exposure to a broadly diversified index that includes the same commodity markets in fundamentally the same proportions as the futures or futures equivalent position. The exemption, as proposed, would have been subject to certain conditions, including that the positions be passively managed, unleveraged, and not carried into the spot month.

The Commission requested public comment by January 28, 2008. The Commission received a total of 10 comment letters in response to its

[1] Risk Management Exemption from Federal Speculative Position Limits, 72 FR 66097 (November 27, 2007).

Federal Register publication.[2] Three letters generally favored the proposed regulations and seven letters were generally opposed to their adoption. An Agricultural Forum held by the Commission on April 22, 2008 served as an additional venue for the presentation of views with respect to the proposed rulemaking and a related Commission proposal to revise the Federal speculative position limits delineated in Commission regulation 150.2.[3]

Collectively, the comments received in response to the proposed rulemaking and at the Commission's April 22 Agricultural Forum reflected differing perspectives on a wide range of issues of substantive import to the proposed rulemaking. The issues covered by the commenters, both in favor and opposed to the Commission's proposal to adopt a risk management exemption from the Federal speculative position limits, included product margin requirements, the convergence of cash and futures transaction prices, the impact of commodity-linked instruments traded on national securities exchanges on CFTC regulated transactions, the degree of transparency for market participation, and the quantification of the impact of speculative trading on market volatility. In light of the wide range of divergent positions that have been put forth by interested parties, the current market conditions for the contracts that would be affected by the proposed rulemaking, and in order to determine whether further consensus among the affected parties should be sought, the Commission has determined to withdraw the proposed rulemaking pending further consideration of the relevant issues.

Issued by the Commission June 2, 2008, in Washington, DC.

David Stawick,

Secretary of the Commission.

[FR Doc. E8–12723 Filed 6–5–08; 8:45 am]

BILLING CODE 6351–01–P

[2] **Federal Register** Comment File 07–015, *available at http://www.cftc.gov/lawandregulation/federalregister/federalregistercomments/2007/07–015.html.*

[3] Revision of Federal Speculative Position Limits, 72 FR 65483 (November 21, 2007) (to be withdrawn).

DEPARTMENT OF JUSTICE

28 CFR Part 75

[Docket No. CRM 105; AG Order No. 2966–2008]

RIN 1105–AB19

Inspection of Records Relating to Depiction of Simulated Sexually Explicit Performances

AGENCY: Department of Justice.

ACTION: Proposed rule.

SUMMARY: This rule proposes to amend record-keeping, labeling, and inspection requirements to implement provisions of the Adam Walsh Child Protection and Safety Act of 2006 that require producers of depictions of simulated sexually explicit conduct to maintain records documenting that performers in those depictions are at least 18 years of age. The rule also implements provisions of the Adam Walsh Act that create a certification regime for the exemption of producers, in certain circumstances, from those requirements and from similar requirements for producers of visual depictions of the lascivious exhibition of the genitals or pubic area of a person.

DATES: Written comments must be received by August 5, 2008.

ADDRESSES: Written comments may be submitted to: Andrew Oosterbaan, Chief, Child Exploitation and Obscenity Section, Criminal Division, United States Department of Justice, Washington, DC 20530; Attn: ''Docket No. CRM 105.''

Comments may be submitted electronically to *www.regulations.gov* by using the electronic comment form provided on that site. Comments submitted electronically must include ''Docket No. CRM 105'' in the subject box. You may also view an electronic version of this rule at the *www.regulations.gov* site.

Facsimile comments may be submitted to: (202) 514–1793. This is not a toll-free number. Comments submitted by facsimile must include ''Docket No. CRM 105'' on the cover sheet.

FOR FURTHER INFORMATION CONTACT: Andrew Oosterbaan, Chief, Child Exploitation and Obscenity Section, Criminal Division, United States Department of Justice, Washington, DC 20530; (202) 514–5780. This is not a toll-free number.

SUPPLEMENTARY INFORMATION:

Public Comments

Please note that because the Department of Justice is now fully operational using the *www.regulations.gov* site, the Child Exploitation and Obscenity Section, Criminal Division has deactivated the e-mail address for electronic comments that it published in rulemakings before the Department started using *www.regulations.gov.* In order to ensure that electronic comments are received by the Department, commenters submitting electronic comments must use the electronic comment form provided on the *www.regulations.gov* site.

Please also note that all comments received are considered part of the public record and made available for public inspection online at *www.regulations.gov.* Such information includes personal identifying information (such as your name, address, etc.) voluntarily submitted by the commenter.

If you want to submit personal identifying information (such as your name, address, etc.) as part of your comment, but do not want it to be posted online, you must include the phrase ''PERSONAL IDENTIFYING INFORMATION'' in the first paragraph of your comment. You also must locate all the personal identifying information you do not want posted online in the first paragraph of your comment and identify in that paragraph what information you want redacted.

If you want to submit confidential business information as part of your comment but do not want it to be posted online, you must include the phrase ''CONFIDENTIAL BUSINESS INFORMATION'' in the first paragraph of your comment. You also must identify prominently any confidential business information to be redacted within the comment. If a comment has so much confidential business information that it cannot be effectively redacted, all or part of that comment might not be posted on *www.regulations.gov.*

Personal identifying information identified and located as set forth above will be placed in the agency's public docket file, but not posted online. Confidential business information identified and located as set forth above will not be placed in the public docket file. If you wish to inspect the agency's public docket file in person by appointment, please see the ''For Additional Information'' paragraph.

Discussion

On July 27, 2006, President George W. Bush signed into law the Adam Walsh Child Protection and Safety Act of 2006, Public Law 109–248 (''the Act''). As described in more detail below, section

503(a) of the Act provides that producers of visual depictions of simulated sexually explicit conduct ''shall create and maintain individually identifiable records pertaining to every performer portrayed in such a visual depiction.'' 18 U.S.C. 2257A(a).

The Act requires producers of visual depictions of simulated sexually explicit conduct to:

(1) Ascertain, by examination of an identification document containing such information, the performer's name and date of birth, and require the performer to provide such other indicia of his or her identity as may be prescribed by regulations;

(2) Ascertain any name, other than the performer's present and correct name, ever used by the performer including maiden name, alias, nickname, stage, or professional name; and

(3) Record * * * the information required by paragraphs (1) and (2) of this subsection and such other identifying information as may be prescribed by regulation.

Id. 2257A(b).

Furthermore, the Act requires that producers of material covered by the statute ''shall maintain the records * * * at their business premises, or at such other place as the Attorney General may by regulation prescribe and shall make such records available to the Attorney General for inspection at all reasonable times.'' *Id.* 2257A(c). Producers also must ''cause to be affixed to'' matter containing the visual depictions covered by section 2257A ''a statement describing where the records required by this section with respect to all performers depicted in that copy of the matter may be located,'' *Id.* 2257A(e)(1), and the Act makes it illegal, *inter alia,* ''for any person knowingly to sell or otherwise transfer, or offer for sale or transfer'' any such matter ''which does not have affixed thereto * * * a statement describing where the records required by this section may be located,'' *id.* 2257A(f)(4).

Violation of these requirements is a misdemeanor, subject to imprisonment for not more than one year, a criminal fine, or both. *See id.* 2257A(i)(1).

The Act also created an exemption from the record-keeping requirements of section 2257A. One part of this exemption states that section 2257A does not apply to matter that (1) is intended for commercial distribution, (2) is created as a part of a commercial enterprise by a person who certifies to the Attorney General that he regularly and in the normal course of business collects and maintains individually identifiable name and age information regarding all performers for purposes such as Federal and State tax, labor, and other laws, and (3) is not produced, marketed, or otherwise made available in circumstances such that an ordinary person would conclude that it is child pornography. *See id.* 2257A(h)(1)(A). The other part of this exemption states that section 2257A does not apply to matter that (1) is produced by someone subject to the authority and regulation of the Federal Communications Commission enforcing federal bans on the broadcast of obscene, indecent, or profane programming, and (2) is created as a part of a commercial enterprise by a person who certifies to the Attorney General that he regularly and in the normal course of business collects and maintains individually identifiable name and age information regarding all performers, for purposes such as federal and state tax, labor, and other laws. *See id.* 2257A(h)(1)(B).

The Act also permits such a certification for producers of visual depictions of the lascivious exhibition of the genitals or pubic area of a person (hereinafter ''lascivious exhibition'') for which record-keeping, inspection, and labeling requirements apply under 18 U.S.C. 2257. *See id.* 2257A(h)(1)(A), (B). Section 2257 requires that producers of depictions of actual sexually explicit conduct maintain identity and age records for performers in those depictions, and the Act amended section 2257, *inter alia*, to cover lascivious exhibition. *See id.* 2257(h)(1) (as amended by section 502(a)(4) of the Act).

Background

In enacting section 2257 in 1988, Congress imposed record-keeping requirements related to visual depictions of actual sexually explicit conduct. Section 2257 has been critical to protecting children from exploitation as performers in visual depictions of sexually explicit conduct. Children are incapable of giving voluntary and knowing consent to perform in such depictions. The consequences to children depicted in them are devastating and can follow them for years or even their entire lives. Furthermore, viewers of such depictions themselves may sexually abuse children, and pedophiles use such depictions to feed their predilections and to groom potential victims. Performers in such depictions therefore must not be minors.

In the Act, Congress filled two gaps left by the original statute by amending section 2257 to cover lascivious exhibition and by enacting section 2257A to cover simulated sexually explicit conduct, while at the same time creating an exemption from these new record-keeping requirements in certain circumstances. (The language of section 2257A is based largely on the language in section 2257, but only the former contains the exemption and certification regime described above.) The record-keeping, inspection, and labeling requirements in sections 2257 and 2257A are designed to ensure that no minor will be exploited through depictions of actual or simulated sexually explicit conduct, whether produced deliberately or negligently.

Chapter 110 of title 18 (''Sexual Exploitation and Other Abuse of Children'') covers both actual and simulated sexually explicit conduct. Specifically, it defines ''sexually explicit conduct'' as:

(A) * * * actual or *simulated*—(i) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex; (ii) bestiality; (iii) masturbation; (iv) sadistic or masochistic abuse; or (v) lascivious exhibition of the genitals or pubic area of any person; (B) For purposes of subsection 8(B) of this section [part of the definition of ''child pornography''], ''sexually explicit conduct'' means—(i) graphic sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex, or lascivious *simulated* sexual intercourse where the genitals, breast, or pubic area of any person is exhibited; (ii) graphic or lascivious simulated; (I) bestiality; (II) masturbation; or (III) sadistic or masochistic abuse; or (iii) graphic or *simulated* lascivious exhibition of the genitals or pubic area of any person.

18 U.S.C. 2256(2) (emphases added).

The terms ''simulated'' and ''actual'' also appear together in numerous States' child-exploitation statutes. *See* Alaska Stat. § 11.41.455; Ariz. Rev. Stat. § 13–3551; Ariz. Rev. Stat. § 13–3553; Ark. Code Ann. § 5–27–302; Cal. Penal Code § 311.11; Colo. Rev. Stat. § 18–6–403; Conn. Gen. Stat. § 53a–193; Fla. Stat. § 827.071; Ga. Code Ann. § 16–12–100; Idaho Code Ann. § 18–1507; 720 Ill. Comp. Stat. Ann. 5/11–20.1; Kan. Stat. Ann. § 21–3516; Ky. Rev. Stat. Ann. § 531.300; La. Rev. Stat. Ann. § 14:81.1; Mass. Ann. Laws ch. 272 § 29C; Mich. Comp. Laws Serv. § 750.145c; Minn. Stat. § 617.246; Miss. Code Ann. § 97–5–33; Mo. Rev. Stat. § 573.010; Mont. Code Ann. § 45–5–625; Nev. Rev. Stat. § 200.725; N.H. Rev. Stat. Ann. § 649–A:2; N.M. Stat. Ann. § 30–6A–3; N.Y. Penal L. § 263.00; N.D. Cent. Code § 12.1–27.2–01; Okla. Stat. tit. 21 § 1024.1; Or. Rev. Stat. § 163.665; R.I. Gen. Laws § 11–9–1.3; S.D. Codified Laws § 22–24A–2; S.D. Codified Laws § 22–24A–3; Tenn. Code Ann. § 39–17–1003; Tex. Penal Code Ann. § 43.25; Utah Code Ann. § 76–5a–2; Utah Code Ann. § 76–5a–3; Va. Code Ann. § 18.2–

390; Wash. Rev. Code § 9.68A.011; W. Va. Code § 61–8C–1; Wis. Stat. § 948.01; Wyo. Stat. Ann. § 6–4–303. Accordingly, ''simulated'' in the context of sexually explicit conduct is neither a novel nor an uncommon term.

These statutes recognize that a child may be harmed both physically and psychologically in the production of visual depictions of simulated sexually explicit conduct, even if no sexually explicit conduct actually takes place. Furthermore, producers of visual depictions of actual sexually explicit conduct often substitute a visual depiction of simulated sexually explicit conduct (so-called ''soft-core'' pornography) in place of the actual sexually explicit conduct; then the soft-core pornography is often distributed more widely than the unedited version of the same production. In such cases, the protection of children from exploitation in the production of a visual depiction of actual sexually explicit conduct necessitates that producers of visual depictions of simulated sexually explicit conduct also be required to maintain records and label their products.

The Proposed Rule

Section 2257's requirements are implemented in 28 CFR part 75. On July 12, 2007, the Department of Justice (''the Department'') published a proposed rule amending part 75 to implement those provisions of the Act that amended section 2257. *See Revised Regulations for Records Relating to Visual Depictions of Sexually Explicit Conduct* [CRM Docket No. 104; RIN 1105–AB18], 72 FR 38033 (Jul. 12, 2007).

This proposed rule would make additional amendments to part 75 to implement section 2257A. As explained above, sections 2257 and 2257A operate in tandem to protect children from exploitation in visual depictions of sexually explicit conduct. Part 75 has undergone significant public comment and several courts have found it to be a constitutional exercise of governmental authority. *See Am. Library Ass'n* v. *Reno,* 33 F.3d 78 (DC Cir. 1994); *Free Speech Coalition* v. *Gonzales,* 406 F. Supp. 2d 1196 (D. Colo. 2005) *(''Free Speech I'')*; *Free Speech Coalition* v. *Gonzales,* 483 F. Supp. 2d 1069 (D. Colo. 2007) *(''Free Speech II'')*; *Connection Distrib. Co.* v. *Gonzales,* 2006 WL 1305089, 2006 U.S. Dist. LEXIS 29506 (N.D. Ohio, May 10, 2006). Although one court invalidated part 75 as *ultra vires* to the extent it regulated those whose activity ''does not involve hiring, contracting for managing, or otherwise arranging for the participation of the performers depicted,'' *see Sundance Assoc., Inc.* v. *Reno,* 139 F.3d 804, 806 (10th Cir. 1998) (quoting 18 U.S.C. 2257(h)(3) (1998)), Congress subsequently amended the statute (see section 502(a)(4) of the Act) and adopted the Attorney General's interpretation of section 2257. *Cf. Free Speech Coalition II,* 483 F. Supp. 2d at 1076 (suggesting the enactment of section 502 of the Act moots the plaintiff's *ultra vires* challenge to part 75).

Because part 75 has been tested and upheld in the courts, and given the similarities between sections 2257 and 2257A, the Department has chosen to apply the existing requirements for visual depictions of actual sexually explicit conduct (under section 2257) to visual depictions of simulated sexually explicit conduct (under section 2257A) with regard to the records at issue, the time, place and manner of inspection of those records, and the labeling of matter containing such visual depictions. The proposed rule therefore proposes to change references in the Department's part 75 regulations (as proposed in CRM Docket No. 104; RIN 1105–AB18) from ''actual sexually explicit conduct'' to ''actual or simulated sexually explicit conduct,'' where appropriate, and to make other minor textual changes as necessary to regulate simulated sexually explicit conduct.

This proposed rule also makes two additional changes to part 75 to implement section 2257A: it defines ''simulated sexually explicit conduct'' and it implements a certification regime for producers of actual sexually explicit conduct constituting lascivious exhibition and for producers of simulated sexually explicit conduct.

Definition of ''simulated sexually explicit conduct''

As noted above, ''sexually explicit conduct'' is defined in section 2256(2)(A) with reference to certain physical acts and with reference to both ''actual'' and ''simulated'' performance of those acts. No definition of ''actual'' or ''simulated'' is contained in section 2256 or anywhere else in chapter 110. When first published in 1990, amended in 2005, and proposed to be amended in 2007, part 75 did not adopt a definition of ''actual,'' because the Department believed that in the context of the acts described, the meaning of the term was sufficiently precise for regulatory purposes. Public comments on the previous versions of part 75 did not address the definition of ''actual,'' nor has the meaning of that term arisen in litigation regarding the regulations.

With the extension of part 75 to cover simulated conduct, however, and with the statutory provision for a certification regime for simulated conduct, the Department believes that a definition of the term ''simulated sexually explicit conduct'' is necessary. A definition will make clear to the public what types of conduct come within the ambit of the regulation, as distinct from conduct not covered at all, and what types of conduct will be eligible for the certification regime.

The Department starts its analysis of the proper definition of the term for regulatory purposes with the term's plain meaning. The dictionary defines ''simulated'' as ''made to look genuine.'' *Merriam-Webster's Collegiate Dictionary* 1162 (11th ed. 2003).

The Department believes that an objective standard—that is, one defined in terms of a reasonable person viewing the depiction—is appropriate to add to this basic definition. The proposed rule's definition of ''simulated sexually explicit conduct'' thus reads as follows: ''[S]imulated sexually explicit conduct means conduct engaged in by performers in a visual depiction that is intended to appear as if the performers are engaged in actual sexually explicit conduct and does so appear to a reasonable viewer.''

No federal court has interpreted the definition of ''simulated'' in the context of chapter 110. The definition above, however, is based on the plain meaning of the term and is supported by extrinsic sources of meaning. Chapter 110 was created by the Protection of Children Against Sexual Exploitation Act of 1977, which defined ''sexually explicit conduct'' to include both ''actual or simulated'' acts. *See* Protection of Children Against Sexual Exploitation Act of 1977, Public Law 95–225, § 2(a), 92 Stat. 7 (1978). That statute did not define ''simulated,'' however, and the legislative history of the act does not indicate that Congress considered defining that term. *See* S. Rep. No. 438, 95th Cong., 1st Sess. (1977); H.R. Report No. 696, 95th Cong., 1st Sess. (1977). When Congress amended chapter 110 in 1984, it considered defining ''simulated'' but ultimately did not do so, thereby leaving the definition of that term to the discretion of the Attorney General.

As noted above, most states have laws similar to the federal statute criminalizing production, distribution, and possession of simulated sexually explicit conduct involving a minor. A number of those states' statutes, in contrast to section 2257A, define ''simulated,'' and therefore may inform the federal definition of that term in part 75. State definitions of ''simulated'' generally fall into three categories:

(1) Definitions based on giving the appearance of actual sexually explicit conduct. For example: ''An act is simulated when it gives the appearance of being sexual conduct.'' Cal. Penal Code § 311.4(d)(1); 14 V.I. Code § 1027(b). '''Simulated sexually explicit conduct' means a feigned or pretended act of sexually explicit conduct which duplicates, within the perception of an average person, the appearance of an actual act of sexually explicit conduct.'' Utah Code Ann. § 76–5a–2(9). ''Sexual intercourse is simulated when it depicts explicit sexual intercourse which gives the appearance of the consummation of sexual intercourse, normal or perverted.''

Mass. Ann. Laws ch. 272, § 31; N.H. Rev. Stat. Ann. § 649–A:2(III).

(2) Definitions based on depiction of genitals that gives the impression of actual sexually explicit conduct, such as: '''Simulated' means any depicting of the genitals or rectal areas that gives the appearance of sexual conduct or incipient sexual conduct.'' Ariz. Rev. Stat. § 13–3551(10); Miss. Code Ann. § 97–5–31(f); Mont. Code Ann. § 45–5–620(2).

(3) Definitions based on (a) the depiction of uncovered portions of the body *and* (b) that gives the impression of actual sexually explicit conduct, such as: '''Simulated' means the explicit depiction of [sexual] conduct * * *which creates the appearance of such conduct and which exhibits any uncovered portion of the breasts, genitals, or buttocks.'' Fla. Stat. § 827.071(1)(i). '''Simulated' means the explicit depiction of sexual conduct that creates the appearance of actual sexual conduct and during which a person engaging in the conduct exhibits any uncovered portion of the breasts, genitals, or buttocks.'' Tex. Penal Code § 43.25(a)(6). '''Simulated' means the explicit depiction of any [sexual] conduct * * * which creates the appearance of such conduct and which exhibits any uncovered portion of the breasts, genitals or buttocks.'' N.Y. Penal L. § 263.00(6).

The definitions categorized above as ''based on giving the appearance of actual sexually explicit conduct'' are closest to that proposed by the Department in this proposed rule. The other two definitions, which require the actual depiction of nudity, are overly restrictive in that a child may be exploited in the production of a visual depiction of simulated sexually explicit conduct even if no nudity is present in the final version of the visual depiction. The producer of the depiction may arrange the camera or the body positions to avoid depicting uncovered genitals, breasts, or buttocks yet still cause harm to the child by having him or her otherwise realistically appear to be engaging in sexually explicit conduct.

It is also important to note that ''simulated'' in this context does not mean ''virtual.'' For purposes of chapter 110, including sections 2256, 2257, and 2257A, and for purposes of part 75, ''simulated sexual explicit conduct'' means conduct engaged in by real human beings, not conduct engaged in by computer-generated images that only appear to be real human beings. Although Congress did attempt to criminalize production, distribution, and possession of ''virtual'' child pornography on the basis that it contributed to the market in child pornography involving real children, the Supreme Court held that the child-protection rationale for the criminalization of child pornography under *Ferber* did not apply to images in which no real children were harmed. *See Ashcroft* v. *Free Speech Coalition*, 535 U.S. 234, 250–51 (2002). Section 2257A does not cover such ''virtual'' child pornography, but rather ''simulated'' sexually explicit conduct, the production of which, as noted above, can exploit a real child. The Court's decision in *Ashcroft* is thus not relevant to sections 2257 or 2257A, or part 75, which for clarity's sake consistently refers to sexually explicit conduct engaged in by an ''actual human being.''

Exemption From Statutory Requirements for Visual Depictions of Lascivious Exhibition or Simulated Sexually Explicit Conduct in Certain Circumstances and an Associated Certification Regime

As outlined above, Congress in the Act filled two gaps left by the original section 2257 by amending section 2257 to cover lascivious exhibition and by enacting section 2257A to cover simulated sexually explicit conduct. In enacting section 2257A, Congress determined it would be appropriate, in certain circumstances, to exempt producers of visual depictions of lascivious exhibition (for which records must be kept under section 2257, as amended by the Act) and producers of visual depictions of simulated sexually explicit conduct (for which records must be kept under section 2257A) from statutory requirements otherwise applicable to such visual depictions. *See* 18 U.S.C. 2257A(h).

The safe harbor provision in the statute in essence permits certain producers of visual depictions of lascivious exhibition or simulated sexually explicit conduct to certify that in the normal course of business they collect and maintain records to confirm that performers in those depictions are not minors, while not necessarily collected and maintained in the format required by part 75. Where a producer makes the required certification, matter containing such visual depictions is not subject to the labeling requirements of the statute.

The Department has crafted a certification regime (described in detail below) that implements the safe harbor in such a way as to permit such producers, in accordance with the statute, to be subject to lesser record-keeping burdens than those in part 75, while still protecting children from sexual exploitation.

Who May Certify

Any entity that meets the statutory requirements for eligibility, which are incorporated verbatim in the proposed rule, may certify that it meets the requirements of section 2257A(h). In addition, an entity may certify for sub-entities that it owns or controls if the names of the sub-entities are listed in such certification and are cross-referenced to the matter for which the sub-entity served as the producer.

Both United States and foreign entities may certify. In the case of a certification by a foreign entity, the foreign entity, which may be unlikely to collect and maintain information in accordance with United States federal and state tax and other laws, may certify that it maintains the required information in accordance with their foreign equivalents. The Department considers the statute's broad description of laws and other documentation that satisfy the certification to provide authority for this treatment of foreign entities.

The certification must be signed by the chief executive officer of the entity making the certification, or in the event an entity does not have a chief executive officer, the senior manager responsible for overseeing the entity's activities.

The certification regime in the proposed rule is similar for producers of lascivious exhibition and producers of simulated sexually explicit conduct but differs in some material respects, as described below.

Time Period for Certification

The certification must be filed every two years. The Department could have chosen a shorter period for certification, a longer period, or a permanent certification. The Department believes, however, that two years is a reasonable period to ensure that certifications remain up to date without imposing

overly onerous burdens on regulated entities.

In order to establish certifications on the record as soon as possible, the Department will require an initial certification due 180 days after the publication of this proposed rule as a final rule. This schedule will provide sufficient time for entities to determine if they wish to certify in compliance with the regulatory requirements. All subsequent certifications will be due on the same date at two-year intervals. The initial certification and all subsequent certifications must be filed within a period of five business days concluding on the due date (*i.e.,* if the due date were on a Friday, and there were no federal holiday during that week, the certification would have to be filed on Monday, Tuesday, Wednesday, Thursday, or Friday of that week). The Department must have confidence that the certification covers all depictions subject to record-keeping requirements for the previous period. Initial certifications of producers who begin production after the publication of this proposed rule but before the expiration of the 180-day period preceding its publication as a final rule will be due within a period of five business days concluding on the last day of the 180-day period. Initial certifications of producers who begin production after the expiration of the 180-day period, but before the expiration of the two-year period following the 180-day period, are due within 60 days of the start of production (unless the start of production occurs within 60 days of the expiration of the two-year period, in which case the certifications are due on the expiration date of the two-year period). In any case where a due date or last day of a time period falls on a Saturday, Sunday, or federal holiday, the due date or last day of a time period is considered to run until the next day that is not a Saturday, Sunday, or federal holiday.

Enforcement of the Certification

All of the statements in the certification are subject to investigation and a false certification will violate section 2257A and potentially other criminal statutes.

Form and Content of the Certification

The certification regime in the proposed rule requires that a producer provide a letter to the Attorney General that:

(1) Sets out the statutory basis under which it and any sub-entities, if applicable, are permitted to avail themselves of the safe harbor;

(2) Certifies that regularly and in the normal course of business, the producer and any sub-entities, if applicable, collect and maintain individually identifiable information regarding all performers employed by the producer who appear in visual depictions of simulated sexually explicit conduct or of lascivious exhibition;

(3) Lists the titles, names, or other identifying information of visual depictions (or matter containing them) that include non-employee performers;

(4) Lists the titles, names, or other identifying information of visual depictions (or matter containing them) produced since the last certification;

(5) Certifies that any foreign producers of visual depictions acquired by the certifying entity either maintain the records required by section 2257A or have themselves provided certifications to the Attorney General, and the producers making the certifications have copies of those records or certifications; or, for visual depictions of simulated sexually explicit conduct only, have taken reasonable steps to confirm that the performers are not minors;

(6) Lists the titles, names, or other identifying information of the foreign-produced visual depictions (or matter containing them) that include performers for whom no information is available but for whom the U.S. entity has taken reasonable steps to confirm that the performers are not minors;

(7) Certifies that U.S. primary producers of visual depictions acquired by the certifying entity either maintain the records required by section 2257A or certify themselves under the statute's safe harbor, and that the producer making the certification has copies of those records or certification(s). *See* 28 CFR 75.1(c)(1) (defining a primary producer as ''any person who actually films, videotapes, photographs, or creates'' a visual depiction of sexually explicit conduct).

Statutory Basis for the Certification

The first requirement listed above is straightforward—the entity providing the certification must state why it is entitled to certify under the terms of the statute. This will include citation to the specific subsections of the statute under which it is making the certification and to basic evidence justifying that citation. Specifically, the letter should either cite 18 U.S.C. 2257A(h)(1)(A) and 28 CFR 75.9 and state that the visual depictions listed in the letter are ''intended for commercial distribution,'' ''created as a part of a commercial enterprise'' that meets the requirements of 18 U.S.C. 2257A(h)(1)(A)(ii), and are ''not produced, marketed or made available * * * in circumstances such tha[t] an ordinary person would conclude that * * * [they] contain a visual depiction that is child pornography as defined in section 2256(8)'' or cite 18 U.S.C. 2257A(h)(1)(B) and 28 CFR 75.9 and state that the visual depictions listed in the letter are ''subject to regulation by the Federal Communications Commission acting in its capacity to enforce 18 U.S.C. 1464 regarding the broadcast of obscene, indecent or profane programming'' and are ''created as a part of a commercial enterprise'' that meets the requirements of 18 U.S.C. 2257A(h)(1)(B)(ii).

Certification of Collection and Maintenance of Records

The second requirement is the certification under either subsection 2257A(h)(1)(A)(ii) or (B)(ii). Under either subsection, the certifier must demonstrate its compliance with the following five enumerated elements: the entity (1) ''regularly and in the normal course of business collects and maintains'' (2) ''individually identifiable information'' (3) ''regarding all performers, including minor performers employed by [the entity]'' (4) ''pursuant to Federal and State tax, labor, and other laws, labor agreements, or otherwise pursuant to industry standards'' (5) ''where such information includes the name, address, and date of birth of the performer.'' The Department will consider any entity's procedures that include these basic elements to be in compliance with the certification.

To the extent that these terms are not self-explanatory, the proposed rule defines them as follows:

''Regularly and in the normal course of business collects and maintains'' means any business practice(s) that ensure that the producer confirms the identity and age of employees who perform in visual depictions of sexually explicit conduct.

''Individually identifiable information'' means that information about the name, address, and date of birth is capable of being retrieved for any employee who appears in a specified visual depiction.

''All performers, including minor performers'' means all performers who appear, no matter how briefly, in a visual depiction of lascivious exhibition or simulated sexually explicit conduct. The term ''minor'' in the statute could be interpreted to mean performers under the age of 18, which is the way the term ''minor'' is used elsewhere in chapter 110. Such an interpretation in this context, however, would be redundant, as the purpose of the record-keeping

requirements is to ensure record-keeping for ''all performers,'' the first term in the phrase. Hence, the Department interprets the term to refer to performers who appear for only a limited period of time in the context of the overall visual depiction. ''All performers, including minor performers'' does not mean all performers in any matter that may contain a discrete (or several discrete) visual depictions of lascivious exhibition or simulated sexually explicit conduct. Rather, it means only those performers in the discrete visual depiction(s). That is, an entity that produces a two-hour-long movie containing a single visual depiction of lascivious exhibition or simulated sexually explicit conduct lasting five minutes need only collect and maintain records on the performers in that five-minute visual depiction.

''Employed by'' means performers who receive pay for performing in the visual depictions or are otherwise in an employer-employee relationship with the producer of the visual depiction as evidenced by oral or written agreements. This definition is important, because by use of the term ''employed by,'' the statute appears to permit a producer to make the certification even if there are performers who appear in its visual depictions for whom it does not regularly and in the normal course of business collect and maintain individually identifiable information. It is possible, for example, that persons with whom the producer has no employer-employee relationship may appear in the background of a visual depiction or may engage in sexually explicit conduct in the background of a depiction of non-sexually explicit conduct. Because of the language of the statute, a producer in that circumstance may still certify and remove itself from the coverage of the entire record-keeping requirements of the section, even without collecting and maintaining individually identifiable information for the non-employee performers. The language of the statute permits no other construction of the certification regime.

As a result of this language, however, there is a risk that a performer who is a minor could appear in a depiction produced by an entity that has made a certification and not be detected because the minor was not ''employed by'' the certifying entity. In addition, there is a risk that a producer may seek to evade the record-keeping requirements by certifying that he maintains records on all employees and then producing his visual depictions with performers—such as his own children—whom he claims are not his employees.

In the first case, the Department recognizes that a producer might not collect and maintain regularly and in the normal course of business individually identifiable information on non-employees. At the same time, the Department believes that the scenario described above—that is, the production of visual depictions of lascivious exhibition or of simulated sexually explicit conduct in which bona fide non-employees perform—will be very rare.

The Department is more concerned about the possibility of evasion, as in the second scenario described above. For that reason, the Department has included a slightly broader definition of ''employed by'' than simply financial remuneration. The definition would include anyone who, even if not for pay, intentionally performs or is required to perform in a visual depiction of sexually explicit conduct intended for commercial distribution that is produced by someone meeting the definition of a primary or secondary producer. *See* 28 CFR 75.1(c)(2) (generally defining a ''secondary producer'' as ''any person who produces, assembles, manufactures, publishes, duplicates, reproduces, or reissues'' a visual depiction of sexually explicit conduct).

The Department considers it unnecessary to define the phrase ''pursuant to Federal and State tax, labor, and other laws, labor agreements, or otherwise pursuant to industry standards.'' As guidance to employers, however, the Department will consider any document that contains a verified name, address, and date of birth of a performer to satisfy this requirement.

The Department considers the phrase ''where such information includes the name, address, and date of birth of the performer'' to be self-explanatory.

List of the Titles, Names, or Other Identifying Information of Visual Depictions That Include Non-Employee Performers

As an extra precaution against evasion, the third requirement is a list of all visual depictions or matter containing visual depictions in which non-employees have engaged in sexually explicit conduct. This provides the Department with notice and a record that such visual depictions by the producers exist and, if necessary, enables the Department to investigate the bona fides of the certifying entity. At the same time, the list is not so burdensome as to vitiate the purpose of the certification regime in the first instance, namely, reducing the burdensomeness of the record-keeping requirements. Rather than maintaining age verification records, copies of each performance, etc., the certifying entities need only provide a list of their productions that include depictions of lascivious exhibition or simulated sexually explicit conduct by non-employee performers.

List of the Titles, Names, or Other Identifying Information of Visual Depictions Produced Since the Last Certification

The fourth requirement is necessary to provide the Department with both a notice and a record regarding which depictions or matters are subject to the certification. The Department considered simply allowing entities to make a blanket assertion that they maintain the required records on all employees who perform in all matter they produce. The Department determined, however, that depiction-specific information will enable investigators more easily to determine whether a visual depiction is covered by the section 2257A certification regime. The list submitted by a certifying entity must include the titles, names, or other identifying information of visual depictions acquired by the certifying entity from foreign or U.S. primary producers.

Certification for Entities Acquiring Foreign-Produced Matter

The fifth requirement is a subsidiary certification for entities acquiring matter subject to the record-keeping requirements from foreign producers. The Department understands that many producers in the United States acquire films and other matter that may contain visual depictions of lascivious exhibition or simulated sexually explicit conduct from producers abroad. In order to produce that matter for the U.S. market and comply with the law, the U.S. entity acquiring the matter must certify either that the foreign producer in the first instance maintained the records required by the statute and that the U.S. entity has copies of those records, or that the foreign entity has certified on its own that it (the foreign producer) maintains foreign-equivalent records in the normal course of business, and that the U.S. entity has a copy of that certification. The Department believes it is appropriate for the exemption to apply based on certifications that foreign producers maintain foreign-equivalent records because foreign countries generally have tax and employment laws requiring identification of employees that are

substantially similar to requirements under U.S. law.

There may be cases where a U.S. entity acquires foreign-produced matter and cannot certify the information above. In such a case, the U.S. entity would not be able to produce the matter in the United States. Denying the market in the United States access to a large amount of foreign-produced matter, however, could be construed as a burden on American citizens' First Amendment right to free expression. At the same time, the Department cannot risk permitting either foreign children to be exploited in the visual depictions produced for the U.S. market or evasion of the statute by unscrupulous U.S. producers.

Therefore, U.S. entities making the certification may certify that to the extent that they have acquired visual depictions or matter containing visual depictions of simulated sexually explicit conduct from foreign entities and to the extent that the primary foreign producer does not either maintain the records required by the statute or provide a certification to the Attorney General itself, the entity making the certification has made reasonable efforts to ensure that no performer in any such foreign visual depiction is a minor.

The same process will not be available for visual depictions of lascivious exhibition acquired from foreign entities. The risks of exploitation of children in such visual depictions and the risk of evasion of the record-keeping requirements are too great to permit the accommodation for visual depictions of simulated sexually explicit conduct outlined above. The Department is concerned that providing a method for weaker enforcement of section 2257 with regard to lascivious exhibition would undermine the existing section 2257 requirements. The Department notes, however, that Congress clearly considered non-compliance with record-keeping requirements concerning visual depictions of simulated sexually explicit conduct (under section 2257A) to be a less serious crime than non-compliance with analogous requirements for visual depictions of actual sexually explicit conduct (under section 2257), as exemplified by the misdemeanor penalty for violation of the former section versus the felony penalty for violation of the latter section.

List of All Foreign-Acquired Matter for Which Records of Performers Are Not Available

The sixth requirement is that the entity making the certification must include a list of the visual depictions or matter including those visual depictions for which no records exist but for which the certifying entity has made reasonable efforts to ensure that no performer in any visual depiction is a minor. As with the case of non-employee performers, this list will provide the Department with notice and a record that such visual depictions exist and if necessary, enable investigation of such matter. At the same time, the requirement of the list and a certification of reasonable efforts by the secondary producer in the United States will provide significant protection without unduly infringing on constitutional rights. The risk of evasion is mitigated by the severe criminal penalties for production of child pornography that would apply to any matter covered by the record-keeping requirements.

Certification of Record-Keeping by Primary Producers

The seventh requirement is that, as with foreign primary producers, an entity acquiring visual depictions must certify either that the primary producer in the first instance maintained the records required by the statute and that the certifying entity has copies of those records, or that the primary producer has certified separately that it (the primary producer) has made a certification and that the acquiring entity has a copy of that certification.

Effective Dates

In accordance with current law, the proposed rule retains July 3, 1995, as the effective date of the rule's requirements for secondary producers related to depictions of actual sexually explicit conduct. (The current regulations, published in 2005, adopted July 3, 1995, as the effective date of enforcement of section 2257 based on the court's order in *American Library Association* v. *Reno*, No. 91–0394 (SS) (D.D.C. July 28, 1995)) The proposed rule also states that producers of visual depictions of actual sexually explicit conduct made after July 3, 1995, the effective date of the regulations published in 1992, and before June 23, 2005, the effective date of the current regulations published in 2005, may rely on picture identification cards issued by private entities such as schools or private employers that were valid forms of required identification documentation under the provisions of part 75 in effect on the original production date. Finally, the proposed rule's effective date concerning depictions of simulated sexually explicit conduct will be 90 days after its publication in the **Federal Register** as a final rule.

Regulatory Procedures

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, 5 U.S.C. 601–612 (''RFA''), the Department of Justice has drafted this proposed rule to minimize its impact on small businesses while meeting its intended objectives. Based upon the preliminary information available to the Department through past investigations and enforcement actions involving the affected industry, the Department is unable to state with certainty that this rule, if promulgated as a final rule, will not have any effect on small businesses of the type described in 5 U.S.C. 601(3). Accordingly, the Department has prepared a final RFA analysis in accordance with 5 U.S.C. 604, as follows:

A. Need for and Objectives of This Rule

The identity of every performer is critical to determining and assuring that no performer is a minor. The key congressional concern, evidenced by the child exploitation statutory scheme, was that all such performers of actual or simulated sexually explicit conduct verifiably not be minors, *i.e.* , not younger than 18 years of age. *See* 18 U.S.C. 2256(1), 2257(b)(1), 2257A(b)(1). Congress has recognized that minors warrant special concern in this area. Children themselves are incapable of giving voluntary and knowing consent to perform or to enter into contracts to perform such conduct. In addition, children often are forced to engage involuntarily in sexually explicit conduct. For these reasons, visual depictions of actual and simulated sexually explicit conduct that involve persons under the age of 18 constitute unlawful child pornography. *See* 18 U.S.C. 2256(8).

This proposed rule amends certain provisions of the existing regulations and adds other provisions to these regulations to conform to the Act, as described above.

B. Description and Estimates of the Number of Small Entities Affected by This Rule

The RFA defines a ''small business'' as equivalent to a ''small business concern'' under the Small Business Act (''SBA''). *See* 5 U.S.C. 601(3)

(incorporating by reference the definition of ''small business concern'' in 15 U.S.C. 632). Under the SBA, a ''small-business concern'' is one that (1) is independently owned and operated, (2) is not dominant in its field of operation, and (3) meets any additional criteria established by the SBA. *See* 15 U.S.C. 632(a).

Based upon the information available to the Department, there are likely to be a significant number of small businesses that are producers of visual depictions of simulated sexually explicit conduct.

Pursuant to the RFA, the Department requests affected small businesses to estimate what these regulations will cost as a percentage of their total revenues in order to enable the Department to ensure that small businesses are not unduly burdened.

The proposed rule has no effect on State or local governmental agencies.

C. Specific Requirements Imposed That Would Impact Private Companies

The proposed rule imposes requirements on private companies with respect to visual depictions of simulated sexually explicit conduct to ensure that minors are not used in such depictions. Specifically, the rule imposes certain name- and age-verification and record-keeping requirements on producers of visual depictions of simulated sexually explicit conduct concerning the performers portrayed in those depictions. The proposed rule, however, provides an exemption from these requirements applicable in certain circumstances.

Executive Order 12866

This proposed rule has been drafted and reviewed in accordance with Executive Order 12866, § 1(b), Principles of Regulation. The Department has determined that this rule is a ''significant regulatory action'' under Executive Order 12866, § 3(f). Accordingly, this rule has been reviewed by the Office of Management and Budget.

The benefit of the rule is that children will be protected from exploitation in the production of visual depictions of simulated sexually explicit conduct by ensuring that only those who are at least 18 years of age perform in such depictions. The costs to the industry include what the Department believes to be slightly higher record-keeping costs. The Department encourages all affected commercial entities to provide specific estimates, wherever possible, of the economic costs that this rule will impose on them.

Executive Order 13132

This regulation 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. Therefore, in accordance with Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Executive Order 12988

This regulation meets the applicable standards set forth in Executive Order 12988 § 3(a), (b)(2).

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1501 *et seq.*

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996. *See* 5 U.S.C. 804. This rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Paperwork Reduction Act

This proposed rule expands the scope of existing requirements to conform to newly enacted legislation. It also implements the newly enacted legislation's exemption from these expanded requirements applicable in certain cases. It contains a revised collection of information that clarifies the means of maintaining and organizing the required documents.

The Department 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 proposed collection of information is published to obtain comments from the public.

Any comments received during the comment period should address one or more of the following four points: (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 the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) how to enhance the quality, utility, and clarity of the information to be collected; and (4) how to 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 collection of information:

(1) *Type of collection of information:* Revision of a currently approved collection.

(2) *Title:* Inspection of Records Relating to Depictions of Simulated Sexually Explicit Performances.

(3) *Agency form number, if any:* None.

(4) Affected public who will be asked or required to respond, as well as a brief abstract:

Primary: Business or other for-profit entities.

Other: None.

Abstract: This rule proposes to amend the record-keeping, labeling, and inspection requirements of 28 CFR part 75 to account for the enactment of the Adam Walsh Child Protection and Safety Act of 2006.

(5) An estimate of the total number of respondents, the amount of time estimated for an average respondent to respond, and the total public burden (in hours) associated with the collection:

The Department is unable to estimate with any precision the number of entities producing visual depictions of simulated sexually explicit conduct. Because the issue of the number of entities producing visual depictions of simulated sexually explicit conduct is a new issue that has arisen precisely because of section 2257A, there does not appear to be much available information concerning the number of entities producing such material. As a partial indication, according to the U.S. Census Bureau, in 2002 there were 11,163 establishments engaged in motion picture and video production in the United States. Based on a rough assumption that 10% were engaged in

the production of visual depictions of simulated sexually explicit conduct, the Department estimates that approximately 1116 motion picture and video producing establishments would be covered. (The Department does not certify this estimate and invites comment on the assumptions upon which it is based.) The underlying statute provides an exemption from these requirements applicable in certain circumstances, and it requires producers to submit certifications to qualify for this exemption. The Department has no information concerning the number of otherwise covered entities that would qualify for this statutory exemption, nor is it able to estimate this number. For entities that qualify for the statutory exemption, however, the Department estimates that it would take less than 20 hours per year at an estimated cost of less than $25.00 per hour to prepare the biennial certification required for the statutory exemption. The Department's burden hour estimate for preparing the biennial certification required for the statutory exemption recognizes that the certification must take the form of a letter indicating that the producer regularly and in the normal course of business collects and maintains individually identifiable information regarding all performers employed by that person, and shall include a list of the titles, names, or other identifying information of visual depictions of simulated sexually explicit conduct or lascivious exhibition produced since the last certification, as well as a list of the titles, names, or other identifying information of visual depictions of simulated sexually explicit conduct or lascivious exhibition that include non-employee performers. The Department assumes that the certification's main burden would be to require producers to maintain a list of the visual depictions produced during the certification period, and that the majority of the work to prepare the certification would be performed by administrative staff. Based on the Department's assumption that 90% of such entities would qualify for the exemption, the total annual cost for the entities qualifying for the statutory exemption would be approximately $21,500 per year. Again, the Department does not certify the accuracy of these numbers and invites comment on the assumptions outlined above.

Based on the Department's assumption that 3,000,000 visual depictions of simulated sexually explicit conduct are created each year and that it requires 6 minutes to complete the record-keeping requirement for each depiction, the record-keeping requirements would impose a burden of 300,000 hours. Based on the Department's assumption that producers of 90% of these depictions would qualify for the statutory exemption from these requirements, the requirements would only impose a burden of 30,000 hours. Assuming further that the record keeping requirements will cost $6.00 per hour to complete and $0.05 for each image of a verifiable form of identification, the total annual cost for the 10% of entities not qualifying for the statutory exemption would be $181,500. Again, the Department does not certify the accuracy of these numbers and invites comment on the assumptions outlined above.

The Department notes that steps taken to minimize the burden of these requirements on small entities include the statutory exemption requiring only that such entities prepare the certification necessary for the exemption.

All comments and suggestions, or questions regarding additional information, should be directed to Andrew Oosterbaan, Chief, Child Exploitation and Obscenity Section, Criminal Division, United States Department of Justice, Washington, DC 20530; (202) 514–5780. This is not a toll-free number. Comments should also be sent to: Lynn Bryant, Clearance Officer, United States Department of Justice, Policy and Planning Staff, Justice Management Division, Patrick Henry Building, 601 D Street, NW, Washington, DC 20530.

List of Subjects in 28 CFR Part 75

Crime, Infants and children, Reporting and recordkeeping requirements.

Accordingly, for the reasons set forth in the preamble, part 75 of chapter I of title 28 of the Code of Federal Regulations is proposed to be amended as follows:

PART 75—CHILD PROTECTION RESTORATION AND PENALTIES ENHANCEMENT ACT OF 1990; PROTECT ACT; ADAM WALSH CHILD PROTECTION AND SAFETY ACT OF 2006; RECORD-KEEPING AND RECORD INSPECTION PROVISIONS

1. The authority citation for part 75 is revised to read as follows:

Authority: 18 U.S.C. 2257, 2257A.

2. The title of part 75 is revised to read as set forth above.

3. Amend § 75.1 by revising paragraphs (c)(1), (c)(2), (c)(4) introductory text, and (d), and further amend as proposed on July 12, 2007, at 72 FR 38038 by revising paragraph (m) and adding paragraphs (o), (p), (q), (r), and (s), to read as follows:

§ 75.1 Definitions.

* * * * *

(c) * * *

(1) *Primary producer* is any person who actually films, videotapes, photographs, or creates a digitally or computer-manipulated image, a digital image, or picture, or digitizes an image, of a visual depiction of an actual human being engaged in actual or simulated sexually explicit conduct.

(2) *Secondary producer* is any person who produces, assembles, manufactures, publishes, duplicates, reproduces, or reissues a book, magazine, periodical, film, videotape, digitally or computer-manipulated image, picture, or other matter intended for commercial distribution that contains a visual depiction of an actual human being engaged in actual or simulated sexually explicit conduct, or who inserts on a computer site or service a digital image of, or otherwise manages the sexually explicit content of a computer site or service that contains a visual depiction of an actual human being engaged in actual or simulated sexually explicit conduct, including any person who enters into a contract, agreement, or conspiracy to do any of the foregoing.

* * * * *

(4) *Producer* does not include persons whose activities relating to the visual depiction of actual or simulated sexually explicit conduct are limited to the following:

* * * * *

(d) *Sell, distribute, redistribute, and re-release* refer to commercial distribution of a book, magazine, periodical, film, videotape, digitally or computer-manipulated image, digital image, picture, or other matter that contains a visual depiction of an actual human being engaged in actual or simulated sexually explicit conduct, but does not refer to noncommercial or educational distribution of such matter, including transfers conducted by bona fide lending libraries, museums, schools, or educational organizations.

* * * * *

(m) *Date of original production or original production date* means the date the primary producer actually filmed, videotaped, or photographed, or created a digitally or computer-manipulated image, digital image, or picture, of the visual depiction of an actual human being engaged in actual or simulated sexually explicit conduct.

* * * * *

(o) *Simulated sexually explicit conduct* means conduct engaged in by performers in a visual depiction that is intended to appear to be actual sexually explicit conduct and does so appear to a reasonable viewer.

(p) *Regularly and in the normal course of business collects and maintains* means any business practice that ensures that the producer confirms the identity and age of employees who perform in visual depictions of sexually explicit conduct.

(q) *Individually identifiable information* means that information about the names, addresses, and dates of birth of employees is capable of being retrieved on the basis of a name of an employee who appears in a specified visual depiction.

(r) *All performers, including minor performers* means all performers who appear in a visual depiction of lascivious exhibition of the genitals or pubic area or simulated sexually explicit conduct, no matter for how short a period of time.

(s) *Employed by* means, in reference to a performer, one who receives pay for performing in a visual depiction or is otherwise in an employer-employee relationship with the producer of the visual depiction as evidenced by oral or written agreements.

4. Amend § 75.2 by revising the introductory text of paragraph (a) and paragraphs (a)(1), (a)(2), (c) and (d), to read as follows:

§ 75.2 Maintenance of records.

(a) Any producer of any book, magazine, periodical, film, videotape, digitally or computer-manipulated image, digital image, picture, or other matter that contains a depiction of an actual human being engaged in actual sexually explicit conduct that is produced in whole or in part with materials that have been mailed or shipped in interstate or foreign commerce, or is shipped or transported or is intended for shipment or transportation in interstate or foreign commerce and that contains one or more visual depictions of an actual human being engaged in actual sexually explicit conduct made after July 3, 1995, or of an actual human being engaged in simulated sexually explicit conduct made after [DATE 90 DAYS AFTER PUBLICATION IN THE **FEDERAL REGISTER** OF THE FINAL RULE], shall, for each performer portrayed in such visual depiction, create and maintain records containing the following:

(1) The legal name and date of birth of each performer, obtained by the producer's examination of a picture identification card prior to production of the depiction. For any performer portrayed in a depiction of an actual human being engaged in actual sexually explicit conduct made after July 3, 1995, or of an actual human being engaged in simulated sexually explicit conduct made after [DATE 90 DAYS AFTER PUBLICATION IN THE **FEDERAL REGISTER** OF THE FINAL RULE], the records shall also include a legible hard copy of the identification document examined and, if that document does not contain a recent and recognizable picture of the performer, a legible hard copy of a picture identification card. For any performer portrayed in a depiction of an actual human being engaged in actual sexually explicit conduct made after June 23, 2005, or of an actual human being engaged in simulated sexually explicit conduct made after [DATE 90 DAYS AFTER PUBLICATION IN THE **FEDERAL REGISTER** OF THE FINAL RULE], the records shall include a copy of the depiction and, where the depiction is published on an Internet computer site or service, a copy of any URL associated with the depiction. If no URL is associated with the depiction, the records shall include another uniquely identifying reference associated with the location of the depiction on the Internet. For any performer in a depiction performed live on the Internet, the records shall include a copy of the depiction with running-time sufficient to identify the performer in the depiction and to associate the performer with the records needed to confirm his or her age.

(2) Any name, other than the performer's legal name, ever used by the performer, including the performer's maiden name, alias, nickname, stage name, or professional name. For any performer portrayed in a visual depiction of an actual human being engaged in actual sexually explicit conduct made after July 3, 1995, or of an actual human being engaged in simulated sexually explicit conduct made after [DATE 90 DAYS AFTER PUBLICATION IN THE **FEDERAL REGISTER** OF THE FINAL RULE], such names shall be indexed by the title or identifying number of the book, magazine, film, videotape, digitally or computer-manipulated image, digital image, picture, URL, or other matter. Producers may rely in good faith on representations by performers regarding accuracy of the names, other than legal names, used by performers.

* * * * *

(c) The information contained in the records required to be created and maintained by this part need be current only as of the time the primary producer actually films, videotapes, or photographs, or creates a digitally or computer-manipulated image, digital image, or picture, of the visual depiction of an actual human being engaged in actual or simulated sexually explicit conduct. If the producer subsequently produces an additional book, magazine, film, videotape, digitally or computer-manipulated image, digital image, or picture, or other matter (including but not limited to an Internet computer site or service) that contains one or more visual depictions of an actual human being engaged in actual or simulated sexually explicit conduct made by a performer for whom he maintains records as required by this part, the producer may add the additional title or identifying number and the names of the performer to the existing records maintained pursuant to paragraph (a)(2) of this section.

(d) For any record of a performer in a visual depiction of actual sexually explicit conduct created or amended after June 23, 2005, or of a performer in a visual depiction of simulated sexually explicit conduct made after [DATE 90 DAYS AFTER PUBLICATION IN THE **FEDERAL REGISTER** OF THE FINAL RULE], all such records shall be organized alphabetically, or numerically where appropriate, by the legal name of the performer (by last or family name, then first or given name), and shall be indexed or cross-referenced to each alias or other name used and to each title or identifying number of the book, magazine, film, videotape, digitally or computer-manipulated image, digital image, or picture, or other matter (including but not limited to an Internet computer site or service). If the producer subsequently produces an additional book, magazine, film, videotape, digitally or computer-manipulated image, digital image, picture, or other matter (including but not limited to an Internet computer site or service) that contains one or more visual depictions of an actual human being engaged in actual or simulated sexually explicit conduct made by a performer for whom he maintains records as required by this part, the producer shall add the additional title or identifying number and the name(s) of the performer to the existing records and such records shall thereafter be maintained in accordance with this paragraph.

* * * * *

5. Amend § 75.6 by revising paragraph (a) to read as follows:

§ 75.6 Statement describing location of books and records.

(a) Any producer of any book, magazine, periodical, film, videotape, digitally or computer-manipulated image, digital image, picture, or other matter (including but not limited to an Internet computer site or service) that contains one or more visual depictions of an actual human being engaged in actual sexually explicit conduct made after July 3, 1995, and produced, manufactured, published, duplicated, reproduced, or reissued after July 3, 1995, or in simulated sexually explicit conduct made after [DATE 90 DAYS AFTER PUBLICATION IN THE **FEDERAL REGISTER** OF THE FINAL RULE], shall cause to be affixed to every copy of the matter a statement describing the location of the records required by this part. A producer may cause such statement to be affixed, for example, by instructing the manufacturer of the book, magazine, periodical, film, videotape, digitally or computer-manipulated image, digital image, picture, or other matter to affix the statement. In this paragraph, the term ''copy'' includes every page of a Web site on which appears a visual depiction of an actual human being engaged in actual or simulated sexually explicit conduct.

* * * * *

6. Revise § 75.7 to read as follows:

§ 75.7 Exemption statement.

(a) Any producer of any book, magazine, periodical, film, videotape, digitally or computer-manipulated image, digital image, picture, or other matter may cause to be affixed to every copy of the matter a statement attesting that the matter is not covered by the record-keeping requirements of 18 U.S.C. 2257(a)–(c) or 18 U.S.C. 2257A(a)–(c), as applicable, and of this part if:

(1) The matter contains only visual depictions of actual sexually explicit conduct made before July 3, 1995, or was produced, manufactured, published, duplicated, reproduced, or reissued before July 3, 1995;

(2) The matter contains only visual depictions of simulated sexually explicit conduct made before [DATE 90 DAYS AFTER PUBLICATION IN THE **FEDERAL REGISTER** OF THE FINAL RULE];

(3) The matter contains only some combination of the visual depictions described in paragraphs (a)(1) and (a)(2) of this section.

(b) If the primary producer and the secondary producer are different entities, the primary producer may certify to the secondary producer that the visual depictions in the matter satisfy the standards under paragraphs (a)(1) through (a)(3) of this section. The secondary producer then may cause to be affixed to every copy of the matter a statement attesting that the matter is not covered by the record-keeping requirements of 18 U.S.C. 2257(a)–(c) or 18 U.S.C. 2257A(a)–(c), as applicable, and of this part.

7. Amend § 75.8 by revising paragraph (d) to read as follows:

§ 75.8 Location of the statement.

* * * * *

(d) A computer site or service or Web address containing a digitally or computer-manipulated image, digital image, or picture, shall contain the required statement on every page of a Web site on which appears a visual depiction of an actual human being engaged in actual or simulated sexually explicit conduct.

* * * * *

8. Amend part 75 by adding § 75.9 to read as follows:

§ 75.9 Certification of records.

(a) *In general.* The provisions of §§ 75.2 through 75.8 shall not apply to a visual depiction of actual sexually explicit conduct constituting lascivious exhibition of the genitals or pubic area of a person or to a visual depiction of simulated sexually explicit conduct if all of the following requirements are met:

(1) The visual depiction is intended for commercial distribution;

(2) The visual depiction is created as a part of a commercial enterprise;

(3) Either—

(i) The visual depiction is not produced, marketed, or made available in circumstances such that an ordinary person would conclude that the matter contains a visual depiction that is child pornography as defined in 18 U.S.C. 2256(8), or

(ii) The visual depiction is subject to regulation by the Federal Communications Commission acting in its capacity to enforce 18 U.S.C. 1464 regarding the broadcast of obscene, indecent, or profane programming; and

(4) The producer of the visual depiction certifies to the Attorney General that he regularly and in the normal course of business collects and maintains individually identifiable information regarding all performers, including minor performers, whom he employs pursuant to Federal and State tax, labor, and other laws, labor agreements, or otherwise pursuant to industry standards, where such information includes the names, addresses, and dates of birth of the performers.

(b) *Form of certification.* The certification shall take the form of a letter addressed to the Attorney General and signed by the chief executive officer of the entity making the certification or, in the event the entity does not have a chief executive officer, the senior manager responsible for overseeing the entity's activities.

(c) *Content of certification.* The certification shall contain the following:

(1) A statement setting out the basis under 18 U.S.C. 2257A and part 75.9 under which the certifying entity and any sub-entities, if applicable, are permitted to avail themselves of the safe harbor, and basic evidence justifying that basis.

(2) The following statement: ''I hereby certify that [name of entity] [and all sub-entities listed in this letter] regularly and in the normal course of business collect and maintain individually identifiable information regarding all performers employed by [name of entity] who appear in visual depictions of simulated sexually explicit conduct or of lascivious exhibition of the genitals or pubic area'';

(3) A list of the titles, names, or other identifying information of visual depictions of simulated sexually explicit conduct or lascivious exhibition of the genitals or pubic area (or matter containing them) that include non-employee performers;

(4) A list of the titles, names, or other identifying information of visual depictions of simulated sexually explicit conduct or lascivious exhibition of the genitals or pubic area (or matter containing them) produced since the last certification;

(5) If applicable because the visual depictions at issue were produced outside the United States, the statement that: ''I hereby certify that the foreign producers of the visual depictions listed above either collect and maintain the records required by sections 2257 and 2257A of title 18 of the U.S. Code, or have certified to the Attorney General that they collect and maintain individually identifiable information regarding all performers, including minor performers, whom they employ pursuant to tax, labor, and other laws, labor agreements, or otherwise pursuant to industry standards, where such information includes the names, addresses, and dates of birth of the performers, in accordance with 28 CFR part 75; and [name of entity] has copies of those records or certifications.'' For visual depictions of simulated sexually explicit conduct only, the producer may provide the following statement instead:

''I hereby certify that [name of entity] has taken reasonable steps to confirm that the performers in the visual depictions listed below are not minors.''

(6) If applicable, a list of the titles, names, or other identifying information of the foreign-produced visual depictions (or matter containing them) of simulated sexually explicit conduct for whom records of the performers appearing in them are not available but for whom the certifying entity has taken reasonable steps to confirm that the performers in them are not minors.

(7) If applicable, the statement that: ''I hereby certify that the primary producers of visual depictions secondarily produced by [name of entity] and listed above either collect and maintain the records required by sections 2257 and 2257A of title 18 of the U.S. Code or have certified to the Attorney General that they regularly and in the normal course of business collect and maintain individually identifiable information regarding all performers, including minor performers, whom they employ, pursuant to Federal and State tax, labor, and other laws, labor agreements, or otherwise pursuant to industry standards, where such information includes the names, addresses, and dates of birth of the performers, in accordance with 28 CFR part 75; and [name of entity] has copies of those records or certifications.''

(d) *Entities covered by each certification.* A single certification may cover all or some subset of all entities owned by the entity making the certification. However, the names of the sub-entities covered must be listed in such certification and must be cross-referenced to the matter for which the sub-entities served as the producers.

(e) *Frequency of certification.* An initial certification is due [DATE 180 DAYS AFTER PUBLICATION IN THE **FEDERAL REGISTER** OF THE FINAL RULE]. Subsequent certifications are due every two years from that date. The initial certification and all subsequent certifications must be filed within a period of five business days concluding on the due date (*i.e.* , if the due date were on a Friday, and there were no federal holiday during that week, the certification would have to be filed on Monday, Tuesday, Wednesday, Thursday, or Friday of that week). Initial certifications of producers who begin production after [DATE OF PUBLICATION IN THE **FEDERAL REGISTER** OF THE FINAL RULE] but before [DATE 180 DAYS AFTER PUBLICATION IN THE **FEDERAL REGISTER** OF THE FINAL RULE] are due on [DATE 180 DAYS AFTER PUBLICATION IN THE **FEDERAL REGISTER** OF THE FINAL RULE] and must be filed within a period of five business days concluding on the due date. Initial certifications of producers who begin production after [DATE 180 DAYS AFTER PUBLICATION IN THE **FEDERAL REGISTER** OF THE FINAL RULE] but before [DATE TWO YEARS AFTER 180 DAYS AFTER PUBLICATION IN THE **FEDERAL REGISTER** OF THE FINAL RULE] are due within 60 days of the start of production (unless the start of production occurs within 60 days of [DATE TWO YEARS AFTER 180 DAYS AFTER PUBLICATION IN THE **FEDERAL REGISTER** OF THE FINAL RULE], in which case the certifications are due on [DATE TWO YEARS AFTER 180 DAYS AFTER PUBLICATION IN THE **FEDERAL REGISTER** OF THE FINAL RULE]) and must be filed within a period of five business days concluding on the due date. In any case where a due date or last day of a time period falls on a Saturday, Sunday, or federal holiday, the due date or last day of a time period is considered to run until the next day that is not a Saturday, Sunday, or Federal holiday.

Dated: May 30, 2008.

Michael B. Mukasey,

Attorney General.

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BILLING CODE 4410–14–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 151

[USCG–2004–19621]

RIN 1625–AA89

Dry Cargo Residue Discharges in the Great Lakes; Notice of Public Meeting

AGENCY: Coast Guard, DHS.

ACTION: Notice of public meetings.

SUMMARY: The Coast Guard announces that public meetings for the May 23, 2008 notice of proposed rulemaking (NPRM) on dry cargo residue discharges in the Great Lakes and its supporting Draft Environmental Impact Statement (DEIS) will be held in Duluth, Minnesota, and Cleveland, Ohio, in July 2008. The proposed rule would allow the continued discharge of certain non-toxic and non-hazardous bulk dry cargo residues in the Great Lakes. Existing prohibitions on discharges in certain areas would be continued, and additional sensitive and protected areas would be defined as no-discharge zones. Recordkeeping and reporting requirements would be imposed, and the voluntary use of measures to control residues would be encouraged.

DATES: The public meetings will be held on the following dates:

- Duluth, MN, July 15, 2008 from 1 p.m. to 5 p.m.
- Cleveland, OH, July 17, 2008 from 1 p.m. to 5 p.m.

The previously announced deadline for receiving public comments on the Coast Guard's notice of proposed rulemaking (NPRM) and DEIS is July 22, 2008.

ADDRESSES: The Coast Guard will hold the public meetings at the following addresses:

- Duluth: Holiday Inn, 200 West First Street, Duluth, MN 55802, phone 218–727–7492.
- Cleveland: The Forum Conference Center, One Cleveland Center, 1375 East Ninth Street, Cleveland, OH 44114, phone 216–241–6338.

You may also submit comments identified by Coast Guard docket number USCG–2004–19621 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) *Fax:* 202–493–2251.

(4) *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.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, contact LT Heather St. Pierre, Project Manager, Environmental Standards Division, Coast Guard, via telephone at 202–372–1432 or via e-mail at *Heather.J.St.Pierre@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–493–0402.

SUPPLEMENTARY INFORMATION:

Comment Submissions

In the NPRM published May 23, 2008 (73 FR 30014), we previously requested public comments and provided information on how to submit them in writing. All written comments received

will be posted, without change, to *www.Regulations.gov* and will include any personal information you have provided. Please see the NPRM for additional information on submission of written comments.

Public Meetings

The Coast Guard encourages you to attend either the Duluth or the Cleveland meeting. These meetings will be open to the public, up to the capacity of the meeting spaces. Please note that either meeting may close early if all business is finished. Oral comments will be transcribed and the transcript will be made available in the docket at *www.Regulations.gov*. We will also accept written comments at both meetings and will enter them in the docket. See ''Comment Submissions'' if you are unable to attend a meeting but would still like to comment in writing on the NPRM.

Information on Services for Individuals With Disabilities

If you plan to attend one of the public meetings and require special assistance, such as sign language interpretation or other reasonable accommodations, please contact us as indicated in **FOR FURTHER INFORMATION CONTACT**.

Dated: June 2, 2008.

Jeffrey G. Lantz,

Director of Commercial Regulations and Standards, United States Coast Guard.

[FR Doc. E8–12651 Filed 6–5–08; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2008–0228; FRL–8567–5]

Revisions to the California State Implementation Plan, Sacramento Metropolitan Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Sacramento Metropolitan Air Quality Management District (SMAQMD) portion of the California State Implementation Plan (SIP). Under authority of the Clean Air Act as amended in 1990 (CAA or the Act), we are proposing to approve a local rule that requires submission of emission statements from stationary sources that emit volatile organic compounds and oxides of nitrogen.

DATES: Any comments on this proposal must arrive by *July 7, 2008*.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2008–0228, by one of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov*. Follow the on-line instructions.
2. *E-mail: steckel.andrew@epa.gov*.
3. *Mail or deliver:* Andrew Steckel (AIR–4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments 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 Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *www.regulations.gov* or e-mail. *www.regulations.gov* is an ''anonymous access'' system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. 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: The index to the docket for this action is available electronically at *www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (*e.g.*, copyrighted material), and some may not be publicly available in either location (*e.g.*, CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Mae Wang, EPA Region IX, (415) 947–4124, *wang.mae@epa.gov*.

SUPPLEMENTARY INFORMATION: This proposal addresses the following local rule: SMAQMD Rule 105, Emission Statement, adopted by the SMAQMD on September 5, 1996. In the Rules and Regulations section of this **Federal Register**, we are approving this local rule in a direct final action without prior proposal because we believe these SIP revisions are not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: April 11, 2008.

Jane Diamond,

Acting Regional Administrator, Region IX.

[FR Doc. E8–12477 Filed 6–5–08; 8:45 am]

BILLING CODE 6560–50–P

GENERAL SERVICES ADMINISTRATION

48 CFR Part 517

[GSAR Case 2007–G500; Docket 2008–0007; Sequence 3]

RIN 3090–AI51

General Services Acquisition Regulation; GSAR Case 2007–G500; Rewrite of GSAR Part 517, Special Contracting Methods

AGENCY: Office of the Chief Acquisition Officer, General Services Administration (GSA).

ACTION: Proposed rule with request for comments.

SUMMARY: The General Services Administration (GSA) is proposing to amend the General Services Administration Acquisition Regulation (GSAR) to revise sections that provide requirements for special contracting methods.

DATES: Interested parties should submit written comments to the Regulatory Secretariat on or before August 5, 2008 to be considered in the formulation of a final rule.

ADDRESSES: Submit comments identified by GSAR Case 2007–G500 by any of the following methods:

• Regulations.gov: *http://www.regulations.gov*.

Submit comments via the Federal eRulemaking portal by inputting ''GSAR

Case 2007–G500'' under the heading ''Comment or Submission''. Select the link ''Send a Comment or Submission'' that corresponds with GSAR Case 2007–G500. Follow the instructions provided to complete the ''Public Comment and Submission Form''. Please include your name, company name (if any), and ''GSAR Case 2007–G500'' on your attached document.

• Fax: 202–501–4067.

• Mail: General Services Administration, Regulatory Secretariat (VPR), 1800 F Street, NW., Room 4041, ATTN: Laurieann Duarte, Washington, DC 20405.

Instructions: Please submit comments only and cite GSAR Case 2007–G500 in all correspondence related to this case. All comments received will be posted without change to *http://www.regulations.gov*, including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Michael O. Jackson at (202) 208–4949, or by e-mail at *michaelo.jackson@gsa.gov*. For information pertaining to the status or publication schedules, contact the Regulatory Secretariat (VPR), Room 4041, GS Building, Washington, DC 20405, (202) 501–4755. Please cite GSAR Case 2007–G500.

SUPPLEMENTARY INFORMATION:

A. Background

The General Services Administration (GSA) is amending the General Services Administration Acquisition Regulation (GSAR) to update the text addressing Part 517, Special Contracting Methods.

This rule is a result of the General Services Administration Acquisition Manual (GSAM) Rewrite Initiative undertaken by GSA to revise the GSAM to maintain consistency with the FAR and implement streamlined and innovative acquisition procedures that contractors, offerors, and GSA contracting personnel can utilize when entering into and administering contractual relationships. The GSAM incorporates the General Services Administration Acquisition Regulation (GSAR) as well as internal agency acquisition policy.

GSA will rewrite each part of the GSAR and GSAM, and as each GSAR part is rewritten, will publish it in the **Federal Register**.

This proposed rule amends GSAR 517.200, Scope of subpart, to delete paragraph (b) because provisions inconsistent with the FAR are authorized only when a deviation has been obtained. GSAR 517.202 is revised to make minor edits and to delete paragraph (a)(2)(v) because the evaluation of performance before exercising an option is necessary in all option situations, and does not reflect a standard that only emerging small businesses need to meet. At GSAR 517.202(b), a cross-reference was inserted to FAR 22.404–12 to remind contracting officers of special Davis Bacon Act requirements applicable to certain construction contract options. GSAR 517.202(c) was added to include a cross-reference to FAR 7.105(b)(4), reminding contracting officers to address options in the acquisition plan. Language in GSAR 517.203(c) was added to ensure there are funds available when a solicitation includes an option to extend. GSAR 517.207, Exercise of options, is revised to delete language that repeats the FAR and to include minor edits.

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The General Services Administration does not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the revisions are not considered substantive. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. We invite comments from small businesses and other interested parties. GSA will consider comments from small entities concerning the affected GSAR Part 517 in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (GSAR case 2007–G500), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the GSAM do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 517:

Government procurement.

Dated: May 30, 2008.

Al Matera,

Director, Office of Acquisition Policy, U.S. General Services Administration.

Therefore, GSA proposes to amend 48 CFR part 517 as set forth below:

PART 517—SPECIAL CONTRACTING METHODS

1. The authority citation for 48 CFR part 517 is revised to read as follows:

AUTHORITY: 40 U.S.C. 121(c).

2. Revise section 517.200 to read as follows:

517.200 Scope of subpart.

This subpart applies to all GSA contracts for supplies and services, including:

(a) Services involving construction, alteration, or repair (including dredging, excavating, and painting) of buildings, bridges, roads, or other kinds of real property.

(b) Architect-engineer services.

3. Amend section 517.202 by—

a. Revising the introductory text of paragraph (a)(1);

b. Revising paragraphs (a)(2)(i) and (a)(2)(ii);

c. Removing paragraph (a)(2)(v);

d. Revising paragraph (b); and

e. Adding paragraph (c).

The revised and added text reads as follows:

517.202 Use of options.

(a) * * * (1) Options should be used when they meet one or more of the following objectives:

* * * * *

(2) * * *

(i) There is an anticipated need for additional supplies or services during the contract term.

(ii) Multiyear contracting authority is not available or its use is inappropriate and the contracting officer must anticipate a need for additional supplies or services beyond the initial contract term.

* * * * *

(b) *Construction.* (1) Construction contracts which contain options that extend the term of the contract must comply with the requirements of FAR 22.404–12 regarding the Davis-Bacon Act, and must contain one of the three clauses described at FAR 22.407(e), (f) or (g).

(2) For limitations on the use of options, see 536.213 and 536.270.

(c) *Acquisition Planning.* The benefits of using options in a contract should be discussed in the acquisition plan as addressed in FAR 7.105(b)(4).

4. Amend section 517.203 by removing from the introductory text the word ''both'' and adding the word ''all'' in its place, and adding paragraph (c) to read as follows:

517.203 Solicitations.

* * * * *

(c) Availability of funds.

5. Revise section 517.207 to read as follows:

517.207 Exercise of options.

In addition to the requirements of FAR 17.207, the contracting officer must also—

(a) Determine that the contractor's performance under the contract met or exceeded the Government's expectation for quality performance, unless another circumstance justifies an extended contractual relationship; and

(b) Determine that the option price is fair and reasonable.

517.208 [Amended]

5. Amend section 517.208 by removing from the introductory text the word ''FSS's'' and adding the word ''FAS's'' in its place.

[FR Doc. E8–12613 Filed 6–5–08; 8:45 am]

BILLING CODE 6820–61–S

GENERAL SERVICES ADMINISTRATION

48 CFR Parts 537 and 552

[GSAR Case 2008–G510; Docket 2008–0007; Sequence 4]

RIN 3090–AI54

General Services Acquisition Regulation; GSAR Case 2008–G510; Rewrite of GSAR Part 537, Service Contracting

AGENCY: Office of the Chief Acquisition Officer, General Services Administration (GSA).

ACTION: Proposed rule.

SUMMARY: The General Services Administration (GSA) is proposing to amend the General Services Acquisition Regulation (GSAR) to revise sections of the GSAR that pertains to requirements for service contracting.

DATES: Interested parties should submit written comments to the Regulatory Secretariat on or before August 5, 2008 to be considered in the formulation of a final rule.

ADDRESSES: Submit comments identified by GSAR Case 2008–G510 by any of the following methods:

- Regulations.gov: *http://www.regulations.gov*. Submit comments via the Federal eRulemaking portal by inputting ''GSAR Case 2008–G510'' under the heading ''Comment or Submission''. Select the link ''Send a Comment or Submission'' that corresponds with GSAR Case 2008–G510. Follow the instructions provided to complete the ''Public Comment and Submission Form''. Please include your name, company name (if any), and ''GSAR Case 2008–G510'' on your attached document.
- Fax: 202–501–4067.
- Mail: General Services Administration, Regulatory Secretariat (VPR), 1800 F Street, NW, Room 4041, ATTN: Laurieann Duarte, Washington, DC 20405.

Instructions: Please submit comments only and cite GSAR Case 2008–G510 in all correspondence related to this case. All comments received will be posted without change to *http://www.regulations.gov*, including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT For clarification of content, contact Mr. Michael O. Jackson at (202) 208–4949. For information pertaining to the status or publication schedules, contact the Regulatory Secretariat (VPR), Room 4041, GS Building, Washington, DC 20405, (202) 501–4755. Please cite GSAR Case 2008–G510.

SUPPLEMENTARY INFORMATION:

A. Background

The General Services Administration (GSA) is amending the General Services Administration Acquisition Regulation (GSAR) to revise sections of GSAR Part 537 that provide requirements for service contracting.

This rule is a result of the General Services Administration Acquisition Manual (GSAM) rewrite initiative undertaken by GSA to revise the GSAM to maintain consistency with the FAR and to implement streamlined and innovative acquisition procedures that contractors, offerors, and GSA contracting personnel can utilize when entering into and administering contractual relationships. The GSAM incorporates the General Services Administration Acquisition Regulation (GSAR) as well as internal agency acquisition policy.

GSA will rewrite each part of the GSAR and GSAM, and as each GSAR part is rewritten, will publish it in the **Federal Register**.

This rule covers the rewrite of GSAR Part 537. The rule revises 537 to address the text at GSAR 537.101, Definitions; 537.110 Solicitation provisions and contract clauses; provision 552.237–70, Qualifications of Offerors; and clause 552.237–73, Restriction on Disclosure of Information. The language in 537.101, Definitions, is removed from inclusion in the GSAR. This language clarifies the definition for ''contracts for building services'' for contracting officers, therefore this language is being incorporated as non-regulatory GSAM language. GSAR clauses 552.237–71, Qualifications of Employees and 552.237–72, Prohibition Regarding ''Quasi-Military Armed Forces'' are retained with no changes.

Discussion of Comments

There were no public comments received in response to the Advanced Notice of Proposed Rulemaking.

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The General Services Administration does not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the revisions are not considered substantive. The revisions only update and reorganize existing coverage. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. We invite comments from small businesses and other interested parties. GSA will consider comments from small entities concerning the affected GSAR Parts 537 and 552 in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (GSAR case 2008–G510), in all correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does apply; however, these changes to the GSAR do not impose additional information collection requirements to the paperwork burden previously approved under OMB Control Number 3090–0027.

List of Subjects in 48 CFR Parts 537 and 552

Government procurement.

Dated: May 30, 2008.

Al Matera,

Director, Office of Acquisition Policy.

Therefore, GSA proposes to amend 48 CFR parts 537 and 552 as set forth below:

1. The authority citation for 48 CFR parts 537 and 552 continues to read as follows:

Authority: 40 U.S.C. 121(c).

PART 537—SERVICE CONTRACTING

537.101 [Removed]

2. Remove section 537.101.

537.110 [Amended]

3. Amend section 537.110 by removing from paragraph (a) ''initiated'' and adding ''initiated with Ability One'' in its place.

PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

552.237–70 [Amended]

4. Amend section 552.237–70 by revising the date of the provision to read ''(Date)''; and removing from paragraph (a) ''In order to'' and adding ''To'' in its place.

552.237–73 [Amended]

5. Amend 552.237–73 by revising the date of the clause to read ''(Date)''; and removing from paragraph (b) ''individual'' and adding ''entity'' in its place.

[FR Doc. E8–12571 Filed 6–5–08; 8:45 am]

BILLING CODE 6820–61–S

GENERAL SERVICES ADMINISTRATION

48 CFR Parts 547 and 552

[GSAR Case 2006–G518; Docket 2008–0007; Sequence 6]

RIN 3090–AI52

General Services Acquisition Regulation; GSAR Case 2006–G518; Rewrite of GSAR Part 547, Transportation

AGENCY: Office of the Chief Acquisition Officer, General Services Administration (GSA).

ACTION: Proposed rule with request for comments.

SUMMARY: The General Services Administration (GSA) is proposing to amend the General Services Acquisition Regulation (GSAR) to revise GSAR language that provides requirements for transportation. This rule is a result of the General Services Administration Acquisition Manual (GSAM) Rewrite initiative undertaken by GSA to revise the GSAM to maintain consistency with the FAR, and to implement streamlined and innovative acquisition procedures that contractors, offerors and GSA contracting personnel can use when entering into and administering contractual relationships. The GSAM incorporates the General Services Administration Acquisition Regulation (GSAR) as well as internal agency acquisition policy. GSA will rewrite each part of the GSAR and GSAM, and as each GSAR part is rewritten, will publish it in the **Federal Register**.

This is one of the series of revisions to 48 CFR Chapter 5. It covers the rewrite of GSAR Part 547, Transportation.

DATES: Interested parties should submit written comments to the Regulatory Secretariat on or before August 5, 2008 to be considered in the formulation of a final rule.

ADDRESSES: Submit comments identified by GSAR Case 2006–G518 by any of the following methods:

• Regulations.gov: *http://www.regulations.gov*.

Submit comments via the Federal eRulemaking portal by inputting ''GSAR Case 2006–G518'' under the heading ''Comment or Submission''. Select the link ''Send a Comment or Submission'' that corresponds with GSAR Case 2006–G518. Follow the instructions provided to complete the ''Public Comment and Submission Form''. Please include your name, company name (if any), and ''GSAR Case 2006–G518'' on your attached document.

• Fax: 202–501–4067.

• Mail: General Services Administration, Regulatory Secretariat (VPR), 1800 F Street, NW., Room 4041, ATTN: Laurieann Duarte, Washington, DC 20405.

Instructions: Please submit comments only and cite GSAR Case 2006–G518 in all correspondence related to this case. All comments received will be posted without change to *http://www.regulations.gov*, including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Jeritta Parnell at (202) 501–4082, or by e-mail at *jeritta.parnell@gsa.gov*. For information pertaining to the status or publication schedules, contact the Regulatory Secretariat (VPR), Room 4041, GS Building, Washington, DC 20405, (202) 501–4755. Please cite GSAR Case 2006–G518.

SUPPLEMENTARY INFORMATION:

A. Background

The GSAR Rewrite Project

On February 15, 2006, GSA published an Advance Notice of Proposed Rulemaking (ANPR) with request for comments because GSA is beginning the review and update of the General Services Administration Acquisition Regulation (GSAR).

The GSAR rewrite will—

• Consider comments received from the ANPR, published in the **Federal Register** at 71 FR 7910, February 15, 2006.

• Change ''you'' to ''contracting officer.''

• Maintain consistency with the FAR but eliminate duplication.

• Revise GSAR sections that are out of date, or impose inappropriate burdens on the Government or contractors, especially small businesses.

• Streamline and simplify by incorporation of all GSA acquisition policies, *i.e.*, acquisition letters, alerts, and FAS manual information.

In addition, GSA has recently reorganized into two, rather than three services. Therefore, the reorganization of the Federal Supply Service (FSS) and the Federal Technology Service (FTS) into the Federal Acquisition Service (FAS) will be considered in the rewrite initiative.

The Rewrite of Part 547

This proposed rule contains the revisions made to Part 547, Transportation. The information contained in the five sections; 547.300, 547.303, 547.304, 547.305, and 547.370 is proposed for deletion from Part 547. In addition, clauses 552.247–70, Placarding Railcar Shipments, and 552.247–71, Diversion of Shipment Under f.o.b. Destination Contracts, are proposed for deletion from 552.547. This information is deemed specific to the FAS organization and its special order program and stock program. This information is not used in the Multiple Award Schedule Program. The coverage and the clauses were evaluated and deemed not necessary for inclusion into the GSAR. The FAR coverage in 47.103, 47.3, and 52.243–1 (48 CFR Chapter 1) is sufficient and does not need to be supplemented by further information in the GSAR.

Discussion of Comments

As a result of the ANPR, GSA received one comment pertaining to GSAR Part 547.

One commenter suggested making the GSAR consistent with the FAR and to eliminate inconsistencies and redundancies between the FAR and GSAR. The commenter further provided an example of a FAR deviation used under a Federal Supply Schedule 70, stating ''that GSA should consider whether the various delivery and packaging requirements can be simplified and require delivery and packaging that comports with the contractor's standard commercial practices.'' GSA partially agrees with the commenter and has initiated this rewrite of the GSAM/GSAR to correct or clarify such inconsistencies. However, GSA believes that in this instance cited by the commenter, that the risk of loss or damage to supplies shall remain with the contractor until the Government takes possession of the supplies, as

specified f.o.b. origin or destination, whichever the contract so states.

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The General Services Administration does not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule will delete information and clauses that are deemed unnecessary. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. We invite comments from small businesses and other interested parties. GSA will consider comments from small entities concerning the affected GSAR Parts 547 and 552 in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (GSAR case 2006–G518), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the GSAM do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 547 and 552

Government procurement.

Dated: June 2, 2008.

Al Matera,

Director, Office of Acquisition Policy, General Services Administration.

Therefore, GSA proposes to amend 48 CFR parts 547 and 552 as set forth below:

1. The authority citation for 48 CFR parts 547 and 552 is revised to read as follows:

AUTHORITY: 40 U.S.C. 121(c).

PART 547 [RESERVED]

2. Part 547 is removed and reserved.

PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

552.247–70 [Removed]

3. Section 552.247–70 is removed.

552.247–71 [Removed]

4. Section 552.247–71 is removed.

[FR Doc. E8–12694 Filed 6–5–08; 8:45 am]

BILLING CODE 6820–61–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 080509647–8651–01]

RIN 0648–AW84

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

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

ACTION: Proposed rule; request for comments.

SUMMARY: The National Marine Fisheries Service (NMFS) proposes to amend the regulations implementing the Atlantic Large Whale Take Reduction Plan (ALWTRP), to delay the effective date of one of the broad-based gear modifications and remove one of the gear-related definitions required in the recent amendment to the ALWTRP. Specifically, NMFS is proposing to delay the broad-based sinking groundline requirement for trap/pot fishermen in the Atlantic for an additional six months, from October 5, 2008 to April 5, 2009. Additionally, the proposed rule would delete the ''neutrally buoyant line'' term from the regulations to avoid any potential confusion with the requirements and assist enforcement efforts.

DATES: Comments on the proposed rule must be received by 5 p.m. EST on July 7, 2008.

ADDRESSES: Comments may be submitted on this proposed rule, identified by RIN 0648–AW84, by any one of the following methods:

(1) Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal *http://www.regulations.gov*.

(2) Mail: Mary Colligan, Assistant Regional Administrator for Protected Resources, NMFS, Northeast Region, 1 Blackburn Dr., Gloucester, MA 01930, ATTN: ALWTRP Proposed Rule.

(3) Facsimile (fax) to: 978–281–9394, Attn: Diane Borggaard

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

Copies of the Regulatory Impact Review related to this action can be obtained from the ALWTRP website listed under the Electronic Access portion of this document or writing Diane Borggaard, NMFS, Northeast Region, 1 Blackburn Dr., Gloucester, MA 01930. For additional **ADDRESSES** and web sites for document availability see **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Diane Borggaard, NMFS, Northeast Region, 978–281–9300 Ext. 6503; or Kristy Long, NMFS, Office of Protected Resources, 301–713–2322.

SUPPLEMENTARY INFORMATION:

Electronic Access

Several of the background documents for the ALWTRP and the take reduction planning process can be downloaded from the ALWTRP web site at http://www.nero.noaa.gov/whaletrp/. The complete text of the regulations implementing the ALWTRP can be found either in the Code of Federal Regulations (CFR) at 50 CFR 229.32 or downloaded from the website, along with a guide to the regulations.

Background

In response to the continued serious injury and mortality of large whales from entanglement in commercial fishing gear, NMFS determined that additional modifications to the ALWTRP were warranted. Subsequently, in October 2007, NMFS finalized an amendment to the ALWTRP which implemented a broad-based gear modification strategy that included additional regulated fisheries; expanded weak link and sinking groundline requirements; additional gear marking requirements; changes in boundaries; seasonal restrictions for gear modifications; expanded exempted areas; and regulatory language changes for the purposes of clarification and consistency (72 FR 57104, October 5, 2007; 73 FR 19171, April 9, 2008). Most modifications became effective November 5, 2007, and April 5, 2008, except for one broad-based requirement

which becomes effective October 5, 2008.

Based on the availability of the sinking groundline and time needed to re-rig gear, NMFS built into the final rule a one-year phase-in period to afford trap/pot and gillnet fishermen adequate time to convert their gear. Specifically, the regulations require sinking and/or neutrally buoyant line on groundlines on a year-round or seasonal basis depending on the temporal and spatial distribution of large whales one year after publication of the final rule (except in the Cape Cod Bay Restricted Area and Seasonal Area Management (SAM) Areas). Because the final rule was published on October 5, 2007, the sinking groundline provision becomes effective on October 5, 2008.

Proposed Measures

In the time since the publication of the October 5, 2007 final rule, NMFS has monitored the availability of the sinking groundline and progress of the commercial trap/pot fisheries in converting to sinking groundlines. Based on its findings, NMFS has determined that additional time to convert to sinking groundline is warranted. This proposed rule would provide an additional six months (through April 5, 2009) for trap/pot fishermen along the Atlantic east coast to comply with this major requirement.

The proposed action is warranted given the confusion that has occurred regarding which trap/pot fishermen are impacted by the ALWTRP and what type of groundline line is required. As far as trap/pot fisheries, the ALWTRP has regulated only American lobster since it was first implemented in 1997, and many trap/pot fisheries are being regulated for the first time through the October ALWTRP amendment. These new trap/pot fisheries include, but are not limited to, crab (red, Jonah, rock, and blue), hagfish, finfish (black sea bass, scup, tautog, cod, haddock, pollock, redfish (ocean perch), and white hake), conch/whelk, and shrimp.

The delay of the broad-based sinking groundline requirement would occur partially during a time of year when most trap/pot gear is out of the water while fishermen traditionally repair and replace gear. The delay will also enable fishermen to purchase the appropriate sinking line and rectify any confusion they may have regarding sinking line. All other ALWTRP amendments would be effective, including the sinking groundline requirement for gillnet fisheries. The requirements for sinking groundline for lobster trap/pot fisheries in Cape Cod Bay, Dynamic Area Management (DAM) zones (now no longer in effect), and SAM area have facilitated the conversion to sinking groundline. Floating groundline gear buyback programs in Maine, Massachusetts, New York and the mid-Atlantic have also facilitated the conversion to sinking groundline for trap/pot fisheries, but primarily for lobster trap/pot. This proposed action will eliminate the confusion in the trap/pot industry as to which fisheries are impacted and what type of line is required to assist all Atlantic trap/pot fishermen in fully converting to sinking groundline when much of the gear is out of the water. As a result, trap/pot fishermen would be able to convert their gear over an extended period of time to help ensure gear availability and avoid any potential spike in demand for sinking line, which if it materialized, might temporarily outstrip the capacity of cordage manufacturers, drive up prices, and impair fishermen's ability to comply.

The impact on large whales from this delay would be minimal given that: (1) the majority of the conservation measures included in the amendment to the ALWTRP would already be in place; (2) special right whale management areas have already converted to sinking groundline as described above; (3) most trap/pot gear is out of the water during a portion of the time period before the broad-based sinking groundline requirements go into effect; (4) the primary seasonal distribution of large whales in the Northeast occurs before the proposed effective date (Pace and Merrick 2008, NMFS 2007) (where the majority of confusion has been reported to have occurred); and (5) gear buyback programs from Maine to North Carolina that have assisted in the conversion of sinking groundline for lobster trap/pot fisheries have already removed a large amount of sinking groundline from the ocean.

In addition to the proposal to extend the implementation of the broad-based gear requirements, this proposed rule would delete the ''neutrally buoyant line'' term and definition from the regulations, so that only the ''sinking line'' term and definition would remain. In the October 5, 2007 final rule, NMFS included both the terms ''sinking'' and ''neutrally buoyant'' line, with identical definitions for each, in an attempt to include familiar industry terms and assist in the understanding of the regulations. However, industry feedback since the final rule published indicates that using two terms has led to confusion and resulted in some fishermen not understanding what type of line is required for the groundline. Additionally, trap/pot fishermen have inquired about the definition of low profile groundline (a line that does not sink, but loops some distance above the ocean bottom lower than floating line), and have asked NMFS for clarification on whether neutrally buoyant line is the same as low profile line. Therefore, in order to ensure clarity regarding the groundline requirement, this proposed action would remove all references to the term ''neutrally buoyant line'' from the regulations to facilitate both industry understanding of the regulations and enforcement efforts of this requirement. The term would be removed for both buoy line and groundline requirements and for both gillnet and trap/pot fisheries. Accordingly, the ''sinking line'' definition would be modified to eliminate reference to ''see also neutrally buoyant line.'' NMFS discussed the removal of the ''neutrally buoyant line'' term with the Atlantic Large Whale Take Reduction Team, a NMFS advisory group composed of various marine resource stakeholders, at its April 2008 meeting and this suggested ALWTRP revision was supported.

Classification

This action is categorically excluded from the requirement to prepare an Environmental Assessment in accordance with sections 6.03a.3(a) and 6.03c.3(d) of NOAA Administrative Order (NAO) 216–6. Specifically, this proposed action includes revisions that ''will hold no potential for significant environmental impacts,'' and will facilitate enforcement efforts. This action does not trigger the exceptions to categorical exclusions listed in NAO 216–6, Section 5.05c; thus, a categorical exclusion memorandum to the file has been prepared.

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

This proposed rule does not contain a collection of information requirements subject to the Paperwork Reduction Act (PRA).

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The October 5, 2007 ALWTRP final rule (72 FR 57104, October 5, 2007; 73 FR 19171, April 9, 2008) and Final Environmental Impact Statement (FEIS) (August 2007) identified approximately 4,353 vessels that would be affected by the final rule, including 2,889 from the lobster trap/pot fishery. This proposed

action would merely delete the term ''neutrally buoyant line'' from the regulations, and delay the implementation of the broad based gear requirements for an additional 6 months. Because this action would not impose any new requirements, it would have no economic impact beyond that previously analyzed in the prior rulemaking and Final Environmental Impact Statement, and would not significantly reduce profit for affected vessels.

NMFS has determined that this action is consistent to the maximum extent practicable with the approved coastal management program of the U.S. Atlantic coastal states. This determination was submitted for review by the responsible state agencies under section 307 of the Coastal Zone Management Act.

This proposed rule contains policies with federalism implications as that term is defined in Executive Order 13132. Accordingly, the Assistant Secretary for Legislative and Intergovernmental Affairs will provide notice of the proposed action to the appropriate official(s) of affected state, local, and/or tribal governments.

References

NMFS. 2007. Final Environmental Impact Statement for Amending the Atlantic Large Whale Take Reduction Plan: Broad-Based Gear Modifications. Prepared by: Industrial Economics, Inc. and NOAA's National Marine Fisheries Service. Northeast Region.

Pace, Richard M. III, and Merrick, Richard. 2008. Northwest Atlantic Ocean Habitats Important to the Conservation of North Atlantic Right Whales. Northeast Fisheries Science Center Reference Document 08–07. 32 pp.

List of Subjects 50 CFR Part 229

Administrative practice and procedure, Confidential business information, Fisheries, Marine mammals, Reporting and recordkeeping requirements.

Dated: June 2, 2008.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 229 is proposed to be amended as follows:

PART 229—AUTHORIZATION FOR COMMERCIAL FISHERIES UNDER THE MARINE MAMMAL PROTECTION ACT OF 1972

1. The authority citation for 50 CFR part 229 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*

2. In § 229.2, the definition ''Neutrally buoyant line'' is removed. The definition of ''Sinking line'' is revised to read as follows:

§ 229.2 Definitions.

* * * * *

Sinking line means, for both groundlines and buoy lines, line that has a specific gravity greater than or equal to 1.030, and, for groundlines only, does not float at any point in the water column.

* * * * *

3. In § 229.32, revise paragraphs (a)(4), (c)(2)(ii)(D), (c)(2)(ii)(E), the first sentence of paragraphs, (c)(5)(ii)(B), (c)(6)(ii)(B), (c)(7)(ii)(C), (c)(8)(ii)(B), (c)(9)(ii)(B), (d)(6)(ii)(D), (d)(7)(ii)(D), (i)(3)(i)(B)(*1*)(*i*), (i)(3)(i)(B)(*2*)(*i*), and the second sentence of (d)(1)(i) to read as follows:

§ 229.3 Atlantic large whale take reduction plan regulations.

(a)* * *

(4) *Sinking groundline exemption.* The fisheries regulated under this section are exempt from the requirement to have groundlines composed of sinking line if their groundline is at a depth equal to or greater than 280 fathoms (1,680 ft or 512.1 m) (as shown on NOAA charts 13200 (Georges Bank and Nantucket Shoals, 1:400,000), 12300 (NY Approaches—Nantucket Shoals to Five Fathom Bank, 1:400,000), 12200 (Cape May to Cape Hatteras, 1:419,706), 11520 (Cape Hatteras to Charleston, 1:432,720), 11480 (Charleston Light to Cape Canaveral, 1:449,659) and 11460(Cape Canaveral to Key West, 1:466,940)).

* * * * *

(c)* * *

(2)* * *

(ii)* * *

(D) *Buoy lines.* All buoy lines must be composed of sinking line except the bottom portion of the line, which may be a section of floating line not to exceed one-third the overall length of the buoy line.

(E) *Groundlines.* All groundlines must be composed entirely of sinking line. The attachment of buoys, toggles, or other floatation devices to groundlines is prohibited.

* * * * *

(5)* * *

(ii)* * *

(B) *Groundlines.* On or before April 5, 2009, all groundlines must be composed entirely of sinking line unless exempted from this requirement under paragraph (a)(4) of this section. * * *

* * * * *

(6) * * *

(ii) * * *

(B) *Groundlines.* On or before April 5, 2009, all groundlines must be composed entirely of sinking line unless exempted for this requirement under paragraph (a)(4) of this section. * * *

* * * * *

(7) * * *

(ii) * * *

(C) *Groundlines.* On or before April 5, 2009, all groundlines must be composed entirely of sinking line unless exempted from this requirement under paragraph (a)(4) of this section. * * *

* * * * *

(8) * * *

(ii) * * *

(B) *Groundlines.* On or before April 5, 2009, all groundlines must be composed entirely of sinking line unless exempted from this requirement under paragraph (a)(4) of this section. * * *

* * * * *

(9) * * *

(ii) * * *

(B) *Groundlines.* On or before April 5, 2009, all groundlines must be composed entirely of sinking line unless exempted from this requirement under paragraph (a)(4) of this section. * * *

* * * * *

(d) * * *

(1) * * *

(i) * * * If more than one buoy is attached to a single buoy line or if a high flyer and a buoy are used together on a single buoy line, sinking line must be used between these objects.

* * * * *

(6) * * *

(ii) * * *

(D) *Groundlines.* On or before October 5, 2008, all groundlines must be composed entirely of sinking line unless exempted from this requirement under paragraph (a)(4) of this section. * * *

* * * * *

(7) * * *

(ii) * * * (D) *Groundlines.* On or before October 5, 2008, all groundlines must be composed entirely of sinking line unless exempted from this requirement under paragraph (a)(4). * * *

* * * * *

(i) * * *

(3) * * *

(i) * * *

(B) * * *

(*1*) *Anchored gillnet gear*—(*i*) *Groundlines.* All groundlines must be

made entirely of sinking line. Floating groundlines are prohibited. * * *

* * * * *

(*2*) *Trap/pot gear*—(*i*) *Groundlines.* All groundlines must be made entirely of sinking line. Floating groundlines are prohibited. * * *

* * * * *

[FR Doc. 08–1326 Filed 6–3–08; 2:14 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

RIN 0648–AU28

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery off the Southern Atlantic States; Amendment 14

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

ACTION: Notice of Availability of an amendment to a fishery management plan; request for comments.

SUMMARY: The South Atlantic Fishery Management Council (Council) has submitted Amendment 14 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP) for review, approval, and implementation by NMFS. The amendment would establish eight Type 2 marine protected areas (MPAs) in which fishing for or possession of snapper-grouper species would be prohibited, but other types of legal fishing would be allowed. The MPAs would be located in the following areas: one off southern North Carolina, three off South Carolina, one off Georgia, and three off Florida, and range from 5 by 10 nautical miles to 22 by 23 nautical miles in area. Amendment 14 also proposes to prohibit the use of shark bottom longlines within the MPAs, however, NMFS is proposing to implement the prohibition of shark bottom longlines through separate rulemaking. If implemented, these measures are expected to enhance the optimum size, age and genetic structure of slow growing long-lived deepwater grouper species.

DATES: Written comments will be accepted through August 5, 2008.

ADDRESSES: You may submit comments, identified by 0648–AU28, by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal *http://www.regulations.gov*.
- Fax: 727–824–5308, Attn: Kate Michie.
- Mail: Kate Michie, NMFS Southeast Regional Office, Sustainable Fisheries Division, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments. Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.Copies of Amendment 14 may be obtained from the South Atlantic Fishery Management Council, 4055 Faber Place, Suite 201, North Charleston, South Carolina 29405; phone: 843–571–4366 or toll free at 1–866–SAFMC–10; fax: 843–769–4520; e-mail: *safmc@safmc.net*. Amendment 14 includes a Final Environmental Impact Statement, a Biological Assessment, an Initial Regulatory Flexibility Analysis, a Regulatory Impact Review, and Social Impact Assessment/Fishery Impact Statement.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer, South Atlantic Fishery Management Council; toll free 1–866–SAFMC–10 or 843–571–4366; *kim.iverson@safmc.net*.

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery off the southern Atlantic states is managed under the FMP. The FMP was prepared by the Council and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

The Magnuson-Stevens Act requires a regional fishery management council to submit an amendment to a fishery management plan to NMFS for review, approval, disapproval, or partial approval. The Magnuson-Stevens Act also requires that NMFS, upon receiving an amendment, publish a notice in the **Federal Register** stating that the amendment is available for public review and comments.

Background

Many snapper-grouper species are vulnerable to overfishing because they are long-lived (e.g., snowy grouper, golden tilefish, red snapper, gag, scamp, red grouper, and red porgy); they are protogynous, i.e., they may change sex from females to males as they grow older/larger (e.g., snowy grouper, speckled hind, Warsaw grouper, yellowedge grouper, gag, scamp, red porgy, and black sea bass); they form spawning aggregations (e.g., snowy grouper, gag, scamp, and red snapper); and they suffer high release mortality when taken from deep water. Deepwater snapper-grouper species (speckled hind, snowy grouper, Warsaw grouper, yellowedge grouper, misty grouper, golden tilefish, and blueline tilefish) are most vulnerable to overfishing because they live longer than 50 years, do not survive the trauma of capture, and are protogynous (groupers) or exhibit sexual dimorphism, i.e., males and females grow at different rates (tilefishes).

Stock assessments indicate that black sea bass, red porgy, and snowy grouper are overfished, i.e., spawning stock biomass is not sufficient to reproduce and support continued productivity. In addition, black sea bass, golden tilefish, snowy grouper, and vermilion snapper are experiencing overfishing, i.e., the current rate of fishing mortality jeopardizes the capacity of the fishery to produce its maximum sustainable yield on a continuing basis. Reductions in catch and protection of habitat are needed.

Proposed Measures

This amendment and its implementing rule would establish eight MPAs in which a portion of the population and habitat of long-lived, slow growing, deepwater snapper-grouper species would be protected from directed fishing pressure. Fishing for or possession of South Atlantic snapper-grouper would be prohibited in the MPAs. However, the prohibition on possession would not apply to a person aboard a vessel that is in transit with fishing gear appropriately stowed. MPAs are considered to be an effective fishery management tool that would allow deepwater snapper-grouper to reach a more natural sex ratio, age, and size structure. They are also expected to protect spawning locations, and provide a refuge for early developmental stages of fish species.

The prohibition of use of shark bottom longlines in the MPAs is considered necessary for habitat protection and to prevent the mortality of incidentally caught snapper-grouper. The Council voted to include this measure in an effort to address enforcement concerns regarding the similarity between snapper-grouper

bottom longline gear and shark bottom longline gear, which is also currently used in the subject areas. However, because the Atlantic shark fishery is managed under the Highly Migratory Species (HMS) fishery management plan (HMS FMP), NMFS has requested the HMS Division promulgate the prohibition of use of shark bottom longlines within the proposed MPAs. With an effort to implement compatible regulations on a similar timeline, the HMS Division published a proposed rule on July 27, 2007 (72 FR 41392), to prohibit shark bottom longlining in the MPAs through Amendment 2 to the consolidated HMS FMP. Public comment on Amendment 2 was requested through October 10, 2007. In a notice published October 23, 2007 (72 FR 56330), NMFS extended public comment on Amendment 2 through November 2, 2007. The public comment period for Amendment 2 was extended an additional 30 days on November 15, 2007 (72 FR 64186). The final Environmental Imapct Statement (EIS) was published on April 18, 2008, with the prohibition on the use of shark bottom longlines as the preferred alternative. If Amendment 2 is approved, implementation of the shark bottom longline prohibition would occur after a final rule is published by the HMS Division.

The Council defines MPAs within its jurisdiction as a network of specific areas of marine environments reserved and managed for the primary purpose of aiding in the recovery of overfished stocks and to insure the persistence of healthy fish stocks, fisheries, and habitats. Such areas may be over natural or artificial bottom and may include prohibition of harvest indefinitely to accomplish needed conservation goals. The Council recognizes that there may be a positive impact from the designation of the proposed sites to non-deepwater species, which may co-occur, such as vermilion snapper, red porgy, and gag.

MPA Locations

Using input received from the fishing industry; scientific, academic, and environmental communities; and law enforcement personnel, the Council selected specific sites for MPAs on the basis of maximizing the biological benefits and enhancing enforceability and monitoring while minimizing the adverse social and economic effects. Sizes of the MPAs would range from approximately 5 by 10 nautical miles (nm) to approximately 22 by 23 nm. One would be off North Carolina, three off South Carolina, one off Georgia, and three off the east coast of Florida. An artificial reef may be established at one of the South Carolina sites. The two most southern MPAs would be approximately 9 and 13 nm offshore, respectively, and the others at least 38 nm offshore.

MPA Types Considered

The following types of actions are available to the Council for designating MPAs, and the complete suite of alternatives considered are discussed in the Environmental Impact Statement for Amendment 14.

Type 1 - Permanent closure/no-take

Type 2 - Permanent closure/some take allowed

Type 3 - Limited duration closure/no-take

Type 4 - Limited duration closure/some take allowed

Based on input received from the fishing industry; scientific, academic, and environmental communities; and law enforcement personnel, the Council has determined that Type 2 management actions would be effective in meeting the conservation goal of protecting deepwater snapper-grouper species, while limiting adverse social and economic impact on the fishing community.

Availability of Amendment 14

Additional background and rational for the measures discussed above are contained in Amendment 14.

Proposed Rule

A proposed rule that would implement the measures in Amendment 14 has been received from the Council. In accordance with the Manguson-Stevens Act, NMFS is evaluating the proposed rule to determine whether it is consistent with the FMP, the Magnuson-Stevens Act, and other applicable law. If that determination is affirmative, NMFS will publish the proposed rule in the **Federal Register** for public review and comment.

Consideration of Public Comments

Comments received by August 5, 2008, will be considered by NMFS in its decision to approve, disapprove, or partially approve Amendment 14. Comments received after that date will not be considered by NMFS in this decision. To be considered, comments must be received by 5 p.m. on the last day of the comment period; that does not mean postmarked or otherwise transmitted by that date. All comments received by NMFS on Amendment 14 or the proposed rule during their respective comment periods will be addressed in the preamble of the final rule.

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

Dated: June 2, 2008

Emily H. Menashes

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

[FR Doc. E8–12745 Filed 6–5–08; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 73, No. 110
Friday, June 6, 2008

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2008–0049]

Notice of Request for Revision and Extension of Approval of an Information Collection; National Animal Identification System

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Revision and extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request a revision and extension of approval of an information collection associated with the National Animal Identification System.

DATES: We will consider all comments that we receive on or before August 5, 2008.

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

- Federal eRulemaking Portal: Go to *http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2008-0049* to submit or view comments and to view supporting and related materials available electronically.
- Postal Mail/Commercial Delivery: Please send two copies of your comment to Docket No. APHIS–2008–0049, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2008–0049.

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

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

FOR FURTHER INFORMATION CONTACT: For information on the National Animal Identification System, contact Mr. Vince Chapman, National Animal Identification System Staff, Surveillance and Identification Programs, VS, APHIS, 4700 River Road, Unit 200, Riverdale, MD 20737; (301) 734–0739. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS* Information Collection Coordinator, at (301) 851–2908.

SUPPLEMENTARY INFORMATION:

Title: National Animal Identification System.

OMB Number: 0579–0259.

Type of Request: Revision and extension of approval of an information collection.

Abstract: As part of its ongoing efforts to safeguard U.S. animal health, the U.S. Department of Agriculture (USDA) initiated the implementation of the National Animal Identification System (NAIS) in 2004. NAIS is a cooperative State-Federal-industry partnership to standardize and expand animal identification programs and practices to all livestock species and poultry. NAIS is being developed through the integration of three components—premises registration, animal identification, and animal tracing. The goal of NAIS, for which participation at the Federal level is voluntary, is to have the information necessary to trace all animals associated with an incident of an animal disease within 48 hours in order to limit disease spread and thereby reduce the impact of diseases on America's agricultural producers.

The NAIS program involves a number of approved collection and recordkeeping activities, including animal identification; premises registration; group/lot movement records; cooperative agreements; accomplishment reports; applications, registrations, and agreements associated with the Animal Identification Number (AIN) Management System; and applications for evaluation of animal tracking databases. New activities under the NAIS program include applications, agreements, and updates submitted by AIN manufacturers, managers, and resellers; cooperator quarterly accomplishment reports; and applications for cooperative agreements to support NAIS outreach, education, and premises registration activities.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities for 3 years.

This notice includes a description of the information collection requirements currently approved by the Office of Management and Budget (OMB) for the NAIS program under numbers 0579–0259, 0579–0283, and 0579–0288. After OMB approves and combines the burden for the three collections under a single collection (number 0579–0259), the Department will retire numbers 0579–0283 and 0579–0288. The new activities described above will also be combined under OMB collection 0579–0259.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(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 our estimate of the burden of the information collection, 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 information collection on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies, e.g., permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.7644215 hours per response.

Respondents: State and Tribal animal health authorities; owners/operators of feedlots, markets, and slaughter plants; producers; and nonproducer

participants such as accredited veterinarians, AIN device managers/resellers (individuals or firms responsible for distributing AIN devices to producers), AIN device manufacturers (companies that manufacture animal identification devices approved for use in the NAIS), third-party service providers (companies that provide herd management, dairy herd improvement, genetic evaluation, and other services to producers), and diagnostic laboratories and livestock buyers/dealers who submit data to the national database.

Estimated annual number of respondents: 500,472.

Estimated annual number of responses per respondent: 7.4036789.

Estimated annual number of responses: 3,705,334.

Estimated total annual burden on respondents: 2,832,437 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 2nd day of June 2008.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E8–12731 Filed 6–5–08; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2008–0014]

Potato Cyst Nematode; Update of Quarantined Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of changes to quarantined area.

SUMMARY: We are advising the public that we have made changes to the area in the State of Idaho that is quarantined to prevent the spread of potato cyst nematode. The description of the quarantined area was updated on November 1, 2007, when the potato cyst nematode regulations became effective; on November 28, 2007, when one additional field was found to be infested; on January 9, 2008, when some fields that had been quarantined were found not to have an association with an infested field; and on March 21, 2008, when 24 associated fields were removed from the quarantined area after having been surveyed and found to be free of potato cyst nematode.

FOR FURTHER INFORMATION CONTACT: Dr. Osama El-Lissy, Director, Invasive Species and Pest Management, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737–1236; (301) 734–8676.

SUPPLEMENTARY INFORMATION:

Background

The potato cyst nematode (PCN) (*Globodera pallida*) is a major pest of potato crops in cool-temperature areas. Other solanaceous hosts include tomatoes, eggplants, peppers, tomatillos, and some weeds. The PCN is thought to have originated in Peru and is now widely distributed in many potato-growing regions of the world. PCN infestations may be expressed as patches of poor growth. Affected potato plants may exhibit yellowing, wilting, or death of foliage. Even with only minor symptoms on the foliage, potato tuber size can be affected. Unmanaged infestations can cause potato yield loss ranging from 20 to 70 percent. The spread of this pest in the United States could result in a loss of domestic or foreign markets for U.S. potatoes and other commodities.

In an interim rule published in the **Federal Register** on September 12, 2007, and effective on November 1, 2007 (72 FR 51975–51988, Docket No. APHIS–2006–0143), we established the PCN quarantine regulations (§§ 301.86 through 301.86–9, referred to below as the regulations). These regulations set out procedures for determining the areas quarantined for PCN and impose restrictions on the interstate movement of regulated articles from quarantined areas.

Section 301.86–3 of the regulations sets out the procedures for determining the areas quarantined for PCN. Paragraph (a) of § 301.86–3 states that, in accordance with the criteria listed in § 301.86–3(c), the Administrator will designate as a quarantined area each field that has been found to be infested with PCN, each field that has been found to be associated with an infested field, and any area that the Administrator considers necessary to quarantine because of its inseparability for quarantine enforcement purposes from infested or associated fields.

Paragraph (c) provides that the Administrator will designate a field as an infested field when PCN is found in the field. Paragraph (c) also provides that the Administrator will designate a field as an associated field when PCN host crops, as listed in § 301.86–2(b), have been grown in the field in the last 10 years and the field shares a border with an infested field; the field came into contact with a regulated article listed in § 301.86–2 from an infested field within the last 10 years; or, within the last 10 years, the field shared ownership, tenancy, seed, drainage or runoff, farm machinery, or other elements of shared cultural practices with an infested field that could allow spread of the PCN, as determined by the Administrator.

Paragraph (b) describes the conditions for the designation of an area less than an entire State as a quarantined area. Less than an entire State will be designated as a quarantined area only if the Administrator determines that:

- The State has adopted and is enforcing restrictions on the intrastate movement of the regulated articles that are equivalent to those imposed by the regulations on the interstate movement of regulated articles; and
- The designation of less than the entire State as a quarantined area will prevent the interstate spread of PCN.

We have determined that it is not necessary to designate the entire State of Idaho as a quarantined area. Idaho has adopted and is enforcing restrictions on the intrastate movement of regulated articles from that area that are equivalent to those we are imposing on the interstate movement of regulated articles.

Paragraph (a) of § 301.86–3 further provides that the Administrator will publish the description of the quarantined area on the Plant Protection and Quarantine (PPQ) Web site, *http://www.aphis.usda.gov/plant_health/plant_pest_info/potato/pcn.shtml*. The description of the quarantined area will include the date the description was last updated and a description of the changes that have been made to the quarantined area. The description of the quarantined area may also be obtained by request from any local office of PPQ; local offices are listed in telephone directories. Finally, paragraph (a) establishes that, after a change is made to the quarantined area, we will publish a notice in the **Federal Register** informing the public that the change has occurred and describing the change to the quarantined area.

We are publishing this notice to inform the public of changes to the PCN quarantined area in accordance with § 301.86–3(a).

The PCN quarantined area was first updated when the regulations became effective on November 1, 2007. That update to the quarantined area expanded the list of associated fields based on new information regarding

shared cultural practices. This added associated fields in Jefferson County, ID, as well as fields in Bonneville and Bingham Counties, ID.

On November 28, 2007, surveys confirmed the detection of PCN in one new field. It was not necessary to add that field to the quarantined area, as it had already been listed as an associated field. However, the finding of an infestation in that field led to new fields being designated as associated fields. These fields were in Bonneville and Bingham Counties.

On January 9, 2008, the quarantined area was further updated to remove four fields from the quarantined area. Although these fields had appeared to be associated fields, further investigation demonstrated that these fields were not associated with an infested field. The fields removed from quarantine were in Bonneville County.

On March 21, 2008, the quarantined area was updated to remove 24 fields from the quarantined area. These fields had been associated fields, and were found to be free of PCN according to a survey protocol approved by the Administrator as sufficient to support removal from quarantine, under paragraph (d)(2) of § 301.86–3. The fields removed from quarantine were in Bonneville and Bingham Counties.

The current map of the quarantined area can be viewed on the PPQ Web site at *http://www.aphis.usda.gov/plant_health/plant_pest_info/potato/pcn.shtml*.

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

Done in Washington, DC, this 29th day of May 2008.

Cindy Smith,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E8–12625 Filed 6–5–08; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request—FNS User Access Request

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on proposed information collections. The proposed collection is a revision of a currently approved collection. The purpose of this information collection request is the continued use of the electronic form FNS 674 entitled ''FNS User Access Request''.

DATES: Written comments must be received on or before August 5, 2008.

ADDRESSES: 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, including the validity of the methodology and assumptions used; (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 those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent to Shawn Jones, Information Systems Security Program Manager (ISSPM), Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 317, Alexandria, Virginia 22302. Comments may also be submitted via fax to the attention of Shawn Jones at 703–305–2924 or via e-mail to *Shawn.Jones@fns.usda.gov*.

All written comments will be open for public inspection at the office of the Food and Nutrition Service during regular business hours (8:30 a.m. to 5 p.m., Monday through Friday) at 3101 Park Center Drive, Room 317, Alexandria, Virginia 22302.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will be a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this information collection should be directed to Shawn Jones, 703–305–2528.

SUPPLEMENTARY INFORMATION:

Title: FNS User Access Request.

OMB Number: 0584–0532.

Form Number: FNS 674.

Expiration Date: November 30, 2008.

Type of Request: Revision of a currently approved collection.

Abstract: The FNS 674 is designed to collect user information required to gain access to FNS Information Systems.

Respondents: FNS Employees, Contractors, FNS Regions, State Agencies, Field Offices, Partners and Compliance Offices.

Estimated Number of Respondents: Two hundred twenty-five (225).

Number of Responses per Respondent: One (1).

Estimated Time per Response: 0.1666667 minutes.

Estimated Total Annual Burden on Respondents: 75.50145 hours.

Dated: May 30, 2008.

Roberto Salazar,

Administrator, Food and Nutrition Service.

[FR Doc. E8–12707 Filed 6–5–08; 8:45 am]

BILLING CODE 3410–30–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to and Deletions from the Procurement List.

SUMMARY: This action adds to the Procurement List products and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes from the Procurement List products and services previously furnished by such agencies.

EFFECTIVE DATE: July 6, 2008.

ADDRESS: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia, 22202–3259.

FOR FURTHER INFORMATION CONTACT: Kimberly M. Zeich, Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail *CMTEFedReg@jwod.gov.*

SUPPLEMENTARY INFORMATION:

Additions

On April 4 and April 11, 2008, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (73 FR 18495; 19808) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the products and services and impact of the additions on the current or most recent contractors, the Committee has determined that the products and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a

substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products and services to the Government.

2. The action will result in authorizing small entities to furnish the products and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products and services added to the Procurement List.

End of Certification

Accordingly, the following products and services are added to the Procurement List:

Products

Pen, Multi-function:
NSN: 7510–00–NIB–0797—B3 Aviator Pen, Refill;
NSN: 7520–00–NIB–1754—B3 Aviator Pen.
NPA: Alphapointe Association for the Blind, Kansas City, MO.
Coverage: A–List for the total Government requirements as specified by the General Services Administration.
Contracting Activity: General Services Administration, Office Supplies & Paper Products Acquisition Ctr., New York, NY.

Spices, UGR–A:
NSN: 8950–01–E10–1788—Spice Blend, Barbecue Style;
NSN: 8950–01–E10–1789—Spice Blend, Cinnamon Maple Sprinkles;
NSN: 8950–01–E10–1790—Spice Blend, Italian Style;
NSN: 8950–01–E10–1791—Spice, Onion, Minced, Dehydrated;
NSN: 8950–01–E10–1792—Spice, Paprika, Ground;
NSN: 8950–01–E10–1793—Spice Blend, Poultry Seasoning;
NSN: 8950–01–E10–1794—Spice Blend, Steak Seasoning;
NSN: 8950–01–E10–1795—Spice Blend, Vegetable Seasoning, w/o Salt;
NSN: 8950–01–E10–1796—Spice, Pepper, Black, Ground;
NSN: 8950–01–E10–1797—Salt, Table, Iodized.
NPA: Continuing Developmental Services, Inc., Fairport, NY.
Coverage: C–List for the requirement of the Defense Supply Center Philadelphia, Philadelphia, PA.
Contracting Activity: Defense Supply Center Philadelphia, Philadelphia, PA.

Services

Service Type/Location: Custodial Services. General Services Administration, Public Buildings Service, 1500 East Bannister Road, Buildings 2306 and 2312, Kansas City, MO.
NPA: Independence and Blue Springs Industries, Inc., Independence, MO.
Contracting Activity: General Services Administration, Public Buildings Service, Region 6, Kansas City, MO.
Service Type/Location: Custodial Services. Peachtree Summit Federal Building, 401 W. Peachtree Street, Atlanta, GA.
NPA: WORKTEC, Jonesboro, GA.
Contracting Activity: General Services Administration, Public Buildings Service, Region 4, Atlanta, GA.
Service Type/Location: Food Service Attendant. Air National Guard—Jacksonville, 14300 Fang Drive, Jacksonville, FL.
NPA: Goodwill Industries of North Florida, Jacksonville, FL.
Contracting Activity: Air National Guard-Jacksonville, 125th Fighter Wing, Jacksonville, FL.

Deletions

On February 8 and April 11, 2008, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (73 FR 7521; 19808) of proposed deletions to the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the products and services listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action should not result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action may result in authorizing small entities to furnish the products and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products and services deleted from the Procurement List.

End of Certification

Accordingly, the following products and services are deleted from the Procurement List:

Products

Clocks, Atomic Standard, Thermometer:
NSN: 6645–01–491–9837;
NSN: 6645–01–491–9840;
NSN: 6645–01–491–9841;
NSN: 6645–01–491–9844;
NSN: 6685–01–492–0910.
NPA: The Chicago Lighthouse for People who are Blind or Visually Impaired, Chicago, IL.
Contracting Activity: General Services Administration, Office Supplies & Paper Products Acquisition Ctr., New York, NY.

Cover, Toxicological Agents Protective:
NSN: 8415–00–261–6443.
NPA: Tommy Nobis Enterprises, Inc., Marietta, GA.
Contracting Activity: Defense Supply Center Philadelphia, Philadelphia, PA.

Services

Service Type/Location: Janitorial/Custodial. Federal Office Building, Ontario Street and Division, Sandpoint, ID.
NPA: Panhandle Special Needs, Inc., Sand Point, ID.
Contracting Activity: General Services Administration, Public Buildings Service, Region 10.
Service Type/Location: Janitorial/Custodial. Schultz Maintenance Complex, Wilson Creek Road, Ellensburg, WA.
NPA: Elmview, Ellensburg, WA.
Contracting Activity: Department of Energy, Washington, DC.

Kimberly M. Zeich,
Director, Program Operations.

[FR Doc. E8–12741 Filed 6–5–08; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Correction of Notice to Clarification of Scope of Procurement List Additions; 2007 Commodities Procurement List

In the notice appearing on page 31056, FR Doc E8–12103, Quarterly Update of the A-List, B-List and C-List, the Committee published the old URL for accessing the A-List.

The correct A-List is located at *http://www.jwod.gov/jwod/p_and_s/A-List_08.html.*

Kimberly M. Zeich,
Director, Program Operations.

[FR Doc. E8–12742 Filed 6–5–08; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Additions to the Procurement List.

SUMMARY: The Committee is proposing to add to the Procurement List products

and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

Comments Must Be Received on or Before: July 6, 2008.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia, 22202–3259.

For Further Information or to Submit Comments Contact: Kimberly M. Zeich, Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail *CMTEFedReg@jwod.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

If the Committee approves the proposed additions, the entities of the Federal Government identified in the notice for each product or service will be required to procure the products and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products and services to the Government.

2. If approved, the action will result in authorizing small entities to furnish the products and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products and services proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

End of Certification

The following products and services are proposed for addition to Procurement List for production by the nonprofit agencies listed:

Products

Mop, Dust and Floor:

NSN: 7920–00–616–2493—Dust Mop;
NSN: 7920–00–782–3784—Floor Mop.
NPA: New York City Industries for the Blind, Inc., Brooklyn, NY.
Coverage: B–List for the broad Government requirement as specified by the General Services Administration.
Contracting Activity: General Services Administration, Southwest Supply Center, Fort Worth, TX.

Filter, Notebook, Privacy:

NSN: 7520–00–NIB–1943—Filter, Notebook, Privacy, 14.1″,
NSN: 7520–00–NIB–1944—Filter, Notebook, Privacy, 14.1W,
NSN: 7520–00–NIB–1945—Filter, Notebook, Privacy, 15.0″,
NSN: 7520–00–NIB–1946—Filter, Notebook, Privacy, 15.4″,
NSN: 7520–00–NIB–1947—Filter, Notebook, Privacy, 17.0″,
NSN: 7520–00–NIB–1948—Filter, Notebook, Privacy, 17.0W,
NSN: 7520–00–NIB–1950—Filter, Notebook, Privacy, 19.0″,
NSN: 7520–00–NIB–2006—Filter, Notebook, Privacy, 19.0″W.
Coverage: A–List for the total Government requirements as specified by the General Services Administration.
NSN: 7520–00–NIB–1941—Filter, Notebook, Privacy 12.1″;
NSN: 7520–00–NIB–1942—Filter, Notebook, Privacy, 12.1W;
NSN: 7520–00–NIB–2005—Filter, Notebook Privacy, 13.37″ W;
NSN: 7520–00–NIB–2007—Filter, Notebook, Privacy, 20.1″;
NSN: 7520–00–NIB–2008—Filter, Notebook, Privacy, 20.1″ W;
NSN: 7520–00–NIB–2009—Filter, Notebook, Privacy, 22″ W;
NSN: 7520–00–NIB–2010—Filter, Notebook, Privacy, 24″ W.
Coverage: B–List for the broad Government requirements as specified by the General Services Administration.
NPA: Wiscraft Inc.—Wisconsin Enterprises for the Blind, Milwaukee, WI.
Contracting Activity: General Services Administration, Federal Supply Services, Region 2, New York, NY.

File Folders, Colored, Recycled:

NSN: 7530–00–NIB–0866—Letter-size, Assorted Colors, 1/3 cut, 100/BX;
NSN: 7530–00–NIB–0867—Letter-size, Blue, 1/3 Cut, 100/BX;
NSN: 7530–00–NIB–0868—Letter-size, Bright Green, 1/3 cut, 100/BX;
NSN: 7530–00–NIB–0869—Letter-size, Red, 1/3 cut, 100/BX;
NSN: 7530–00–NIB–0870—Letter-size, Purple, 1/3 cut, 100/BX;
NSN: 7530–00–NIB–0871—Letter-size, Yellow, 1/3 cut, 100/BX;
NSN: 7530–00–NIB–0872—Letter-size, Double Ply Reinforced, Assorted Colors, 1/3 cut, 100/BX;
NSN: 7530–00–NIB–0873—Letter-size, Double Ply Reinforced, Blue, 1/3 cut, 100/BX;
NSN: 7530–00–NIB–0874—Letter-size, Double Ply Reinforced, Bright Green, 1/3 cut, 100/BX;
NSN: 7530–00–NIB–0875—Letter-size, Double Ply Reinforced, Red, 1/3 cut, 100/BX;
NSN: 7530–00–NIB–0876—Letter-size, Double Ply Reinforced, Purple, 1/3 cut, 100/BX;
NSN: 7530–00–NIB–0877—Letter-size, Double Ply Reinforced, Yellow, 1/3 cut, 100/BX.
NPA: L.C. Industries For The Blind, Inc., Durham, NC.
Coverage: A–list for the total Government requirements as specified by the General Services Administration.
Contracting Activity: General Services Administration, Federal Supply Services, Region 2, New York, NY.

Services

Service Type/Location: Document Destruction. Department of Health and Human Services, Office of Medicare Hearings and Appeals, 200 Public Square, Cleveland, OH.
NPA: Weaver Industries, Inc., Akron, OH.
Contracting Activity: Department of Health and Human Services, Rockville, MD.
Service Type/Location: Hospital Housekeeping Services. Baltimore VA Medical Center, 10 North Green Street, Baltimore, MD.
NPA: Lakeview Center, Inc., Pensacola, FL.
Contracting Activity: Veterans Affairs Maryland Health Care System, Baltimore, MD.
Service Type/Location: Mailroom Operations. Internal Revenue Service, 50 South 200 East, Salt Lake City, UT.
NPA: ServiceSource, Alexandria, VA (Prime Contractor).
NPA: Utah Industries for the Blind, Salt Lake City, UT (Sub-Contractor).
Contracting Activity: U.S. Department of the Treasury, Internal Revenue Service Headquarters, Oxon Hill, MD.
Service Type/Location: Mailroom Operations. Internal Revenue Service, 801 Civic Center Drive West, Santa Ana, CA.
NPA: ServiceSource, Alexandria, VA (Prime Contractor).
NPA: Pacific Coast Community Services, Richmond, CA (Sub-Contractor).
Contracting Activity: U.S. Department of the Treasury, Internal Revenue Service Headquarters, Oxon Hill, MD.

Kimberly M. Zeich,

Director, Program Operations.

[FR Doc. E8–12740 Filed 6–5–08; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: National Marine Sanctuary Permits.

Form Number(s): None.

OMB Approval Number: 0648–0141.

Type of Request: Regular submission.

Burden Hours: 1,436.

Number of Respondents: 424.

Average Hours Per Response: Baitfish permits, permit amendments, and certification, 30 minutes; general permits, 1 hour and 30 minutes; special use permits, 8 hours; historical resource permits, 13 hours; voluntary registration, 15 minutes; Tortugas access, 5 minutes; and appeals, 24 hours.

Needs and Uses: National Marine Sanctuary regulations list specific activities that are prohibited in the sanctuaries. These otherwise prohibited activities are permissible if a permit is issued by the Office of National Marine Sanctuaries (ONMS). Any person desiring permits must submit applications, and persons obtaining permits must submit reports on the activity conducted under the permit. The information is needed by the ONMS to protect and manage the sanctuaries. This renewal also includes the merger of OMB Control No. 0648–0418, Tortugas Access Permits, into this information collection.

Affected Public: Not-for-profit institutions; business or other for-profit organizations.

Frequency: Annually and on occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, FAX number (202) 395–7285, or *David__Rostker@omb.eop.gov*.

Dated: June 3, 2008.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E8–12701 Filed 6–5–08; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Data Collection on Marine Protected and Managed Areas.

Form Number(s): None.

OMB Approval Number: 0648–0449.

Type of Request: Regular submission.

Burden Hours: 293.

Number of Respondents: 250.

Average Hours Per Response: Inventory form for: new sites, 1 hour, 30 minutes; and updates, 30 minutes.

Needs and Uses: Executive Order 13158 directs the Department of Commerce and the Department of the Interior to work with partners to inventory the protection of U.S. oceans and coastal resources by developing a national system of marine protected areas. The Departments of Commerce and the Interior plan to work closely with state, territorial, local, and tribal governments, as well as other stakeholders, to identify and inventory the nation's existing marine protected and managed areas. Toward this end, the National Oceanic and Atmospheric Administration (NOAA) and the Department of the Interior (DOI) have created a data form to be used as a survey tool to collect and analyze information on these existing sites. This survey will allow NOAA and DOI to better understand and evaluate the existing protections for marine resources within marine protected and managed areas in the United States.

Affected Public: State, Local or Tribal Government.

Frequency: On occasion and one-time only.

Respondent's Obligation: Voluntary.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, FAX number (202) 395–7285, or *David__Rostker@omb.eop.gov.*

Dated: June 3, 2008.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E8–12702 Filed 6–5–08; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

[Docket No.: 080527711–8713–01]

Privacy Act of 1974; System of Records

AGENCY: Department of Commerce.

ACTION: Notice of a new Privacy Act System of Records: COMMERCE/NOAA–20, Search and Rescue Satellite Aided Tracking (SARSAT) 406 MHz Emergency Beacon Registration Database.

SUMMARY: The Search and Rescue Satellite Aided Tracking (SARSAT) is responsible for keeping and maintaining a registration database for 406 MHz emergency beacons as directed by the Federal Communications Commission (FCC). This database contains personally identifiable information that is required to be protected by the Privacy Act. The purpose for this system of records is to provide search and rescue (SAR) authorities with information about the user of the beacon such as the name, phone number, and emergency contact information. This information allows SAR authorities to shorten response times, and provides a way to cancel false alerts quickly and safely, thereby increasing safety for SAR authorities and decreasing costs to the government and the SAR system.

DATES: The system of records becomes effective on June 6, 2008.

ADDRESSES: For a copy of the system of records please mail requests to LT Jeffrey Shoup, SARSAT Operations Support Officer, 4231 Suitland Road, Suitland, MD 20746–4304.

FOR FURTHER INFORMATION CONTACT: LT Jeffrey Shoup, SARSAT Operations Support Officer, 4231 Suitland Road, Suitland, MD 20746–4304, 301–817–3806.

SUPPLEMENTARY INFORMATION: On April 17, 2008, SARSAT published and requested comments on a proposed Privacy Act System of Records notice entitled Commerce/NOAA–20, Search and Rescue Satellite Aided Tracking (SARSAT) 406 MHz Emergency Beacon Registration Database. No comments were received in response to the request

for comments. By this notice, the Department is adopting the proposed system as final without changes effective June 6, 2008.

Dated: June 2, 2008.

Brenda Dolan,

U.S. Department of Commerce, Freedom of Information/Privacy Act Officer.

[FR Doc. E8–12677 Filed 6–5–08; 8:45 am]

BILLING CODE 3510–03–P

DEPARTMENT OF COMMERCE

International Trade Administration

(A–570–848)

Freshwater Crawfish Tail Meat from the People's Republic of China: Notice of Extension of Time Limit for the Preliminary Results of the Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: June 6, 2008.

FOR FURTHER INFORMATION CONTACT: Dmitry Vladimirov or Minoo Hatten, 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) 482–0665 or (202) 482–1690, respectively.

SUPPLEMENTARY INFORMATION:

Background

On October 31, 2007, the Department published a notice of initiation of administrative review of the antidumping duty order on freshwater crawfish tail meat from the People's Republic of China (PRC). See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 72 FR 61621 (October 31, 2007). The period of review is September 1, 2006, through August 31, 2007. The preliminary results of the administrative review are currently due no later than June 1, 2008.

Extension of Time Limit for Preliminary Results

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department to make a preliminary determination within 245 days after the last day of the anniversary month of an order for which a review is requested and a final determination within 120 days after the date on which the preliminary determination is published. If it is not practicable to complete the review within these time periods, section 751(a)(3)(A) of the Act allows the Department to extend the time limit for the preliminary determination to a maximum of 365 days after the last day of the anniversary month.

We determine that it is not practicable to complete the preliminary results of the review within the current time limit because we require additional time to analyze several complex sales–reporting issues. Therefore, we are extending the time period for issuing the preliminary results of the review by 60 days until July 31, 2008. The deadline for the final results of the review continues to be 120 days after the publication of the preliminary results.

This extension notice is issued and published in accordance with sections 751(a)(3)(A) and 777(i) of the Act and 19 CFR 351.213(h)(2).

Dated: May 30, 2008.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E8–12733 Filed 6–5–08; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

A–427–820

Stainless Steel Bar From France: Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On March 31, 2008, the Department of Commerce published the preliminary results of the administrative review of the antidumping duty order on stainless steel bar from France covering the period March 1, 2006, through February 28, 2007. This administrative review covers one manufacturer/exporter, Ascometal S.A. (Ascometal).

No interested party commented on the preliminary results. We have made no changes to the margin calculation. Therefore, the final results do not differ from the preliminary results. The final weighted–average dumping margin for the reviewed firm is listed below in the section entitled ''Final Results of Review.''

EFFECTIVE DATE: June 6, 2008.

FOR FURTHER INFORMATION CONTACT: Terre Keaton Stefanova or David J. Goldberger, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482- 1280 or (202) 482–4136, respectively.

SUPPLEMENTARY INFORMATION:

Background

On March 31, 2008, the Department of Commerce (the Department) published the preliminary results of this administrative review. *See Stainless Steel Bar from France: Preliminary Results of Antidumping Duty Administrative Review*, 73 FR 16839 (March 31, 2008) (*Preliminary Results*). We invited interested parties to comment on the preliminary results of review. No interested party submitted comments. We have conducted this administrative review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

For purposes of this order, the term ''stainless steel bar'' (SSB) includes articles of stainless steel in straight lengths that have been either hot–rolled, forged, turned, cold–drawn, cold–rolled or otherwise cold–finished, or ground, having a uniform solid cross section along their whole length in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles, hexagons, octagons, or other convex polygons. SSB includes cold–finished stainless steel bars that are turned or ground in straight lengths, whether produced from hot–rolled bar or from straightened and cut rod or wire, and reinforcing bars that have indentations, ribs, grooves, or other deformations produced during the rolling process.

Except as specified above, the term does not include stainless steel semi–finished products, cut length flat–rolled products (*i.e.*, cut length rolled products which if less than 4.75 mm in thickness have a width measuring at least 10 times the thickness, or if 4.75 mm or more in thickness having a width which exceeds 150 mm and measures at least twice the thickness), products that have been cut from stainless steel sheet, strip or plate, wire (i.e., cold–formed products in coils, of any uniform solid cross section along their whole length, which do not conform to the definition of flat–rolled products), and angles, shapes and sections.

The SSB subject to this order is currently classifiable under subheadings 7222.11.00.05, 7222.11.00.50, 7222.19.00.05, 7222.19.00.50, 7222.20.00.05, 7222.20.00.45, 7222.20.00.75, and 7222.30.00.00 of the *Harmonized Tariff Schedule of the United States* (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the

written description of the scope of this order is dispositive.

Final Results of Review

We determine that the following weighted–average margin percentage exists:

Manufacturer/exporter	Margin (percent)
Ascometal S.A.	0.00

Assessment

The Department shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries, in accordance with 19 CFR 351.212(b). With respect to Ascometal, we calculated importer–specific *ad valorem* duty assessment rates for the subject merchandise by aggregating the dumping margins calculated for all the U.S. sales examined and dividing this amount by the total entered value of the sales examined. Pursuant to 19 CFR 351.106(c)(2), we will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if any importer–specific assessment rate calculated is above *de minimis (i.e.*, is not less than 0.50 percent). The Department intends to issue assessment instructions to CBP 15 days after the date of publication of these final results of review.

The Department clarified its ''automatic assessment'' regulation on May 6, 2003. *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003). This clarification will apply to entries of subject merchandise during the period of review produced by the company included in these final results of review for which the reviewed company did not know its merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all–others rate if there is no rate for the intermediate company(ies) involved in the transaction.

Discontinuation of Cash Deposit Requirements

As stated in our preliminary results, we have instructed CBP to discontinue collection of cash deposits of antidumping duties on entries of the subject merchandise made on or after March 7, 2007 (the effective date of the revocation of this order). *See Preliminary Results at 16842; Revocation of Antidumping Duty Orders on Stainless Steel Bar From France, Germany, Italy, South Korea, and the United Kingdom and the Countervailing Duty Order on Stainless Steel Bar From Italy*, 73 FR 7258 (February 7, 2008).

Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Notification to Interested Parties

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing this determination and notice in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: May 30, 2008.

David M. Spooner,

Assistant Secretaryfor Import Administration.

[FR Doc. E8–12771 Filed 6–5–08; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–936]

Circular Welded Carbon Quality Steel Line Pipe from the People's Republic of China: Notice of Postponement of Preliminary Determination in the Countervailing Duty Investigation

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: June 6, 2008.

FOR FURTHER INFORMATION CONTACT: Kristen Johnson, 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) 482–4793.

SUPPLEMENTARY INFORMATION:

Background

On April 23, 2008, the Department of Commerce (the Department) initiated the countervailing duty investigation of circular welded carbon quality steel line pipe from the People's Republic of China. *See Circular Welded Carbon Quality Steel Line Pipe from the People's Republic of China: Notice of Initiation of Countervailing Duty Investigation,* 73 FR 23184 (April 29, 2008). Currently, the preliminary determination is due no later than June 27, 2008.

Postponement of Due Date for Preliminary Determination

Section 703(b)(1) of the Tariff Act of 1930, as amended (the Act), requires the Department to issue the preliminary determination in a countervailing duty investigation within 65 days after the date on which the Department initiated the investigation. However, if the Department concludes that the parties concerned in the investigation are cooperating and determines that the investigation is extraordinarily complicated, section 703(c)(1)(B) of the Act allows the Department to postpone making the preliminary determination until no later than 130 days after the date on which the administering authority initiated the investigation.

The Department is currently investigating alleged subsidy programs involving debt-for-equity swaps, loans, grants, income tax incentives, and the provision of goods and services for less than adequate remuneration. Due to the number and complexity of the alleged countervailable subsidy practices being investigated, it is not practicable to complete the preliminary determination of this investigation within the original time limit (*i.e.*, by June 27, 2008). Therefore, in accordance with section 703(c)(1)(B) of the Act, we are fully extending the due date for the preliminary determination to no later than 130 days after the day on which the investigation was initiated. However, as that date falls on a Sunday, the deadline for completion of the preliminary determination is now September 2, 2008, the next business day after the Labor Day holiday.

This notice is issued and published pursuant to section 703(c)(2) of the Act.

Dated: May 30, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E8–12773 Filed 6–5–08; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

A–533–809

Certain Forged Stainless Steel Flanges from India; Preliminary Intent to Rescind New Shipper Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) is conducting a new shipper review of the antidumping duty order on certain forged stainless steel flanges (stainless steel flanges) from India manufactured by Hotmetal Forge (India) Pvt., Ltd. (Hotmetal). The period of review (POR) is February 1, 2007, through July 31, 2007. We preliminarily determine that Hotmetal had no bona fide U.S. sales during the period of review (POR), and therefore intend to rescind the review.

We invite interested parties to comment on this preliminary intent to rescind. Parties who submit argument in these proceedings are requested to submit with the argument: (1) a statement of the issues; and (2) a brief summary of the argument.

EFFECTIVE DATE: June 6, 2008.

FOR FURTHER INFORMATION CONTACT: Fred Baker or Robert James, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–2924 or (202) 482–0649, respectively.

SUPPLEMENTARY INFORMATION:

Background

On February 9, 1994, the Department published the antidumping duty order on stainless steel flanges from India. *See Amended Final Determination and Antidumping Duty Order; Certain Forged Stainless Steel Flanges from India*, 59 FR 5994 (February 9, 1994) (*Amended Final Determination*). On August 31, 2007, we received a request for a new shipper review from Hotmetal for the period February 1, 2007 through July 31, 2007. On October 4, 2007, we initiated the new shipper review. *See Forged Stainless Steel Flanges from India: Notice of Initiation of Antidumping Duty New Shipper Review*, 72 FR 56723 (October 4, 2007).[1]

On October 4, 2007, the Department issued its questionnaire to Hotmetal. Hotmetal submitted its section A response on November 2, 2007, and its section B and C responses on November 16, 2007.

Scope of the order

The products covered by this order are certain forged stainless steel flanges, both finished and not finished, generally manufactured to specification ASTM A–182, and made in alloys such as 304, 304L, 316, and 316L. The scope includes five general types of flanges. They are weld–neck, used for butt–weld line connection; threaded, used for threaded line connections; slip–on and lap joint, used with stub–ends/butt–weld line connections; socket weld, used to fit pipe into a machined recession; and blind, used to seal off a line. The sizes of the flanges within the scope range generally from one to six inches; however, all sizes of the above–described merchandise are included in the scope. Specifically excluded from the scope of this order are cast stainless steel flanges. Cast stainless steel flanges generally are manufactured to specification ASTM A–351. The flanges subject to this order are currently classifiable under subheadings 7307.21.1000 and 7307.21.5000 of the Harmonized Tariff Schedule (HTS). Although the HTS subheading is provided for convenience and customs purposes, the written description of the merchandise under review is dispositive of whether or not the merchandise is covered by the scope of the order.

Intent to Rescind

As indicated above, we have preliminarily determined that Hotmetal's sales to the United States during the POR were not *bona fide* sales. We based our determination on the following factors: (1) the U.S. price and expenses associated with the sale were unusually high; (2) the sale involved a method of shipping not standard for the industry; (3) the shipment did not enter U.S. customs territory as a dumping entry; and (4) there were unusual circumstances surrounding the resale of the subject merchandise by Hotmetal's U.S. customer. For further information, *see* the Memorandum to the File, ''Bona Fide Nature of the Sale in the New Shipper Review of Hotmetal Forge (India) Pvt., Ltd.,'' dated May 29, 2008, for a complete explanation of our analysis. Based on these factors, we preliminarily intend to rescind this new shipper review.

Public Comment

Interested parties are invited to comment on this preliminary intent to rescind. Pursuant to 19 CFR 351.309(c)(1)(ii), interested parties may submit case briefs no later than 30 days after the date of publication of this notice. Pursuant to 19 CFR 351.309(d), rebuttal briefs, limited to issues raised in the case briefs and comments, may be filed no later than 5 days after the time limit for filing the case briefs. Parties who submit argument in these proceedings are requested to submit with the argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. Further, the Department requests parties submitting written comments to provide the Department with an additional copy of the public version of any such comments on diskette.

Assessment Rates

At the completion of this new shipper review, if a final rescission notice is published, a cash deposit rate of 162.14 percent *ad valorem* shall continue to be collected for any entries produced by Hotmetal. Should the Department reach a final result other than a rescission, we will calculate an appropriate antidumping duty rate for both assessment and cash deposit purposes. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final rescission or final results of review.

The Department clarified its ''automatic assessment'' regulation on May 6, 2003. *See Notice of Policy Concerning Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003) (*Assessment Policy Notice*). This clarification will apply to entries of subject merchandise during the POR produced by Hotmetal for which Hotmetal did not know that the merchandise it sold to an intermediary (*e.g.*, a reseller, trading company, or exporter) was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the 162.14 percent all–others rate established in the original less than fair value (LTFV) investigation if there is no rate for the intermediary involved in the transaction. *See Assessment Policy Notice* for a full discussion of this clarification.

Notification to Interested Parties

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that

[1] Based on the spelling Hotmetal's request for new shipper review, we spelled the respondent's name ''Hot Metal Forge (India) Pvt. Ltd.'' in the initiation notice. However, subsequent submissions indicate ''Hotmetal'' is properly one word.

reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act and 19 CFR 351.221(b)(4).

Dated: May 29, 2008.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E8–12751 Filed 6–5–08; 8:45 am]

BILLING CODE 3510–DR–S

DEPARTMENT OF COMMERCE

International Trade Administration

A–570–890

Wooden Bedroom Furniture from the People's Republic of China: Preliminary Results of January 1, 2007 July 31, 2007 Semi–Annual New Shipper Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On August 31, 2007, the Department of Commerce (''the Department'') initiated semi–annual new shipper reviews (''NSRs'') of the antidumping duty order on wooden bedroom furniture from the People's Republic of China (''PRC'') covering sales of subject merchandise made by Dongguan Mu Si Furniture Co., Ltd. (''Mu Si'') and Dongguan Bon Ten Furniture Co., Ltd. (''Bon Ten''). *See Wooden Bedroom Furniture From the People's Republic of China: Initiation of New Shipper Reviews*, 72 FR 52083 (September 12, 2007) (''Initiation of NSRs'').

The Department preliminarily determines that Mu Si has made sales at less than normal value (''NV''), and Bon Ten has not made sales in the United States at less than NV. If these preliminary results are adopted in our final results of review, the Department will instruct U.S. Customs and Border Protection (''CBP'') to assess antidumping duties on entries of subject merchandise during the period of review (''POR'') for which the importer–specific assessment rates are above *de minimis*.

EFFECTIVE DATE: June 6, 2008.

FOR FURTHER INFORMATION CONTACT: Paul Stolz or Hua Lu, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4474 and (202) 482–6478, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department published an antidumping duty order on wooden bedroom furniture from the PRC on January 4, 2005. *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Wooden Bedroom Furniture from the People's Republic of China*, 70 FR 329 (January 4, 2005) (''the Order''). On July 27, 2007, Mu Si and Bon Ten requested that the Department conduct NSRs of sales of their subject merchandise during the period of review POR January 1, 2007 through June 30, 2007. On July 31, 2007, Dongguan Sunshine Furniture Co., Ltd. (''Sunshine'') requested that the Department conduct an NSR covering its sales of subject merchandise. On August 31, 2007, the Department initiated semi–annual NSRs of Mu Si and Bon Ten. *See* Initiation of NSRs. The Department did not initiate a review of Sunshine's sales because CBP import data did not demonstrate that Sunshine sold subject merchandise to the United States during the POR.

On October 5, 2007, the Department issued antidumping duty questionnaires to Mu Si and Bon Ten. Mu Si and Bon Ten submitted their section A questionnaire responses on November 5, 2007, and submitted their sections C and D questionnaire responses on November 20, 2007. The Department subsequently issued supplemental questionnaires to Bon Ten and to Mu Si on March 21, 2008 and April 2, 2008, respectively, to which they responded on April 14, 2008 and April 25, 2008, respectively.

On February 28, 2008, the Department extended the deadline for the issuance of the preliminary results of these NSRs until May 27, 2008. *See Wooden Bedroom Furniture from the People's Republic of China: Extension of Time Limit for the Preliminary Results of New Shipper Reviews*, 73 FR 11395 (March 3, 2008).

Period of Review

The POR is January 1, 2007, through July 31, 2007.[1]

Scope of the Order

The product covered by the Order is wooden bedroom furniture. Wooden bedroom furniture is generally, but not exclusively, designed, manufactured, and offered for sale in coordinated groups, or bedrooms, in which all of the individual pieces are of approximately the same style and approximately the same material and/or finish. The subject merchandise is made substantially of wood products, including both solid wood and also engineered wood products made from wood particles, fibers, or other wooden materials such as plywood, oriented strand board, particle board, and fiberboard, with or without wood veneers, wood overlays, or laminates, with or without non–wood components or trim such as metal, marble, leather, glass, plastic, or other resins, and whether or not assembled, completed, or finished.

The subject merchandise includes the following items: (1) wooden beds such as loft beds, bunk beds, and other beds; (2) wooden headboards for beds (whether stand–alone or attached to side rails), wooden footboards for beds, wooden side rails for beds, and wooden canopies for beds; (3) night tables, night stands, dressers, commodes, bureaus, mule chests, gentlemen's chests, bachelor's chests, lingerie chests, wardrobes, vanities, chessers, chifforobes, and wardrobe–type cabinets; (4) dressers with framed glass mirrors that are attached to, incorporated in, sit on, or hang over the dresser; (5) chests–on-chests,[2] highboys,[3] lowboys,[4] chests of drawers,[5] chests,[6] door chests,[7] chiffoniers,[8]

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[1] In the Initiation of NSRs the Department stated, ''As discussed above, under 19 CFR 351.214 (f)(2)(ii), when the sale of the subject merchandise occurs within the POR, but the entry occurs after the normal POR, the POR may be extended. Therefore, the POR for the new shipper reviews of Bon Ten and Mu Si is January 1 through July 31, 2007.''

[2] A chest-on-chest is typically a tall chest-of-drawers in two or more sections (or appearing to be in two or more sections), with one or two sections mounted (or appearing to be mounted) on a slightly larger chest; also known as a tallboy.

[3] A highboy is typically a tall chest of drawers usually composed of a base and a top section with drawers, and supported on four legs or a small chest (often 15 inches or more in height).

[4] A lowboy is typically a short chest of drawers, not more than four feet high, normally set on short legs.

[5] A chest of drawers is typically a case containing drawers for storing clothing.

[6] A chest is typically a case piece taller than it is wide featuring a series of drawers and with or without one or more doors for storing clothing. The piece can either include drawers or be designed as a large box incorporating a lid.

[7] A door chest is typically a chest with hinged doors to store clothing, whether or not containing drawers. The piece may also include shelves for televisions and other entertainment electronics.

[8] A chiffonier is typically a tall and narrow chest of drawers normally used for storing undergarments and lingerie, often with mirror(s) attached.

hutches,[9] and armoires;[10] (6) desks, computer stands, filing cabinets, book cases, or writing tables that are attached to or incorporated in the subject merchandise; and (7) other bedroom furniture consistent with the above list.

The scope of the Order excludes the following items: (1) seats, chairs, benches, couches, sofas, sofa beds, stools, and other seating furniture; (2) mattresses, mattress supports (including box springs), infant cribs, water beds, and futon frames; (3) office furniture, such as desks, stand–up desks, computer cabinets, filing cabinets, credenzas, and bookcases; (4) dining room or kitchen furniture such as dining tables, chairs, servers, sideboards, buffets, corner cabinets, china cabinets, and china hutches; (5) other non–bedroom furniture, such as television cabinets, cocktail tables, end tables, occasional tables, wall systems, book cases, and entertainment systems; (6) bedroom furniture made primarily of wicker, cane, osier, bamboo or rattan; (7) side rails for beds made of metal if sold separately from the headboard and footboard; (8) bedroom furniture in which bentwood parts predominate;[11] (9) jewelry armoires;[12] (10) cheval mirrors;[13] (11) certain metal parts;[14] (12) mirrors that do not attach to, incorporate in, sit on, or hang over a dresser if they are not designed and marketed to be sold in conjunction with a dresser as part of a dresser–mirror set; and (13) upholstered beds.[15]

Imports of subject merchandise are classified under subheading 9403.50.9040 of the HTSUS as ''wooden . . . beds'' and under subheading 9403.50.9080 of the HTSUS as ''other . . . wooden furniture of a kind used in the bedroom.'' In addition, wooden headboards for beds, wooden footboards for beds, wooden side rails for beds, and wooden canopies for beds may also be entered under subheading 9403.50.9040 of the HTSUS as ''parts of wood'' and framed glass mirrors may also be entered under subheading 7009.92.5000 of the HTSUS as ''glass mirrors . . . framed.'' This order covers all wooden bedroom furniture meeting the above description, regardless of tariff classification. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

[9] A hutch is typically an open case of furniture with shelves that typically sits on another piece of furniture and provides storage for clothes.

[10] An armoire is typically a tall cabinet or wardrobe (typically 50 inches or taller), with doors, and with one or more drawers (either exterior below or above the doors or interior behind the doors), shelves, and/or garment rods or other apparatus for storing clothes. Bedroom armoires may also be used to hold television receivers and/or other audio-visual entertainment systems.

[11] As used herein, bentwood means solid wood made pliable. Bentwood is wood that is brought to a curved shape by bending it while made pliable with moist heat or other agency and then set by cooling or drying. *See* Customs' Headquarters' Ruling Letter 043859, dated May 17, 1976.

[12] Any armoire, cabinet or other accent item for the purpose of storing jewelry, not to exceed 24″ in width, 18″ in depth, and 49″ in height, including a minimum of 5 lined drawers lined with felt or felt-like material, at least one side door (whether or not the door is lined with felt or felt-like material), with necklace hangers, and a flip-top lid with inset mirror. *See* Issues and Decision Memorandum from Laurel LaCivita to Laurie Parkhill, Office Director, Concerning Jewelry Armoires and Cheval Mirrors in the Antidumping Duty Investigation of Wooden Bedroom Furniture from the People's Republic of China, dated August 31, 2004. *See also Wooden Bedroom Furniture from the People's Republic of China: Notice of Final Results of Changed Circumstances Review and Revocation in Part*, 71 FR 38621 (July 7, 2006).

[13] Cheval mirrors are any framed, tiltable mirror with a height in excess of 50″ that is mounted on a floor-standing, hinged base. Additionally, the scope of the order excludes combination cheval mirror/jewelry cabinets. The excluded merchandise is an integrated piece consisting of a cheval mirror, *i.e.*, a framed tiltable mirror with a height in excess of 50 inches, mounted on a floor-standing, hinged base, the cheval mirror serving as a door to a cabinet back that is integral to the structure of the mirror and which constitutes a jewelry cabinet lined with fabric, having necklace and bracelet hooks, mountings for rings and shelves, with or without a working lock and key to secure the contents of the jewelry cabinet back to the cheval mirror, and no drawers anywhere on the integrated piece. The fully assembled piece must be at least 50 inches in height, 14.5 inches in width, and 3 inches in depth. *See Wooden Bedroom Furniture From the People's Republic of China: Final Results of Changed Circumstances Review and Determination To Revoke Order in Part*, 72 FR 948 (January 9, 2007).

[14] Metal furniture parts and unfinished furniture parts made of wood products (as defined above) that are not otherwise specifically named in this scope (*i.e.*, wooden headboards for beds, wooden footboards for beds, wooden side rails for beds, and wooden canopies for beds) and that do not possess the essential character of wooden bedroom furniture in an unassembled, incomplete, or unfinished form. Such parts are usually classified under the Harmonized Tariff Schedule of the United States (''HTSUS'') subheading 9403.90.7000.

[15] Upholstered beds that are completely upholstered, *i.e.*, containing filling material and completely covered in sewn genuine leather, synthetic leather, or natural or synthetic decorative fabric. To be excluded, the entire bed (headboards, footboards, and side rails) must be upholstered except for bed feet, which may be of wood, metal, or any other material and which are no more than nine inches in height from the floor. *See Wooden Bedroom Furniture from the People's Republic of China: Final Results of Changed Circumstances Review and Determination to Revoke Order in Part*, 72 FR 7013, 7015 (February 14, 2007).

Bona Fide Analysis

Consistent with the Department's practice, the Department investigated the *bona fide* nature of the sales made by Mu Si and Bon Ten for these reviews. In evaluating whether or not a single sale in an NSR is commercially reasonable, and therefore *bona fide*, the Department considers, *inter alia*, such factors as: (1) the timing of the sale; (2) the price and quantity; (3) the expenses arising from the transaction; (4) whether the goods were resold at a profit; and (5) whether the transaction was made on an arm's–length basis. *See*, *e.g.*, *Tianjin Tiancheng Pharmaceutical Co., Ltd. v. United States*, 366 F. Supp. 2d 1246, 1250 (CIT 2005). Accordingly, the Department considers a number of factors in its *bona fide* analysis, ''all of which may speak to the commercial realities surrounding an alleged sale of subject merchandise.'' *See Hebei New Donghua Amino Acid Co., Ltd. v. United States*, 374 F. Supp. 2d 1333, 1342 (CIT 2005) (*citing Fresh Garlic From the People's Republic of China: Final Results of Antidumping Administrative Review and Rescission of New Shipper Review*, 67 FR 11283 (March 13, 2002), and accompanying Issues and Decision Memorandum).

The Department preliminarily finds that the new shipper sales made by Mu Si and Bon Ten were made on a *bona fide* basis. Specifically, the Department finds that: (1) the price and quantity of each new shipper sale was within the range of the prices and quantities of other entries of subject merchandise from the PRC into the United States during the POR; (2) the new shippers and their respective customers did not incur any extraordinary expenses arising from the transactions; (3) each new shipper sale was made between unaffiliated parties at arm's length; (4) there is no record evidence that indicates that each new shipper sale was not made based on commercial principles; (5) the merchandise was resold at a profit; and (6) the timing of each of the new shipper sales does not indicate the sales were made on a non-*bona fide* basis. *See* the Memorandum regarding, ''Antidumping Duty New Shipper Review of Wooden Bedroom Furniture from the People's Republic of China: *Bona Fide* Nature of the Sale Under Review for Dongguan Mu Si Furniture Co., Ltd.'' dated May 27, 2008; and the Memorandum regarding, ''Antidumping Duty New Shipper Review of Wooden Bedroom Furniture from the People's Republic of China: *Bona Fide* Nature of the Sale Under Review for Dongguan Bon Ten Furniture Co., Ltd.'' dated May 27, 2008.

Therefore, the Department has preliminarily found that Mu Si's and Bon Ten's sales of subject merchandise to the United States were *bona fide* for purposes of these NSRs.

Non–Market Economy Country Status

In every antidumping case conducted by the Department involving the PRC, the PRC has been treated as a non–market economy (''NME'') country. *See, e.g., Brake Rotors From the People's Republic of China: Final Results and Partial Rescission of the 2004/2005 Administrative Review and Notice of Rescission of 2004/2005 New Shipper Review*, 71 FR 66304 (November 14, 2006). In accordance with section 771(18)(C)(i) of the the Tariff Act of 1930, as amended (''the Act''), any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. None of the parties to this proceeding has contested such treatment. Accordingly, the Department calculated NV in accordance with section 773(c) of the Act, which applies to NME countries.

Separate Rates

In proceedings involving NME countries, the Department has a rebuttable presumption that all companies within the country are subject to government control and thus should be assessed a single antidumping duty rate. It is the Department's policy to assign all exporters of merchandise subject to investigation in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate. Exporters can demonstrate this independence through the absence of both *de jure* and *de facto* government control over export activities. The Department analyzes each entity exporting the subject merchandise under a test arising from the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) (''*Sparklers*''), as further developed in the *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) (''*Silicon Carbide*''). *See also* Policy Bulletin 05.1: Separate–Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non–Market Economy Countries (April 5, 2005), available at http://ia.ita.doc.gov/policy/bulletin05–1.pdf at p. 6 (stating: '' [w]hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME investigations will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non–investigated firms receiving the weighted–average of the individually calculated rates. This practice is referred to as the application of ''combination rates'' because such rates apply to specific combinations of exporters and one or more producers. The cash–deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question and produced by a firm that supplied the exporter during the period of investigation. However, if the Department determines that a company is wholly foreign–owned or located in a market economy, then a separate–rate analysis is not necessary to determine whether it is independent from government control.'')

Mu Si and Bon Ten are wholly Chinese–owned companies and are located in the PRC. Therefore, the Department must analyze whether they can demonstrate the absence of both *de jure* and *de facto* government control over their export activities.

A. Absence of De Jure Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) other formal measures by the government decentralizing control of companies. *See Sparklers*, 56 FR at 20589.

Throughout the course of this proceeding, Mu Si and Bon Ten have placed a number of documents on the record to demonstrate absence of *de jure* control including: business licenses, financial statements, and narrative information regarding government laws and regulations on corporate ownership, and the companies' operations and selection of management. For example, Mu Si and Bon Ten have placed on the record their articles of association, the ''Foreign Trade Law of the People's Republic of China'' and the ''The Company Law of the People's Republic of China.'' See Exhibit 1 of their respective Section A questionnaire responses dated November 5, 2007. The evidence provided by Mu Si and Bon Ten supports a preliminary finding of *de jure* absence of government control based on the following: (1) an absence of restrictive stipulations associated with the individual exporters' business and export licenses; (2) there are applicable legislative enactments decentralizing control of the companies; and (3) and there are formal measures by the government decentralizing control of companies.

B. Absence of De Facto Control

Typically the Department considers four factors in evaluating whether each respondent is subject to *de facto* government control of its export functions: (1) whether the export prices are set by or are subject to the approval of a government agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses. *See Silicon Carbide*, 59 FR at 22586–87; *see also Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China*, 60 FR 22544, 22545 (May 8, 1995). The Department has determined that an analysis of *de facto* control is critical in determining whether respondents are subject to a degree of government control which would preclude the Department from assigning separate rates.

The Department conducted a separate–rates analysis for both Mu Si and Bon Ten. In their questionnaire responses, Mu Si and Bon Ten submitted evidence indicating an absence of *de facto* government control over their export activities. The evidence placed on the record of this review by Mu Si and Bon Ten demonstrates an absence of *de facto* government control with respect to each of the exporters' exports of the merchandise under review, in accordance with the criteria identified in *Sparklers* and *Silicon Carbide*. Specifically, this evidence indicates that:

(1) Mu Si and Bon Ten set their own export prices independent of the government and without the approval of a government authority; (2) Mu Si and Bon Ten retain the proceeds from their sales and make independent decisions regarding the disposition of profits or financing of losses; (3) Mu Si and Bon Ten each has an executive director/

general manager who has the authority to negotiate and bind the company in an agreement; (4) the executive director/ general manager, the vice–manager, and the department managers are selected by the respective shareholders of each company; and (5) there is no restriction on Mu Si's or Bon Ten's use of export revenues. Therefore, because Mu Si and Bon Ten have demonstrated a lack of *de jure* and *de facto* control, we have preliminarily determined they are eligible for a separate rate.

Surrogate Country

When the Department is reviewing imports from an NME country, section 773(c)(1) of the the Act directs it to base NV, in most circumstances, on the NME producer's factors of production (''FOPs''), valued in a surrogate market economy country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, in valuing the FOPs, the Department shall utilize, to the extent possible, the prices or costs of FOPs in one or more market economy countries that are: (1) at a level of economic development comparable to that of the NME country; and (2) significant producers of comparable merchandise. The sources of the surrogate factor values are discussed under the ''Normal Value'' section below and in the Memorandum to the File, ''New Shipper Review of Wooden Bedroom Furniture from the People's Republic of China: Surrogate Values for the Preliminary Results,'' dated May 27, 2008 (''Factor Valuation Memorandum'').

The Department has determined that India, Sri Lanka, Egypt, Indonesia, and the Philippines, are comparable to the PRC in terms of economic development. *See* the Memorandum regarding, ''New Shipper Review of Wooden Bedroom Furniture from the People's Republic of China: Request for a List of Surrogate Countries,'' dated October 3, 2007. It is the Department's practice to select from among these countries based on the availability and reliability of data. *See* Department Policy Bulletin No. 04.1: Non–Market Economy Surrogate Country Selection Process (March 1, 2004).

In the final results of the first administrative review of the Order, the most recently completed segment of this proceeding, the Department used India as the surrogate country for the PRC. However, in the ongoing second administrative review, the Department preliminarily selected the Philippines as the surrogate country because, in addition to the Philippines meeting the economic comparability and significant producer factors, the financial data from the Philippines better reflected the overall experience of producers of comparable merchandise in a surrogate country. Unlike the ongoing administrative review, for these new shipper reviews, there is no information on the record which would enable us to consider the Philippines as a surrogate country. Therefore, the Department is preliminarily selecting India as the surrogate country for the PRC. India is at a level of economic development comparable to that of the PRC; it is a significant producer of comparable merchandise; and the Department has reliable, publicly available data from India that it can use to value the FOPs.

Fair Value Comparisons

To determine whether sales of the subject merchandise made by Mu Si and Bon Ten to the United States were at prices below NV, the Department compared each company's export price (''EP'') to NV, as described below.

Export Price

In accordance with section 772(a) of the Act, the Department calculated the EP for sales to the United States for Mu Si and Bon Ten because the first sale to an unaffiliated party was made before the date of importation and the use of constructed EP was not otherwise warranted. The Department calculated EP based on the price to unaffiliated purchasers in the United States. In accordance with section 772(c) of the Act, as appropriate, the Department deducted from the starting price to unaffiliated purchasers foreign inland freight, and brokerage and handling. For Mu Si and Bon Ten, each of these services was either provided by an NME vendor or paid for using an NME currency. Thus, the Department based the deduction of these movement charges on surrogate values. *See* Factor Valuation Memorandum for details regarding the surrogate values for movement expenses.

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine NV using an FOP methodology if: (1) the merchandise is exported from an NME country; and (2) the information does not permit the calculation of NV using home market prices, third country prices, or constructed value under section 773(a) of the Act. When determining NV in an NME context, the Department will base NV on FOPs because the presence of government controls on various aspects of these economies renders price comparisons and the calculation of production costs invalid under our normal methodologies. Under section 773(c)(3) of the Act, FOPs include but are not limited to: (1) hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital costs. The Department used FOPs reported by respondents for materials, energy, labor and packing.

In accordance with 19 CFR 351.408(c)(1), the Department will normally use publicly available information to find an appropriate SV to value FOPs, but when a producer sources an input from a market economy and pays for it in market–economy currency, the Department may value the factor using the actual price paid for the input. *See Lasko Metal Products, Inc. v. United States*, 43 F.3d 1442, 1446 (Fed. Cir. 1994). However, when the Department has reason to believe or suspect that such prices may be distorted by subsidies, the Department will disregard the market economy purchase prices and use SVs to determine the NV. *See Brake Rotors From the People's Republic of China: Final Results of Antidumping Duty Administrative and New Shipper Reviews and Partial Rescission of the 2005–2006 Administrative Review*, 72 FR 42386 (August 2, 2007) (''*Brake Rotors*''), and accompanying Issues and Decision Memorandum at Comment 1.

In avoiding the use of prices that may be subsidized, the Department does not conduct a formal investigation to ensure that such prices are not subsidized, but rather relies on information that is generally available at the time of its determination. *See* H.R. Rep. 100–576, at 590–91 (1988), reprinted in 1988 U.S.C.C.A.N. 1547, 1623–24. It is the Department's practice to find a reason to believe or suspect that inputs may be subsidized if the facts developed in the United States or third country countervailing duty findings indicate the existence of subsidies that appear to be used generally (in particular, broadly available, non–industry-specific export subsidies. *See Brake Rotors and China National Machinery Imp. & Exp. Corp. v. United States*, 293 F. Supp. 2d 1334, 1338–39 (CIT 2003). The Department has reason to believe or suspect that prices of inputs from Indonesia, South Korea, and Thailand may have been subsidized. Through other proceedings, the Department has learned that these countries maintain broadly available, non–industry-specific export subsidies and, therefore, finds it reasonable to infer that all exports to all markets from these countries may be subsidized. *See e.g.*, *Brake Rotors* at Comment 1.

Accordingly, the Department has disregarded prices from Indonesia, South Korea, and Thailand in calculating the Indian import–based SVs.

Factor Valuations

In accordance with section 773(c) of the Act, the Department calculated NV based on FOPs reported by respondents for the POR. To calculate NV, the Department multiplied the reported per–unit factor consumption quantities by publicly available Indian SVs (except as noted below). In selecting the SVs, the Department considered the quality, specificity, and contemporaneity of the data. As appropriate, the Department adjusted input prices by including freight costs to make them delivered prices. Specifically, the Department added to Indian import SVs a surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory where appropriate (*i.e.*, where the sales terms for the market–economy inputs were not delivered to the factory). This adjustment is in accordance with the decision of the U.S. Court of Appeals for the Federal Circuit in *Sigma Corp. v. United States*, 117 F.3d 1401, 1407–08 (Fed. Cir. 1997). For a detailed description of all SVs used to value the respondents' reported FOPs, *see* Factor Valuation Memorandum.

During the POR, Mu Si and Bon Ten purchased all or a portion of certain inputs from a market economy supplier and paid for these inputs in a market economy currency. The Department has instituted a rebuttable presumption that market economy input prices are the best available information for valuing an input when the total volume of the input purchased from all market economy sources during the period of investigation or review exceeds 33 percent of the total volume of the input purchased from all sources during the period. *See Antidumping Methodologies: Market Economy Inputs, Expected Non–Market Economy Wages, Duty Drawback; and Request for Comments*, 71 FR 61716 (October 19, 2006) (''Market Economy Inputs''). In these cases, unless case–specific facts provide adequate grounds to rebut the Department's presumption, the Department will use the weighted–average market economy purchase price to value the input. Alternatively, when the volume of an NME firm's purchases of an input from market economy suppliers during the period is below 33 percent of its total volume of purchases of the input during the period, but where these purchases are otherwise valid and there is no reason to disregard the prices, the Department will weight average the weighted–average market economy purchase price with an appropriate SV according to their respective shares of the total volume of purchases, unless case–specific facts provide adequate grounds to rebut the presumption. Where the quantity of the input purchased from market–economy suppliers is insignificant, the Department will not rely on the price paid by an NME producer to a market–economy supplier because it cannot have confidence that a company could fulfill all its needs at that price. Furthermore, when a firm has made market economy input purchases that may have been dumped or subsidized, are not *bona fide*, or are otherwise not acceptable for use in a dumping calculation, the Department will exclude them from the numerator of the ratio to ensure a fair determination of whether valid market economy purchases meet the 33–percent threshold.

Consistent with the aforementioned methodology, the Department valued Mu Si's and Bon Ten's inputs using the market economy prices paid for the inputs where the total volume of the input purchased from all market economy sources during the POR exceeded 33 percent of the total volume of the input purchased from all sources during that period. Alternatively, when the volume of Mu Si's and Bon Ten's purchases of an input from market economy suppliers during the POR was below 33 percent of the company's total volume of purchases of the input during the POR, the Department weight averaged the weighted–average market economy purchase price with an appropriate SV according to their respective shares of the total volume of purchases, as appropriate. Where appropriate, the Department increased the market economy prices of inputs by freight and brokerage and handling expenses. *See* Factor Valuation Memorandum; *see also* Memorandum to the File, ''Company Analysis Memorandum in the Antidumping Duty New Shipper Review of Wooden Bedroom Furniture from the People's Republic of China: Mu Si,'' dated May 27, 2008 and Memorandum to the File ''Company Analysis Memorandum in the Antidumping Duty New Shipper Review of Wooden Bedroom Furniture from the People's Republic of China: Bon Ten,'' dated May 27, 2008 (for a detailed description of all actual values used for market–economy inputs.).

In order to calculate SVs for the reported FOPs purchased from NME sources, the Department used contemporaneous import data from the World Trade Atlas online, published by the Directorate General of Commercial Intelligence and Statistics, Ministry of Commerce of India. Among the FOPs for which the Department calculated SVs using Indian Import Statistics are plywood, woodscrews, dowels, glue, paint, drawerslides, abrasive paper, and packing materials. For a complete listing of all the inputs and the valuation for each mandatory respondent. *See* Factor Valuation Memorandum.

Where the Department could not obtain information contemporaneous with the POR with which to value FOPs, the Department adjusted the SVs using, where appropriate, the Indian Wholesale Price Index (''WPI'') available at the website of the Office of the Economic Adviser, Ministry of Commerce and Industry, Government of India, http://eaindustry.nic.in/. *See* Factor Valuation Memorandum.

For direct labor, indirect labor, and packing labor, consistent with 19 CFR 351.408(c)(3), the Department used the PRC regression–based wage rate as reported on Import Administration's website, Import Library, Expected Wages of Selected NME Countries, revised in May 2008, using 2005 data, http://ia.ita.doc.gov/wages/05wages/05wages–051608.html#table1. The source of these wage–rate data is the International Labour Organization, Geneva, Labour Statistics Database, Copyright International Labour Organization, 1998–2007 Yearbook, Selection: years: 2004–2005, Chapter 5B: Wages in Manufacturing. Because this regression–based wage rate does not separate the labor rates into different skill levels or types of labor, the Department has applied the same wage rate to all skill levels and types of labor reported by the respondents. *See* Factor Valuation Memorandum.

To value electricity, the Department used data from the International Energy Agency *Key World Energy Statistics* (2003 edition). *See* Factor Valuation Memorandum. Because the value was not contemporaneous with the POR, the Department adjusted the rate for inflation.

To calculate the value for domestic brokerage and handling, the Department used information from the public version of two questionnaire responses placed on the record of two separate antidumping proceedings. The first source was December 2003–November 2004 data contained in the public version of Essar Steel's February 28, 2005 questionnaire response submitted in the antidumping duty administrative review of hot–rolled carbon steel flat products from India. *See Certain Hot–*

Rolled Carbon Steel Flat Products from India: Notice of Preliminary Results of Antidumping Duty Administrative Review, 71 FR 2018 (January 12, 2006) (unchanged in the final results, *Certain Hot–Rolled Carbon Steel Flat Products From India: Final Results of Antidumping Duty Administrative Review*, 71 FR 40694 (July 18, 2006)). This value was averaged with the February 2004–January 2005 data contained in the public version of Agro Dutch Industries Limited's (''Agro Dutch'') May 24, 2005 questionnaire response submitted in the administrative review of the antidumping duty order on certain preserved mushrooms from India. *See Certain Preserved Mushrooms From India: Final Results of Antidumping Duty Administrative Review*, 70 FR 37757 (June 30, 2005). The brokerage expense data reported by Essar Steel and Agro Dutch in their public versions are ranged data. The Department derived an average per–unit amount from each source and then adjusted each average rate for inflation using the WPI. The Department then averaged the two per–unit amounts to derive an overall average rate for the POR. *See* Factor Valuation Memorandum.

The Department used Indian transport information in order to value the freight–in cost of the raw materials. The Department determined the best available information for valuing truck and rail freight to be from www.infreight.com. This source provides daily rates from six major points of origin to five destinations in India during the POR. The Department obtained a price quote on the first day of each month of the POR from each point of origin to each destination and averaged the data accordingly. *See* Factor Valuation Memorandum.

To value factory overhead, selling, general, and administrative expenses (''SG&A''), and profit, the Department used the audited financial statements for the fiscal year ending March 31, 2007, from twelve Indian producers of comparable merchandise. From this information, the Department was able to determine factory overhead as a percentage of the total raw materials, labor and energy (''ML&E'') costs; SG&A as a percentage of ML&E plus overhead (*i.e.*, cost of manufacture); and the profit rate as a percentage of the cost of manufacture plus SG&A. For further discussion, *see* Factor Valuation Memorandum.

Preliminary Results of Reviews

The Department preliminarily determines that the following weighted–average dumping margins exist for the period January 1, 2007, through July 31, 2007:

WOODEN BEDROOM FURNITURE FROM THE PRC

Producer/Exporter	Weighted–Average Margin (Percent)
Dongguan Bon Ten Furniture Co., Ltd./Dongguan Bon Ten Furniture Co., Ltd.	0.00
Dongguan Mu Si Furniture Co., Ltd./Dongguan Mu Si Furniture Co., Ltd.	103.55

Disclosure and Public Comment

The Department will disclose calculations performed for these preliminary results to the parties within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). Interested parties may submit written comments no later than 30 days after the date of publication of these preliminary results of review. *See* 19 CFR 351.309(c). Rebuttals to written comments may be filed no later than five days after the written comments are filed. *See* 19 CFR 351.309(d). Further, parties submitting written comments and rebuttal comments are requested to provide the Department with an additional copy of those comments on diskette. Any interested party may request a hearing within 30 days of publication of these preliminary results. *See* 19 CFR 351.310(c). If requested, a hearing normally will be held seven days after the scheduled date for submission of rebuttal comments. *See* 19 CFR 351.310(d).

The Department will issue the final results of these NSRs, which will include the results of its analysis of any issues raised in written comments, within 90 days of the date on which these preliminary results are issued, in accordance with 19 CFR 351.214(i)(1), unless the time limit is extended. *See* 19 CFR 351.214(i)(1).

Assessment Rates

Upon completion of the final results, pursuant to 19 CFR 351.212(b), the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of reviews. If these preliminary results are adopted in our final results of reviews, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. Pursuant to 19 CFR 351.212(b)(1), the Department will calculate importer–specific (or customer) *ad valorem* duty assessment rates based on the ratio of the total amount of the dumping margins calculated for the examined sales to the total entered value of those same sales. The Department will instruct CBP to assess antidumping duties on all appropriate entries covered by these reviews if any importer–specific assessment rate calculated in the final results of these reviews is above *de minimis*.

Cash Deposit Requirements

On August 17, 2006, the Pension Protection Act of 2006 (''H.R. 4'') was signed into law. Section 1632 of H.R. 4 temporarily suspends the authority of the Department to instruct CBP to collect a bond or other security in lieu of a cash deposit in NSRs. Therefore, the posting of a bond under section 751(a)(B)(iii) of the Act in lieu of a cash deposit is not available in this case.

The following cash deposit requirements will be effective upon publication of the final results of these NSRs for shipments of subject merchandise from the Mu Si and Bon Ten entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) Subject merchandise produced and exported by Mu Si or produced and exported by Bon Ten, the cash deposit rate will be that established in the final results of these reviews; (2) subject merchandise exported by Mu Si but not produced by MuSi and subject merchandise exported by Bon Ten but not produced by Bon Ten, the cash deposit rate will continue to be the PRC–wide rate of 216.01 percent; (3) for subject merchandise produced by Mu Si or Bon Ten, and exported by any party but themselves, the cash deposit rate will be the rate applicable to the exporter. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Interested Parties

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

The Department is issuing and publishing this determination in accordance with sections 751(a)(1),

751(a)(2)(B), and 777(i) of the Act, and 19 CFR 351.214(h) and 351.221(b)(4).

Dated: May 27, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E8–12762 Filed 6–5–08; 8:45 am]

BILLING CODE 3510–DR–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–423–808]

Stainless Steel Plate in Coils From Belgium: Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, U.S. Department of Commerce.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on stainless steel plate in coils (SSPC) from Belgium. For the period May 1, 2006, through April 30, 2007, we have preliminarily determined that U.S. sales have been made below normal value (NV). If these preliminary results are adopted in our final results, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties based on the difference between the constructed export price (CEP) and NV. *See* ''Preliminary Results of Review'' section of this notice. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: June 6, 2008.

FOR FURTHER INFORMATION CONTACT: Cindy Robinson 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) 482–3797 or (202) 482–1167, respectively.

Background

On May 1, 2007, the Department issued a notice of opportunity to request an administrative review of this order for the period of review (POR) May 1, 2006, through April 30, 2007. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 72 FR 23796 (May 1, 2007). On May 31, 2007, the Department received timely requests for an administrative review of this order from the Petitioners, Allegheny Ludlum Corporation, North American Stainless, United Auto Workers Local 3303, Zanesville Armco Independent Organization, and the United Steelworkers of America, AFL–CIO/CLC (collectively, Petitioners), and the respondent, Ugine & ALZ Belgium (U&A Belgium), respectively. On June 29, 2007, we published a notice initiating an administrative review of the antidumping duty order on SSPC from Belgium covering one respondent, U&A Belgium. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews, Request for Revocation in Part and Deferral of Administrative Review*, 72 FR 35690 (June 29, 2007).

On May 11, 2007, the Department received a request from U&A Belgium for a scope determination that the antidumping and countervailing duty orders on SSPC from Belgium exclude stainless steel products with an actual thickness less than 4.75mm, regardless of nominal thickness. The Department initiated a formal scope inquiry of the SSPC orders [1] on July 23, 2007. On November 16, 2007, and on January 15, 2008, the Department extended the deadline to issue a final scope ruling under 19 CFR 351.302(b). *See* Memoranda To All Interested Parties RE: Stainless Steel Plate in Coils from Belgium Scope Inquiry, dated November 16, 2007 and January 15, 2008, respectively.

On July 13, 2007, the Department issued a questionnaire to U&A Belgium. We received U&A Belgium's response to Section A of the Department's questionnaire on September 11, 2007, and Sections B–D on September 28, 2007. On January 18, 2008, the Department issued an extension of the deadline for the preliminary results of this antidumping duty administrative review from January 31, 2008, until May 30, 2008. *See Stainless Steel Plate in Coils From Belgium: Notice of Extension of Time Limit for Preliminary Results of Administrative Review*, 73 FR 3453 (January 18, 2008).

On October 29, 2007, the Department received comments from the Petitioners on the Sections A through C responses for U&A Belgium. On January 24, 2008, the Petitioners submitted comments requesting that the Department conduct verification of the responses submitted by U&A Belgium. On February 5, 2008, U&A Belgium submitted comments urging the Department to reject the request for verification made by the Petitioners. After reviewing the Sections A through D responses from U&A Belgium, the Department issued supplemental questionnaires to U&A Belgium. The Department issued additional supplemental questions, after reviewing U&A Belgium's supplemental questionnaire response. On January 18, 2008, the Department postponed the preliminary results by 120 days. *See Stainless Steel Plate in Coils From Belgium: Notice of Extension of Time Limit for Preliminary Results of Administrative Review*, 73 FR 3453 (January 18, 2008).

U&A Belgium's Reported Merger

U&A Belgium reported that it is wholly owned by Arcelor S.A. and stated that Arcelor S.A. is in the process of merging with Mittal Steel, N.V. (Mittal) to form Arcelor Mittal S.A. Specifically, U&A Belgium reported that ''{i}n June 2006, Arcelor and Mittal Steel signed a memorandum of understanding outlining the terms of a merger. The subsequent merger agreement was signed in May 2007.'' *See* U&A Belgium's September 11, 2007, Section A Questionnaire Response at 10. U&A Belgium stated that the merger was structured as a two-step process. The first step, the merger of Mittal Steel into its wholly owned non-operating subsidiary ArcelorMittal, was completed in August 2007. The second step, the integration of ArcelorMittal into Arcelor S.A., was completed in November 2007, and the company was immediately renamed ArcelorMittal. As a result, the entire merger is now complete, effective November 2007. U&A Belgium stated that ''{w}hile the merger was not technically completed during the review period, U&A Belgium prepared its responses to the Department's questionnaires as if ArcelorMittal were fully consolidated.'' *See* U&A Belgium's April 15, 2008, Sections A–C Supplemental Questionnaire Response (April 15, 2008 SQR) at 1. U&A Belgium also reported ''that the merger has had no impact on U&A Belgium's production and sale of subject merchandise. In particular, there has been no change to U&A Belgium's inputs from affiliates within the review period resulting from the merger with Mittal Steel. There has also been no change to U&A Belgium's sales to affiliates within the POR resulting from the merger with Mittal Steel.'' *Id.* at 2.

[1] *See Notice of Amended Final Determinations: Stainless Steel Plate in Coils from Belgium and South Africa; and Notice of Countervailing Duty Orders: Stainless Steel Plate in Coils from Belgium, Italy and South Africa,* 64 FR 25288 (May 11, 1999); *Antidumping Duty Orders; Certain Stainless Steel Plate in Coils From Belgium, Canada, Italy, the Republic of Korea, South Africa, and Taiwan,* 64 FR 27756 (May 21, 1999); *Notice of Amended Antidumping Duty Orders; Certain Stainless Steel Plate in Coils From Belgium, Canada, Italy, the Republic of Korea, South Africa, and Taiwan,* 68 FR 11520 (March 11, 2003); and *Amended Countervailing Duty Orders; Certain Stainless Steel Plate in Coils From Belgium, Italy, and South Africa,* 68 FR 11524 (March 11, 2003).

Quarterly Costs

In its Section A–C questionnaire response dated January 29, 2008, at 39–44, U&A Belgium provided information regarding its input costs for the POR and claimed that the use of a single weighted average for the POR would distort the margin calculations. Therefore, instead of using single weighted-average CONNUM-specific costs for the POR, U&A Belgium urged the Department to consider employing a quarterly weighted-average cost methodology in this segment of the proceeding. On March 17, 2008, the Petitioners submitted comments claiming that the Department's standard practice of using a single weighted-average cost for the POR remains proper in the instant case. As a result, the Petitioners urge the Department to reject U&A Belgium's proposal to use quarterly weighted-average costs in this administrative review. On May 15, 2008, U&A Belgium provided rebuttal comments attesting that the record evidence and the extraordinary circumstances present in this review warrant a departure from the Department's normal practice of using annual costs. On May 22, 2008, the Petitioners submitted additional comments reiterating their claim that it is inappropriate for the Department to use quarterly costs in this review. The Petitioners argue that U&A Belgium has provided insufficient quantitative and qualitative analyses, particularly related to pricing practices and trends in the home market, to support using a quarterly cost methodology. On May 27, 2008, U&A Belgium submitted comments that rebut the comments addressed in the Petitioner's May 22, 2008, letter. Specifically, U&A Belgium rebuts that quarterly cost periods can be quantified, there is a sufficient number of sales to determine that prices changed significantly over the POR, and the alloy surcharge mechanism is a pass-through pricing mechanism. Furthermore, U&A Belgium contends that certain proprietary issues discussed by the Petitioners are irrelevant to the issue of quarterly costs, U&A Belgium correctly calculated its reported finance expenses, and there is no need for verification in this review.

The Department considered the sales and cost information reported by U&A Belgium, in addition to the comments submitted by both the Petitioners and U&A Belgium. Based on our analysis, we preliminarily find that it is appropriate to use U&A Belgium's annual weighted-average costs for this review. The Department recently requested public comment regarding the impact of cost changes on the cost averaging period. *See Antidumping Methodologies for Proceedings that Involve Significant Cost Changes Throughout the Period of Investigation (POI)/Period of Review (POR) that May Require Using Shorter Cost Averaging Periods; Request for Comment*, 73 FR 26364 (May 9, 2008) (Antidumping Methodologies; Request for Comment). Although the Department has calculated U&A Belgium's costs on an annual basis for these preliminary results, we intend to consider this issue further within the context of our analysis of the comments that will be received, pursuant to the Antidumping Methodologies; Request for Comment. We expect to provide a memorandum discussing the results of our analysis of the comments received, in order to give the parties to this proceeding an opportunity to comment for the final determination.

Scope of the Order

The product covered by this order is certain stainless steel plate in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject plate products are flat-rolled products, 254 mm or over in width and 4.75 mm or more in thickness, in coils, and annealed or otherwise heat treated and pickled or otherwise descaled. The subject plate may also be further processed (*e.g.*, cold-rolled, polished, etc.) provided that it maintains the specified dimensions of plate following such processing. Excluded from the scope of this order are the following: (1) Plate not in coils, (2) plate that is not annealed or otherwise heat treated and pickled or otherwise descaled, (3) sheet and strip, and (4) flat bars.

The merchandise subject to this order is currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) at subheadings: 7219.11.00.30, 7219.11.00.60, 7219.12.00.06, 7219.12.00.21, 7219.12.00.26, 7219.12.00.51, 7219.12.00.56, 7219.12.00.66, 7219.12.00.71, 7219.12.00.81, 7219.31.00.10, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.11.00.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to this order is dispositive.

Analysis

Product Comparisons

In accordance with section 771(16) of the Tariff Act of 1930, as amended (the Act), we considered all products produced by the respondent that are covered by the description contained in the ''Scope of the Order'' section above and were sold in the home market during the POR, to be the foreign like product for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the most similar foreign like product on the basis of the characteristics listed in Appendix V of the initial antidumping questionnaire we provided to U&A Belgium. *See* U&A Belgium Antidumping Questionnaire, dated July 13, 2007, on the record in the Central Records Unit (CRU), Room 1117 of the Main Commerce Building.

Normal Value Comparisons

To determine whether sales of subject merchandise to the United States were made at less than normal value, we compared CEP to NV, as described in the ''Constructed Export Price'' and ''Normal Value'' sections of this notice. In accordance with section 777A(d)(2) of the Act, we calculated monthly weighted-average prices for NV and compared these to individual U.S. transaction prices.

Home Market Viability

In accordance with section 773(a)(1)(C) of the Act, to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared U&A Belgium's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise. Pursuant to section 773(a)(1)(B) and 19 CFR 351.404(b), because U&A Belgium's aggregate volume of home market sales of the foreign like product was greater than 5 percent of its aggregate volume of U.S. sales of the subject merchandise, we determined that the home market was viable. Moreover, there is no evidence on the record supporting a particular market situation in the exporting company's country that would not permit a proper comparison of home market and U.S. prices.

Constructed Export Price

In accordance with section 772(b) of the Act, CEP is the price at which the subject merchandise is first sold (or

agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise, or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter.

As stated at 19 CFR 351.401(i), the Department will use the respondent's invoice date as the date of sale unless another date better reflects the date upon which the exporter or producer establishes the essential terms of sale. U&A Belgium reported the invoice date as the date of sale for both the U.S. market and the home market because the date of invoice reflects the date on which the material terms of sale were finalized.

For purposes of this review, U&A Belgium classified all of its export sales of SSPC to the United States as CEP sales. During the POR, U&A Belgium made sales in the United States through its U.S. affiliate, Arcelor Stainless USA (AS USA), which then resold the merchandise to unaffiliated customers in the United States. The Department calculated CEP based on packed prices to customers in the United States. We made deductions from the starting price, net of discounts, for movement expenses (foreign and U.S. movement, U.S. customs duty and brokerage, and post-sale warehousing) in accordance with section 772(c)(2) of the Act and 19 CFR 351.401(e). In addition, because U&A Belgium reported CEP sales, in accordance with section 772(d)(1) of the Act, we deducted from the starting price, credit expenses, warranty expenses, and indirect selling expenses, including inventory carrying costs, incurred in the United States and Belgium and associated with economic activities in the United States.

Normal Value

In accordance with section 773(a)(1)(B)(i) of the Act, we have based NV on the price at which the foreign like product was first sold for consumption in the home market, in the usual commercial quantities and in the ordinary course of trade. In addition, because the NV level of trade (LOT) is at a more advanced stage of distribution than the CEP LOT, and available data provide no appropriate basis to determine an LOT adjustment between NV and CEP, we made a CEP offset pursuant to section 773(a)(7)(B) of the Act (*see* ''Level of Trade'' section, below).

We used sales to affiliated customers only where we determined such sales were made at arm's-length prices (*i.e.*, at prices comparable to the prices at which the respondent sold identical merchandise to unaffiliated customers).

Arm's-Length Test

Sales to affiliated customers in the home market not made at arm's length were excluded from our analysis. To test whether these sales were made at arm's length, we compared the starting prices of sales to affiliated and unaffiliated customers net of all movement charges, direct selling expenses, discounts, and packing. In accordance with the Department's current practice, if the prices charged to an affiliated party were, on average, between 98 and 102 percent of the prices charged to unaffiliated parties for merchandise identical or most similar to that sold to the affiliated party, we consider the sales to be at arm's-length prices. *See* 19 CFR 351.403(c). Conversely, where the affiliated party did not pass the arm's-length test, all sales to that affiliated party have been excluded from the NV calculation. *See Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186 (November 15, 2002).

Cost of Production

The Department disregarded sales below the cost of production (COP) in the last completed review. *See Stainless Steel Plate in Coils From Belgium: Final Results of Antidumping Administrative Review*, 70 FR 72789 (December 7, 2005). We therefore have reasonable grounds to believe or suspect, pursuant to section 773(b)(2)(A)(ii) of the Act, that sales of the foreign like product under consideration for the determination of NV in this review may have been made at prices below COP. Thus, pursuant to section 773(b)(1) of the Act, we examined whether U&A Belgium's sales in the home market were made at prices below the COP.

We compared sales of the foreign like product in the home market with model-specific COP figures. In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of the costs of materials and fabrication employed in producing the foreign like product, plus selling, general and administrative (SG&A) expenses, financial expenses and all costs and expenses incidental to placing the foreign like product in packed condition and ready for shipment. In our sales-below-cost analysis, we relied on home market sales and COP information provided by U&A Belgium in its questionnaire responses, except for the reported financial expense ratio. We made adjustments to the consolidated financial expense ratio to exclude long-term interest income and include certain financial costs and gains recognized by the parent company in its 2006 fiscal year income statement. *See* Memorandum from Angela Strom, Accountant, to Neal Halper, Director, Office of Accounting, entitled ''Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination Results—U&A Belgium,'' dated May 30, 2008.

We compared the weighted-average model-specific COPs to home market sales of the foreign like product, as required under section 773(b) of the Act, in order to determine whether these sales had been made at prices below the COP. In determining whether to disregard home market sales made at prices below the COP, we examined whether such sales were made (1) within an extended period of time in substantial quantities, and (2) at prices which did not permit recovery of all costs within a reasonable period of time in the normal course of trade, in accordance with sections 773(b)(1)(A) and (B) of the Act. On a product-specific basis, we compared the COP to home market prices, less any movement charges, discounts, and direct and indirect selling expenses.

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of the respondent's sales of a given product were at prices which represent less than the COP, we did not disregard any below-cost sales of that product because the below-cost sales were not made in substantial quantities within an extended period of time. Where 20 percent or more of the respondent's sales of a given product were at prices which represented less than the COP, we determined that they were made in substantial quantities within an extended period of time, in accordance with section 773(b)(2)(C) of the Act. Because we compared prices to POR-average costs, we also determined that the below-cost prices did not permit the recovery of costs within a reasonable period of time, in accordance with section 773(b)(1)(B) of the Act. Therefore, we disregarded the below-cost sales and used the remaining sales, if any, as the basis for NV, in accordance with section 773(b)(1) of the Act.

CEP to NV Comparison

For those sales at prices above COP, we based NV on home market prices to affiliated (when made at prices determined to be at arm's length) or unaffiliated parties, in accordance with 19 CFR 351.403. Home market starting prices were based on packed prices to affiliated or unaffiliated purchasers in the home market, net of discounts. We made adjustments, where applicable, for

packing and movement expenses, in accordance with sections 773(a)(6)(A) and (B) of the Act. We also made adjustments for differences in costs attributable to differences in physical characteristics of the merchandise pursuant to section 773(a)(6)(C)(ii) of the Act. For comparison to CEP, we deducted home market direct selling expenses pursuant to section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410(c).

Section 773(a)(4) of the Act provides that where NV cannot be based on comparison-market sales, NV may be based on constructed value (CV). Accordingly, for those products for which we could not determine the NV based on comparison-market sales, either because there were no useable sales of a comparable product or all sales of the comparable products failed the COP test, we based NV on CV.

Section 773(e) of the Act provides that CV shall be based on the sum of the cost of materials and fabrication for the imported merchandise, plus amounts SG&A and interest expenses, profit, and U.S. packing costs. We calculated the cost of materials and fabrication based on the methodology described in the ''Cost of Production Analysis'' section, above. We based SG&A and interest expenses and profit on the actual amounts incurred and realized by respondent in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the home market, in accordance with section 773(e)(2)(A) of the Act.

We made adjustments to CV for differences in circumstances of sale in accordance with section 773(a)(8) of the Act and 19 CFR 351.410. For comparisons to CEP, we made circumstance-of-sale adjustments by deducting comparison market direct selling expenses from CV. *See* 19 CFR 351.410(c).

Level of Trade

In accordance with section 773(a)(1)(B)(i) of the Act, to the extent practicable, we determined NV based on sales in the comparison market at the same LOT as the U.S. sales. *See* 19 CFR 351.412. The NV LOT is the level of the starting-price sale in the comparison market or, when NV is based on CV, the level of the sales from which we derive SG&A and profit. For EP, the U.S. LOT is also the level of the starting-price sale, which is usually from exporter to importer. For CEP, it is the level of the constructed sale from the exporter to the importer. *See* 19 CFR 351.412. As noted above, U&A Belgium classified all its exported sales of SSPC as CEP sales.

To determine whether NV sales are at a different LOT than CEP, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison-market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the LOT of the export transaction, we make a LOT adjustment under section 773(a)(7)(A) of the Act. For CEP sales, if the NV level is at a more advanced stage of distribution than the CEP LOT and the data available do not provide a basis to determine a LOT adjustment, we adjust NV under section 773(a)(7)(B) of the Act (the CEP offset provision). *See, e.g., Final Determination of Sales at Less Than Fair Value: Greenhouse Tomatoes From Canada*, 67 FR 8781 (February 26, 2002); *see also Notice of Final Determination of Sales at Less than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731 (November 19, 1997) and *Certain Hot-Rolled Flat-Rolled Carbon Quality Steel Products from Brazil; Preliminary Results of Antidumping Duty Administrative Review*, 70 FR 17406 (April 6, 2005). For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and CEP profit under section 772(d) of the Act. *See Micron Technology Inc.* v. *United States*, 243 F.3d 1301, 1314–1315 (Fed. Cir. 2001). We expect that, if the claimed LOTs are the same, the functions and activities of the seller should be similar. Conversely, if a party claims that the LOTs are different for different groups of sales, the functions and activities of the seller should be dissimilar. *See Porcelain-on-Steel Cookware from Mexico: Final Results of Administrative Review*, 65 FR 30068 (May 10, 2000).

In the current review, U&A Belgium reported seven customer categories and indicated that its sales were made at a single channel of distribution for the sale of SSPC in Belgium through one LOT in the comparison market. Specifically, U&A Belgium reported that it sells SSPC to customers in the home market through its affiliated sales agents, U&A Benelux (regional sales office) and U&A S.A. (principal sales agent). U&A Belgium performs a variety of distinct selling functions in the comparison market. *See* Appendix A–15 of the September 11, 2007, Questionnaire Response. We examined the selling functions performed for the seven customer categories and found that the selling activities and services do not vary among them. *See* Memorandum from George McMahon to The File ''Calculation Memorandum for Ugine & ALZ, N.V. Belgium (U&A Belgium) for the Preliminary Results of the Sixth Administrative Review of Stainless Steel Plate in Coils (SSPC) from Belgium,'' dated May 30, 2008 (Sales Calculation Memorandum). Therefore, we preliminarily conclude that U&A Belgium's sales in the home market constitute one LOT.

U&A Belgium reported two channels of distribution and two LOTs in the U.S. market. U&A Belgium's two U.S. channels of distribution are: 1) Direct sales by AS USA of made-to-order merchandise produced by U&A Belgium to end-users and unaffiliated distributors, and 2) warehouse sales by AS USA of merchandise imported from U&A Belgium and stocked by AS USA. *See* September 11, 2007, Section A, Volume I, Questionnaire Response at 16–17; *see also* April 15, 2008 SQR at 20. U&A Belgium performed several selling functions in the United States in connection with the sale of SSPC. The selling functions that U&A Belgium independently performed for its U.S. sales are limited to: handling product information and training sessions, freight arrangements, packing, and technical services. In addition, U&A Belgium and AS USA performed the following four sales functions jointly in both sales channels in the United States: Product information and training sessions, advertising to customers, freight arrangements, and after sales servicing support or claims. In our comparison of the U.S. and home market LOTs, we eliminated from consideration selling functions performed by AS USA and only considered the portion of the selling functions performed by U&A Belgium after making adjustments under section 772(d) of the Act.

Our analysis of these selling functions performed by U&A Belgium in the United States shows that the selling activities and services do not vary according to the type of customer for sales within each channel of distribution. Because we find that there is no variation in type or level of services provided by U&A Belgium for the channels of distribution in the United States, we preliminarily determine that there is only one LOT in the U.S. market. *See* ''Sales Calculation Memorandum.'' Moreover, we find that the distribution channels and selling functions reported by U&A Belgium for the instant review are consistent with those reported in the prior administrative review of SSPC from

Belgium, in which case the Department determined that U&A Belgium sold through only one LOT in the U.S. market. *See* Memorandum entitled ''Analysis for Ugine & ALZ, N.V. Belgium (U&A Belgium) for the Preliminary Results of the Fifth Administrative Review of Stainless Steel Plate in Coils (SSPC) from Belgium,'' dated May 31, 2005, at 2.

U&A Belgium and its affiliated agent for global sale and distribution of stainless steel flat products produced in Belgium and France, U&A S.A., perform all home market selling activities. Selling functions for the U.S. market, as indicated above, are primarily performed by AS USA, with the exception of two selling functions handled solely by U&A Belgium, and two selling functions that are performed jointly by Arcelor Stainless International (ASI), AS USA, and U&A S.A. We compared the U.S. and home market LOTs and preliminarily determined that, after eliminating from consideration selling functions performed by AS USA (pursuant to section 772(d) of the Act), U&A Belgium's home market LOT is at a more advanced stage of distribution than the CEP LOT. Due to the proprietary nature of the discussion, *see* the ''Sales Calculation Memorandum'' for additional detail.

We then considered whether we could make a LOT adjustment. In this case, U&A Belgium only sold at one LOT in the comparison market; therefore, there is no information available to determine a pattern of consistent price differences between the sales on which NV is based and the comparison market sales at the LOT of the export transaction, in accordance with the Department's normal methodology as described above. *See* 19 CFR 351.412(d). Further, we do not have record information which would allow us to examine pricing patterns based on the respondent's sales of other products, and there are no other respondents or other record information on which such an analysis could be based. Accordingly, because only one LOT exists in the home market we could not make a LOT adjustment. However, because the LOT in the comparison market is at a more advanced stage of distribution than the LOT of the CEP transactions, we made a CEP offset adjustment in accordance with section 773(a)(7)(B) of the Act and 19 CFR 351.412(f). This offset is equal to the amount of indirect selling expenses incurred in the comparison market not exceeding the amount of indirect selling expenses and commissions deducted from the U.S. price in accordance with section 772(d)(1)(D) of the Act. For a detailed discussion, *see* ''Sales Calculation Memorandum.''

Currency Conversion

We made currency conversions pursuant to 19 CFR 351.415 based on the exchange rates certified by the Federal Reserve Bank.

Preliminary Results of Review

We preliminarily determine that for the period May 1, 2006, through April 30, 2007, the following dumping margin exists:

Manufacturer/Exporter	Margin (percent)
U&A Belgium	12.68

Duty Assessment and Cash Deposit Requirements

The Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. Pursuant to 19 CFR 351.212(b), the Department calculates an assessment rate for each importer of the subject merchandise for each respondent. The Department will issue appropriate assessment instructions directly to CBP within 15 days of publication of the final results of this review.

Furthermore, the following cash deposit rates will be effective with respect to all shipments of SSPC from Belgium entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results, as provided for by section 751(a)(1) of the Act: (1) For U&A Belgium, the cash deposit rate will be the rate established in the final results of this review; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will be the company-specific rate established for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the subject merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered by this review, a prior review, or the LTFV investigation, the cash deposit rate shall be the all-others rate established in the LTFV investigation, which is 9.86 percent. *See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Plate in Coils From Belgium*, 64 FR 15476 (March 31, 1999). These deposit rates, when imposed, shall remain in effect until further notice.

Public Comment

Pursuant to 19 CFR 351.224(b), the Department will disclose to parties to the proceeding any calculations performed in connection with these preliminary results within five days after the date of publication of this notice. Pursuant to 19 CFR 351.309, interested parties may submit written comments in response to these preliminary results. Unless extended by the Department, case briefs are to be submitted within 30 days after the date of publication of this notice, and rebuttal briefs, limited to arguments raised in case briefs, are to be submitted no later than five days after the time limit for filing case briefs. Parties who submit arguments in this proceeding are requested to submit with the argument: (1) a statement of the issues, and (2) a brief summary of the argument. Case and rebuttal briefs must be served on interested parties in accordance with 19 CFR 351.303(f).

Also, pursuant to 19 CFR 351.310(c), within 30 days of the date of publication of this notice, interested parties may request a public hearing on arguments to be raised in the case and rebuttal briefs. Unless the Secretary specifies otherwise, the hearing, if requested, will be held two days after the date for submission of rebuttal briefs. Parties will be notified of the time and location. The Department will publish the final results of this administrative review, including the results of its analysis of issues raised in any case or rebuttal brief, no later than 120 days after publication of these preliminary results, unless extended. *See* 19 CFR 351.213(h).

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

These preliminary results of this administrative review and notice are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: May 30, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E8–12779 Filed 6–5–08; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–423–809]

Stainless Steel Plate in Coils From Belgium: Preliminary Results of Countervailing Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce is conducting an administrative review of the countervailing duty order on stainless steel plate in coils from Belgium for the period January 1, 2006, through December 31, 2006. We preliminarily find that Ugine & ALZ Belgium received countervailable subsidies during the period of review. If these preliminary results are adopted in our final results of this review, we will instruct the U.S. Customs and Border Protection to assess countervailing duties as detailed in the ''Preliminary Results of Review'' section of this notice. Interested parties are invited to comment on these preliminary results. See the ''Public Comment'' section of this notice.

EFFECTIVE DATE: June 6, 2008.

FOR FURTHER INFORMATION CONTACT: David Neubacher or Alicia Winston, AD/CVD Operations, Office 1, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–5823 and (202) 482–1785, respectively.

SUPPLEMENTARY INFORMATION:

Background

On May 11, 1999, the Department of Commerce (''the Department'') published a countervailing duty order on stainless steel plate in coils (''SSPC'') from Belgium. *See Notice of Amended Final Determinations: Stainless Steel Plate in Coils from Belgium and South Africa; and Notice of Countervailing Duty Orders: Stainless Steel Plate in Coils from Belgium, Italy and South Africa,* 64 FR 25288 (May 11, 1999) (*''CVD Order''*). On March 11, 2003, as a result of litigation, the Department published an amended countervailing duty order on stainless steel plate in coils from Belgium. *See Notice of Amended Countervailing Duty Orders; Certain Stainless Steel Plate in Coils From Belgium, Italy, and South Africa,* 68 FR 11524 (March 11, 2003) (*''Amended CVD Order''*). On May 1, 2007, the Department published a notice of ''Opportunity to Request Administrative Review'' for this countervailing duty order. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 72 FR 23796, 23797 (May 1, 2007). On May 31, 2007, we received a request for review from U&A.[1] In accordance with 19 CFR 351.221(c)(1)(i) (2004), we published a notice of initiation of the review on June 29, 2007. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews, Request for Revocation in Part and Deferral of Administrative Review,* 72 FR 35690, 35693 (June 29, 2007) (*''Initiation Notice''*).

On July 13, 2007, we issued countervailing duty questionnaires to the Government of Belgium (''GOB''), the Commission of the European Union (''EC''), and U&A. We received responses to these questionnaires on September 21, and 24, 2007. On April 3, 2008, we issued supplemental questionnaires to the GOB and U&A. We issued a further supplemental questionnaire to U&A on April 24, 2008. We received a response from U&A for both supplemental questionnaires on April 28, 2008. The GOB requested an extension to file its supplemental response, which we granted. The GOB, however, did not respond to the supplemental questionnaire by the extended deadline. We issued additional supplemental questionnaires to U&A on May 1, and 8, 2008, and received responses to our supplemental questionnaires on May 8, 13, 2008, and 16, 2008.

On May 20, 2008, Allegheny Ludlum Corporation; North American Stainless; United Auto Workers Local 3303; Zanesville Arco Independent Organization; and the United Steelworkers of America, AFL–CIO/CLC (collectively, ''the petitioners'') submitted comments for consideration in the preliminary results. We received a response from U&A to petitioners' pre-preliminary comments on May 22, 2008.

On January 9, 2008, we published a postponement of the preliminary results in this review until May 30, 2008. *See Stainless Steel Plate in Coils from Belgium: Extension of Time Limit for Preliminary Results of Countervailing Duty Administrative Review,* 73 FR 1599 (January 9, 2008).

Scope of the Order

The products covered by this order are imports of certain stainless steel plate in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject plate products are flat-rolled products, 254 mm or over in width and 4.75 mm or more in thickness, in coils, and annealed or otherwise heat treated and pickled or otherwise descaled. The subject plate may also be further processed (*e.g.*, cold-rolled, polished, etc.) provided that it maintains the specified dimensions of plate following such processing. Excluded from the scope of this order are the following: (1) Plate not in coils, (2) plate that is not annealed or otherwise heat treated and pickled or otherwise descaled, (3) sheet and strip, and (4) flat bars.

The merchandise subject to this order is currently classifiable in the Harmonized Tariff Schedule of the United States (''HTSUS'') at subheadings: 7219.11.00.30, 7219.11.00.60, 7219.12.00.05, 7219.12.00.06, 7219.12.00.20, 7219.12.00.21, 7219.12.00.25, 7219.12.00.26, 7219.12.00.50, 7219.12.00.51, 7219.12.00.55, 7219.12.00.56, 7219.12.00.65, 7219.12.00.66, 7219.12.00.70, 7219.12.00.71, 7219.12.00.80, 7219.12.00.81, 7219.31.00.10, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.11.00.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80. Although the HTSUS subheadings are provided for convenience and customs purposes, the Department's written description of the scope of this order remains dispositive.

This scope language reflects the March 11, 2003, amendment of the antidumping and countervailing duty orders and suspension of liquidation which the Department implemented in accordance with the Court of International Trade (''CIT'') decision in *Allegheny Ludlum v. United States,* Slip Op. 02–147 (Dec. 12, 2002). *See,* also, *Notice of Amended Antidumping Orders; Certain Stainless Steel Plate in Coils from Belgium, Canada, Italy, the Republic of Korea, South Africa, and Taiwan,* 68 FR 11520 (March 11, 2003) and *Amended CVD Order.*

Period of Review

The period for which we are measuring subsidies, *i.e.*, the period of review (''POR''), is January 1, 2006, through December 31, 2006.

[1] On June 20, 2007, Ugine & ALZ Belgium (''U&A'') provided a letter to the Department stating that the company was formerly ALZ N.V. (''ALZ'').

Use of Facts Otherwise Available

Sections 776(a)(1) and (2) of the Act, provide that the Department shall apply ''facts otherwise available'' if, *inter alia,* necessary information is not on the record or an interested party or any other person: (A) Withholds information that has been requested; (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act; (C) significantly impedes a proceeding; or (D) provides information that cannot be verified as provided by section 782(i) of the Act.

Where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department will so inform the party submitting the response and will, to the extent practicable, provide that party the opportunity to remedy or explain the deficiency. If the party fails to remedy the deficiency within the applicable time limits and subject to section 782(e) of the Act, the Department may disregard all or part of the original and subsequent responses, as appropriate. Section 782(e) of the Act provides that the Department ''shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all applicable requirements established by the administering authority'' if the information is timely, can be verified, is not so incomplete that it cannot be used, and if the interested party acted to the best of its ability in providing the information. Where all of these conditions are met, the statute requires the Department to use the information if it can do so without undue difficulties.

In this case, the Department sent a supplemental questionnaire to the GOB seeking confirmation that U&A did not receive benefits during the 15-year average useful life of renewable physical assets (''AUL'') for programs under the program headings ''Industrial Reconversion Zones;'' ''Regional Subsidies under the Economic Expansion Law of 1970 (GOB)'' and ''Regional Subsidies under the Economic Expansion Law of 1970 (Government of Flanders (''GOF''))''. The GOB, through U&A, requested an extension to respond to the supplemental questionnaire, which was granted until April 28, 2008. The GOB did not provide a response to the supplemental questionnaire by this deadline, but we received an extension request on May 6, 2008. The Department granted the GOB's request, but the GOB did not file a response by the May 19, 2008, deadline. On May 23, 2008, the Department received a letter from the GOB stating it was still working on providing a response to the supplemental questions and would submit an answer as soon as it becomes available.

Thus, in reaching our finding for the preliminary results, pursuant to sections 776(a)(2)(A) and (C) of the Act, we are relying on facts otherwise available to determine the countervailable subsidy conferred by the GOB under the ''Industrial Reconversion Zones'' and both ''Economic Expansion Law of 1970'' programs.

Section 776(b) of the Act further provides that the Department may use an adverse inference in applying the facts otherwise available when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Section 776(b) of the Act also authorizes the Department to use as adverse facts available (''AFA'') information derived from the petition, the final determination, a previous administrative review, or other information placed on the record.

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is defined as ''{i}nformation derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.'' *See Statement of Administrative Action* (SAA) accompanying the Uruguay Round Agreements Act, H. Doc. No. 316, 103d Cong., 2d Session (1994) at 870. Corroborate means that the Department will satisfy itself that the secondary information to be used has probative value. *See* SAA at 870. To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. The SAA emphasizes, however, that the Department need not prove that the selected facts available are the best alternative information. *See* SAA at 869.

The Department states in *Certain In-shell Roasted Pistachios from the Islamic Republic of Iran: Final Results of Countervailing Duty New Shipper Review,* 73 FR 9993 (February 25, 2008), and accompanying Issues and Decision Memorandum at Comment 2 (*''Pistachios from Iran 2008''*), that where the foreign government fails to adequately respond to the Department's questionnaires, the Department's practice is to apply adverse inferences and assume the alleged subsidy programs constitute a financial contribution and are specific within the meaning of sections 771(5)(D) and 771(5A) of the Act, respectively. However, if information on the record indicates that the respondent did not use the program, the Department will find the program not used, regardless of whether the foreign government participated to the best of its ability.

In its September 24, 2007, questionnaire response, the GOB and U&A responded fully to the Department's questions regarding potential subsidy programs during the POR. In a subsequent supplemental questionnaire to the GOB, the Department asked the GOB to confirm that U&A did not receive benefits during the AUL period for programs under the ''Industrial Reconversion Zones'' and both ''Economic Expansion Law of 1970'' programs. Upon examination of the programs listed under each of these headings, we note that several of the programs described are recurring subsidy programs that are associated with tax programs (Industrial Reconversion Zones: Albufin and Regional Subsidies under the Economic Expansion Law of 1970 (GOB): Real Estate Tax Exemption and Accelerated Depreciation). As such, we have examined U&A's responses on these programs and find that statements by U&A in its questionnaire and supplemental questionnaire responses regarding the use of these programs during the POR, as well as documentation (*e.g.*, financial statements and U&A's 2006 tax return) on the record, support the company's assertion that it did not receive benefits under these recurring programs in 2006. Although the GOB did not respond to the Department's questions regarding these programs, the information on the record supports U&A's assertion that it did not use these programs during the POR. Therefore, we preliminarily find that U&A did not receive benefits under these programs according to section 771(5)(E) of the Act.

For the programs under the Regional Subsidies under the 1970 Law (GOF) (Corporate Income Tax Exemption, Capital Registration Tax Exemption Government Loan Guarantees, and 1993 Loan Grant programs), the Department found these programs to be not used by U&A in the investigation and first

administrative review (the only administrative review for which a request for a review was made). We note that no new information on the record contradicts our previous finding of non-use for the above GOF programs. Moreover, U&A's submitted documentation (2006 financial statements and 2006 tax returns) provides additional support that the recurring subsidy programs within this group continue to be not used. Therefore, consistent with our previous findings of non-use and no new information on the record that U&A started to use these programs, we preliminarily continue to find the programs under the Regional Subsidies under the 1970 Law (GOF) not used.

The remaining program under these headings involves one non-recurring program (Industrial Reconversion Zones: Alfin). The Department found this program countervailable during the investigation and stated that the benefit found had been fully allocated by the end of the first administrative review. In the GOB's and U&A's responses to the Department regarding this program, both parties stated that the benefit the Department found countervailable had been fully allocated out in the first administrative review POR, that the program had not changed, and that no benefits were provided/received in the POR. The GOB and U&A, however, did not address whether benefits were conferred upon U&A during the full AUL period. In its supplemental questionnaire to the GOB, the Department attempted to clarify those statements and confirm that no benefits were provided to U&A for the full AUL period. The GOB did not respond to the supplemental questionnaire, and as stated above, U&A only provided an incomplete answer in its questionnaire response. Thus, the Department has no information on the record from which to analyze whether the GOB provided additional benefits to U&A under this program over the full AUL period.

In selecting from among the facts available for U&A, the Department has determined that an adverse inference is warranted, pursuant to section 776(b) of the Act. The Department preliminarily determines that records relating to subsidy distribution by the GOB are records that are, or should be kept by both the GOB and U&A. Further, by failing to submit a response to the Department's supplemental CVD questionnaire, we preliminarily determine that the GOB did not cooperate to the best of its ability in providing pertinent information on non-recurring programs over the full AUL period. Further, U&A failed to provide a complete response to the Department's questionnaire addressing the full AUL period. As no information on the record exists for the program beyond the original countervailable benefit and POR of this review, and neither the GOB nor U&A provided an adequate response for this program, we find, as adverse facts available, that the GOB conferred a benefit to U&A under the Industrial Reconversion Zones: Alfin program, during the AUL period, as per section 771(5)(E) of the Act. We note that supplemental questions regarding the use of the above programs during the full AUL period were directed only at the GOB. Therefore, we will issue an additional supplemental questionnaire to U&A that will request supporting documentation regarding the usage of the above programs during the full AUL period.

Selection of the Partial Adverse Facts Available Rate

In deciding which facts to use as AFA, section 776(b) of the Act and 19 CFR 351.308(c)(1) authorize the Department to rely on information derived from (1) the petition, (2) a final determination in the investigation, (3) any previous review or determination, or (4) any information placed on the record. It is the Department's practice to select, as AFA, the highest calculated rate in any segment of the proceeding. *See, e.g., Certain In-shell Roasted Pistachios from the Islamic Republic of Iran: Final Results of Countervailing Duty Administrative Review,* 71 FR 66165 (November 13, 2006), and accompanying Issues and Decision Memorandum at ''Analysis of Programs.'' Therefore, the Department has preliminarily assigned the first administrative review rate of 0.17% (the highest calculated rate for the program during any previous segment) subsidy rate to the ''Industrial Reconversion Zones: Alfin'' program. In order to satisfy itself that such information has probative value, the Department will examine, to the extent practicable, the reliability and relevance of the information used. With regard to the reliability aspect of corroboration, unlike other types of information, such as publicly available data on the national inflation rate of a given country or national average interest rates, there typically are no independent sources for data on company-specific benefits resulting from countervailable subsidy programs. The only source for such information normally is administrative determinations.

In the instant case, no evidence has been presented or obtained which contradicts the reliability of the evidence relied upon in previous segments of this proceeding.

With respect to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render benefit data not relevant. Where circumstances indicate that the information is not appropriate as adverse facts available, the Department will not use it. *See Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review,* 61 FR 6812 (February 22, 1996). In the instant case, no evidence has been presented or obtained which contradicts the relevance of the benefit data relied upon in previous segments of this proceeding. Thus, in the instant case, the Department finds that the information used has been corroborated to the extent practicable.

Changes in Ownership

Effective June 30, 2003, the Department adopted a new methodology for analyzing privatizations in the countervailing duty context. *See Notice of Final Modification of Agency Practice Under Section 123 of the Uruguay Round Agreements Act,* 68 FR 37125 (June 23, 2003) (''*Modification Notice*''). The Department's new methodology is based on a rebuttable ''baseline'' presumption that non-recurring, allocable subsidies continue to benefit the subsidy recipient throughout the allocation period (which normally corresponds to the AUL of the recipient's assets). *Id.*, at 37127. However, an interested party may rebut this baseline presumption by demonstrating that, during the allocation period, a change in ownership occurred in which the former owner sold all or substantially all of a company or its assets, retaining no control of the company or its assets, and that the sale was an arm's-length transaction for fair market value. *Id.*

U&A's ownership changed during the AUL period as a result of mergers and ownership changes. However, during the current administrative review, U&A has not attempted to rebut the Department's baseline presumption that the non-recurring, allocable subsidies received prior to any changes in ownership continue to benefit the company throughout the allocation period. *See* U&A's September 24, 2007, questionnaire response at pages 12–13.

Subsidies Valuation Information

Responding Producers

In earlier proceedings, we found that ALZ N.V.'s (''ALZ's'') parent company,

Sidmar N.V. (''Sidmar''), owned either directly or indirectly 100 percent of ALZ's voting shares and was the overall majority shareholder of U&A Belgium. *See Final Affirmative Countervailing Duty Determination; Stainless Steel Plate in Coils from Belgium,* 64 FR 15567 (March 31, 1999) (''*SSPC from Belgium Investigation''*); *Stainless Steel Plate in Coils from Belgium: Final Results of Countervailing Duty Administrative Review,* 66 FR 45007 (August 27, 2001), and accompanying Issues and Decision Memorandum (''*SSPC from Belgium First Review*''). Therefore, in accordance with section 351.525(a)(6)(iii) of the Department's regulations, because ALZ was a fully consolidated subsidiary of Sidmar, any untied subsidies provided to Sidmar are attributable to ALZ.

In the current review, U&A provided evidence on the record that it is wholly owned by Arcelor and that Sidmar transferred shares to Arcelor pursuant to the 2002 merger of Sidmar's parent, Arbed, with Aceralia and Usinor. Certain details of this transfer are proprietary in nature and are discussed in *U&A's Calculation Memo. See* Memorandum to Susan Kuhbach, Director, regarding ''Calculations for the Preliminary Results for U&A Belguim'' (May 30, 2008) (''*U&A's Calculation Memo*''). Based on the information provided, we preliminary find it appropriate to attribute any non-recurring subsidy benefits provided to Sidmar and that are still outstanding during the POR to U&A's sales.

Allocation Period

In *SSPC from Belgium Investigation*, in accordance with a CIT decision, we calculated company-specific allocation periods for non-recurring subsidies using company-specific AUL data. *See British Steel plc* v. *United States,* 929 F. Supp. 426, 439 (CIT 1996). We determined that the AUL for ALZ was 15 years, and that the AUL for Sidmar was 19 years. *See SSPC from Belgium*, 64 FR at 15568.

In the first administrative review, the Department adopted new CVD regulations, which were applicable to the review, and determined to use a 15-year AUL for the review including any new subsidies received by Sidmar. *See SSPC from Belgium First Review*, and accompanying Issues and Decision Memorandum at Comment 2. However, with respect to non-recurring subsidies received prior to the first administrative review which had already been countervailed and allocated based on an allocation period established in *SSPC from Belgium Investigation*, we continued to allocate those non-recurring subsidies over 19 years for Sidmar. As we noted at the time, this methodology was consistent with our approach in *Certain Carbon Steel Products from Sweden; Final Results of Countervailing Duty Administrative Review*, 62 FR 16549 (April 7, 1997) and *Certain Pasta from Italy: Final Results of Third Countervailing Duty Administrative Review*, 66 FR 11269 (February 23, 2001) and accompanying Issues and Decision Memorandum at ''Allocation Period.'' *See SSPC from Belgium First Review,* and accompanying Issues and Decision Memorandum at Comment 2.

During the current administrative review, U&A has not commented on the Department's use of the 15-year AUL period or the use of a 19-year AUL for Sidmar's non-recurring subsidies received by the company in the investigation. For the preliminary results, we will continue to employ our previous methodology and use the 15-year AUL for U&A and allocate any non-recurring subsidies received by Sidmar in the investigation over the 19-year AUL.

Benchmarks for Discount Rate

Because Sidmar did not obtain long-term commercial loans in the year in which the grant was received, as described in section 351.505(a)(2)(iii), we used a national average rate for long-term, fixed-rate debt as the discount rate. *See* section 351.505(a)(3)(ii) of the Department's regulations.

Analysis of Programs

I. Program Previously Determined To Confer Subsidies

We examined the following program determined to confer subsidies in the investigation and the first administrative review and preliminarily find that U&A continued to receive benefits under this program during the POR.

SidInvest

SidInvest was incorporated on August 31, 1982, as a holding company jointly owned by Sidmar and the Societe Nationale d'Investissement, S.A. (''SNI'') (a government financing agency). SidInvest was given drawing rights on SNI to finance specific projects. The drawing rights took the form of conditional refundable advances (''CRAs''), which were interest-free, but repayable to SNI based on a company's profitability. *See SSPC From Belgium Investigation*, 64 FR at 15572.

SidInvest made periodic repayments of the CRAs it had drawn from SNI. However, in 1987, the GOB moved to accelerate the repayment of the CRAs. Later, in July 1988, an agreement was reached for the government agency Nationale Maatschappig voor de Herstructurering van de Nationale Sectoren (''NMNS'') to become a shareholder in SidInvest by contributing the CRAs owed to the government by SidInvest in exchange for SidInvest stock. The Sidmar Group then repurchased the SidInvest shares obtained by NMNS. *Id.*

We determined that this program conferred a countervailable subsidy within the meaning of section 771(5) of the Tariff Act of 1930, as amended (''the Act''). *Id.* This program provided a financial contribution as described in section 771(5)(D)(i) of the Act. *Id.* Moreover, because the right to establish ''Invests'' (and, consequently, any forgiveness of loans given to the Invests) was limited to the five national sectors, we determined that the program was specific under section 771(5A)(D)(i) of the Act. *Id.* In this administrative review, no new information has been placed on the record which would warrant reconsideration of this determination.

To measure the benefit arising from the events of July 29, 1988, we have deducted from SidInvest's outstanding indebtedness the cash received by the GOB. We have treated the remainder as a grant and allocated the benefit over Sidmar's 19-year AUL. We divided the total benefit attributable to 2006 by U&A Belgium's total sales during 2006. On this basis, we preliminarily determine the countervailable subsidy for 2006 to be 0.31 percent *ad valorem.*

Industrial Reconversion Zones: Alfin

As noted in the ''Use of Facts Otherwise Available ''section above, we preliminarily find U&A to have benefitted from the Industrial Reconversion Zones: Alfin program during the POR in the amount of 0.17 percent.

II. Programs Preliminarily Determined To Be Not Used

We examined the following programs and preliminarily determine that U&A did not apply for or receive benefits under these programs during the POR:

A. Government of Belgium Programs

1. Subsidies Provided to Sidmar That Are Potentially Attributable to ALZ:
   a. Water Purification Grants
2. Societe Nationale pour la Reconstruction des Secteurs Nationaux
3. Regional subsidies under the 1970 Law Investment and Interest Subsidies

4. Regional Subsidies under the Economic Expansion Law of 1970
   a. Expansion Real Estate Tax Exemption
   b. Accelerated Depreciation
5. Reduced Social Security Contributions Pursuant to the Maribel Scheme (Article 35 of the Law of June 29, 1981)
6. 1987 ALZ Common Share Transaction Between the GOB and Sidmar (also identified as 1985 ALZ Share Subscriptions and Subsequent Transactions in the *CVD Order*)
7. Industrial Reconversion Zones:
   a. Albufin
8. Belgian Industrial Finance Company (''Belfin'') Loans
9. Societe Nationale de Credite a l'Industrie (''SNCI'') Loans
10. Conversion of Sidmar's Debt to Equity (OCPC-to-PB) in 1985

B. Government of Flanders Programs

1. Regional subsidies under the 1970 Law
   a. Corporate Income Tax Exemption
   b. Capital Registration Tax Exemption
   c. Government Loan Guarantees
   d. 1993 Expansion Grant
2. Special Depreciation Allowance
3. Preferential Short-Term Export Credit
4. Interest Rate Rebates

C. Programs of the European Commission

1. ECSC Article 54 Loans and Interest Rebates
2. ECSC Article 56 Conversion Loans, Interest Rebates and Redeployment Aid
3. European Social Fund Grants
4. European Regional Development Fund Grants
5. Resider II Program

III. Issues for Which More Information Is Required

On May 1, 2008, the Department sought information from U&A concerning amounts appearing in its 2005 and 2006 financial statements. U&A submitted some requested information on May 8, 2008, and May 13, 2008. In addition, in its May 22, 2008, response to petitioners' pre-preliminary comments, U&A stated that it had inadvertently not included all of its divisions and cross-owned companies in its submitted total sales and export data. After reviewing the provided documentation, we have determined that we do not have sufficient information at this time to make a finding on these amounts or the revised sales value and export data. Therefore, we intend to seek further information on these amounts and revised data and to issue an interim analysis describing our preliminary findings with respect to these items before the final results so that parties will have the opportunity to comment.

Preliminary Results of Review

In accordance with 19 CFR 351.221(b)(4)(i), we calculated an individual subsidy rate for U&A, the only producer/exporter subject to this administrative review. For the period January 1, 2006, through December 31, 2006, we preliminarily determine the net subsidy rate for U&A to be 0.48 percent *ad valorem.* This rate is less than 0.5 percent. Consequently, if these preliminary results are adopted in our final results of this review, the Department will instruct CBP to liquidate shipments of SSPC by U&A[2] entered or withdrawn from warehouse, for consumption from January 1, 2006, through December 31, 2006, without regard to countervailing duties. *See* 19 CFR 351.106(c)(1). These instructions will be issued fifteen days after publication of the final results of this review.

The final results of this review shall be the basis for future deposits of estimated duties. If the cash deposit rate calculated in the final results is zero or *de minimis*, no cash deposit will be required. The cash deposit requirement, when imposed, shall remain in effect until further notice.

We will instruct CBP to continue to collect cash deposits for non-reviewed companies covered by this order at the most recent company-specific rate applicable to the company. Accordingly, the cash deposit rate that will be applied to non-reviewed companies covered by this order will be the rate for that company established in the investigation or most recent administrative review. *See CVD Order.* The ''all others'' rate shall apply to all non-reviewed companies that have not received an individual rate.

Public Comment

Interested parties may submit written arguments in case briefs within 30 days of the date of publication of this notice. *See* 19 CFR 351.309(c)(ii). Rebuttal briefs, limited to issues raised in case briefs, may be filed not later than five days after the date of filing the case briefs. *See* 19 CFR 351.309(d). Parties who submit briefs in this proceeding should provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited. *See* 19 CFR 351.309(c)(2) and (d)(2). Copies of case briefs and rebuttal briefs must be served on interested parties in accordance with 19 CFR 351.303(f).

Interested parties may request a hearing within 30 days after the date of publication of this notice. *See* 19 CFR 351.310(c). Unless otherwise specified, the hearing, if requested, will be held two days after the scheduled date for submission of rebuttal briefs. *See* 19 CFR 351.310(d)(1).

The Department will publish a notice of the final results of this administrative review within 120 days from the publication of these preliminary results. *See* section 751(a)(3)(A) of the Act.

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: May 30, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E8–12777 Filed 6–5–08; 8:45 am]

BILLING CODE 3510–DS–P

[2] During the current review U&A has placed the following information on the record. In 2002, ALZ in Belgium merged with Ugine, a French producer of stainless steel sheet and strip, to become U&A. The Department has reviewed the information provided by U&A with regard to the merger and evaluated the company and its affiliates for receipt of countervailable subsidies. In addition, we have reviewed entry data provided by U.S. Customs and Border Protection (''CBP'') to confirm that U&A is the only manufacturer of subject merchandise exported from Belgium during the period of review. Therefore, for countervailing duty review purposes, we will consider ALZ to be U&A for cash deposit and assessment purposes.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XI31

Marine Mammals; File Nos. 715–1706 and 545–1761

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

ACTION: Notice; receipt of applications for amendments.

SUMMARY: Notice is hereby given that Fred Sharpe, Ph.D., Alaska Whale Foundation, 4739 University Way NE, #1239, Seattle, Washington 98105 has requested an amendment to scientific research Permit No. 751–1706–00; and North Gulf Oceanic Society (Craig O. Matkin, Principal Investigator), 2030 Mary Allen Avenue, Homer, AK 99603 has requested an amendment to Permit No. 545–1761–00.

DATES: Written, telefaxed, or e-mail comments must be received on or before July 7, 2008.

ADDRESSES: The amendment requests 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

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

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 e-mail comments the following document identifiers: File No. 716–1705 (Fred Sharpe) or File No. 545–1761 (North Gulf Oceanic Society).

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

SUPPLEMENTARY INFORMATION: The subject amendments to Permit No. 716–1705–00, issued on June 30, 2004, and Permit No. 545–1761–00 issued on September 16, 2005, are requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226).

Permit No. 716–1705–00 authorizes Dr. Sharpe to conduct research on the behavior, social structure, and foraging ecology of North Pacific humpback whales (*Megaptera novaeangliae*), including close approach for photo-identification and behavioral observation, takes by acoustic recordings and playbacks of conspecific sound, and takes by suction cup tagging with Crittercam/TDR dive tags. Dr. Sharpe is also permitted to conduct opportunistic photo-identification and behavioral observation of killer whales (Orcinus orca). Research occurs in the waters of southeastern Alaska including Chatham Strait, Dixon Entrance, Cross Sound, and Icy Strait and the waters of Washington state. The permit expires on June 30, 2009.

The permit holder requests authorization to use a novel filming technique, a mini-helicopter, during an opportunistic, limited time period in southeast Alaska during July and August 2008. The applicant indicates that the use of the mini-helicopter would provide information that could be used for: (1) predicting energetic models of lunge-feeding humpback whales; (2) discerning physical positioning to determine whether lunge-feeding whales maintain specialized positions; and (3) studying the functional morphology of engulfment feeding. Such information would complement the already permitted behavioral study of lunge-feeding humpback whales. Based on video documentation of the use of the mini-helicopter to film humpback whales in foreign waters, this technique is not expected to result in added harassment to the whales, and in fact, is expected to reduce potential harassment from boat approaches.

Permit No. 545–1761–00 authorizes the North Gulf Oceanic Society to conduct population studies on numerous cetacean species with a particular emphasis on killer whales. The research focuses on the study of: (1) mating and social systems and feeding behavior of killer whales; and (2) diving behavior, feeding, movement and contaminant loads of several cetacean species. Takes may occur by close approach for vessel surveys, photo-identification, behavioral observation, passive acoustic recording, tagging, biopsy sampling, export of parts, and incidental harassment. Research takes place in waters off Alaska, including Glacier Bay/Icy Strait, Sitka Sound, Prince William Sound, Kenai Fjords, Resurrection Bay, Eastern Aleutian chain, and Kodiak Island. The permit expires on September 15, 2010.

The permit holder requests authorization to use the same mini-helicopter, during an opportunistic, limited time period in Alaska during August/September 2008. The mini-helicopter would be used to measure total body length of killer whales in order to assess individual growth, make population size comparisons, and model the energetic requirements of killer whales. Data obtained from the mini-helicopter would allow researchers to obtain proportional measurements of blowhole-dorsal and full body length, which can be used to construct a regression to describe this relationship.

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: June 2, 2008.

P. Michael Payne,

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

[FR Doc. E8–12716 Filed 6–5–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XH63

Permits; Foreign Fishing

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

ACTION: Notice of receipt of foreign fishing application; reopening of comment period.

SUMMARY: NMFS reopens the public review and comment period that closed May 30, 2008, for information regarding a foreign fishing application submitted under provisions of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: Comments must be received by June 20, 2008.

ADDRESSES: Send comments or requests for a copy of the application to NMFS, Office of International Affairs, 1315 East-West Highway, Silver Spring, MD 20910.

Comments on this notice may also be submitted by e-mail to *nmfs.foreignfishing@noaa.gov*. Include in the subject line the following document identifier: RIN 0648–XH63.

FOR FURTHER INFORMATION CONTACT: Christopher Rogers, Office of International Affairs, (301) 713–9090.

SUPPLEMENTARY INFORMATION:

Background

Section 204(d) of the Magnuson-Stevens Act (16 U.S.C. 1824(d)) provides, among other things, that the Secretary of Commerce (Secretary) may issue a transshipment permit which authorizes a vessel other than a vessel of the United States to engage in fishing consisting solely of transporting fish or

fish products at sea from a point within the U.S. Exclusive Economic Zone (EEZ) or, with the concurrence of a state, within the boundaries of that state to a point outside the United States. In addition, Public Law 104–297, sec. 105(e) directs the Secretary to issue section 204(d) permits for up to 14 Canadian transport vessels to receive Atlantic herring harvested by United States fishermen within the boundaries of the State of Maine or within the portion of the EEZ east of the line 69 degrees 30 minutes west and within 12 nautical miles from the seaward boundary of that State.

Section 204(d)(3)(D) of the Magnuson-Stevens Act provides that an application may not be approved until the Secretary determines that ''no owner or operator of a vessel of the United States which has adequate capacity to perform the transportation for which the application is submitted has indicated ... an interest in performing the transportation at fair and reasonable rates.'' NMFS is publishing this notice as part of its effort to make such a determination with respect to the application described below.

Summary of Application

NMFS has received an application requesting authorization for 11 Canadian transport vessels to receive transfers of herring from U.S. purse harvesting vessels for the purpose of transporting the herring to processing plants in Canada. The transshipment operations will occur within the boundaries of the State of Maine or within the portion of the exclusive economic zone east of the line 69 degrees 30 minutes west and within 12 nautical miles from the seaward boundary of that State.

Interested U.S. vessel owners and operators may obtain a copy of the complete application from NMFS (see **ADDRESSES**).

Dated: June 2, 2008.

Rebecca Lent,

Director, Office of International Affairs, National Marine Fisheries Service.

[FR Doc. E8–12737 Filed 6–5–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XI22

Schedules for Atlantic Shark Identification Workshops and Protected Species Safe Handling, Release, and Identification Workshops

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

ACTION: Notice of public workshops.

SUMMARY: NMFS announces free Atlantic Shark Identification Workshops and Protected Species Safe Handling, Release, and Identification Workshops to be held in July, August, and September 2008. Certain fishermen and shark dealers are required to attend a workshop to meet new regulatory requirements and maintain valid permits. The Atlantic Shark Identification Workshop is mandatory for all federally permitted Atlantic shark dealers. The Protected Species Safe Handling, Release, and Identification Workshop is mandatory for vessel owners and operators who use bottom longline, pelagic longline, or gillnet gear, and have also been issued shark or swordfish limited access permits. Additional free workshops will be held in 2008 and announced in the **Federal Register**.

DATES: The Atlantic Shark Identification Workshops will be held July 31, August 28, and September 16 and 30, 2008.

The Protected Species Safe Handling, Release, and Identification Workshops will be held July 22 and 29, August 27, and September 3, 2008.

See **SUPPLEMENTARY INFORMATION** for further details.

ADDRESSES: The Atlantic Shark Identification Workshops will be held in Charleston, SC; Richmond, TX; and South Daytona, FL.

The Protected Species Safe Handling, Release, and Identification Workshops will be held in Panama City, FL; Bohemia, NY; Port Aransas, TX; and Ocean City, MD.

See **SUPPLEMENTARY INFORMATION** for further details on workshop locations.

FOR FURTHER INFORMATION CONTACT: Greg Fairclough by phone:(727) 824–5399, or by fax: (727) 824–5398.

SUPPLEMENTARY INFORMATION: The workshop schedules, registration information, and a list of frequently asked questions regarding these workshops are posted on the internet at: *http://www.nmfs.noaa.gov/sfa/hms/workshops/*.

Atlantic Shark Identification Workshop

Effective December 31, 2007, an Atlantic shark dealer may not receive, purchase, trade, or barter for Atlantic shark unless a valid Atlantic Shark Identification Workshop certificate is on the premises of each business listed under the shark dealer permit (71 FR 58057; October 2, 2006). Dealers who attend and successfully complete a workshop will be issued a certificate for each place of business that is permitted to receive sharks.

Dealers may send a proxy to an Atlantic Shark Identification Workshop, however, if a dealer opts to send a proxy, the dealer must designate a proxy for each place of business covered by the dealer's permit. Only one certificate will be issued to each proxy. A proxy must be a person who: is currently employed by a place of business covered by the dealer's permit; is a primary participant in the identification, weighing, and/or first receipt of fish as they are offloaded from a vessel; and fills out dealer reports. Additionally, after December 31, 2007, an Atlantic shark dealer may not renew a Federal shark dealer permit unless a valid Atlantic Shark Identification Workshop certificate for each business location has been submitted with the permit renewal application. Sixteen free Atlantic Shark Identification Workshops were held in 2007.

Workshop Dates, Times, and Locations

1. July 31, 2008, from 9 a.m. – 3 p.m., Center for Coastal Environmental Health and Biomolecular Research, 219 Fort Johnson Road, Charleston, SC 29412.
2. August 28, 2008, from 9:30 a.m. – 3 p.m., George Memorial Library, 1001 Golfview Drive, Richmond, TX 77649.
3. September 16, 2008, from 9 a.m. – 3 p.m., Piggotte Community Center, 504 Big Tree Road, South Daytona, FL 32119.
4. September 30, 2008, from 9 a.m. – 3 p.m., Piggotte Community Center, 504 Big Tree Road, South Daytona, FL 32119.

Registration

To register for a scheduled Atlantic Shark Identification Workshop, please contact Eric Sander by email at *esander@peoplepc.com* or by phone at (386) 852–8588.

Registration Materials

To ensure that workshop certificates are linked to the correct permits, participants will need to bring the following items to the workshop:

Atlantic shark dealer permit holders must bring proof that the individual is an agent of the business (such as articles

of incorporation), a copy of the applicable permit, and proof of identification.

Atlantic shark dealer proxies must bring documentation from the shark dealer acknowledging that the proxy is attending the workshop on behalf of the Atlantic shark dealer, a copy of the appropriate permit, and proof of identification.

Workshop Objectives

The shark identification workshops are designed to reduce the number of unknown and improperly identified sharks reported in the dealer reporting form and increase the accuracy of species–specific dealer–reported information. Reducing the number of unknown and improperly identified sharks will improve quota monitoring and the data used in stock assessments. These workshops will train shark dealer permit holders or their proxies to properly identify Atlantic shark carcasses.

Protected Species Safe Handling, Release, and Identification Workshop

Effective January 1, 2007, shark limited access and swordfish limited access permit holders must submit a copy of their Protected Species Safe Handling, Release, and Identification Workshop certificate in order to renew either permit (71 FR 58057; October 2, 2006). As such, vessel owners who have not attended a workshop and received a NMFS certificate must attend one of the workshops offered in July, August, or September 2008 to fish with or renew either permit. Additionally, new shark and swordfish limited access permit applicants must attend a Protected Species Safe Handling, Release, and Identification Workshop and must submit a copy of their workshop certificate before such permits will be issued.

In addition to certifying permit holders, all longline and gillnet vessel operators fishing on a vessel issued a limited access swordfish or limited access shark permit are required to attend a Protected Species Safe Handling, Release, and Identification Workshop. Vessels that have been issued a limited access swordfish or limited access shark permit may not fish unless both the vessel owner and operator have valid workshop certificates. Vessel operators must possess on board the vessel valid workshop certificates for both the vessel owner and the operator at all times. Seven free Protected Species Safe Handling, Release, and Identification Workshops were held in 2006, and 34 were held in 2007.

Workshop Dates, Times, and Locations

1. July 22, 2008, from 9 a.m. – 5 p.m., Hilton Garden Inn, 1101 North Highway 231, Panama City, FL 32405.

2. July 29, 2008, from 9 a.m. – 5 p.m., La Quinta Inn and Suites, Islip MacArthur Airport, 10 Aero Road, Bohemia, NY 11716.

3. August 27, 2008, from 9 a.m. – 5 p.m., Holiday Inn Express, 727 South 11th Street, Port Aransas, TX 78373.

4. September 3, 2008, from 9 a.m. – 5 p.m., Holiday Inn Oceanfront, 67th Street Oceanside, Ocean City, MD 21842.

Registration

To register for a scheduled Protected Species Safe Handling, Release, and Identification Workshop, please contact Aquatic Release Conservation ((877) 411–4272), 1870 Mason Ave., Daytona Beach, FL 32117.

Registration Materials

To ensure that workshop certificates are linked to the correct permits, participants will need to bring the following items with them to the workshop:

Individual vessel owners must bring a copy of the appropriate permit(s), a copy of the vessel registration or documentation, and proof of identification.

Representatives of a business owned or co–owned vessel must bring proof that the individual is an agent of the business (such as articles of incorporation), a copy of the applicable permit(s), and proof of identification.

Vessel operators must bring proof of identification.

Workshop Objectives

The protected species safe handling, release, and identification workshops are designed to teach longline and gillnet fishermen the required techniques for the safe handling and release of entangled and/or hooked protected species, such as sea turtles, marine mammals, and smalltooth sawfish. Identification of protected species will also be taught at these workshops in an effort to improve reporting. Additionally, individuals attending these workshops will gain a better understanding of the requirements for participating in these fisheries. The overall goal for these workshops is to provide participants the skills needed to reduce the mortality of protected species, which may prevent additional regulations on these fisheries in the future.

Grandfathered Permit Holders

Participants in the industry–sponsored workshops on safe handling and release of sea turtles that were held in Orlando, FL (April 8, 2005) and in New Orleans, LA (June 27, 2005) were issued a NOAA workshop certificate in December 2006 that is valid for three years. Grandfathered permit holders must include a copy of this certificate when renewing limited access shark and limited access swordfish permits each year. Failure to provide a valid NOAA workshop certificate may result in a permit denial.

Dated: June 2, 2008.

Emily H. Menashes

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

[FR Doc. E8–12711 Filed 6–5–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Notice of Availability for the Draft Supplemental Environmental Impact Statement/Subsequent Environmental Impact Report for the Pacific L.A. Marine Terminal LLC Crude Oil Terminal Project, Los Angeles County, CA

AGENCY: Department of the Army—U.S. Army Corps of Engineers, DoD.

ACTION: Notice of availability.

SUMMARY: The U.S. Army Corps of Engineers, Los Angeles District (Regulatory Division), in coordination with the Port of Los Angeles, has completed a Draft Supplemental Environmental Impact Statement/ Subsequent Environmental Impact Report (SEIS/SEIR) for the Pacific L.A. Marine Terminal LLC Crude Oil Terminal Project. The Port of Los Angeles requires authorization pursuant to Section 404 of the Clean Water Act and Section 10 of the River and Harbor Act for a new crude oil marine terminal at Berth 408 on Pier 400 including: Construction of a new marine terminal to receive crude oil from marine vessels and transfer the oil to tank farm facilities via a new 42-inch-diameter, high-volume pipeline; construction of two tank farms, Tank Farm Site 1 located on Pier 400 and Tank Farm Site 2 located on Pier 300 at Seaside Avenue/ Terminal Way; construction of new pipelines to connect the new tank farm facilities to existing pipeline facilities, with the new tank farm facilities connected to the existing

ExxonMobil Southwest Terminal on Terminal Island, the existing Ultramar/Valero Refinery on Anaheim Street near the Terminal Island Freeway, and to Plains All American pipeline systems near Henry Ford Avenue and Alameda Street via new and existing 36-inch, 24-inch, and 16-inch pipelines, and with all new pipelines installed belowground, with the exception of the water crossings at the Pier 400 causeway bridge and at the Valero utility/pipe bridge that crosses the Dominguez Channel west of the Ultramar/Valero Refinery. The new tank farm facilities would provide a total of 4.0 million barrels (bbl) of capacity, primarily receiving crude oil, partially refined crude oil, and occasional deliveries of Marine Gas Oil (MGO).

FOR FURTHER INFORMATION CONTACT: Questions or comments concerning the Draft SEIS/SEIR should be directed to Dr. Spencer D. MacNeil, Senior Project Manager, North Coast Branch, Regulatory Division, U.S. Army Corps of Engineers, P.O. Box 532711, Los Angeles, CA, 90053–2325, (805) 585–2152.

SUPPLEMENTARY INFORMATION: The Port of Los Angeles and U.S. Army Corps of Engineers will jointly hold a public meeting on June 26, 2008 in the Board of Harbor Commissioner Hearing Room in San Pedro, California, to receive public comments and to assess public concerns regarding this Draft SEIS/SEIR and proposed project. Written comments will be accepted until the close of the public review period on July 29, 2008.

Aaron O. Allen,

Acting Chief, Regulatory Division, Los Angeles District.

[FR Doc. E8–12614 Filed 6–5–08; 8:45 am]

BILLING CODE 3710–KF–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

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

DATES: Interested persons are invited to submit comments on or before August 5, 2008.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: June 2, 2008.

Angela C. Arrington,

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

Institute of Education Sciences

Type of Review: Revision.

Title: National Longitudinal Transition Study-2 (NLTS2) Wave 5 Interviews and Questionnaires.

Frequency: Biennial.

Affected Public: Individuals or household.

Reporting and Recordkeeping Hour Burden:

Responses: 3,912.
Burden Hours: 1,423.

Abstract: This ICR is for Wave 5 data collection for the National Longitudinal Transition Study-2 (NLTS2). This study was begun in 2000 with a sample of approximately 12,000 youth who were aged 13 through 16 and receiving educational services. Wave 5 data collection will take place in the 9th year of the project and will consist of parent and youth interviews conducted by phone or mail.This will be the last round of data collection for NLTS2 and will focus primarily on early adulthood, including postsecondary education, employment, and community adjustment.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 3698. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E8–12683 Filed 6–5–08; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

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

DATES: Interested persons are invited to submit comments on or before August 5, 2008.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its

statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: June 2, 2008.

Angela C. Arrington,

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

Federal Student Aid

Type of Review: Extension.

Title: Federal Family Education Loan (FFEL) School Letter.

Frequency: One time.

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

Reporting and Recordkeeping Hour Burden:

Responses: 500.

Burden Hours: 125.

Abstract: On March 4, 2008, a letter was sent via e-mail to 4,155 financial aid administrators at institutions that participate in the Federal Family Educational Loan Program. The purpose of the letter is to inform the financial aid administrators that the Department of Education is monitoring the current uncertainty in the credit markets and the impact of that uncertainty on student loan programs. The letter invites the financial aid administrator to provide the Department with any information he or she has related to any lender that plans to reduce, suspend, or discontinue making student loans. The letter requests this information for both federal and non-federal student loans. The Department uses the information received from the financial aid administrators to prepare an analysis and summary for presentation to the Secretary. The Secretary continues to use the information to make her decisions related to ensuring the continued availability of educational loans for students and their families.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 3657. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E8–12686 Filed 6–5–08; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Small, Rural School Achievement Program

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice announcing application deadline.

Catalog of Federal Domestic Assistance (CFDA) Number 84.358A.

SUMMARY: Under the Small, Rural School Achievement (SRSA) Program, the U.S. Department of Education (Department) awards grants on a formula basis to eligible local educational agencies (LEAs) to address the unique needs of rural school districts. In this notice, we establish the deadline for submission of fiscal year (FY) 2008 SRSA grant applications.

An eligible LEA that is required to submit an application must do so electronically by the deadline in this notice. If it submits its application after this deadline, the LEA will receive a grant award only to the extent that funds are available after the Department awards grants to other eligible LEAs under the program.

Application Deadline: June 30, 2008, 4:30 p.m. Washington, DC time.

SUPPLEMENTARY INFORMATION:

Which LEAs Are Eligible for an Award Under the SRSA Program?

An LEA is eligible for an award under the SRSA program if—

(a) The total number of students in average daily attendance at all of the schools served by the LEA is fewer than 600, *or* each county in which a school served by the LEA is located has a total population density of fewer than 10 persons per square mile; and

(b) All of the schools served by the LEA are designated with a school locale code of 7 or 8 by the Department's National Center for Education Statistics (using the NCES school locale methodology in place at the time of NCLB's enactment), or the Secretary has determined, based on a demonstration by the LEA and concurrence of the SEA, that the LEA is located in an area defined as rural by a governmental agency of the State.

Which Eligible LEAs Must Submit an Application To Receive a FY 2008 SRSA Grant Award?

An eligible LEA must submit an application to receive a FY 2008 SRSA grant award if it falls under any of the following categories:

1. The LEA never submitted an application for SRSA funds in any prior year;

2. The LEA received an SRSA grant award for FY 2005 and, as of February 15, 2008, had not drawn down from the Department's Grant Administration and Payment System any of its FY 2005 SRSA funds; or

3. The LEA received an SRSA grant award for FY 2006 and, as of March 31, 2008, had not drawn down from the Department's Grant Administration and Payment System any of its FY 2006 SRSA funds.

Under the regulations in 34 CFR 75.104(a), the Secretary makes grants only to an eligible party that submits an application. Given the limited purpose served by the application under the SRSA program, the Secretary considers the application requirement to be met if the LEA submitted an SRSA application for any prior year and does not fall under any of the categories listed above requiring the submission of a new application. In this circumstance, unless the LEA advises the Secretary by the application deadline that it is withdrawing its application, the Secretary deems the application that the LEA previously submitted to remain in

effect for FY 2008 funding, and the LEA does not have to submit an additional application.

We intend to provide, by May 23, 2008, a list of LEAs eligible for FY 2008 funds on the Department's Web site at *http://www.ed.gov/programs/reapsrsa/index.html* under the ''Eligibility'' hyperlink. The Web site will also indicate which of these eligible LEAs must submit a new application to the Department to receive their FY 2008 SRSA grant award, and which eligible LEAs are considered already to have met the application requirement.

Eligible LEAs that must submit a new application in order to receive FY 2008 SRSA funds must do so electronically by the deadline established in this notice.

Electronic Submission of Applications

An eligible LEA that is required to submit an application to receive FY 2008 SRSA funds must submit an electronic application by June 30, 2008, 4:30 p.m., Washington, DC time. Submission of an electronic application involves the use of the Department's Electronic Grant Application System (e-Application) available through the Department's e-GRANTS system.

You can access the electronic application for the SRSA Program at: *http://e-grants.ed.gov.*

Once you access this site, you will receive specific instructions regarding the information to include in your application.

The regular hours of operation of the e-Grants Web site are 6 a.m. Monday until 7 p.m. Wednesday; and 6 a.m. Thursday until midnight, Saturday (Washington, DC time). Please note that the system is unavailable on Sundays, Federal holidays, and after 7 p.m. on Wednesdays for maintenance (Washington, DC time).

FOR FURTHER INFORMATION CONTACT: Mr. Eric Schulz, U.S. Department of Education, 400 Maryland Avenue, SW., room 3E108, Washington, DC 20202. Telephone: (202) 401–0039 or via Internet: *reap@ed.gov.*

If you use a telecommunications device for the deaf (TDD), you may call the FRS at 1–800–877–8339.

Individuals with disabilities may obtain this notice 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**.

Electronic Access to This Document: You can view this document, as well as other Department of Education documents 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 version of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Program Authority: 20 U.S.C. 7345–7345b.

Dated: June 3, 2008.

Kerri L. Briggs,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. E8–12744 Filed 6–5–08; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Agency Information Collection Extension

AGENCY: Department of Energy.

ACTION: Submission for Office of Management and Budget (OMB) review; comment request.

SUMMARY: The Department of Energy (DOE) has submitted an information collection request to the OMB for extension under the provisions of the Paperwork Reduction Act of 1995. The information collection requests a three-year extension of its Weatherization Assistance Program (WAP), OMB Control Number 1910–5127. The Department of Energy (DOE) Weatherization Assistance Program (WAP) is a formula grant program. DOE has developed four forms designed to reduce the length of time to input information and provide a consistent format for all States to submit as part of their State Application and Plan process. This activity will benefit the program and State because all forms are in electronic format that will populate a database for program information. The program information captured will be used to provide the most current program information for budget, congressional and public inquiries to the program. The forms will be used as part of the Grants.gov process.

DATES: Comments regarding this collection must be received on or before July 7, 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, please advise the OMB Desk Officer of your intention to make a submission as soon as possible. The Desk Officer may be telephoned at 202–395–4650.

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;

and

Elnora Long, EE–2K,
U.S. Department of Energy,
1000 Independence Ave., SW.,
Washington, DC 20585–1290,
Fax #: (202) 586–1233,
elnora.long@ee.doe.gov.

FOR FURTHER INFORMATION CONTACT: Elnora Long, EE–2K, U.S. Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585–1290, Fax #: (202) 586–1233, *elnora.long@ee.doe.gov*.

SUPPLEMENTARY INFORMATION: This information collection request contains: (1) *OMB No.* 1910–5127; (2) *Information Collection Request Title:* Weatherization Assistance Program; (3) *Purpose:* The Weatherization Assistance Program provides grants to States, the District of Columbia and Native American Tribes annually; (4) *Estimated Number of Respondents:* 52 (Fifty Two) States and Territories; (5) *Estimated Total Burden Hours:* 3 hours per respondent; (6) *Number of Collections:* The information collection request contains 3 information and/or recordkeeping requirements.

Statutory Authority: 10 CFR part 440

Issued in Washington, DC, on June 2, 2008.

Alexander A. Karsner,

Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. E8–12678 Filed 6–5–08; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Agency Information Collection Extension

AGENCY: Department of Energy.

ACTION: Submission for Office of Management and Budget (OMB) review; comment request.

SUMMARY: The Department of Energy (DOE) has submitted an information collection request to the OMB for extension under the provisions of the Paperwork Reduction Act of 1995. The information collection requests a three-

year extension of its State Energy Program (SEP), OMB Control Number 1910–5126. This information collection request pertains to Department's State Energy Program, which provides grants to States that are intended to promote energy conservation and renewable energy in 55 areas specified in the collection instrument (e.g., agriculture, geothermal, biomass, traffic signals, home energy ratings, building codes). Requested information includes matters such as which one of the following six broad categories that the grant request pertains to (buildings, electric power and renewable energy, energy education, industry, policy planning and energy security, and transportation); the State; the program year; the area or areas of the 55 referred to above; estimated annual energy savings; a description of the requested grant's goals and objectives program year milestones; and program year funds by source.

DATES: Comments regarding this collection must be received on or before July 7, 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, please advise the OMB Desk Officer of your intention to make a submission as soon as possible. The Desk Officer may be telephoned at 202–395–4650.

ADDRESSES: Written comments should be sent to the following officials:

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

and

Elnora Long, U.S. Department of Energy, 1000 Independence Ave SW., Washington, DC 20585–1290, Fax #: (202) 586–1233, *elnora.long@ee.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Elnora Long, U.S. Department of Energy, 1000 Independence Ave SW. , Washington, DC 20585–1290, Fax #: (202) 586–1233, *elnora.long@ee.doe.gov.*

SUPPLEMENTARY INFORMATION: This information collection request contains: (1) *OMB No.* 1910–5126; (2) I*nformation Collection Request Title:* State Energy; Program (3) *Purpose:* Promote the conservation of energy, reduce the rate of growth of energy demand, and reduce dependence on imported oil; (4) *Estimated Number of Respondents:* 56 (Fifty Six) States and Territories; (5) *Estimated Total Burden Hours:* 162; (6) *Number of Collections:* The information collection request contains one (1) information and/or recordkeeping requirement.

Statutory Authority: 10 CFR 420. State Energy Program.

Issued in Washington, DC, on June 2, 2008.

Alexander A. Karsner,

Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. E8–12747 Filed 6–5–08; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

State Energy Advisory Board

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of Open Teleconference.

SUMMARY: This notice announces a teleconference of the State Energy Advisory Board (STEAB). The Federal Advisory Committee Act (Pub. L. 92–463; 86 Stat. 770) requires that public notice of these teleconferences be announced in the **Federal Register**.

DATES: June 19, 2008 from 2 p.m. to 3 p.m. EDT.

FOR FURTHER INFORMATION CONTACT: Gary Burch, STEAB Designated Federal Officer, Acting Assistant Manager, Office of Commercialization and Project Management, Golden Field Office, U.S. Department of Energy, 1617 Cole Boulevard, Golden, CO 80401, Telephone 303/275–4801.

SUPPLEMENTARY INFORMATION: *Purpose of the Board:* To make recommendations to the Assistant Secretary for the Office of Energy Efficiency and Renewable Energy regarding goals and objectives, programmatic and administrative policies, and to otherwise carry out the Board's responsibilities as designated in the State Energy Efficiency Programs Improvement Act of 1990 (Pub. L. No. 101–440).

Tentative Agenda: Update members on routine business matters.

Public Participation: The teleconference is open to the public. Written statements may be filed with the Board either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Gary Burch at the address or telephone number listed above. Requests to make oral comments must be received five days prior to the conference call; reasonable provision will be made to include requested topic(s) on the agenda. The Chair of the Board is empowered to conduct the call in a fashion that will facilitate the orderly conduct of business. This notice is being published less than 15 days before the date of the meeting due to programmatic issues that had to be resolved prior to publication.

Notes: The notes of the teleconference will be available for public review and copying within 60 days on the STEAB Web site, *http://www.steab.org.*

Issued at Washington, DC, on June 3, 2008.

Rachel Samuel,

Deputy Committee Management Officer.

[FR Doc. E8–12676 Filed 6–5–08; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12598–011]

Birch Power Company; Turnbull Hydro, L.L.C.; Notice cf Application for Transfer of License and Soliciting Comments, Motions To Intervene and Protests

May 30, 2008.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Transfer of License.

b. *Project No.:* 12598–011.

c. *Date filed:* April 28, 2008.

d. *Applicants:* Birch Power Company (transferor). Turnbull Hydro, L.L.C. (transferee).

e. *Name and Location of Project:* Upper Turnbull Drop Project is located on the Spring Valley Canal in Teton County Montana.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

g. *Applicant Contact:* For both transferor and transferee: Ted S. Sorenson, 5203 South 11th East, Idaho Falls, ID 83404.

h. *FERC Contact:* Steven Sachs, (202) 502–8666.

i. *Deadline for filing comments, protests and motions to intervene:* July 14, 2008.

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–12598–011) 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.

j. *Description of Application:* Applicants seek Commission approval to transfer the license for the Upper Turnbull Drop Project from Birch Power Company to Turnbull Hydro, L.L.C.

k. This filing is 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 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 g above.

l. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

m. *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.

n. *Filing and Service of Responsive Documents*—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. Any of the above-named documents must be filed by providing the original and eight copies to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicants specified in the particular application.

o. *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 Applicants. 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 Applicants' representatives.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–12663 Filed 6–5–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12597–011]

Birch Power Company; Turnbull Hydro, L.L.C.; Notice of Application for Transfer of License and Soliciting Comments, Motions To Intervene and Protests

May 30, 2008.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Transfer of License.

b. *Project No.:* 12597–011.

c. *Date filed:* April 28, 2008.

d. *Applicants:* Birch Power Company (transferor); Turnbull Hydro, L.L.C. (transferee).

e. *Name and Location of Project:* Lower Turnbull Drop Project is located on the Spring Valley Canal in Teton County Montana.

f. *Filed Pursuant to:* Federal Power Act, 16 USC. 791(a)–825(r).

g. *Applicant Contact:* For both transferor and transferee: Ted S. Sorenson, 5203 South 11th East, Idaho Falls, ID 83404.

h. *FERC Contact:* Steven Sachs, (202) 502–8666.

i. *Deadline for filing comments, protests and motions to intervene:* July 14, 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. 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–12597–011) 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.

j. *Description of Application:* Applicants seek Commission approval to transfer the license for the Lower Turnbull Drop Project from Birch Power Company to Turnbull Hydro, L.L.C.

k. This filing is 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 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 g above.

l. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

m. *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.

n. *Filing and Service of Responsive Documents*—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. Any of the above-named documents must be filed by providing the original and eight copies to: The Secretary, Federal Energy Regulatory

Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicants specified in the particular application.

o. *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 Applicants. 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 Applicants' representatives.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–12662 Filed 6–5–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP08–404–000; PF08–2–000]

MarkWest Pioneer, LLC; Notice of Application

May 30, 2008.

Take notice that on May 20, 2008, MarkWest Pioneer, LLC (MarkWest), 1515 Arapahoe Street, Tower 2, Suite 700, Denver, Colorado 80202–2126, filed in the above referenced docket an application pursuant to section 7(c) of the Natural Gas Act (NGA), for an order granting a certificate of public convenience to construct, own, and operate approximately 50 miles of new natural gas pipeline with a capacity of 638,000 dekatherms per day (Dth/d), approximately 19,500 horsepower (HP) of total compression at two compressor stations, and related appurtenances in Coal, Atoka, and Bryan Counties in southeastern Oklahoma (Arkoma Connector Pipeline Project). MarkWest also proposes a pro forma FERC Gas Tariff, including proposed initial recourse rates for the Arkoma Connector Pipeline Project. Additionally, MarkWest requests blanket certificates authorizing the construction, rearrangement, and abandonment of facilities and other activities permitting under Part 157, Subpart F, of the Commission's regulation and for self-implementing interstate transportation of natural gas under Part 284, Subpart G, of the Commission's regulations, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing is 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 document. For assistance, contact FERC at *FERCOnlineSupport@gerc.gov* or call toll-free, (886) 208–3676 or TTY, (202) 502–8659.

Any questions concerning this application may be directed to David Williams, MarkWest Hydrocarbon, Inc., 1515 Arapahoe Street, Tower 2, Suite 700, Denver, Colorado 80202–2126, at (303) 925–9232, or *DWilliams@markwest.com*, or Robert Powell, MarkWest Hydrocarbon, Inc., 2500 Citywest Blvd., Houston, Texas 77042, at (713) 666–6747, or *BPowell@markwest.com*, or Joseph S. Koury, Wright & Talisman, PC, 1200 G Street, NW., Suite 600, Washington, DC 20005, at (202) 393–1200, or *koury@wrightlaw.com*.

On October 18, 2007, the Commission staff granted MarkWest's request to utilize the Pre-Filing Process and assigned Docket No. PF08–2–000 to staff activities involving the Arkoma Connector Pipeline Project. Now as of the filing of the May 20, 2008 application, the Pre-Filing Process for this project has ended. From this time forward, this proceeding will be conducted in Docket No. CP08–404–000, as noted in the caption of this Notice.

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 in the proceeding with the Commission and must mail a copy to the applicant and to every other party. 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.

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: June 20, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–12665 Filed 6–5–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 6066–031]

McCallum Enterprises I Limited Partnership; Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

May 30, 2008.

Take notice that the following application has been filed with the Commission and is available for public inspection.

a. *Application Type:* Amendment to Recreation Plan.

b. *Project No.:* 6066–031.

c. *Dated Filed:* March 27, 2008.

d. *Applicant:* McCallum Enterprises I Limited Partnership.

e. *Name of Project:* Derby Dam Project.

f. *Location:* The project is located on the Housatonic River in New Haven and Fairfield Counties, Connecticut.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Application Contact:* Joseph Szarmach, Jr., Vice President, McCallum Enterprises I Limited Partnership, 2874 Main Street, Stratford, Connecticut 06614, telephone: (203) 386–1745, fax: (203) 377–8228.

i. *FERC Contact:* Any questions on this notice should be addressed to Mr. John Mark at (212) 273–5940, or e-mail address: *john.mark@ferc.gov*.

j. *Deadline for filing comments and/or motions:* June 30, 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.

k. *Description of Request:* The licensee filed an amendment application to relocate the fishing and canoe portage access on the Shelton, Connecticut, side of the project (on the right bank of the Housatonic River) to an area downstream immediately adjacent to the main outer gate of the project and a boat lock and adjacent to a public parking area which will be more convenient to the public. The proposed relocation is for the safety and convenience of the public and will be part of the City of Shelton's Redevelopment Plan for Canal Street with new residential development and increased levels of foot traffic. The proposed change will limit access to the Shelton canal which has proven to be a safety hazard to the public

l. *Location of the Application:* A copy of the application 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. 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. 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 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 e-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. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title ''COMMENTS'', ''PROTEST, or ''MOTION TO INTERVENE'', as applicable, and the Project Number (P–6066–031) of the particular application to which the filing refers. All documents (original and eight copies) should be filed with: Honorable Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

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)(1)(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. E8–12664 Filed 6–5–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP08–410–000; Docket No. CP02–74–000]

West Texas Gas, Inc.; Reef International, L.L.C.; Notice of Application To Transfer Natural Gas Act Section 3 Authorization and Presidential Permit

May 30, 2008.

On May 22, 2008, West Texas Gas, Inc. (West Texas) and Reef International, L.L.C. (Reef) filed a joint application in Docket No. CP08–410–000 pursuant to section 3 of the Natural Gas Act (NGA) and section 153 of the Commission's Regulations and Executive Order No. 10485, as amended by Executive Order No. 12038, and the Secretary of Energy's Delegation Order No. 00–004.00A, effective May 16, 2006, seeking authorization to transfer Reef's existing NGA section 3 authorization and Presidential Permit [1] to West Texas, all as more fully set forth in the application which is on file with the Commission and open to the public for inspection. This filing is available for review at the Commission 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 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 the application may be directed to: Richard D. Hatchett, 211 North Colorado, Midland, Texas 79701, or call (432) 682–4349 or e-mail *rhatchett@westtexasgas.com.*

Specifically, West Texas and Reef request the Commission to issue an

[1] 99 FERC ¶ 61,221 (2002)

order: (1) Transferring Reef's NGA section 3 authorization to West Texas for the operation and maintenance of facilities used to export natural gas at the International Border near Eagle Pass, Maverick County, Texas, to Coahuila, Mexico; and (2) authorizing the assignment of Reef's May 30, 2002, Presidential Permit for the operation and maintenance of facilities at the Coahuila, Mexico/Texas export point.

The export facilities consist of approximately 400 feet of 12-inch diameter pipeline extending from certain intrastate pipeline facilities in Texas to an interconnection with pipeline facilities owned by Compania National de Gas, S.A. (Conagas) in Coahuila, Mexico. West Texas would continue to operate and maintain these border crossing facilities in its own name rather than as Reef. West Texas and Reef state that no new facilities would be constructed.

West Texas and Reef state that the border facilities will remain in place and operation following the requested transfer and assignment. West Texas and Reef also state that the border crossing facilities would be used for transportation services subject to the jurisdiction of the Texas Railroad Commission.

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.

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 20, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–12657 Filed 6–5–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP08–6–000]

Midcontinent Express Pipeline, LLC; Notice of Availability of the Final Environmental Impact Statement for the Midcontinent Express Pipeline Project

May 30, 2008.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared this Final Environmental Impact Statement (EIS) for the natural gas pipeline facilities proposed by Midcontinent Express Pipeline Company, LLC (MEP) under the above-referenced docket. MEP's Midcontinent Express Pipeline Project (Project) would be located in various counties and parishes in Oklahoma, Texas, Louisiana, Mississippi, and Alabama.

The Final EIS was prepared to satisfy the requirements of the National Environmental Policy Act. The U.S. Army Corps of Engineers (COE), U.S. Fish and Wildlife Service (FWS), National Park Service (NPS), Natural Resources Conservation Service (NRCS), U.S. Environmental Protection Agency (EPA), Louisiana Department of Environmental Quality (LDEQ), Louisiana Department of Wildlife and Fisheries (LDWF), Texas Parks and Wildlife Department (TPWD), Mississippi Department of Wildlife, Fisheries, and Parks (MDWFP), and Alabama Department of Conservation and Natural Resources (ADCNR) are cooperating agencies for the development of this EIS. A cooperating agency has jurisdiction by law or special expertise with respect to any environmental impact involved with the proposal and is involved in the NEPA analysis.

The general purpose of the proposed Project is to transport up to 1,500,000 dekatherms per day of natural gas from production fields in Texas, Oklahoma, and Arkansas to markets in the eastern region of the United States.

The Final EIS addresses the potential environmental impacts resulting from the construction and operation of the following facilities:

- Approximately 506.1 miles of new 30-, 36-, and 42-inch-diameter interstate natural gas pipeline extending from Bryan County, Oklahoma to a terminus in Choctaw County, Alabama;
- An approximately 4.2-mile-long, 16- and 24-inch-diameter lateral pipeline in Richland and Madison Parishes, Louisiana;
- A total of approximately 111,720 horsepower (hp) of compression at one booster and four new mainline compressor stations;
- 14 new metering and regulating (M/R) stations; and
- Other appurtenant ancillary facilities including, mainline valves (MLV) and pig [1] launcher and receiver facilities.

Dependent upon Commission approval, MEP proposes to complete construction and begin operating the proposed Project in February 2009.

The Final EIS also evaluates alternatives to the proposal, including alternative energy sources, system alternatives, alternative sites for compressor stations, and alternative pipeline routes. Based on the analysis presented in this Final EIS, the FERC staff concludes that the proposed Project, with the appropriate mitigation measures as recommended, would have limited adverse environmental impact.

The Final EIS has been placed in the public files of the FERC and is available for public inspection at: Federal Energy Regulatory Commission, Public Reference Room, 888 First Street NE., Room 2A, Washington, DC 20426, (202) 502–8371.

A limited number of copies of the Final EIS are available from the Public Reference Room identified above. In addition, CD–ROM copies of the Final EIS have been mailed to affected landowners; various federal, state, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; local libraries and newspapers; intervenors; and other individuals that expressed an interest in the proposed Project. Hard copies of the Final EIS have also been mailed to those who requested that format during the scoping and comment periods for the proposed Project.

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'' and enter the project docket number excluding the

[1] A ''pig'' is a mechanical device used to clean or inspect the pipeline.

last three digits (i.e., CP08–6) in the ''Docket Number'' field. Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or TTY (202) 502–8659. 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 rule makings.

In addition, the FERC now offers a free service called eSubscription that allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. To register for this service, go to *http://www.ferc.gov/esubscribenow.htm.*

Kimberly D. Bose,

Secretary.

[FR Doc. E8–12658 Filed 6–5–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER08–1012–000]

PPL Renewable Energy, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

May 30, 2008.

This is a supplemental notice in the above-referenced proceeding of PPL Renewable Energy, LLC'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 19, 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. E8–12659 Filed 6–5–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

May 29, 2008.

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP07–310–002.
Applicants: Mojave Pipeline Company.
Description: Mojave Pipeline Company submits its Refund Report.
Filed Date: 05/23/2008.
Accession Number: 20080527–0100.
Comment Date: 5 p.m. Eastern Time on Wednesday, June 4, 2008.

Docket Numbers: RP08–388–000.
Applicants: Gulf South Pipeline Company, LP.
Description: Gulf South Pipeline Company LP submits Four Revised Sheet 20 *et al.* to FERC Gas Tariff, Sixth Revised Volume 1, to become effective 3/27/08.
Filed Date: 05/27/2008.
Accession Number: 20080528–0048.
Comment Date: 5 p.m. Eastern Time on Monday, June 9, 2008.

Docket Numbers: RP08–389–000.
Applicants: Natural Gas Pipeline Company of America.
Description: Natural Gas Pipeline Company of America LLC submits First Revised Sheet 33C *et al.* to FERC Gas Tariff, Seventh Revised Volume 1, to become effective 6/26/08.
Filed Date: 05/27/2008.
Accession Number: 20080528–0047.
Comment Date: 5 p.m. Eastern Time on Monday, June 9, 2008.

Docket Numbers: CP08–79–001.
Applicants: Mardi Gras Midstream, L.L.C.
Description: Mardi Gras Midstream, LLC. submit its agreement with Temple Inland, showing the applicable rates and terms and conditions of service.
Filed Date: 05/09/2008.
Accession Number: 20080509–5110.
Comment Date: 5 p.m. Eastern Time Thursday, June 5, 2008.

Docket Numbers: CP08–393–000.
Applicants: Public Service Company of New Mexico.
Description: Public Service Company of New Mexico filed a joint abbreviated application for an order approving abandonment by sales and issuing limited jurisdiction certificates of public convenience and necessity and for grant of related waivers of Public Service Company of New Mexico.
Filed Date: 05/09/2008.
Accession Number: 20080512–5021.
Comment Date: 5 p.m. Eastern Time Thursday, June 5, 2008.

Docket Numbers: CP08–406–000.
Applicants: Columbia Gulf Transmission Company.
Description: Columbia Gulf Transmission Company and Transcontinental Gas Pipe Line Corporation submit a joint application for permission and approval to abandon Columbia Gulf's Rate Schedules X–53 *et al.*
Filed Date: 5/20/2008.
Accession Number: 20080522–0168.
Comment Date: 5 p.m. Eastern Time Thursday, June 5, 2008.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a

compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. E8–12697 Filed 6–5–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings # 1

May 28, 2008.

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC08–92–000.

Applicants: Lowell Cogeneration Company Limited Partnership.

Description: Lowell Cogeneration Company Limited Partnership submits Application for Authorization for Disposition of Jurisdictional Facilities and Request for Expedited Action.

Filed Date: 05/21/2008.

Accession Number: 20080527–0048.

Comment Date: 5 p.m. Eastern Time on Wednesday, June 11, 2008.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG08–74–000.

Applicants: Happy Jack Windpower, LLC.

Description: Self Certification Notice as an Exempt Wholesale Generator of Happy Jack Windpower, LLC.

Filed Date: 05/21/2008.

Accession Number: 20080521–5075.

Comment Date: 5 p.m. Eastern Time on Wednesday, June 11, 2008.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER05–6–106; EL04–135–109; EL02–111–126; EL03–212–122.

Applicants: Midwest ISO.

Description: Jersey Central Power and Light Company's CD *et al.* containing Stipulation and Agreement, Explanatory Statement.

Filed Date: 05/21/2008.

Accession Number: 20080521–4033.

Comment Date: 5 p.m. Eastern Time on Wednesday, June 11, 2008.

Docket Numbers: ER05–168–004; ER06–274–009; EL05–19–005.

Applicants: Southwestern Public Service Company.

Description: Golden Spread Electric Coop, Inc., *et al.* submits Substitute First Revised Sheet 12 et al to FERC Rate Schedule 132.

Filed Date: 05/21/2008.

Accession Number: 20080527–0069.

Comment Date: 5 p.m. Eastern Time on Wednesday, June 11, 2008.

Docket Numbers: ER05–1255–002; ER95–1374–019.

Applicants: Horizon Power, Inc.; National Fuel Resources, Inc.

Description: National Fuel Resources, Inc., submits an explanation of why Horizon Power, Inc., *et al.* qualify as Category 1 Sellers of wholesale electricity in the Northeast region of the United States and in all other regions specified.

Filed Date: 05/22/2008.

Accession Number: 20080523–0092.

Comment Date: 5 p.m. Eastern Time on Thursday, June 12, 2008.

Docket Numbers: ER07–940–002.

Applicants: Midwest Independent Transmission System, PJM Interconnection, L.L.C.

Description: PJM Interconnection, L.L.C and the Midwest ISO submits a Compliance Filing with the directive that the RTOs indicate the NERC's approved termination date of the twelve-month market flow threshold field test pursuant to the 5/15/08 Order.

Filed Date: 05/22/2008.

Accession Number: 20080523–5037.

Comment Date: 5 p.m. Eastern Time on Thursday, June 12, 2008.

Docket Numbers: ER08–169–003.

Applicants: Midwest Independent Transmission System Operator, Inc.

Description: Midwest Independent Transmission System Operator, Inc., submits an proposed to Attachment P of the Midwest ISO's Open Access Transmission and Energy Markets Tariff, FERC Electric Tariff, Third Revised Volume 1 etc.

Filed Date: 05/22/2008.

Accession Number: 20080523–0094.

Comment Date: 5 p.m. Eastern Time on Thursday, June 12, 2008.

Docket Numbers: ER08–340–001.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc., submits compliance filing providing for revisions to its Open Access Transmission Tariff.

Filed Date: 05/21/2008.

Accession Number: 20080527–0038.

Comment Date: 5 p.m. Eastern Time on Wednesday, June 11, 2008.

Docket Numbers: ER08–404–002.

Applicants: Midwest Independent Transmission System.

Description: Midwest Independent Transmission System Operator, Inc., submits an proposed revisions to its Open Access Transmission and Energy Markets Tariff.

Filed Date: 05/22/2008.

Accession Number: 20080523–0093.

Comment Date: 5 p.m. Eastern Time on Thursday, June 12, 2008.

Docket Numbers: ER08–413–003.

Applicants: Startrans IO, L.L.C.

Description: Startrans IO, LLC submits updated Statements AV and BK reflecting their updated capital structure and transmission revenue requirement.

Filed Date: 05/21/2008.

Accession Number: 20080527–0037.

Comment Date: 5 p.m. Eastern Time on Wednesday, June 11, 2008.

Docket Numbers: ER08–720–001.

Applicants: Consolidated Edison Co. of New York, Inc.

Description: Consolidated Edison Company of New York, Inc., informs FERC that they were contacted by the Commission Staff concerning the issue of conforming the Power Purchase Agreement to the requirements of Order 614.

Filed Date: 05/22/2008.
Accession Number: 20080523–0095.
Comment Date: 5 p.m. Eastern Time on Thursday, June 12, 2008.

Docket Numbers: ER08–995–000.
Applicants: Southwest Power Pool.
Description: Southwest Power Pool, Inc., proposes to revise portions of its Open Access Transmission Tariff relating to its real-time energy imbalance service market.
Filed Date: 05/21/2008.
Accession Number: 20080527–0068.
Comment Date: 5 p.m. Eastern Time on Wednesday, June 11, 2008.

Docket Numbers: ER08–996–000.
Applicants: CBA Endeavors, LLC.
Description: CBA Endeavors, LLC submits a petition for acceptance of FERC Electric Tariff, Original Volume 1.
Filed Date: 05/21/2008.
Accession Number: 20080527–0065.
Comment Date: 5 p.m. Eastern Time on Wednesday, June 11, 2008.

Docket Numbers: ER08–997–000.
Applicants: Westar Energy, Inc.
Description: Westar Energy, Inc., submits their Seventh Revised Sheet 4 and 1 to the Wholesale Electric Service Agreement, designated as First Revised Rate Schedule 233.
Filed Date: 05/21/2008.
Accession Number: 20080527–0064.
Comment Date: 5 p.m. Eastern Time on Wednesday, June 11, 2008.

Docket Numbers: ER08–998–000.
Applicants: Westar Energy, Inc.
Description: Westar Energy, Inc., submits their Petition for Approval of Settlement Agreement.
Filed Date: 05/21/2008.
Accession Number: 20080527–0050.
Comment Date: 5 p.m. Eastern Time on Wednesday, June 11, 2008.

Docket Numbers: ER08–999–000.
Applicants: Northeast Utilities Service Company.
Description: Connecticut Light and Power Company submits the executed Design, Engineering, and Procurement Agreement for Baldwin Substation Improvements by and between CL&P and Waterbury Generation LLC.
Filed Date: 05/22/2008.
Accession Number: 20080523–0100.
Comment Date: 5 p.m. Eastern Time on Thursday, June 12, 2008.

Docket Numbers: ER08–1000–000.
Applicants: Maine Public Service Company.
Description: Maine Public Service Company submits proposed revisions to its FERC Open Access Transmission Tariff.
Filed Date: 05/22/2008.
Accession Number: 20080523–0099.
Comment Date: 5 p.m. Eastern Time on Thursday, June 12, 2008.

Docket Numbers: ER08–1001–000.
Applicants: Ameren Services Company.
Description: Central Illinois Public Service Company submits an executed service agreement for Wholesale Distribution Service with Wabash Valley Power Association, Inc., as agent for MJM Electric Cooperative, Inc.
Filed Date: 05/22/2008.
Accession Number: 20080523–0098.
Comment Date: 5 p.m. Eastern Time on Thursday, June 12, 2008.

Docket Numbers: ER08–1002–000.
Applicants: Westar Energy, Inc.
Description: Westar Energy, Inc., *et al.* submits Second Revised Sheet 1 and 11 to First Revised Rate Schedule FERC 168, the electric Power Supply Agreement, dated 2/3/88 etc.
Filed Date: 05/22/2008.
Accession Number: 20080523–0097.
Comment Date: 5 p.m. Eastern Time on Thursday, June 12, 2008.

Docket Numbers: ER08–1003–000.
Applicants: Oklahoma Gas and Electric Company.
Description: Oklahoma Gas and Electric Company submits Amended and Restated Network Integration Transmission Service Agreement, dated 4/28/08 between OG&E and the Purcell Public Works Authority.
Filed Date: 05/22/2008.
Accession Number: 20080523–0096.
Comment Date: 5 p.m. Eastern Time on Thursday, June 12, 2008.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES08–50–000.
Applicants: Aquila, Inc.
Description: Application of Aquila, Inc. for Authorization of Issuance of Long-Term Debt Securities Under Section 204 of the Federal Power Act.
Filed Date: 05/22/2008.
Accession Number: 20080523–5002.
Comment Date: 5 p.m. Eastern Time on Thursday, June 12, 2008.

Take notice that the Commission received the following foreign utility company status filings:

Docket Numbers: FC08–3–000.
Applicants: Arasmeta Captive Power Company Private L.
Description: Self Certification Notice of Arasmeta Captive Power Company Private Limited.
Filed Date: 05/22/2008.
Accession Number: 20080522–5034.
Comment Date: 5 p.m. Eastern Time on Thursday, June 12, 2008.

Docket Numbers: FC08–4–000.
Applicants: Sitapuram Power Limited.
Description: Notification of Self-Certification of Foreign Utility Company Status of Sitapuram Power Limited.
Filed Date: 05/22/2008.
Accession Number: 20080522–5036.
Comment Date: 5 p.m. Eastern Time on Thursday, June 12, 2008.

Docket Numbers: FC08–5–000.
Applicants: Regency Power Corporation Private Limited.
Description: Notice of Self-Certification of Foreign Utility Company Status of Regency Power Corporation Private Limited.
Filed Date: 05/22/2008.
Accession Number: 20080522–5041.
Comment Date: 5 p.m. Eastern Time on Thursday, June 12, 2008.

Take notice that the Commission received the following open access transmission tariff filings:

Docket Numbers: OA07–100–001.
Applicants: Black Hills Power, Inc.
Description: Black Hills Power submits compliance filing to make two modifications to Attachment C.
Filed Date: 05/22/2008.
Accession Number: 20080523–0091.
Comment Date: 5 p.m. Eastern Time on Thursday, June 12, 2008.

Docket Numbers: OA08–54–002; OA08–55–002; OA08–56–002; OA08–57–002; OA08–99–001; OA08–118–000.
Applicants: Deseret Generation & Transmission Co-op.; Idaho Power Company; NorthWestern Corporation; PacifiCorp; Black Hills Power, Inc.; Portland General Electric Company.
Description: Deseret Generation & Transmission Co-operative, Inc *et al.* submits modifications to Rate Schedule FERC 23 *et al.* to reflect the addition of an additional party, Horizon Wind Energy etc.
Filed Date: 05/22/2008.
Accession Number: 20080527–0031.
Comment Date: 5 p.m. Eastern Time on Thursday, June 12, 2008.

Take notice that the Commission received the following public utility holding company filings:

Docket Numbers: PH08–27–000.
Applicants: Sendero SMGC Limited Acquisition Company.
Description: FERC–65A Exemption Notification of Sendero SMGC Limited Acquisition Company, LLC.
Filed Date: 05/22/2008.
Accession Number: 20080522–5000.
Comment Date: 5 p.m. Eastern Time on Thursday, June 12, 2008.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a

compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. E8–12698 Filed 6–5–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER08–797–000; ER08–797–001]

HEEP Fund, Inc.; Notice of Issuance of Order

May 30, 2008.

HEEP Fund, Inc. (HEEP Fund) 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. HEEP Fund also requested waivers of various Commission regulations. In particular, HEEP Fund requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by HEEP Fund.

On May 30, 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 HEEP Fund, 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 30, 2008.

Absent a request to be heard in opposition to such blanket approvals by the deadline above, HEEP Fund 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 HEEP Fund, 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 HEEP Fund'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. E8–12661 Filed 6–5–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER08–441–000; ER08–441–001; ER08–441–002; ER08–441–003]

Velocity American Energy Master I, L.P.; Notice of Issuance of Order

May 30, 2008.

Velocity American Energy Master I, L.P. (Velocity American Energy) 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. Velocity American Energy also requested waivers of various Commission regulations. In particular, Velocity American Energy requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Velocity American Energy.

On May 30, 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 Velocity American Energy, 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 30, 2008.

Absent a request to be heard in opposition to such blanket approvals by the deadline above, Velocity American

Energy 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 Velocity American Energy, 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 Velocity American Energy'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. E8–12660 Filed 6–5–08; 8:45 am]

BILLING CODE 6717–01–P

FEDERAL ENERGY REGULATORY COMMISSION

[Docket No. RM98–1–000]

Records Governing Off-the-Record Communications; Public Notice

April 18, 2008.

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e) (1) (v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. The communications listed are grouped by docket numbers in ascending order. These filings 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 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.

Exempt:

Docket No.	Date received	Presenter or requester
1. CP07–208–000	5–5–08	Hon. Charles A. Wilson.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–12656 Filed 6–5–08; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2008–0438; FRL–8576–7]

Agency Information Collection Activities; Proposed Collection; Comment Request; Microbial Rules (Renewal); EPA ICR No. 1895.04, OMB Control No. 2040–0205

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 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 September 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 5, 2008.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OW–2008–0438, by one of the following methods:

- *http://www.regulations.gov* (our preferred method): Follow the on-line instructions for submitting comments.
- *E-mail: OW-Docket@epa.gov.*
- *Mail:* U.S. Environmental Protection Agency, EPA Docket Center (EPA/DC), Water Docket, MC: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.
- *Hand Delivery:* EPA Docket Center, Public Reading Room, EPA Headquarters West Building, 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–2008–0438. 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. 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: Richard Naylor, Drinking Water Protection Division, Office of Ground Water and Drinking Water, (MC: 4606M), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 202–564–3847; fax number: 202–564–3755; e-mail address: *naylor.richard@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 No. EPA–HQ–OW–2008–0438, which is available for online viewing at *http://www.regulations.gov*, or in person viewing at the Water 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 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: New and existing public water systems (PWS), primacy agencies, and EPA.

Title: Microbial Rules (Renewal).

ICR numbers: EPA ICR No. 1895.04, OMB Control No. 2040–0205.

ICR status: This ICR is currently scheduled to expire on September 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: The Microbial Rules Renewal ICR examines public water system, primacy agency and EPA burden and costs for recordkeeping and reporting requirements in support of the microbial drinking water regulations. These recordkeeping and reporting requirements are mandatory for compliance with 40 CFR parts 141 and 142. The following microbial regulations are included: Surface Water Treatment Rule (SWTR), Total Coliform Rule (TCR), Interim Enhanced Surface Water Treatment Rule (IESWTR), Filter Backwash Recycling Rule (FBRR), Long Term 1 Enhanced Surface Water Treatment Rule (LT1ESWTR), Long Term 2 Enhanced Surface Water Treatment Rule (LT2ESWTR), and Ground Water Rule. Future microbial-related rulemakings will be added to this consolidated ICR after the regulations are finalized and the initial, rule-specific, ICRs are due to expire.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 0.79 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 ICR provides a detailed explanation of the Agency's estimate, which is only briefly summarized here:

Estimated total number of potential respondents: 161,274.

Frequency of response: Varies by requirement (i.e., on occasion, monthly, quarterly, semi-annually, and annually).

Estimated total average number of responses for each respondent: 72.

Estimated total annual burden hours: 9,151,424 hours.

Estimated total annual costs: $118,653,327. This includes an estimated burden cost of $14,698,327 and an estimated cost of $22,793,000 for capital investment and $81,162,000 for maintenance and operational costs.

Are There Changes in the Estimates From the Last Approval?

There is an increase of 526,559 hours in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB. This increase is primarily due to restructuring adjustments (i.e., incorporation of the approved burden hours from the previously stand-alone ICRs for the Long Term 2 Enhanced Surface Water Treatment Rule, and Ground Water Rule

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: June 2, 2008.

Cynthia C. Dougherty,

Director, Office of Ground Water and Drinking Water.

[FR Doc. E8–12708 Filed 6–5–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2008–0437; FRL–8576–8]

Agency Information Collection Activities; Proposed Collection; Comment Request; Public Water System Supervision Program (Renewal); EPA ICR No. 0270.43, OMB Control No. 2040–0090

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 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 September 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 5, 2008.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OW–2008–0437, by one of the following methods:

- *http://www.regulations.gov* (our preferred method): Follow the on-line instructions for submitting comments.
- *E-mail: OW–Docket@epa.gov.*
- *Mail:* U.S. Environmental Protection Agency, EPA Docket Center (EPA/DC), Water Docket, MC: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.
- *Hand Delivery:* EPA Docket Center, Public Reading Room, EPA Headquarters West Building, 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–2008–0437. 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. 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: Richard Naylor, Drinking Water Protection Division, Office of Ground Water and Drinking Water, (MC: 4606M), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 202–564–3847; fax number: 202–564–3755; e-mail address: *naylor.richard@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 No. EPA–HQ–OW–2008–0437, which is available for online viewing at *http://www.regulations.gov*, or in person viewing at the Water 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 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: New and existing public water systems (PWS), primacy agencies, and EPA.

Title: Public Water System Supervision Program (Renewal).

ICR numbers: EPA ICR No. 0270.43, OMB Control No. 2040–0090.

ICR status: This ICR is currently scheduled to expire on September 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: The Public Water System Supervision (PWSS) Program Renewal ICR examines public water system, primacy agency, EPA and tribal operator certification provider burden and costs for ''cross-cutting'' recordkeeping and reporting requirements (i.e., the burden and costs for complying with drinking water information requirements that are not associated with contaminant-specific rulemakings). These activities which have recordkeeping and reporting requirements that are mandatory for compliance with 40 CFR parts 141 and 142 include the following: Consumer Confidence Reports (CCRs), Primacy Regulation Activities, Variance and Exemption Rule (V/E Rule), General State Primacy Activities, Public Notification (PN) and Proficiency Testing Studies for Drinking Water Laboratories. The information collection activities for both the Operator Certification/Expense Reimbursement Program and the Capacity Development Program are driven by the grant withholding and reporting provisions under sections 1419 and 1420, respectively, of the Safe Drinking Water Act. Although the Tribal Operator Certification Program is voluntary, the information collection is driven by grant eligibility requirements outlined in the Drinking Water Infrastructure Grant Tribal Set-Aside Program Final Guidelines and the Tribal Drinking Water Operator Certification Program Guidelines.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 6.5 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 ICR provides a detailed explanation of the Agency's estimate, which is only briefly summarized here:

Estimated total number of potential respondents: 161,682.

Frequency of response: Varies by requirement (i.e., on occasion, monthly, quarterly, semi-annually, and annually).

Estimated total average number of responses for each respondent: 3.1.

Estimated total annual burden hours: 3,249,695 hours.

Estimated total annual costs: $119,174,000. This includes an estimated burden cost of $97,636,000 and an estimated cost of $21,538,000 for capital investment or maintenance and operational costs.

Are There Changes in the Estimates From the Last Approval?

There is an increase of about 23,668 hours in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB. This increase is due to restructuring adjustments (i.e., incorporation of the approved burden hours from the previously stand-alone ICR for the Proficiency Testing Studies for Drinking Water Laboratories).

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: June 2, 2008.

Cynthia C. Dougherty,

Director, Office of Ground Water and Drinking Water.

[FR Doc. E8–12709 Filed 6–5–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2008–0145; FRL–8576–9]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; National-Scale Activity Survey (N–SAS); EPA ICR No. 2293.01, OMB Control No. 2060–NEW

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 for a new 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 7, 2008.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OAR–2008–0145, to (1) EPA online using *www.regulations.gov* (our preferred method), by e-mail to *a-and-r-Docket@epa.gov*, or by mail to: EPA Docket Center, Environnemental Protection Agency, Air and Radiation Docket and Information Center, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) OMB by mail to: Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Zachary Pekar, Health and Environmental Impacts Division, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Mail Code C504–06, Research Triangle Park, NC 27711; telephone: 919–541–3704; fax: 919–541–0237; e-mail: *pekar.zachary@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 February 28, 2008 (73 FR 10765), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ\OAR–2008–0145, which is available for online viewing at *www.regulations.gov*, or in person viewing at the Air and Radiation Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room is open from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for the Air and Radiation Docket is 202–566–1742.

Use EPA's electronic docket and comment system at *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 *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 *www.regulations.gov.*

Title: National-Scale Activity Survey (N–SAS).

ICR numbers: EPA ICR No. 2293.01, OMB Control No. 2060–NEW.

ICR Status: This ICR is for a new information collection activity. 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: EPA supports the Air Quality Index (AQI), a program that uses data from air quality monitors to forecast pollution levels and to notify the public of health hazards associated with air pollution, primarily ozone and particulate matter pollution (PM). EPA, specifically the Office of Air Quality Planning and Standards, which manages the AQI program, is interested in assessing the public's awareness, knowledge and both stated and actual behavioral response to AQI warnings. To address this need, OAQPS wishes to conduct the National-Scale Activity Surveys (N–SAS) to gather information on perceptions, awareness, attitudes, and stated and actual behaviors in response to AQI warnings.

EPA is requesting permission from OMB to conduct a survey of 1,600 individuals age 35 or older who meet minimal activity requirements living in Washington, DC; Sacramento (also other cities in San Joaquin Valley—San Joaquin, Stanislaus, Merced, Madera, Fresno), Chicago, Dallas, Houston, Atlanta, Philadelphia, or St. Louis. The data will be collected through a web-based survey of members from Knowledge Network's web panel.

The N–SAS consists of a series of nine surveys. A screening survey at the beginning and a debriefing survey at the end will provide information on the research participants, their awareness and knowledge of air pollution and the Air Quality Index (AQI), risk perceptions regarding health effects, and reported behaviors on high ozone days. After the screening survey, research participants will be administered a set of seven activity diaries administered on both high and low ozone days to collect information on actual behavior.

The information obtained from N–SAS will be used by EPA to assess hypotheses for the N–SAS research participants regarding:

- Extent of awareness of and knowledge about the AQI;
- The effects of the AQI-based warnings on behavior in eight cities with significant pollution problems;
- The correlation between awareness, knowledge, stated behavior on high pollution days and data on behavior reported in the activity diariesl;
- Differences in behavior, awareness and knowledge among different sub-samples of the N–SAS research participants.

In addition to assessing the effectiveness of AQI-based ozone warnings, the data will also be used to supplement the limited data available to develop exposure profiles for older Americans.

Participation in N–SAS and response to individual questions are voluntary. The respondents will be anonymous to EPA and contractor staff and Knowledge Networks keeps identify of respondents confidential.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 0.25 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: Members of the Knowledge Networks web panel (1) age 35 or older, (2) who respond yes to ''During the past month, did you participate in any physical activities or exercises such as running, calisthenics, golf, gardening, or walking for exercise?'' and (3) live in Washington, DC; Sacramento (also other cities in San Joaquin Valley—San Joaquin, Stanislaus, Merced, Madera, Fresno), Chicago, Dallas, Houston, Atlanta, Philadelphia, or St. Louis.

Estimated Number of Respondents: 1,600.

Frequency of Response: Up to 10 responses per respondent over 4 months.

Estimated Total Annual Hour Burden: 828 hours.

Estimated Total Annual Cost: $22,803, includes $0 annualized capital or O&M costs.

Dated: June 2, 2008.

Sara Hisel-McCoy,

Director, Collection Strategies Division.

[FR Doc. E8–12729 Filed 6–5–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6699–6]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at 202–564–7167.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 11, 2008 (73 FR 19833).

Draft EISs

EIS No. 20080057, ERP No. D–AFS–J65509–MT, Young Dodge Project, Proposed Timber Harvest and Associate Activities, Prescribed Burning, Road and Recreation Management, Kootenai National Forest, Rexford Ranger District, Lincoln County, MT.

Summary: EPA supports activities to reduce hazardous fuels and fire risk in wildland and urban interface, and restore declining tree species. However, EPA expressed environmental concerns about the impacts from disturbance to soil, water, wildlife and habitat connectivity, and recommended modifications to the preferred alternative, including additional road segment closure to reduce these impacts. Rating EC2.

EIS No. 20080059, ERP No. D–AFS–J65510–UT, Uinta National Forest Oil and Gas Leasing, Implementation, Identify National Forest Systems Land with Federal Mineral Rights, Wasatch, Utah, Juab, Tooele, and Sanpete Counties, UT

Summary: EPA expressed environmental concerns about air quality, wetlands, and inventoried roadless areas, and recommended confirmation of the anticipated air impacts and clarification of the wetlands and roadless area impacts. Rating EC2.

EIS No. 20080095, ERP No. D–NOA–L39065–OR, Bull Run Water Supply Habitat Conservation Plan, Application for and Incidental Take Permit to cover the Continued Operation and Maintenance, Sandy River Basin, City of Portland, OR

Summary: EPA does not object to the proposed project. Rating LO.

EIS No. 20080117, ERP No. D–AFS–L65550–00, Selway-Bitterroot Wilderness Plants Management Project, To Prevent the Establishment of New Invaders and Reduce the Impacts of Established Invasive Plants on Native Plant Community Stability, Sustainability and Diversity, Nez Perce, Clearwater, Lolo, and Bitterroot National Forests, ID and MT.

Summary: EPA expressed environmental concerns about potential herbicide treatment impacts to water quality within waterbodies that presently do not meet water quality standards. The final EIS should include information demonstrating that weed treatments would be protective of water quality. Rating EC2.

EIS No. 20080126, ERP No. D–AFS–L65551–ID, Corralled Bear Project, Management of Vegetation, Hazardous Fuels, and Access, Plus Watershed Improvements, Palouse Ranger District, Clearwater National Forest, Latah County, ID.

Summary: EPA supports the management direction proposed under Alternative 3 and requested that the final EIS include additional clarification on the proposed OHV route designations. Rating LO.

EIS No. 20080153, ERP No. DS–NOA–E91021–00, Snapper Grouper Amendment 15B, Fishery Management Plan, Updated Information on the Economic Analysis for the Bag Limit Sales Provision, Update Management Reference Point for Golden Tilefish (Lopholatilus chamaeleonticeps); Define Allocations for Snowy Grouper (Epinephelus niveatus) and Red Porgy (Pagrus pagrus), NC, SC, FL, and GA.

Summary: EPA does not object to the proposed action. Rating LO.

Final EISs

EIS No. 20080157, ERP No. F–AFS–L65522–WA, Gifford-Pinchot National Forest and Columbia River Gorge National Scenic Area (Washington Portion) Site-Specific Invasive Plant Treatment Project, Implementation, Skamania, Cowlitz, Lewis, Clark, Klickitat Counties, WA.

Summary: No formal comment letter was sent to the preparing agency.

Dated: June 3, 2008.

Robert W. Hargrove,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. E8–12710 Filed 6–5–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2008–0143; FRL–8366–5]

The Association of American Pesticide Control Officials/State FIFRA Issues Research and Evaluation Group; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Association of American Pesticide Control Officials (AAPCO)/ State FIFRA Issues Research and Evaluation Group (SFIREG) will hold a 2–day meeting, beginning on June 23, 2008 and ending June 24, 2008. This notice announces the location and times for the meeting and sets forth the tentative agenda topics.

DATES: The meeting will be held on Monday, June 23, 2008 from 8:30 a.m. to 5 p.m. and 8:30 a.m. to 12 noon on Tuesday, June24, 2008.

To request accommodation of a disability, please contact the person listed under **FOR FURTHER INFORMATON 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 EPA, One Potomac Yard (South Bldg) 2777 Crystal Drive, Arlington, VA., 4th Floor South Conference Room.

FOR FURTHER INFORMATION CONTACT: Georgia McDuffie, Field and External Affairs Division, 7506P. Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 605–0195; fax number: (703) 308–1850; e-mail address: *mcduffie.georgia@epa.gov* or Grier Stayton, SFIREG Executive Secretary, P.O. Box 466, Milford, DE 19963; telephone number: (302) 422–8152; fax (302) 422–2435; e-mail address: *grier stayton.aapco-sfireg@comcast.net.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are interested in SFIREG information exchange relationship with EPA regarding important issues related to human health, environmental exposure to pesticides, and insight into EPA's decision-making process are invited and encouraged to attend the meetings and participate as appropriate. Potentially affected entities may include, but are not limited to: Those persons who are or may be required to conduct testing of chemical substances under the Federal Food, Drug and Cosmetic Act (FFDCA), or the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

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 ID number EPA–HQ–OPP–2008–0143. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

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. Background

1. Web Based Labeling for Pesticides
2. Report from OPP and Office of Water on Cooperation on Pesticide Issues
3. Enforceability/Accountability of Label Language
4. PR Notice on HAVC Labeling and Regulated Community Concerns
5. Endangered Species Implementation
6. Update on Container/Containment Regulations and Revisions
7. Recycling Regulations
8. Tribal Pesticide Program Council Update
9. OPP and OECA Program Updates
10. AAPSE Update
11. Regional Reports
12. Working Committee Reports
13. Part Measures and Goals
14. Drift Mitigation Statements for Pyrethroids and 2,4-D
15. Update on Region 5 Pilot Project on Water Quality Benchmark Methods.

List of Subjects

Environmental protection.

Dated: May 16, 2008

William R. Diamond,

Director, Field External Affairs Division, Office of Pesticide Programs.

[FR Doc. E8–12616 Filed 6–5–08; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA—New England Region I—EPA–R01–OW–2008–0213; FRL–8574–6]

Massachusetts Marine Sanitation Device Standard—Receipt of Petition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice—receipt of petition.

SUMMARY: Notice is hereby given that a petition has been received from the Commonwealth of Massachusetts requesting a determination by the Regional Administrator, U.S. Environmental Protection Agency, that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for all Boston Harbor waters of the Inner and Outer Harbor and will extend into Massachusetts Bay to encompass all of the islands in the Boston Harbor Islands National Park Area, including the Brewster Islands and the Graves. It will include sections of the Chelsea, Mystic, Charles, Neponset, Weymouth Fore, Weymouth Back and Weir Rivers, all of which feed into the harbor. The waters of the proposed NDA fall within the jurisdictions of Boston, Braintree, Cambridge, Chelsea, Everett, Hingham, Hull, Milton, Newton, Quincy, Watertown, Weymouth, and Winthrop.

DATES: July 7, 2008.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R01–OW–2008–0213 by one of the following methods: *http://www.regulations.gov*, Follow the on-line instructions for submitting comments.

E-mail: rodney.ann@epa.gov.

Fax: (617) 918–0538.

Mail and hand delivery: U.S. Environmental Protection Agency—New England Region, One Congress Street, Suite 1100, COP, Boston, MA 02114–2023. Deliveries are only accepted during the Regional Office's normal hours of operation (8 a.m.–5 p.m., Monday through Friday, excluding legal holidays), and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R01–OW–2008–0213. 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 copy-righted 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 U.S. Environmental Protection Agency—New England Region, One Congress Street, Suite 1100, COP, Boston, MA 02114–2023. Such deliveries are only accepted during the Regional Office's normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office is open from 8 a.m.–5 p.m., Monday through Friday, excluding legal holidays. The telephone number is (617) 918–1538.

FOR FURTHER INFORMATION CONTACT: Ann Rodney, U.S. Environmental Protection Agency—New England Region, One Congress Street, Suite 1100, COP, Boston, MA 02114–2023. Telephone: (617) 918–1538, Fax number: (617) 918–0538; e-mail address: *rodney.ann@epa.gov*.

SUPPLEMENTARY INFORMATION: Notice is hereby given that a petition has been received from the Commonwealth of Massachusetts requesting a determination by the Regional Administrator, U.S. Environmental Protection Agency, pursuant to section 312(f)(3) of Public Law 92–500 as amended by Public Law 95–217 and Public Law 100–4, that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the area within the following boundaries:

The seaward boundary of the NDA is defined by municipal boundaries and, where possible, aids to navigation.

Waterbody/General area	Latitude	Longitude
Landside Town boundary between Revere and Winthrop	42° 23′ 30″ N	70° 58′ 50″ W
Offshore town boundary between Nahant, Revere, and Winthrop	42° 24′ 28″ N	70° 57′ 33″ W
Offshore town boundary between Nahant and Winthrop	42° 23′ 13″ N	70° 55′ 28″ W
Offshore town boundary between Nahant and Winthrop	42° 23′ 04″ N	70° 54′ 04″ W
Offshore town boundary between Nahant and Winthrop	42° 23′ 32″ N	70° 51′ 28″ W
Aid to Navigation RW "BG" Mo (A), 1.6nm NNE of the Graves	42° 23′ 27″ N	70° 51′ 30″ W
Aid to Navigation G "5" Fl G 4s WHISTLE, 0.8nm NE of the Graves	42° 22′ 34″ N	70° 51′ 29″ W
Aid to Navigation R "2" Fl R 4s BELL, Three & One-Half Fathom Ledge	42° 21′ 04″ N	70° 50′ 31″ W
Aid to Navigation G "1" Q G WHISTLE, Thieves Ledge	42° 19′ 32″ N	70° 49′ 51″ W
Offshore town boundary between Hull and Cohasset	42° 18′ 34″ N	70° 47′ 25″ W
Landside boundary between Hull and Cohasset	42° 15′ 54″ N	70° 49′ 34″ W

The landward boundaries of the proposed NDA are:

Waterbody/General area	Latitude	Longitude
The Saratoga Street bridge between Winthrop and Boston	42° 22′ 58″ N	70° 59′ 40″ W
The railway bridge on the Chelsea River between Chelsea and Revere	42° 24′ 06″ N	71° 00′ 40″ W
The Amelia Earhart Dam on the Mystic River	42° 23′ 42″ N	71° 04′ 30″ W
The Watertown Dam on the Charles River	42° 21′ 55″ N	71° 11′ 22″ W
The Baker Dam on the Neponset River	42° 16′ 15″ N	71° 04′ 08″ W
The Shaw Street bridge on the Weymouth Fore River	42° 13′ 20″ N	71° 58′ 25″ W
Where Bridge Street crosses the Weymouth Back River between Weymouth and Hingham	42° 14′ 50″ N	70° 55′ 52″ W
Where Nantasket Avenue crosses the Weir River between Hingham and Hull	42° 15′ 37″ N	70° 50′ 41″ W

The proposed NDA boundary includes the municipal waters of Boston, Braintree, Cambridge, Chelsea, Everett, Hingham, Hull, Milton, Newton, Quincy, Watertown, Weymouth, and Winthrop.

Massachusetts has provided documentation indicating that the total vessel population is estimated to be 8,720 in the proposed area. It is estimated that 4,047 of the total vessel population may have a Marine Sanitation Device (MSD) of some type. There are marinas, yacht clubs and public landings/piers in the proposed area with a combination of mooring fields and dock space for the recreational and commercial vessels.

Massachusetts has certified that there are 35 pumpout facilities within the proposed area available to the boating community and four additional facilities pending. The majority of facilities are connected directly into the local wastewater treatment system. A list of the facilities, phone numbers, locations, and hours of operation is provided at the end of this petition.

Boston Harbor is rich in natural resources and includes the Boston Harbor Islands National Park Area, four state-recognized Areas of Critical Environmental Concern (Rumney

Marshes, Neponset River Estuary, Weir River Estuary, and Weymouth Back River), and numerous local parks and beaches. Boston Harbor has eelgrass beds, salt marshes, estuaries and mud flats that provide suitable habitat for blue mussels, razor clams, soft shell clams, lobsters, coastal and pelagic birds (including 5 listed species), striped bass, smelt, alewives and herring. The area supports over 300 migratory bird species. In addition to the natural resources, the area has regional and national attractions such as the Children's Museum, New England Aquarium, Faneuil Hall Marketplace, the USS Constitution, Navy Yard Historical Park, and many other attractions that bring an estimated 16 million visitors per year.

PUMPOUT FACILITIES WITHIN PROPOSED NO DISCHARGE AREA

Name	Location	Contact information	Hours	Mean low water depth (ft)
Boston Harbor Shipyard and Marina	Boston	(617) 561–1400, VHF 9	7 a.m.–8 p.m., On call	25 ft.
The Marina at Rowes Wharf	Boston	(617) 439–3131, VHF 9	8 a.m.–4 p.m., May 1–Oct. 31	N/A. 10 ft.
Boston Waterboat Marina	Boston	(617) 523–1027, VHF 9	7 a.m.–7 p.m., Call ahead	5 ft to 25 ft.
Boston Yacht Haven	Boston	(617) 367–5050, VHF 9	8 a.m.–7 p.m.	N/A. 10 ft.
Black Falcon Pier	Boston	(617) 946–4417	9 a.m.–5 p.m.	35 ft.
Boston Harbor Cruises**	Boston	(617) 227–4321	6:30 a.m.–8:30 p.m. (weekdays), 10 a.m.–6:30 p.m. (weekends).	22 ft.
Boston Towing & Transportation	Boston	(617) 567–9100	24/7	N/A.
City of Boston*	Boston	TBD	TBD	N/A.
Berth 10*	Boston	(617) 918–6203	TBD	
Mass Bays Lines**	Boston	(617) 542–8000.		
Charles River Yacht Club	Cambridge	(617) 354–8881, VHF 9	8 a.m.–8 p.m.	N/A.
Charles Riverboat Company**	Cambridge	(617) 621–3001.		
Constitution Marina	Charlestown	(617) 241–9818, VHF 69	9 a.m.–8 p.m. (summer), 9 a.m.–5 p.m. (winter).	30 ft. N/A.
Mystic Marine	Charlestown	(617) 293–6247, VHF 72	7 a.m.–7 p.m. (Mon–Fri)	35 ft. 35 ft.
Shipyard Quarters Marina	Charlestown	(617) 242–2020, VHF 7, 9, 16.	8 a.m.–7 p.m.	20 ft. N/A.
Charlestown Pier 4	Charlestown	(617) 918–6231	Appointment Only	30 ft.
Charlestown Pier 3*	Charlestown	(617) 918–6201	TBD.	
Constellation Tug**	Charlestown	(617) 561–0223	24/7	N/A.
Marine at Admirals Hill	Chelsea	(617) 889–4002, VHF 9, 10.	8 a.m.–5 p.m.	6 ft.
Dorchester Yacht Club	Dorchester	(617) 436–1002, VHF 9	8 a.m.–6 p.m.	7 ft.
Port Norfolk Yacht Club	Dorchester	(617) 822–3333, VHF 9, 11.	24/7, self-service	7.5 ft.
Town of Hingham	Hingham	(781) 741–1450, VHF 12, 16.	3 p.m.–7 p.m. (Tue, Thurs, Sat & Sun)	N/A.
Town of Hull	Hull	(781) 925–0316, VHF 9, 16.	8 a.m.–4 p.m.	N/A. *TBD.
Quincy Bay	Quincy	(617) 908–9757, VHF 9	8 a.m.–4 p.m. (weekend), High-tide (weekday).	N/A.
Bay Pointe Marina	Quincy	(617) 471–1777, VHF 9	Call ahead	8 ft.
Captain's Cove Marina	Quincy	(617) 328–3331, VHF 69	24/7	6 ft.
Marina Bay on Boston Harbor	Quincy	(617) 847–1800, VHF 10	7:30 a.m.–8 p.m.	N/A.
Town River Yacht Club	Quincy	(617) 471–2716, VHF 71	Call ahead	35 ft.
Harbor Express**	Quincy	(617) 542–8000.		
Watertown Yacht Club	Watertown	(617) 924–9848	8 a.m.–4 p.m. (Tue–Thur, Sat), 11 a.m.–7 p.m. (Fri).	6 ft.
Wessagussett Yacht Club	Weymouth	VHF 71	6 a.m.–8 p.m. (Mon–Fri), 9 a.m.–9 p.m. (Sat–Sun).	8 ft.
Town of Winthrop	Winthrop	(617) 839–4000, VHF 9, 16.	10 a.m.–8 p.m.	N/A. 8 to 30 ft.

* = Pending facilities.
** = Private commercial facilities.

Dated: May 23, 2008.

Robert W. Varney,

Regional Administrator, New England Region.

[FR Doc. E8–12224 Filed 6–5–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6699–5]

Environmental Impacts Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 or *http://www.epa.gov/compliance/nepa/*

Weekly receipt of Environmental Impact Statements

Filed 05/26/2008 through 05/30/2008.

Pursuant to 40 CFR 1506.9.

EIS No. 20080215, Draft EIS, SFW, AK, Kenai National Wildlife Refuge Draft Revised Comprehensive Conservation

Plan, Implementation, AK, Comment Period Ends: 09/01/2008, Contact: Rob Campellone 907–786–3982.

EIS No. 20080216, Final EIS, BPA, MT, Libby (FEC) to Troy Section of BPA's Libby to Bonner Ferry 115-kilovolt Transmission Line Project, Rebuilding Transmission Line between Libby and Troy, Lincoln County, MT , Wait Period Ends: 07/07/2008, Contact: Tish Eaton 503–230–3469.

EIS No. 20080217, Draft Supplement, COE, CA, Pacific Los Angeles Marine Terminal Crude Oil Marine Terminal, Construction and Operation of a New Marine Terminal from Pier 400, Berth 408 Project, U.S. Army COE Section 10 and 404 Permits, Port of Los Angeles, Los Angeles County, CA, Comment Period Ends: 07/29/2008, Contact: Dr. Spencer D. MacNeil 805–585–2152.

EIS No. 20080218, Draft EIS, AFS, SD, West Rim Project, Proposes to Implement Multiple Resource Management Actions, Northern Hills Ranger District, Black Hills National Forest, Lawrence County, SD, Comment Period Ends: 07/21/2008, Contact: Chris Stores 605–642–4622.

EIS No. 20080219, Draft EIS, NOA, 00, PROGRAMMATIC—Coral Restoration in the Florida Keys and Flower Garden Banks National Marine Sanctuaries, Implementation, FL, TX, and LA, Comment Period Ends: 07/21/2008, Contact: Alice Stratton 203–882–6515.

EIS No. 20080220, Draft EIS, FHW, CA, Jepson Parkway Project, Proposes to Upgrade and Link a Series of Existing Two and Four-Lane Roadways, Right-of-Way, Endangered Species Act Section 7 and U.S. Army COE Section 404 Permits, Solano County, CA, Comment Period Ends: 07/21/2008, Contact: Melanie Brent 510–286–5231.

EIS No. 20080221, Final EIS, AFS, ID, Bussel 484 Project Area, Manage the Project Area to Achieve Desired Future Conditions for Vegetation, Fire, Fuels, Recreation, Access, Wildlife, Fisheries, Soil and Water, Idaho Panhandle National Forest, St. Joe Ranger District, Shoshone County, ID , Wait Period Ends: 07/07/2008, Contact: Cornie Hudson 208–245–2531.

EIS No. 20080222, Draft EIS, COE, FL, South Florida Water Management District (SFWMD) Project, Propose to Construct and Operate Stormwater Treatment Areas STAs) on Compartment B and C of the Everglades Agriculture Area, U.S. Army COE Section 404 Permit, Palm Beach and Hendry Counties, FL, Comment Period Ends: 07/21/2008, Contact: Tori White 561–472–3517.

EIS No. 20080223, Final EIS, AFS, MT, Beartooth Ranger District Travel Management Planning, Proposing to Designate Routes for Public Motorized Use, and Change Management of Pack and Saddle Stock on Certain Trail, Beartooth Ranger District, Custer National Forest, Carbon, Stillwater, Sweet Grass, and Park Counties, MT, Wait Period Ends: 07/07/2008, Contact: Doug Epperly 406–657–6205, Ext–225.

EIS No. 20080224, Final EIS, STB, TX, Southwest Gulf Railroad Project, Construction and Operation Exemption, To Transport Limestone from Vulcan Construction Materials (VCM) Quarry to Del Rio Subdivision, Medina County, TX, Wait Period Ends: 07/07/2008, Contact: Diana Wood 202–245–0302.

EIS No. 20080225, Draft EIS, AFS, SD, South Project Area, Proposes Multiple Resource Management Actions, Hell Canyon Ranger District, Black Hills National Forest, Custer County, SD, Comment Period Ends: 07/21/2008, Contact: Betsy Koncerak 605–673–4853.

EIS No. 20080226, Final EIS, FRC, 00, Midcontinent Express Pipeline Project, (Docket Nos. CP08–6–000), Construction and Operation to Facilitate the Transport of 1,500, 000 dekatherms per day of Natural Gas from Production Fields in eastern TX, OK, and AR to Market Hub, Located in various counties and parishes in OK, TX, LA, MS and AL , Wait Period Ends: 07/07/2008, Contact: Patricia Schaub 1–866–208–3372.

Amended Notices

EIS No. 20060490, Draft EIS, OSM, 00, Black Mesa Project, Revisions to the Life-of-Mine Operation and Reclamation for the Kayenta and Black Mesa Surface-Coal Mining Operations, Right-of-Way Grant, Mohave, Navajo, Coconino and Yavapai Counties, AZ and Clark County, NV, Comment Period Ends: 07/07/2008, Contact: Dennis Winterringer 303–293–5048. Revision to FR Notice Published 12/01/2006: Correction to Contact Person Name and Telephone.

EIS No. 20080205, Revised Final EIS, FHW, TX, Grand Parkway/TX–99 Segment F–1 Highway Construction, U.S. 290 to TX–249, Funding and U.S. Army COE Section 404 Permit Issuance, Harris, Montgomery, Fort Bend, Liberty, Brazoria, Galveston and Chambers Counties, TX, Wait Period Ends: 07/10/2008, Contact: Brett Jackson 512–536–5946. Revision of FR Published 05/30/2008: Correction to Title and Contact Person Name and Telephone.

EIS No. 20080213, Final EIS, COE, NC, PCS Phosphate Mine Continuation, New Information on Additional Alternative ''L'' and ''M'', Proposes to Expand its Existing Open Pit Phosphate Mining Operation into a 3,412 Acre Tract, Pamlico River and South Creek, near Aurora, Beaufort County, NC, Wait Period Ends: 07/09/2008, Contact: Tom Walker 828–271–7980 Ext. 222. Revision of FR Notice Published 05/30/2008: Extending Comment Period from 6/30/2008 to 07/09/2008.

Dated: June 3, 2008.

Robert W. Hargrove,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. E8–12714 Filed 6–5–08; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL HOUSING FINANCE BOARD

Sunshine Act Meeting Notice; Announcing a Partially Open Meeting of the Board of Directors

TIME AND DATE: The open meeting of the Board of Directors is scheduled to begin at 10 a.m., on Wednesday, June 11, 2008. The closed portion of the meeting will follow immediately the open portion of the meeting.

PLACE: Board Room, First Floor, Federal Housing Finance Board, 1625 Eye Street NW., Washington DC 20006.

STATUS: The first portion of the meeting will be open to the public. The final portion of the meeting will be closed to the public.

MATTER TO BE CONSIDERED AT THE OPEN PORTION: Amendment to the Capital Structure Plan of the Federal Home Loan Bank of Dallas.

MATTER TO BE CONSIDERED AT THE CLOSED PORTION: Periodic Update of Examination Program Development and Supervisory Findings.

CONTACT PERSON FOR MORE INFORMATION: Shelia Willis, Paralegal Specialist, Office of General Counsel, at 202–408–2876 or *williss@fhfb.gov.*

Dated: June 2, 2008.

By the Federal Housing Finance Board.

Christopher T. Curtis,

General Counsel.

[FR Doc. 08–1331 Filed 6–4–08; 10:17 am]

BILLING CODE 6725–01–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 applications 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 30, 2008.

A. Federal Reserve Bank of St. Louis (Glenda Wilson, Community Affairs Officer) 411 Locust Street, St. Louis, Missouri 63166–2034:

1. Lea M. McMullan Trust, Shelbyville, Kentucky, to acquire 100 percent of Golden Triangle Bancshares, Inc., Campbellsburg, Kentucky, and thereby indirectly acquire voting shares of Citizens Bank, New Liberty, Kentucky.

2. Citizens Union Bancorp of Shelbyville, Inc., Shelbyville, Kentucky, to acquire 100 percent of the voting shares of Golden Triangle Bancshares, Inc., Campbellsburg, Kentucky, and thereby indirectly acquire voting shares of Citizens Bank, New Liberty, Kentucky.

Board of Governors of the Federal Reserve System, June 2, 2008.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc.E8–12632 Filed 6–5–08; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications 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 July 3, 2008.

A. Federal Reserve Bank of Richmond (A. Linwood Gill, III, Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. Virginia BanCorp, Inc., Petersburg, Virginia, to become a bank holding company by acquiring 100 percent of the voting shares of Virginia Commonwealth Bank, Petersburg, Virginia (formerly First Federal Savings Bank of Virginia).

Board of Governors of the Federal Reserve System, June 3, 2008.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E8–12670 Filed 6–5–08; 8:45 am]

BILLING CODE 6210–01–S

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0080]

General Services Administration Acquisition Regulation; Information Collection; Final Payment Under Building Services Contract

AGENCY: Office of the Chief Acquisition Officer, GSA.

ACTION: Notice of request for comments regarding a renewal to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the General Services Administration will be submitting to the Office of Management and Budget (OMB) a request to review and approve a renewal of a currently approved information collection requirement regarding final payment under building services contract. The clearance currently expires on September 30, 2008.

Public comments are particularly invited on: Whether this collection of information is necessary and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; and ways to enhance the quality, utility, and clarity of the information to be collected.

DATES: Submit comments on or before: August 5, 2008.

FOR FURTHER INFORMATION CONTACT: Ms. Meredith Murphy, Contract Policy Division, GSA, (202) 208–6925.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to the Regulatory Secretariat (VPR), General Services Administration, Room 4035, 1800 F Street, NW., Washington, DC 20405. Please cite OMB No. 3090–0080, Final Payment Under Building Services Contract, in all correspondence.

SUPPLEMENTARY INFORMATION:

A. Purpose

GSAR clause 552.232–72 requires building services contractors to submit a release of claims before final payment is made.

B. Annual Reporting Burden

Respondents: 2000.
Responses Per Respondent: 1.
Hours Per Response: .1.
Total Burden Hours: 200.
Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (VPR), 1800 F Street, NW., Room 4035, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 3090–0080, Final Payment Under Building Services Contract, in all correspondence.

Dated: May 30, 2008.

Al Matera,

Director, Office of Acquisition Policy.

[FR Doc. E8–12490 Filed 6–5–08; 8:45 am]

BILLING CODE 6820–61–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Call for Collaborating Partners for the National Bone Health Campaign

AGENCY: Department of Health and Human Services, Office of the Secretary, Office of Public Health and Science, Office on Women's Health.

ACTION: Notice.

SUMMARY: The U.S. Department of Health and Human Services (HHS), Office on Women's Health (OWH) announces its new leadership of the National Bone Health Campaign and invites public and private sector bone health- and girls' health-related organizations to participate as collaborating partners to provide advice on the development and dissemination of the campaign materials and messages.

DATES: Representatives of bone health and girls' health organizations should submit expressions of interest by June 28, 2008.

ADDRESSES: Expressions of interest, comments, and questions may be submitted by electronic mail to *Calvin.Teel@hhs.gov* <mailto: Calvin.Teel@hhs.gov>; or by regular mail to Calvin Teel, M.S., Public Health Advisor, Office on Women's Health, Department of Health and Human Services, 5600 Fishers Lane, Parklawn Building, Room 16A–55, Rockville, Maryland 20857, or via fax to (301) 443–1384.

FOR FURTHER INFORMATION CONTACT: Calvin Teel, M.S., Public Health Advisor, Office on Women's Health, Department of Health and Human Services, 5600 Fishers Lane, Parklawn Building, Room 16A–55, Rockville, Maryland 20857, (301) 443–4422 (telephone), (301) 443–1384 (fax).

SUPPLEMENTARY INFORMATION: The OWH was established in 1991 to improve the health of American women by advancing and coordinating a comprehensive women's health agenda throughout HHS. This program has two goals: development and implementation of model programs on women's health; and leading education, collaboration, and coordination on women's health. The program fulfills its mission through competitive contracts and grants to an array of community, academic, and other organizations at the national and community levels. National educational campaigns provide information about the important steps women and girls can take to improve and maintain their health.

In addition to womenshealth.gov, OWH produces girlshealth.gov, a Web site dedicated to providing relevant, trustworthy, and commercial-free health information for girls ages 10–16. The Web site gives girls reliable information on the health issues they will face as they become young women. Under the purview of OWH, the Web site for the National Bone Health Campaign, girlshealth.gov/bones, will be accessible through the girlshealth.gov site to reach girls ages 9 to 14 with the goal of increasing calcium and vitamin D consumption and weight-bearing physical activity.

In 2004, the Surgeon General exhorted public, private, nonprofit, academic, and scientific stakeholders to increase awareness about bone health. The Surgeon General stated that, by 2020, half of all Americans older than age 50 will be at risk for fractures from osteoporosis. His report emphasized prevention of osteoporosis in adolescence through increased calcium and vitamin D consumption and weight-bearing physical activity.

Osteoporosis has been called a ''pediatric disease with geriatric consequences.'' Though the disease most often strikes later in life, the stage is set during adolescence, when almost one-half of the adult skeleton is formed. In addition some groups, such as those with anorexia nervosa, can develop osteoporosis much earlier. Sadly, only 15 percent of adolescent girls get enough calcium, according to the National Osteoporosis Foundation. The Surgeon General's Report also cited one study that found only half of the participants ages 12–21 exercise vigorously on a regular basis and 25 percent report no exercise at all.

The National Bone Health Campaign is intended to help girls adopt healthy habits, specifically increased calcium and vitamin D consumption and weight-bearing physical activity, to build strong bones. The campaign will plan, develop, implement, and evaluate a national social marketing campaign to increase awareness of bone-healthy habits and affect behavior change. The campaign will target the girls, their parents, and healthcare providers.

In order to implement the National Bone Health Campaign, OWH is interested in establishing partnerships with private and public bone health- and girls' health-related organizations. As partners with HHS, these health organizations can bring their ideas and expertise, administrative capabilities, and resources that are consistent with the goals of the National Bone Health Campaign.

Given the National Bone Health Campaign's objectives, entities that have similar goals and consistent interests, appropriate expertise and resources, and would like to pursue bone health awareness activities in collaboration with OWH are encouraged to reply to this notice. Working together, these partnerships will provide innovative opportunities to promote an increased national awareness of positive bone-healthy behaviors, with the end goal of increased calcium and vitamin D consumption and weight-bearing physical activity.

Dated: May 28, 2008.

Wanda K. Jones,

Deputy Assistant Secretary for Health (Women's Health).

[FR Doc. E8–12756 Filed 6–5–08; 8:45 am]

BILLING CODE 4150–33–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60 Day–08–0740]

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 or send comments to Maryam Daneshvar, CDC

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

Medical Monitoring Project—Revision—National Center for HIV, Viral Hepatitis, STD and TB Prevention (NCHHSTP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Medical Monitoring Project (MMP) is a nationally representative, population-based surveillance system to assess clinical outcomes, behaviors, and the quality of HIV care. The primary objectives of MMP are to obtain data from a national probability sample of HIV-infected persons receiving care in the U.S. to: (a) Describe the clinical status of recruited patients; (b) describe HIV care and support services being received and the quality of those services; (c) describe the prevalence and occurrence of co-morbidities related to HIV disease; (d) determine prevalence of ongoing risk behaviors, as well as the access to and use of prevention services among persons living with HIV; and (e) identify met and unmet needs for HIV care and prevention services in order to inform community and care planning groups, health care providers, and other stakeholders. In order to meet these objectives, patients will be recruited to the project from randomly selected HIV care providers (*e.g.*, physicians and other care providers) in the U.S.

MMP was implemented in 2005 and is currently being conducted in 26 project areas. The methods for the project remain the same; however, data collection instruments have been revised based on experience in previous data collection cycles. An estimated 8,320 patients will participate in MMP each data collection cycle.

As part of this current revision to MMP, CDC is requesting the addition of a survey of randomly selected HIV care providers (*e.g.*, physicians, nurse practitioners and physician's assistants) in the U.S. regarding their training history, areas of specialization, ongoing sources of training and continuing education about HIV care, and awareness of HIV treatment guidelines and resources.

In order to understand factors associated with access to and quality of care, it is necessary to understand the characteristics of the HIV care providers randomly selected for inclusion in the project. This information will be obtained by conducting a provider survey. All HIV care providers who are sampled into MMP—about 1440 in all—will be asked to participate in the survey, whether or not the provider's patients participate in MMP. Participation is voluntary. Those who consent will be asked to complete a self-administered survey which will include questions about training history, areas of specialization, ongoing sources of training and continuing education about HIV care, and awareness of HIV treatment guidelines and resources.

The information collected in the MMP Provider Survey will be used in conjunction with other MMP data to assess who is providing HIV care, to examine the impact of provider characteristics on the quality and standard of care being provided to patients with HIV, and to determine opportunities to improve resources available to HIV care providers. There is no cost to respondents other than their time.

ESTIMATE OF ANNUALIZED BURDEN TABLE

Respondents	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (hours)
Patients interviewed with standard interview	7,988	1	45/60	5,991
Patients interviewed with short interview	166	1	20/60	55
Patient Proxies interviewed with proxy interview	166	1	20/60	55
Facility staff pulling medical records	7,488	1	3/60	374
Facility staff providing Estimated Patient Loads	936	1	2	1,872
Facility staff providing patient lists	1,030	1	30/60	515
Patients approached by facility staff for enrollment	3,120	1	5/60	260
Providers completing a survey	1,440	1	20/60	480
Total				9,602

Dated: May 30, 2008.

Maryam I. Daneshvar,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E8–12640 Filed 6–5–08; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): CDC Grants for Public Health Research Dissertation (Panel B), Program Announcement (PAR) 07–231

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 aforementioned meeting:

Time and Date: 8:30 a.m.–5:00 p.m., July 8, 2008 (Closed).

Place: Hyatt Regency Atlanta, 265 Peachtree Street, NE., Atlanta, GA 30303, Telephone (404) 577–1234.

Status: The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters To Be Discussed: The meeting will include the review, discussion, and evaluation of ''CDC Grants for Public Health Research Dissertation (Panel B), PAR07–231.''

Contact Person for More Information: Christine Morrison, Ph.D., Scientific Review Administrator, Office of the Chief Science Officer, CDC, 1600 Clifton Road, NE., Mailstop D74, Atlanta, GA 30333, Telephone (404) 639–3098.

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 CDC and the Agency for Toxic Substances and Disease Registry.

Dated: June 2, 2008.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E8–12679 Filed 6–5–08; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10256, CMS–381 and CMS–1856/1893]

Agency Information Collection Activities: Proposed Collection; Comment Request

Agency: Centers for Medicare & Medicaid Services.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS) is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* New collection; *Title of Information Collection:* Medicare Care Management Performance (MCMP) Demonstration; *Use:* Section 649 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) requires the Secretary of the U.S. Department of Health and Human Services to establish a pay-for-performance (P4P) demonstration program with physicians to meet the needs of eligible beneficiaries through the adoption and use of health information technology (HIT) and evidence-based outcome measures. The Medicare Care Management Performance Demonstration was established in response to the MMA. Mathematica Policy Research, Inc. is conducting an evaluation of the MCMP on behalf of CMS. The goals of the three-year demonstration are to improve quality of care to eligible fee-for-service Medicare beneficiaries and encourage the implementation and use of HIT. The specific objectives are to promote continuity of care, help stabilize medical conditions, prevent or minimize acute exacerbations of chronic conditions, and reduce adverse health outcomes. The MMA authorizes a total of four sites in both urban and rural areas. The demonstration sites are in Arkansas, California, Massachusetts, and Utah. The MCMP demonstration will target practices serving at least 50 traditional fee-for-service Medicare beneficiaries with congestive heart failure, coronary heart disease, and diabetes for whom they provide primary care.

An impact analysis using a comparison group design will be conducted as part of the evaluation. Physician practices in selected non-demonstration States that match most closely those in demonstration States on key factors will make up the comparison group. The impact analysis will use data from four data sources: (1) A beneficiary survey, (2) a physician survey, (3) Medicare claims and eligibility data, and (4) practice-specific data. This request relates to the two surveys. *Form Number:* CMS–10256 (OMB# 0938–New); *Frequency:* Once; *Affected Public:* Business or other for-profits, and Individual and households; *Number of Respondents:* 6,400; *Total Annual Responses:* 6,400; *Total Annual Hours:* 1,472.

2. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Identification of Extension Units of Outpatient Physical Therapy (OPT)/Outpatient Speech Pathology (OSP) Providers; *Use:* Medicare provides OPT/OSP providers to be surveyed to determine compliance with Federal Regulations. All locations where OPT/OSP providers furnish services must meet these requirements. The CMS–381 is the form used to identify all the OPT/OSP locations. *Form Number:* CMS–381 (OMB# 0938–0273); *Frequency:* Yearly; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 495; *Total Annual Responses:* 495; *Total Annual Hours:* 866.

3. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Outpatient Physical Therapy Speech Pathology Survey Report and Supporting Regulations in 42 CFR 485.701–485.729. *Use:* The Medicare program requires OPT providers to meet certain health and safety requirements. The request for certification form is used by State agency surveyors to determine if minimum Medicare eligibility requirements are met. The survey report form records the results of the on-site survey. *Form Number:* CMS–1856 and 1893 (OMB# 0938–0065); *Frequency:* Yearly and occasionally; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 495; *Total Annual Responses:* 495; *Total Annual Hours:* 866.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995*, or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov*, or call the Reports Clearance Office on (410) 786–1326.

In commenting on the proposed information collections please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in one of the following ways by August 5, 2008:

1. *Electronically.* You may submit your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number _____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: May 30, 2008.

Michelle Shortt,

Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. E8–12573 Filed 6–5–08; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10262, CMS–21 and 21B, CMS–10143 and CMS–64]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Agency: Centers for Medicare & Medicaid Services.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the Agency's function; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* New Collection; *Title of Information Collection:* Health Insurance Flexibility and Accountability (HIFA) Evaluation; *Use:* The HIFA initiative sought to increase health coverage of uninsured populations through a flexible waiver process emphasizing public subsidy of Employer-Sponsored Insurance (ESI). Testing whether that approach reduces the rate/number of uninsured is critically important to CMS. The proposed survey of HIFA enrollees in New Medico and Oregon would provide the only data available to test certain fundamental HIFA effects, especially with reference to reduction of the uninsured population, the effectiveness of premium assistance for ESI and the possibility of crowd-out of private coverage. *Form Number:* CMS–10262 (OMB# 0938–NEW); *Frequency:* Once; *Affected Public:* Individuals or households; *Number of Respondents:* 800; *Total Annual Responses:* 800; *Total Annual Hours:* 400.

2. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Quarterly Children's Health Insurance Program Statement of Expenditures for Title XXI; *Use:* States use the form CMS–21 to report budget, expenditure, and related statistical information required for implementation of the Children's Health Insurance Program. *Form Number:* CMS–21 and 21B (OMB# 0938–0731); *Frequency:* Quarterly; *Affected Public:* State, Local or Tribal Government; *Number of Respondents:* 56; *Total Annual Responses:* 448; Total Annual Hours: 7,840.

3. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Monthly State File of Medicaid/Medicare Dual Eligible Enrollees; *Use:* The monthly file of dual eligible enrollees will be used to determine those duals with drug benefits for the phased down State contribution process required by the Medicare Modernization Act of 2003. These data are also used to support Part D subsidy determinations and auto-assignment of individuals to Part D plans. *Form Number:* CMS–10143 (OMB# 0938–0958); *Frequency:* Monthly; *Affected Public:* State, Local or Tribal Governments; *Number of Respondents:* 51; *Total Annual Responses:* 612; *Total Annual Hours:* 6,120.

4. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Quarterly Medicaid Statement of Expenditures for the Medical Assistance Program; *Use:* The State Medicaid Agencies use the form CMS–64 to report their actual program benefit costs and administrative expenses to CMS. CMS uses this information to compute the Federal financial participation for the State's Medicaid Program costs. *Form Number:* CMS–64 (OMB# 0938–0067); *Frequency:* Quarterly; *Affected Public:* State, Local or Tribal Government; *Number of Respondents:* 56; *Total Annual Responses:* 224; *Total Annual Hours:* 18,144.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995*, or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov*, or call the Reports Clearance Office on (410) 786–1326.

To be assured consideration, comments and recommendations for the proposed information collections must be received by the OMB desk officer at the address below, no later than 5 p.m. on July 7, 2008. OMB Human Resources and Housing Branch, Attention: Carolyn Raffaelli, New Executive Office Building, Room 10235, Washington, DC 20503, Fax Number: (202) 395–6974.

Dated: May 30, 2008.

Michelle Shortt,

Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. E8–12574 Filed 6–5–08; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–10267]

Emergency Clearance: Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB)

Agency: Centers for Medicare and Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

We are, however, requesting an emergency review of the information collection referenced below. In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we have

submitted to the Office of Management and Budget (OMB) the following requirements for emergency review. We are requesting an emergency review because the collection of this information is needed before the expiration of the normal time limits under OMB's regulations at 5 CFR Part 1320(a)(2)(ii). This is necessary to ensure compliance with an initiative of the Administration. We cannot reasonably comply with the normal clearance procedures because of an unanticipated event, as stated in 5 CFR 1320.13(a)(2)(ii). The agency cannot reasonably comply with the normal clearance procedures because the application and user account registration form must have OMB clearance by September 2008 to meet the time necessary to begin CAS security administrator training and user account registration for new CROWNWeb alpha testers and CROWNWeb production users.

1. *Type of Information Collection Request:* New collection; *Title of Information Collection:* CROWNWeb Authentication Service (CAS) Account Form; *Form Number:* CMS–10210 (OMB#: 0938–NEW); *Use:* The CROWNWeb Authentication Service (CAS) application must be completed by any person needing access to the CROWNWeb system which include includes CMS employees, ESRD Network Organization staff and dialysis facilities staff. The CROWNWeb system is the system used as the collection point of data necessary for entitlement of ESRD patients to Medicare benefits and Federal Government monitoring and assessing of quality and type of care provided to renal patients. The data collected in CAS will provide the necessary security measures for creating and maintaining active CROWNWeb user accounts and collection of audit trail information required by the CMS Information Security Officers (ISSO). *Frequency:* Reporting—One-time; *Affected Public:* Business or other for-profit, Not-for-profit; *Number of Respondents:* 15,600; *Total Annual Responses:* 15,600; *Total Annual Hours:* 7,800.

CMS is requesting OMB review and approval of this collection by *August 29, 2008*, with a 180-day approval period. Written comments and recommendations will be considered from the public if received by the individuals designated below by *August 5, 2008.*

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web Site address at *http://www.cms.hhs.gov/regulations/pra* or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov*, or call the Reports Clearance Office on (410) 786–1326.

In commenting on the proposed information collections please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in one of the following ways by *August 5, 2008:*

1. *Electronically.* You may submit your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, *Attention:* Document Identifier/OMB Control Number _____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850

and,

OMB Human Resources and Housing Branch, *Attention:* CMS Desk Officer, New Executive Office Building, Room 10235, Washington, DC 20503, *Fax Number:* (202) 395–6974.

Dated: June 2, 2008.

Michelle Shortt,

Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. E8–12681 Filed 6–5–08; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2008–N–0288]

Compliance Policy Guide Sec. 560.700 Processing of Imported Frozen Products of Multiple Sizes (e.g., Shrimp, Prawns, Etc.) (CPG 7119.10); Withdrawal of Guidance

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; withdrawal.

SUMMARY: The Food and Drug Administration (FDA) is announcing the withdrawal of Compliance Policy Guide Sec. 560.700 Processing of Imported Frozen Products of Multiple Sizes (e.g., Shrimp, Prawns, Etc.) (CPG 7119.10) (CPG Sec. 560.700). CPG Sec. 560.700 is included in FDA's Compliance Policy Guides Manual, which was listed in the Annual Comprehensive List of Guidance Documents that published on March 28, 2006.

DATES: The withdrawal is effective June 6, 2008.

FOR FURTHER INFORMATION CONTACT: Robert D. Samuels, Center for Food Safety and Applied Nutrition (HFS–325), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740–3835, 301–436–2300.

SUPPLEMENTARY INFORMATION: In a notice containing a cumulative list of guidances available from the agency that published in the **Federal Register** on March 28, 2006 (71 FR 15422 at 15453), FDA included the Compliance Policy Guides Manual, which includes CPG Sec. 560.700. FDA is withdrawing CPG Sec. 560.700 because it is obsolete.

Dated: May 15, 2008.

Margaret O' K. Glavin,

Associate Commissioner for Regulatory Affairs.

[FR Doc. E8–12766 Filed 6–5–08; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; Comment Request; Prostate, Lung, Colorectal and Ovarian Cancer Screening Trial (PLCO) (NCI)

SUMMARY: 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 National Cancer Institute (NCI), the National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Proposed Collection: Title: Prostate, Lung, Colorectal and Ovarian Cancer Screening Trial (PLCO). *Type of Information Collection Request:* REVISION (OMB #: 0925–0407, current expiry date 10/31/2008). *Need and Use of Information Collection:* This trial is designed to determine if screening for prostate, lung, colorectal and ovarian cancer can reduce mortality from these cancers which currently cause an estimated 254,900 deaths annually in the U.S. The design is a two-armed randomized trial of men and women aged 55 to 74 at entry. OMB first approved this study in 1993 and has approved it every 3 years since then through 2008. During the first approval period a pilot study was conducted to

evaluate recruitment methods and data collection procedures. Recruitment was completed in 2001 and data collection continues through 2008. When participants enrolled in the trial they agreed to be followed for at least 13 years from the time of enrollment. The current number of respondents in the study is 136, 341; this is down from the total initially due to deaths. The primary endpoint of the trial is cancer-specific mortality for each of the four cancer sites (prostate, lung, colorectum, and ovary). In addition, cancer incidence, stage shift, and case survival are to be monitored to help understand and explain results. Biologic prognostic characteristics of the cancers will be measured and correlated with mortality to determine the mortality predictive value of these intermediate endpoints. Basic demographic data, risk factor data for the four cancer sites and screening history data, as collected from all subjects at baseline, will be used to assure comparability between the screening and control groups and make appropriate adjustments in analysis. Further, demographic and risk factor information may be used to analyze the differential effectiveness of screening in high versus low risk individuals. *Frequency of Response:* Annually. *Affected Public:* Individuals. *Type of Respondents:* Adult men and women. The estimated total annual burden hours requested is 11,401. The annualized cost to respondents is estimated at $219,919 per year, for a total of $659,756 over the proposed three year renewal. There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

TABLE A.12–1.—ESTIMATES OF ANNUAL BURDEN HOURS

Type of respondents	Survey instrument	Number of respondents	Frequency of response	Average time per response (minutes/hour)	Total annual burden hours
Male and Female Participants	ASU	133,341	1.00	5/60	11,111.75
	HSQ	1,333	1.00	5/60	111.08
Male Participants	Prostate	1,067	1.00	10/60	177.83
Total					11,400.66

Request for Comments: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) 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; (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 those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Dr. Christine D. Berg, Chief, Early Detection Research Group, National Cancer Institute, NIH, EPN Building, Room 3070, 6130 Executive Boulevard, Bethesda, MD 20892, or call non-toll-free number 301–496–8544 or e-mail your request, including your address to: *Bergc@mail.nih.gov.*

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

Dated: May 29, 2008.

Vivian Horovitch-Kelley,

NCI Project Clearance Liaison Office, National Institutes of Health.

[FR Doc. E8–12641 Filed 6–5–08; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors for Clinical Sciences and Epidemiology National Cancer Institute.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Cancer Institute, including consideration of personal qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors for Clinical Sciences and Epidemiology National Cancer Institute.

Date: July 14–15, 2008.

Time: July 14, 2008, 6 p.m. to 10 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Double Tree Hotel, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Time: July 15, 2008, 9 a.m. to 3:30 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, National Cancer Institute, 9000 Rockville Pike, Building 31, Conference Room 10, Bethesda, MD 20892.

Contact Person: Brian E. Wojcik, PhD, Senior Review Administrator, Institute Review Office, Office of the Director, National Cancer Institute, 6116 Executive Boulevard, Room 2201, Bethesda, MD 20892, (301) 496–7628, *wojcikb@mail.nih.gov.*

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *deainfo.nci.nih.gov/advisory/bsc.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology

Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: May 30, 2008.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–12642 Filed 6–5–08; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors for Basic Sciences National Cancer Institute.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Cancer Institute, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors for Basic Sciences National Cancer Institute.

Date: July 14, 2008.

Time: 9 a.m. to 2 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, National Cancer Institute, 9000 Rockville Pike, Building 31, Conference Room 6, Bethesda, MD 20892,

Time: 6 p.m. to 10 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: DoubleTree Hotel, 8120 Wisconsin Avenue, Bethesda, Md 20814.

Contact Person: Florence E. Farber, PhD, Executive Secretary, Office of the Director, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 2205, Bethesda, MD 20892, 301–496–7628, *ff6p@nih.gov*.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *http://deainfo.nci.nih.gov/advisory/bsc/bs/bs.htm*, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: May 30, 2008.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–12645 Filed 6–5–08; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Ancillary Studies.

Date: July 7, 2008.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Atul Sahai, PhD, Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 759, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–2242, *sahaia@niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Hormonal Control.

Date: July 14, 2008.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Michael W. Edwards, PhD, Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 750, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–8886, *edwardsm@extra.niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Ancillary Studies to Ongoing Clinical Research.

Date: July 16, 2008.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Michael W. Edwards, PhD, Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 750, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–8886, *edwardsm@extra.niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Drug-Induced Liver Disease.

Date: July 18, 2008.

Time: 8:45 a.m. to 2:45 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Maria E. Davila-Bloom, PhD, Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 758, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7637, *davila-bloomm@extra.niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Steroid Hormone Receptors.

Date: July 18, 2008.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Michael W. Edwards, PhD, Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 750, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–8886, *edwardsm@extra.niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, R13 Conference Grant Application.

Date: July 19, 2008.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: D. G. Patel, PhD, Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 756, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7682, *pateldg@niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: May 30, 2008.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–12644 Filed 6–5–08; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Post-Contract Award Information

AGENCY: Office of the Chief Procurement Officer, Acquisition Policy and Legislation Office, DHS.

ACTION: 60-Day Notice and request for comments: Extension without change of a currently approved collection, 1600–0003.

SUMMARY: The Department of Homeland Security, Office of the Chief Procurement Officer, Acquisition Policy and Legislation Office, will submit the following information collection request (ICR) to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13 (as amended), 44 U.S.C. Chapter 35). The Office of the Chief Procurement Officer is soliciting comments related to its request for extension of an existing information collection authority for information collected from contractors during the post-contract award phase of public contract administration under Homeland Security Acquisition Regulation (HSAR).

DATES: Comments are encouraged and will be accepted until August 5, 2008. This process is conducted in accordance with 5 CFR 1320.1

ADDRESSES: Comments and questions about this Information Collection Request should be forwarded to the Acquisition Policy and Legislation Office, Attn: Patricia Corrigan for the Department of Homeland Security, Office of the Chief Procurement Officer, Room 3114, Washington, DC 20528.

FOR FURTHER INFORMATION CONTACT: Patricia Corrigan, 202–447–5430 (this is not a toll free number).

SUPPLEMENTARY INFORMATION: The Department of Homeland Security (DHS), Office of the Chief Procurement Officer requests renewal of an existing OMB Control Number for information requested from contractors as part of post-contract award administration by DHS acquisition officials. The information requested is specific to each transaction and is required in order for DHS acquisition officials to properly assess contractor technical and management progress in meeting contractual requirements and otherwise performing in the Government's best interest. This notice provides a request for renewal of OMB Control Number 1600–0003 previously granted in August 2005.

The Office of Management and Budget is particularly interested in comments regarding:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, 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 submissions of responses.

Analysis:

Agency: Department of Homeland Security, Office of the Chief Procurement Officer, Acquisition Policy and Legislation Office.

Title: Post-Contract Award Information.

OMB Number: 1600–0003.

Frequency: Once.

Affected Public: Individuals and Businesses.

Number of Respondents: 4,061.

Estimated Time per Respondent: 14 hours.

Total Burden Hours: 170,562 annual burden hours.

Total Burden Cost (capital/startup): $0.00.

Total Burden Cost (operating/maintaining): $0.00.

Richard Mangogna,

Chief Information Officer.

[FR Doc. E8–12669 Filed 6–5–08; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2008–0054]

Review and Revision of the National Infrastructure Protection Plan

AGENCY: National Protection and Programs Directorate, DHS.

ACTION: Notice and request for comments.

SUMMARY: This notice informs the public that the Department of Homeland Security (DHS) is currently reviewing the National Infrastructure Protection Plan (NIPP) and, as part of a comprehensive national review process, solicits public comment on issues or language in the NIPP that need to be updated in this triennial review cycle.

DATES: Written comments must be submitted on or before July 7, 2008.

ADDRESSES: Comments must be identified by docket number DHS–2008–0054 and may be submitted by one of the following methods:

- *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: Nipp@dhs.gov.* Include the docket number in the subject line of the message.
- *Facsimile:* 703–235–3057.
- *Mail:* Larry L. May, NPPD/IP/POD/NIPP Program Management Office; Mail Stop 8530, Department of Homeland Security, 245 Murray Lane, SW., Washington, DC 20528–8530.

FOR FURTHER INFORMATION CONTACT: Larry L. May, Deputy Director, NIPP Program Management Office (PMO) Partnership and Outreach Division, Office of Infrastructure Protection, National Protection and Programs Directorate, Department of Homeland Security, Washington, DC 20528, 703–235–3648 or *NIPP@dhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Public Participation

DHS invites interested persons to contribute suggestions and comments for the revision of the National Infrastructure Protection Plan (NIPP) by submitting written data, views, or arguments. Comments that will provide the most assistance to DHS in revising the NIPP will explain the reason for any

recommended changes to the NIPP and include data, information, or authority that supports such recommended change. Linking changes to specific sections of the NIPP would also be helpful. There will be an opportunity to review a revised NIPP reflecting the various changes later this year.

Instructions: All submissions received must include the agency name and docket number for this action. All comments received will be posted without change to *http://www.regulations.gov*, including any personal information provided. You may submit your comments and material by one of the methods specified in the **ADDRESSES** section. Please submit your comments and material by only one means to avoid the adjudication of duplicate submissions. If you submit comments by mail, your submission should be an unbound document and no larger than 8.5 by 11 inches to enable copying and electronic document management. If you want DHS to acknowledge receipt of comments by mail, include with your comments a self-addressed, stamped postcard that includes the docket number for this action. We will date your postcard and return it to you via regular mail.

Docket: Background documents and comments received can be viewed at *http://www.regulations.gov*.

II. Background

The NIPP sets forth a comprehensive risk management framework and clearly defines critical infrastructure protection roles and responsibilities for the DHS; Sector-Specific Agencies (SSAs); and other Federal, State, local, tribal, territorial, and private-sector security partners. The NIPP provides a coordinated approach for establishing national priorities, goals, and requirements for infrastructure protection so that funding and resources are applied in the most effective manner. The NIPP risk management framework responds to an evolving risk landscape; as such, there will always be changes to the NIPP—from relatively minor to more significant. The 2006 NIPP established the requirement to fully review and reissue the plan every three years to ensure that it is current and of maximum value to all security partners. To assist the reviewer as we proceed with this process, an internal review of the NIPP by DHS has occurred and an initial list of potential changes to the NIPP is included in this notice. The purpose of this notice is to invite interested parties to suggest additional changes that would make the 2009 NIPP more relevant and useful as a National level document and within the framework of HSPD–7.

Some of the known changes that will be addressed in this revision of the NIPP are:

- Establishment of Critical Manufacturing as the 18th critical infrastructure and key resources (CIKR) sector
- Release of the chemical security regulation
- Publishing of the Sector-Specific Plans (SSPs)
- Sector name changes
- Designation of the Education Subsector
- Removal of references to the National Asset Database (NADB) and replacement with information on the Infrastructure Information Collection System and the Infrastructure Data Warehouse
- Revision of the discussion of risk assessment methodologies
- Update on the Protected Critical Infrastructure Information (PCII) program
- Clarification of NIPP CIKR Protection Metrics
- Update on the State, Local, Tribal, and Territorial Government Coordinating Council (SLTTGCC)
- Homeland Security Information Network (HSIN) update
- Further definition of the CIKR Information-Sharing Environment (ISE)
- Critical Infrastructure Warning Information Network (CWIN)
- Evolution from the National Response Plan to the National Response Framework
- Further information on the National Infrastructure Simulation and Analysis Center (NISAC)
- Update on the Protective Security Advisor Program
- Additional Homeland Security Presidential Directives
- Issues regarding cross-sector cyber security
- Overarching issues: Protection and resiliency
- Delineate role of Private Sector Office
- DHS organizational changes: National Protection and Programs Directorate (NPPD).

Comments are welcome on other areas that should be updated, expanded, changed, added, or deleted as appropriate.

III. Initial List of Issues To Be Updated in the NIPP

Since the NIPP was released in June 2006, DHS and its security partners have been working to implement the risk management framework and the sector partnership model to protect the Nation's CIKR. Throughout this implementation, DHS has engaged the NIPP feedback mechanisms to capture lessons learned and issues that need to be revised and updated in future versions of the NIPP. This section presents a brief summary of some those issues as a guide to reviewers and commenters on the types of changes being incorporated into the NIPP. DHS is soliciting public comment on these and other issues. These issues will be addressed through changes made in the appropriate sections of the NIPP.

Establishment of Critical Manufacturing as the 18th CIKR Sector

On March 3, 2008, DHS formally established the Critical Manufacturing Sector as the 18th CIKR sector.

Release of Chemical Security Regulation

On April 9, 2007, the U.S. Department of Homeland Security (DHS) issued the Chemical Facility Anti-Terrorism Standards (CFATS), 6 CFR part 27. Congress authorized this interim final rule (IFR) under Section 550 of the Department of Homeland Security Appropriations Act of 2007, directing the Department to identify high-risk chemical facilities, assess their security vulnerabilities, and require those facilities to submit site security plans meeting risk-based performance standards. DHS also issued a final Appendix A to the CFATS IFR on November 20, 2007, listing chemicals of interest (COI) which, if possessed in specified quantities, require chemical facilities to submit certain information to DHS.

Publishing of the Sector-Specific Plans

Section 5.3.1 of the NIPP will be updated to reflect the SSPs official release on May 21, 2007.

Sector Name Changes

To better reflect the scope of three sectors, DHS has recognized the following name changes: ''Commercial Nuclear Reactors, Materials and Waste'' to ''Nuclear Reactors, Materials and Waste;'' ''Drinking Water and Water Treatment Systems'' to ''Water;'' and ''Telecommunications'' to ''Communications.''

Designation of the Education Facilities Subsector

In keeping with section 2.2.2 of the NIPP, DHS has recognized the Department of Education's Office of Safe and Drug-Free Schools (OSDFS) as the lead for Education Facilities (EF), a subsector of the Government Facilities Sector.

Removal of References to the National Asset Database

Throughout the NIPP, references to the NADB will be removed and replaced with information on the Infrastructure Information Collection System and the Infrastructure Data Warehouse.

Revision of the Discussion on Risk Assessment Methodologies

The discussion of risk assessment methodologies will be revised to indicate that there are multiple NIPP-compliant risk assessment methodologies. Revisions will also provide information on the current state of CIKR risk analysis capability and the Tier 1/Tier 2 Program.

Update on the Protected Critical Infrastructure Information Program

DHS will clarify how vulnerability assessment information may be submitted for protection under the PCII program and which DHS programs may receive this information.

Clarification of NIPP CIKR Protection Metrics

The NIPP CIKR protection metrics process includes four metrics areas:

1. Core metrics represent a common set of measures that are tracked across all sectors.

2. Sector-specific performance metrics are the set of measures tailored to the unique characteristics of each sector.

3. CIKR protection programmatic metrics are used to measure the effectiveness of specific programs, initiatives, and investments that are managed by Government agencies and sector partners.

4. Sector partnership metrics are used to assess the status of activities conducted under the sector partnership.

Update on the State, Local, Tribal, and Territorial Government Coordinating Council

The SLTTGCC now has three working groups and also provides liaisons to all the sectors: Policy and Planning Working Group, Communication and Coordination Working Group, and Information-Sharing Working Group. The roles of State and Regional groups in CIKR protection will be described.

Homeland Security Information Network Update

DHS IP is working closely with the DHS Chief Information Officer (CIO) to determine feasible solutions to mitigate issues from CIKR protection security partners related to HSIN.

Further Definition of the CIKR Information-Sharing Environment

As follow-up to the original discussion of ISE in section 4.2.3 of the NIPP, the Program Manager (PM)–ISE formally issued the CIKR ISE paper in May 2007. The paper describes the core elements of robust information sharing with the CIKR sectors.

Critical Infrastructure Warning Information Network

An ISE addition since the 2006 release of the NIPP, CWIN is a mechanism that facilitates the flow of information, mitigates obstacles to voluntary information sharing by CIKR owners and operators, and provides feedback and continuous improvement for structures and processes.

Evolution From the National Response Plan to the National Response Framework

The National Response Framework replaces the former National Response Plan.

National Infrastructure Simulation and Analysis Center

The Homeland Security Appropriations Act of 2007 specifies the NISAC's current mission to provide ''modeling, simulation, and analysis of the assets and systems comprising CIKR in order to enhance preparedness, protection, response, recovery, and mitigation activities.''

Protective Security Advisor Program

The key elements of this program and the roles the Protective Security Advisors play in information sharing and support to security partners will be described.

Additional Homeland Security Presidential Directives

HSPD–19 and others will be added in the appendixes and wherever they are appropriate in the main body of the NIPP.

Issues Regarding Cross-Sector Cyber Security

The National Cyber Security Division (NCSD) is working closely with the SSAs and other security partners to integrate cyber security into the CIKR sectors' protection and preparedness efforts.

Overarching Issues: Protection and Resiliency

Questions have been raised about the focus of the NIPP on protection rather than resiliency. The revised NIPP needs to better describe the complementary relationship of these two concepts.

Role of Private Sector Office

The role of this office in coordinating with private sector security partners will be described in greater detail.

DHS Organizational Changes: National Protection and Programs Directorate

There have been numerous organizational changes within DHS related to roles and responsibilities described throughout the NIPP. NPPD (formerly the Preparedness Directorate) was formed in 2007 to advance the Department's risk-reduction mission. The components of NPPD include:

- Office of Cyber Security and Communications (CS&C) has the mission to assure the security, resiliency, and reliability of the Nation's cyber and communications infrastructure in collaboration with the public and private sectors, including international partners.
- Office of Intergovernmental Programs (IGP) has the mission to promote an integrated national approach to homeland security by ensuring, coordinating, and advancing Federal interaction with State, local, tribal, and territorial governments.
- Office of Risk Management and Analysis (RMA) will lead the Department's efforts to establish a common framework to address the overall management and analysis of homeland security risk.
- United States Visitor and Immigrant Status Indicator Technology (US-VISIT) is part of a continuum of biometrically-enhanced security measures that begins outside U.S. borders and continues through a visitor's arrival in and departure from the United States.
- Office of Infrastructure Protection (IP) leads the coordinated national effort to reduce risk to our CIKR posed by acts of terrorism.

For purposes of review, the NIPP can be found at *http://www.dhs.gov/nipp*.

R. James Caverly,

Director, Partnership and Outreach Division, Department of Homeland Security.

[FR Doc. E8–12671 Filed 6–5–08; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

Solicitation of Proposal Information for Award of Public Contracts

AGENCY: Office of the Chief Procurement Officer, Acquisition Policy and Legislation Office, DHS.

ACTION: 60-Day Notice and request for comments: Extension without change of

a currently approved collection, 1600–0005.

SUMMARY: The Department of Homeland Security, Office of the Chief Procurement Officer, Acquisition Policy and Legislation Office, will submit the following information collection request (ICR) to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13 (as amended), 44 U.S.C. Chapter 35). The Office of the Chief Procurement Officer is soliciting comments related to its request for extension of an existing information collection authority for the solicitation of proposal information for award of public contracts under Homeland Security Acquisition Regulation (HSAR).

DATES: Comments are encouraged and will be accepted until August 5, 2008.

This process is conducted in accordance with 5 CFR 1320.1.

ADDRESSES: Comments and questions about this Information Collection Request should be forwarded to the Acquisition Policy and Legislation Office, Attn: Patricia Corrigan for the Department of Homeland Security, Office of the Chief Procurement Officer, Room 3114, Washington, DC 20528.

FOR FURTHER INFORMATION CONTACT: Patricia Corrigan, 202–447–5430 (this is not a toll free number).

SUPPLEMENTARY INFORMATION: The Department of Homeland Security (DHS), Office of the Chief Procurement Officer request renewal of an existing OMB Control Number for information requested from prospective contractors in response to agency-issued solicitations. The information requested is specific to each solicitation, and is required in order for DHS to properly evaluate offeror/bidder qualifications and capabilities in order to make informed decisions in awarding contracts. Information requested typically includes that related to offerors' or bidders' management approach, technical and pricing information, delivery and other pertinent information. This notice provides a request for renewal of OMB Control Number 1600–0005 previously granted in August 2005.

The Office of Management and Budget is particularly interested in comments regarding:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, 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 submissions of responses.

Analysis:

Agency: Department of Homeland Security, Office of the Chief Procurement Officer, Acquisition Policy and Legislation Office.

Title: Solicitation of Proposal Information for Award of Public Contracts.

OMB Number: 1600–0005.

Frequency: Once.

Affected Public: Businesses and individuals.

Estimated Number of Respondents: 10,850.

Estimated Time per Respondent: 14 hours.

Total Burden Hours: 151,900 annual burden hours.

Total Burden Cost (capital/startup): $0.00.

Total Burden Cost (operating/maintaining): $0.00.

Richard Mangogna,

Chief Information Officer.

[FR Doc. E8–12693 Filed 6–5–08; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

Intent To Request Renewal From OMB of One Current Public Collection of Information: Airport Security

AGENCY: Transportation Security Administration, DHS.

ACTION: Notice.

SUMMARY: The Transportation Security Administration (TSA) invites public comment on one currently approved Information Collection Requirement (ICR), abstracted below, that we will submit to the Office of Management and Budget (OMB) for renewal in compliance with the Paperwork Reduction Act. The ICR describes the nature of the information collection and its expected burden. The collection involves implementing certain provisions of the Aviation Security Improvement Act of 1990 and the Aviation and Transportation Security Act that relate to the security of persons and property at airports operating in commercial air transportation.

DATES: Send your comments by August 5, 2008.

ADDRESSES: Comments may be mailed or delivered to Joanna Johnson, Communications Branch, Business Management Office, Operational Process and Technology, TSA–32, Transportation Security Administration, 601 South 12th Street, Arlington, VA 22202–4220.

FOR FURTHER INFORMATION CONTACT: Joanna Johnson at the above address, or by telephone (571) 227–3651 or facsimile (571) 227–3588.

SUPPLEMENTARY INFORMATION:

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The ICR documentation is available at *www.reginfo.gov.* Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Information Collection Requirement

1652–0002; Airport Security, 49 CFR part 1542. The Federal Aviation Administration (FAA) initially required this collection under 14 CFR part 107 (now 49 CFR part 1542) and cleared under OMB control number 2120–0656. The responsibility for the collection was transferred to TSA from FAA on November 19, 2001 and subsequently assigned OMB control number 1652–0002. Part 1542, Airport Security, implements certain provisions of the Aviation Security Improvement Act of

1990 (Pub. L. 101–604, November 16, 1990) and the Aviation and Transportation Security Act (Pub. L. 107–71, November 19, 2001), as amended, that relates to the security of persons and property at airports operating in commercial air transportation. TSA is seeking renewal of this information collection because airport security programs are needed to provide for the safety and security of persons and property on an aircraft operating in commercial air transportation against acts of criminal violence, aircraft piracy, and the introduction of an unauthorized weapon, explosive, or incendiary onto an aircraft. The information being collected aids in the effectiveness of passenger screening procedures and assists TSA in complying with Congressional reporting requirements. The affected public is an estimated 454 regulated airport operators. The current estimated annual burden is 535,705 hours annually.

Issued in Arlington, Virginia, on June 3, 2008.

Fran Lozito,

Director, Business Management Office, Operational Process and Technology.

[FR Doc. E8–12746 Filed 6–5–08; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

Intent To Request Approval From OMB of One New Public Collection of Information: Threat and Vulnerability Assessment for General Aviation Airports

AGENCY: Transportation Security Administration, DHS.

ACTION: Notice.

SUMMARY: The Transportation Security Administration (TSA) invites public comment on a new information collection requirement abstracted below that the agency will submit to the Office of Management and Budget (OMB) for approval in compliance with the Paperwork Reduction Act. The collection will include the submission of information pertaining to security concerns specific to each individual airport, as perceived by the airport operators of approximately 3,000 general aviation airports. The information collected is part of a program designed to perform a standardized threat and vulnerability assessment program for general aviation airports. The information collected will also be used to provide context for a feasibility study of the development of a program, based upon a risk-management approach, to provide grants to operators of general aviation airports for projects to upgrade security at such airports. A grant program will be established only if the Administrator determines that such a program is feasible based upon the information collected and additional research outside of the scope of this notice.

DATES: Send your comments by August 5, 2008.

ADDRESSES: Comments may be mailed or delivered to Joanna Johnson, Communications Branch, Business Management Office, Operational Process and Technology, TSA–32, Transportation Security Administration, 601 South 12th Street, Arlington, VA 22202–4220.

FOR FURTHER INFORMATION CONTACT: Joanna Johnson at the above address, or by telephone (571) 227–3651 or facsimile (703) 603–0822.

SUPPLEMENTARY INFORMATION:

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The Information Collection Requirement (ICR) documentation is available at *http://www.reginfo.gov.* Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Purpose of Data Collection

Section 1617(k)(1) of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Pub. L. 110–53, 121 Stat. 266, 488, Aug. 3, 2007) requires that the TSA Administrator develop a standardized threat and vulnerability assessment program for general aviation airports and implement a program to perform such assessments on a risk-management basis at general aviation airports. To accomplish this task successfully, the collection of this information is essential. Section 1617(k)(2) requires the TSA Administrator to initiate and complete a study of the feasibility of a risk-managed program to provide grants to operator of general aviation airports for projects to upgrade security. The assessment data will also provide necessary background information and context for the feasibility study of the grant program.

Description of Data Collection

TSA seeks the collection of information regarding threat and vulnerability assessments from approximately 3,000 general aviation airports. The collection will consist of several elements: (1) A security self-assessment that the airport operators can perform on their airport using a set of guidelines provided by TSA (available to the public on the TSA Web site); (2) a short series of ''yes'' or ''no'' questions; and (3) a narrative field wherein responders can expand on matters of concern to them. The information TSA seeks should be readily available to the airport operators and should take no more than 20–30 minutes to collect and submit. Each airport operator will need to sign on to a Web site hosted by a private entity (2 minutes), complete the assessment (17–27 minutes) and submit the results (1 minute), for a total time burden of 20–30 minutes. Therefore, based on the total number of general aviation airport operators expected to participate and the approximate estimated time for each to complete and submit the survey questionnaire, the approximate total burden to the public should not exceed 1,500 hours (3,000 airport operators × 30 minutes).

Use of Results

TSA will use these results to assess vulnerabilities at any general aviation airport and recommend security measures to mitigate any significant threat or vulnerabilities. The assessment data could also be used in the implementation of a grant program, as described above, if such a program is determined needed and feasible.

Issued in Arlington, Virginia, on May 30, 2008.

Fran Lozito,

Director, Business Management Office, Operational Process and Technology.

[FR Doc. E8–12748 Filed 6–5–08; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

[Docket No. TSA–2004–19147]

Intent To Request Renewal From OMB of One Current Public Collection of Information: Flight Training for Aliens and Other Designated Individuals; Security Awareness Training for Flight School Employees

AGENCY: Transportation Security Administration, DHS.

ACTION: Notice.

SUMMARY: The Transportation Security Administration (TSA) invites public comment on an existing information collection requirement abstracted below that will be submitted to the Office of Management and Budget (OMB) for renewal in compliance with the Paperwork Reduction Act. The collection involves conducting background checks for all aliens and other designated individuals seeking flight instruction (''candidates'') from Federal Aviation Administration (FAA)-certified flight training providers. Through the information collected, TSA will determine whether a candidate is a threat to aviation or national security, and thus prohibited from receiving flight training. Additionally, flight training providers are required to conduct a security awareness program for their employees, and to maintain records associated with this training.

DATES: Send your comments by August 5, 2008.

ADDRESSES: Comments may be mailed or delivered to Joanna Johnson, Communications Branch, Business Management Office, Operational Process and Technology, TSA–32, Transportation Security Administration, 601 South 12th Street, Arlington, VA 22202–4220.

FOR FURTHER INFORMATION CONTACT: Joanna Johnson at the above address, or by telephone (571) 227–3651 or facsimile (571) 227–3588.

SUPPLEMENTARY INFORMATION:

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The Information Collection Requirement (ICR) documentation is available at *www.reginfo.gov.* Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Information Collection Requirement

1652–0021, Flight Training for Aliens and Other Designated Individuals; Security Awareness Training for Flight School Employees, 49 CFR part 1552. Pursuant to section 612 of the Vision 100—Century of Aviation Reauthorization Act, TSA is required to conduct background checks for all aliens and other designated individuals seeking flight instruction with Federal Aviation Administration (FAA)-certified flight training providers. In September 2004, TSA developed and implemented these requirements at 49 CFR part 1552, prescribing standards relating to the security threat assessment process that TSA conducts to determine whether candidates are a threat to aviation or national security and thus prohibited from receiving flight training. The collection of information required under 49 CFR part 1552 permits TSA to gather candidates' biographic information and fingerprints, which are used to perform the background checks. Additionally, flight training providers are required to conduct security awareness training for their employees to increase awareness of suspicious circumstances and activities of individuals enrolling in, or attending, flight training. The flight training provider may use the initial security awareness training program offered by TSA, or an alternative initial training program offered by a third party, or training designed by the flight training provider itself. Each flight training provider employee must receive recurrent security awareness training each year, and flight training providers must maintain records of the training completed throughout the course of the individual's employment, and for one year after the individual is no longer a flight training provider employee.

Based on the numbers of respondents to date, TSA estimates a total of 31,000 respondents annually: 26,500 candidates and 4,500 flight training providers.

Respondents are required to provide the subject information every time an alien or other designated individual applies for pilot training as described in the regulation, which is estimated to be twice a year per candidate, for a total of 53,000 responses per year. In response to comments to the interim final rule regarding in aircraft weighing 12,500 lbs. or less, TSA delineated the types of training events that would be subject to the requirements. TSA specified that candidates applying for flight training in aircraft weighing 12,500 lbs. or less would be subject to requirements only if they are training towards an initial certificate, an instrument, or multi-engine training. See TSA's clarifying interpretation document in Docket (Document ID: TSA–2004–19147–0337), dated January 5, 2005, titled ''Flight Schools and Individuals Subject to 49 CFR part 1552; RE: Interpretation of 'Flight Training' for Aircraft with an MTOW of 12,500 Pounds or Less and Exemption from Certain 'Recurrent Training' Information Submission Requirements Contained in 49 CFR part 1552.'' This clarification reduced the number of candidates anticipated from the original estimates made in November 2004. In addition, 1,500 more flight training providers have participated in this program.

TSA estimates that it will take the 26,500 candidates 45 minutes per application (twice per year) to provide TSA with all of the information required, for a total approximate application burden of 39,750 hours per year. Flight training providers must keep records for five years from the time they are created, and it is estimated each of the 4,500 flight training providers will carry an annual record keeping burden of 104 hours, for a total of 468,000 hours. Thus, TSA estimates the combined hour burden associated with this collection to be 507,750 hours annually.

Issued in Arlington, Virginia, on May 30, 2008.

Fran Lozito,

Director, Business Management Office, Operational Process and Technology.

[FR Doc. E8–12755 Filed 6–5–08; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Form N–426, Revision of a Currently Approved Information Collection; Comment Request

ACTION: 30-Day Notice of Information Collection Under Review: Form N–426, Request for Certification of Military or Naval Service; OMB Control No. 1615–0053.

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 19, 2008, at 73 FR 14829 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 7, 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 1615–0053. 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 agency's 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 a currently approved information collection.

(2) *Title of the Form/Collection:* Request for Certification of Military or Naval Service.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form N–426. 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 form will be used by USCIS to request a verification of the military or naval service claim by an applicant filing for naturalization on the basis of honorable service in the U.S. armed forces.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 45,000 responses at 45 minutes (.75) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 33,750 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: June 3, 2008.

Stephen Tarragon,

Acting Chief, Regulatory Management Division, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. E8–12680 Filed 6–5–08; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5186–N–23]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

EFFECTIVE DATE: *June 6, 2008.*

FOR FURTHER INFORMATION CONTACT: Kathy Ezzell, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7262, Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: June 2, 2008.

Mark R. Johnston,

Deputy Assistant Secretary for Special Needs.

[FR Doc. E8–12649 Filed 6–5–08; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5187–N–37]

Public Housing Financial Management Template

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is

soliciting public comments on the subject proposal.

The Public Housing Assessment System requires public housing agencies to submit financial information annually to HUD. The Uniform Financial Reporting Standards for HUD housing programs requires that this information be submitted electronically, using generally accepted accounting principles, in a prescribed format. HUD will implement a revised financial data schedule (FDS) to capture property level financial data.

DATES: *Comments Due Date: July 7, 2008.*

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2535–0107) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Lillian Deitzer, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail Lillian Deitzer at *Lillian_L_Deitzer@HUD.gov* or telephone (202) 402–8048. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Deitzer.

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the Information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposal: Public Housing Financial Management Template.

OMB Approval Number: 2535–0107.

Form Numbers: None.

Description of the Need for the Information and Its Proposed Use:

The Public Housing Assessment System requires public housing agencies to submit financial information annually to HUD. The Uniform Financial Reporting Standards for HUD housing programs requires that this information be submitted electronically, using generally accepted accounting principles, in a prescribed format. HUD will implement a revised financial data schedule (FDS) to capture property level financial data.

Frequency of Submission: Annually.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	3,996	1.89		5.53		41,885

Total Estimated Burden Hours: 41,885.

Status: Revision of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: May 29, 2008.

Lillian L. Deitzer,

Departmental Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. E8–12650 Filed 6–5–08; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Central Utah Project Completion Act

AGENCY: Department of the Interior, Office of the Assistant Secretary—Water and Science.

ACTION: Notice of Availability, Draft Environmental Assessment (DEA), Hobble Creek Stream Restoration, Utah County, UT.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, as amended, the Central Utah Project Completion Act Office proposes to relocate, and restore natural stream sinuosity, and fisheries habitat, in Hobble Creek, a tributary to Utah Lake in Utah County, Utah, to assist recovery of the endangered June sucker fish (*Chasmistes liorus*). This project has been planned in cooperation with the June Sucker Recovery Implementation Program (JSRIP).

A Proposed Action and No Action Alternative are evaluated in the DEA. Under the Proposed Action, approximately the last one mile of Hobble Creek, where it enters Utah Lake, will be relocated onto property owned by the State of Utah. The project will improve the hydrology of the stream, open the upper reaches of Hobble Creek to spawning June sucker, which currently exist in Utah Lake. As part of the project, adjacent wetlands and connecting side channels will be constructed on the property to create backwater habitat for survival and rearing of larval stages of June sucker produced in the creek. After construction, the project lands would be managed by the Utah Division of Wildlife Resources for protection of wetlands and conservation of the June sucker. The Utah Transit Authority, State of Utah, and the U.S. Fish and Wildlife Service are cooperating agencies in the NEPA process.

DATES: The DEA will be available for public review and comment for a minimum of thirty (30) calendar days following the publication of this notice. The deadline for submittal of written comments on the DEA will be stated on the cover sheet of the document and noted in the transmittal letter to all reviewers.

Comments on the DEA may also be presented verbally, or in writing, at a public meeting to be held in the vicinity of the project. At this meeting the Lead Agency will present the evaluation of environmental impacts and provide additional opportunity for public comment on the project. The place, date, and time of public meeting will be noted in the transmittal letter to all reviewers and announced in local newspapers.

The public meeting will be held Thursday, June 26, 2008, at Bureau of Reclamation, 302 East 1860 South, Provo, Utah 84606 starting at 6 p.m.

ADDRESSES: Comments on the DEA should be addressed to: Mr. Reed R. Murray, Central Utah Project Completion Act Office, 302 East 1860 South, Provo, Utah 84606 or E-mail to *rswanson@uc.usbr.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the Draft EA can be obtained

by contacting Mr. Ralph G. Swanson at the address above, by calling 801–379–1254 or at *rswanson@uc.usbr.gov.*

Copies of the DEA are also available for inspection at:

Springville City Library, 50 South Main, Springville, Utah 84663;

Department of the Interior, Central Utah Project Completion Act Office, 302 East 1860 South, Provo, Utah 84606.

In addition, the complete text of the document is available at the JSRIP Web site at *http://www.junesuckerrecovery.org* or the Utah Transit Authority Web site at *http://www.rideuta.com.*

Information on other matters related to this notice may be obtained by calling or writing Mr. Ralph G. Swanson, Program Coordinator, CUP Completion Act Office, Department of the Interior, 302 East 1860 South, Provo, UT 84606–6154, (801) 379–1254, E-mail address, *rswanson@uc.usbr.gov.*

SUPPLEMENTARY INFORMATION: Before including your name, address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Reed R. Murray,

CUP Program Director, Department of the Interior.

[FR Doc. E8–12672 Filed 6–5–08; 8:45 am]

BILLING CODE 4310–RK–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R4–R–2008–N0015; 40136–1265–0000–S3]

Eufaula National Wildlife Refuge, Barbour and Russell Counties, AL, and Stewart and Quitman Counties, GA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability: draft comprehensive conservation plan and environmental assessment; request for comments.

SUMMARY: We, the Fish and Wildlife Service (Service), announce the availability of a draft comprehensive conservation plan and environmental assessment (Draft CCP/EA) for Eufaula National Wildlife Refuge for public review and comment. In this Draft CCP/EA, we describe the alternative we propose to use to manage this refuge for the 15 years following approval of the Final CCP.

DATES: To ensure consideration, we must receive your written comments by July 21, 2008. We will hold a public meeting. We will announce the upcoming meeting in the local news media.

ADDRESSES: Requests for copies of the Draft CCP/EA should be addressed to Eufaula National Wildlife Refuge, 367 Highway 165, Eufaula, AL 36027–8187; Telephone 334/687–4065. The Draft CCP/EA may also be accessed and downloaded from the Service's Internet Web site *http://southeast.fws.gov/planning.* Comments on the Draft CCP/EA may be submitted to the above address or via electronic mail to *mike_dawson@fws.gov*.

FOR FURTHER INFORMATION CONTACT: Mike Dawson, Refuge Planner, Jackson, MS; 601/965–4903, extension 20.

SUPPLEMENTARY INFORMATION:

Introduction

With this notice, we continue the CCP process for Eufaula National Wildlife Refuge. We started the process through a notice in the **Federal Register** on January 26, 2006 (71 FR 4373).

Background

The CCP Process

The National Wildlife Refuge System Improvement Act of 1997 (16 U.S.C. 668dd–668ee), which amended the National Wildlife Refuge System Administration Act of 1966, requires us to develop a CCP for each national wildlife refuge. The purpose in developing a CCP is to provide refuge managers with a 15-year plan for achieving refuge purposes and contributing toward the mission of the National Wildlife Refuge System, consistent with sound principles of fish and wildlife management, conservation, legal mandates, and our policies. In addition to outlining broad management direction on conserving wildlife and their habitats, CCPs identify wildlife-dependent recreational opportunities available to the public, including opportunities for hunting, fishing, wildlife observation, wildlife photography, and environmental education and interpretation. We will review and update the CCP at least every 15 years in accordance with the Improvement Act and NEPA.

CCP Alternatives, Including Our Proposed Alternative

We developed four alternatives for managing the refuge and chose Alternative D as the proposed alternative. Each alternative would pursue the same four broad refuge goals. These goals are: (1) Wildlife; (2) habitat; (3) public use; and (4) refuge administration.

Alternatives

A full description of each alternative is in the Draft CCP/EA. We summarize each alternative below.

Alternative A—Current Management (No Action)

In general, Alternative A would maintain current management direction, that is, the refuge's habitats and wildlife populations would continue to be managed as they have in recent years. Public use patterns would remain relatively unchanged from those that exist at present.

We would conserve, protect, and enhance native wildlife populations representative of the middle Chattahoochee River Valley, including waterfowl, other migratory birds, and threatened and endangered species.

We would provide a complex of habitats, both moist-soil and grain crops, to meet the foraging needs of 15,000 wintering ducks. This would assist the North American Waterfowl Management Plan in meeting its goals. We would also provide adequate open space (upland crop fields) for winter utilization and feeding of at least 350 geese and cranes. In addition, staff and/or volunteers would maintain 100 wood duck boxes on the refuge.

We would continue forest management at current levels and intensity. We would maintain 175 acres of grassland habitat for the benefit of grassland birds. In addition, we would use various tools to maintain tall emergent vegetation sufficient to support a population of 10 king rails and to benefit other species of marsh birds.

For the benefit of wading birds, known rookeries would be protected but there would be no active management of foraging habitat for herons and egrets. Likewise, no active management for shorebirds would take place. However, we would provide protective conservation measures for Federal or State listed species and habitats for future ecological existence.

We would employ sound scientific principles to manage healthy populations of resident wildlife species. We would control domestic, feral, or

pest animals, especially feral hogs, removing an average of 65 hogs annually.

We would provide suitable habitats for native wildlife populations representative of the middle Chattahoochee River Valley, including waterfowl, other migratory birds, and threatened and endangered species.

We would utilize farming on 500 acres to provide food, cover, and sanctuary areas for wildlife and other species, as well as manage approximately 2,600 acres that are forestland to provide benefits for forest-dependent wildlife.

We would use fire as a management tool on approximately 300 acres annually in suitable habitats for species and habitat conservation. We would also continue management of moist-soil wetlands (approximately 1,175 acres), with emphasis on providing for waterfowl and other aquatic birds' foraging and life-history requirements.

We would continue to control invasive plant species at current levels of approximately 25 miles of shoreline and 750 acres annually (aquatic plants), and preventive and maintenance control of upland invasive species (500 acres annually in croplands).

We would provide the public with quality wildlife-dependent recreation and environmental education and interpretation that lead to greater understanding and enjoyment of fish, wildlife, and their habitats.

The refuge hunting program would continue to be carried out in accordance with Service policy and State and Federal laws, including seasons for deer, waterfowl, squirrels, rabbits, and mourning doves. Incidental management and enforcement of fishing regulations would occur. We would maintain existing wildlife observation facilities for visitors, including two observation platforms, the wildlife drive, and the interpretive trail. We would also continue to provide an environmental education program on- and off-refuge, without a public use specialist, and limited interpretation at the headquarters and on the interpretive trail.

We would continue to plan but would not build a visitor center. Visitor contact would take place at the new refuge office/headquarters. The refuge staff presently consists of six positions: refuge manager, assistant refuge manager, wildlife biologist, office assistant, maintenance worker, and engineering equipment operator. There would continue to be limited management of cultural resources based on known locations of identified cultural, historical, and archaeological resources. We would follow standard procedures to protect cultural resources whenever projects involving excavation were undertaken.

Alternative B—Enhanced Wildlife and Habitat Management

We would intensify and expand wildlife and habitat management on the refuge, thereby increasing benefits for wildlife species and fulfilling the refuge purposes and goals. Public use opportunities would remain approximately the same as they are now.

We would conserve, protect, and enhance native wildlife populations representative of the middle Chattahoochee River Valley, including waterfowl, other migratory birds, and threatened and endangered species.

We would provide a complex of habitats, both moist-soil and grain crops, to meet the foraging needs of 25,000 wintering ducks. This would assist the North American Waterfowl Management Plan in meeting its goals. We would also provide adequate open space (upland crop fields) for winter utilization and feeding of at least 500 geese and cranes. In addition, staff and/or volunteers would maintain 200 wood duck boxes.

We would provide forest habitat conditions conducive to supporting both priority pine and hardwood associated bird species by 2010. By 2008, we would provide high-quality grassland habitat to support grassland bird species on as many acres as possible, while achieving priority waterfowl objectives. In addition, by 2010, this alternative would promote tall emergent vegetation sufficient to support a population of 10–40 king rails and to benefit other species of marsh birds.

For the benefit of wading birds, by 2010, we would provide for both secure nesting sites and ample foraging habitat. Also by 2010, we would furnish at least two areas of up to 20 acres each for shorebirds, during both northbound and southbound movements. We would provide protective conservation measures for Federal or State listed species and habitats for future ecological existence.

We would expand our capability and effort to implement sound scientific principles to better manage healthy populations of resident wildlife species. We would control domestic, feral, or pest animals, especially feral hogs, removing an average of 100-plus hogs annually, or as needed.

We would provide suitable habitats for native wildlife populations representative of the middle Chattahoochee River Valley, including waterfowl, other migratory birds, and threatened and endangered species. We would work toward achieving several objectives to fulfill this habitat goal.

We would gradually reduce cooperative farmer cropland acreage to 300 acres (from 500 acres at present) over the 15-year life of the CCP. Additionally, we would cultivate crops on 100 acres to provide food, cover, and sanctuary areas for wildlife and other species.

We would employ silvicultural treatments to improve 2,800 acres of forestland to provide benefits to forest-dependent wildlife. We would also use fire as a management tool on approximately 800–1,000 acres annually in suitable habitats for species and habitat conservation. Management of moist-soil wetlands (approximately 1,200 acres) would be intensified, with emphasis on waterfowl and other aquatic birds' foraging and life-history requirements.

We would aggressively control aquatic invasive plant species on approximately 25 miles of shoreline, or as needed, and 1,250 acres annually. We would also conduct preventive and maintenance control of upland invasive plant species.

We would provide the public with quality wildlife-dependent recreation and environmental education and interpretation that lead to greater understanding and enjoyment of fish, wildlife, and their habitats. Because Alternative B emphasizes expanded habitat and wildlife management, as to public use matters Alternative B is very similar to Alternative A.

We would continue to carry out the hunting program in accordance with Service policy and State and Federal laws, including seasons for deer, waterfowl, squirrels, rabbits, and mourning doves. By 2010, we would document the impact of sport fishing and fishing tournaments on sensitive wildlife and habitat resources to serve as a basis for discussions with the Army Corps of Engineers and Alabama and Georgia authorities on the possibility of establishing no-wake zones in sensitive areas. We would maintain existing wildlife observation facilities for visitors, including two observation platforms, the wildlife drive, and the interpretive trail. We would also continue to provide the existing environmental education program on- and off-refuge, without a public use specialist, and limited interpretation at the headquarters and on the interpretive trail.

We would provide for sufficient staffing, facilities, and infrastructure to

fulfill the refuge's purpose and the goals and objectives of the CCP. Under Alternative B, we would enlarge the current staff by adding three full-time positions: biological science technician, maintenance worker, and law enforcement officer.

Within 15 years of CCP approval, we would develop and begin to implement a cultural resources management plan. In the meantime, there would continue to be limited management of cultural resources based on known locations of identified cultural, historical, and archaeological resources. We would follow standard procedures to protect cultural resources whenever projects involving excavation were undertaken.

We would increase cooperation with the Army Corps of Engineers and the States of Alabama and Georgia on invasives' management, and with the States on overall refuge management, including restoration of longleaf pine forests. We would work to establish a Friends group (support group) by 2022.

We would continue to plan but would not build a visitor center. Visitor contact would take place at the new refuge office/headquarters.

Alternative C—Enhanced Wildlife-Dependent Public Use

Alternative C would emphasize enhanced wildlife-dependent public use on the refuge. Additional efforts and expenditures would be made to expand the public use program, visitor facilities, and the overall level of wildlife-dependent recreational opportunities available to the public. Special emphasis would be placed on promoting the six priority public uses of the Refuge System (*e.g.*, hunting, fishing, wildlife observation, wildlife photography, and environmental education and interpretation) as identified in the National Wildlife Refuge System Improvement Act.

We would conserve, protect, and enhance native wildlife populations representative of the middle Chattahoochee River Valley, including waterfowl, other migratory birds, and threatened and endangered species.

We would provide a complex of habitats, both moist-soil and grain crops, to meet the foraging needs of 25,000 wintering ducks. This would assist the North American Waterfowl Management Plan in meeting its goal. We would also provide adequate open space (upland crop fields) for winter utilization and feeding of at least 500 geese and cranes. In addition, staff and/or volunteers would maintain 200 wood duck boxes.

By 2010, we would provide forest habitat conditions conducive to supporting both priority pine and hardwood associated bird species. By 2008, we would provide high-quality grassland habitat to support grassland bird species on as many acres as possible, while achieving priority waterfowl objectives. In addition, by 2010, we would promote tall emergent vegetation sufficient to support a population of 10–40 king rails and to benefit other species of marsh birds.

For the benefit of wading birds, by 2010, we would provide for both secure nesting sites and ample foraging habitat. Also by 2010, we would furnish at least two areas of up to 20 acres each for shorebirds, during both northbound and southbound movements. We would provide protective conservation measures for Federal or State listed species and habitats for future ecological existence.

We would expand our capability and effort to implement sound scientific principles to better manage healthy populations of resident wildlife species. Domestic, feral, or pest animals, especially feral hogs, would be controlled, removing an average of 100-plus hogs annually, or as needed, by considering implementation of a feral hog hunting season.

We would provide suitable habitats for native wildlife populations representative of the middle Chattahoochee River Valley, including waterfowl, other migratory birds, and threatened and endangered species.

We would gradually reduce cooperative farmer cropland acreage to 300 acres (from 500 acres at present) over the 15-year life of the CCP. Additionally, we would cultivate crops on 100 acres to provide food, cover, and sanctuary areas for wildlife and other species.

We would manage approximately 2,600 acres of forestland to provide benefits to forest-dependent wildlife. Fire would be used as a management tool on approximately 300 acres annually in suitable habitats for species and habitat conservation. Management of moist-soil wetlands (approximately 1,200 acres) would be intensified, with emphasis on waterfowl and other aquatic birds foraging and life-history requirements.

We would aggressively control aquatic invasive plant species on approximately 25 miles of shoreline, or as needed, and 1,250 acres annually. We would also conduct preventive and maintenance control of upland invasive plant species.

We would provide the public with quality wildlife-dependent recreation and environmental education and interpretation that lead to greater understanding and enjoyment of fish and wildlife and their habitats. We would continue to work toward expanding overall public use opportunities.

By 2012, in addition to maintaining all existing hunts and seasons, we would consider adding a youth wild turkey quota hunt and an alligator hunt on open water areas of the refuge. By 2010, boat launch facilities and bank fishing opportunities would be expanded. All existing wildlife observation and photography facilities would be maintained, and within 10 years of CCP approval, we would: (1) Designate a one-way loop in the Houston Bottoms, and add additional pull-offs to the existing wildlife drive; (2) improve existing interpretive trail and add foot trails between Lakepoint State Park and the refuge; and (3) add one photo blind in the Houston impoundment or goose pen impoundment.

We would provide for sufficient staffing, facilities, and infrastructure to fulfill the refuge's purpose and the goals and objectives of the CCP. We would enlarge the current staff by adding four full-time positions: biological science technician, maintenance worker, park ranger (non-law enforcement), and law enforcement officer.

There would continue to be limited management of cultural resources based on known locations of identified historical and archaeological resources. We would follow standard procedures to protect cultural resources whenever projects involving excavation were undertaken. We would cooperate with the Army Corps of Engineers and the States of Alabama and Georgia on management of invasive species, and with both States on overall refuge management.

By 2022, or within 15 years of CCP approval, we would construct and begin to operate a visitor center east of U.S. Highway 431, adjacent to the Kennedy Unit. This center would serve as a focal point of public use opportunities.

Alternative D—Balanced Wildlife/Habitat Management and Public Use Activities (Proposed Alternative)

The proposed action would expand both wildlife and habitat management efforts, as well as public use opportunities, in a balanced fashion.

We would conserve, protect, and enhance native wildlife populations representative of the middle Chattahoochee River Valley, including waterfowl, other migratory birds, and threatened and endangered species.

We would provide a complex of habitats, both moist-soil and grain

crops, to meet the foraging needs of 25,000 wintering ducks. This would assist the North American Waterfowl Management Plan in meeting its goal. We would also provide adequate open space (upland crop fields) for winter utilization and feeding of at least 500 geese and cranes. In addition, staff and/or volunteers would maintain 200 wood duck boxes on the refuge.

By 2010, we would provide forest habitat conditions conducive to supporting both priority pine and hardwood associated bird species. By 2008, we would provide high-quality grassland habitat to support grassland bird species on 220 to 300 acres, while achieving priority waterfowl objectives. This would include planting native warm season grass species on old farm fields. In addition, by 2010, this would promote tall emergent vegetation sufficient to support a population of 10–20 king rails and to benefit other species of marsh birds.

For the benefit of wading birds, by 2010, we would provide for both secure nesting sites and ample foraging habitat. Also by 2010, we would furnish at least two areas of up to 20 acres each for shorebirds, during both northbound and southbound movements. In addition, we would provide protective conservation measures for Federal or State listed species and habitats for future ecological existence.

We would expand the capability and effort to implement sound scientific principles to better manage healthy populations of resident wildlife species. We would also control domestic, feral, or pest animals, especially feral hogs, removing an average of 100-plus hogs annually, or as needed.

We would provide suitable habitats for native wildlife populations representative of the middle Chattahoochee River Valley, including waterfowl, other migratory birds, and threatened and endangered species.

We would gradually reduce cooperative farmer cropland acreage to 300 acres (from 500 acres at present) over the 15-year life of the CCP. Additionally, we would cultivate crops on 100 to 300 acres to provide food, cover, and sanctuary areas for wildlife and other species. This would provide adequate habitat for wintering waterfowl and provide quality dove hunting opportunities.

We would employ silvicultural treatments to improve 2,800 acres of forestland to benefit forest-dependent wildlife. We would also use fire as a management tool on approximately 800–1,000 acres annually in suitable habitats for species and habitat conservation. Management of moist-soil wetlands (approximately 1,200 acres) would be intensified, with emphasis on waterfowl and other aquatic birds' foraging and life-history requirements.

We would aggressively control aquatic invasive plant species on approximately 25 miles of shoreline, or as needed, and 1,250 acres annually. We would also conduct preventive and maintenance control of upland invasive plant species.

We would provide the public with quality wildlife-dependent recreation and environmental education and interpretation that lead to greater understanding and enjoyment of fish and wildlife and their habitats. We would work to expand overall public use opportunities.

In addition to maintaining all existing hunts and seasons, we would consider adding a youth wild turkey quota hunt by 2015. Boat launch facilities and bank fishing opportunities would be expanded by 2015. Also by 2015, we would document the impact of sport fishing and fishing tournaments on sensitive wildlife and habitat resources to serve as a basis for discussions with the Army Corps of Engineers and Alabama and Georgia authorities on the possibility of establishing no-wake zones in sensitive areas.

All existing wildlife observation and photography facilities would be maintained and within 10 years of CCP approval we would: (1) Designate a one-way loop in the Houston Bottoms and add additional pull-offs to the existing wildlife drive; (2) improve existing interpretive trail and add foot trails between Lakepoint State Park and the refuge; (3) add one photo blind in the Houston impoundment or goose pen impoundment; and (4) construct an observation platform adjacent to the hour glass impoundment on the wildlife drive and assess the need for an additional viewing platform in the area of Houston Bottoms.

In terms of environmental education and interpretation, we would maintain existing opportunities and facilities, and by 2022, we would establish a new visitor center.

We would provide for sufficient staffing, facilities, and infrastructure to fulfill the refuge's purpose and the goals and objectives of the CCP. We would enlarge the current staff by adding five full-time positions: biological science technician, maintenance worker, two park rangers (non-law enforcement), and law enforcement officer.

Within 15 years of CCP approval, we would develop and begin to implement a cultural resources management plan. In the meantime, there would continue to be limited management of cultural resources based on known locations of historical and archaeological resources. We would follow standard procedures to protect cultural resources whenever projects involving excavation were undertaken.

We would increase cooperation with the Army Corps of Engineers and the States of Alabama and Georgia on invasives' management, and with both States on overall refuge management, including restoration of longleaf pine forests. We would work to establish a refuge Friends group (support group) by 2022.

By 2022, or within 15 years of CCP approval, we would construct and begin to operate a visitor center east of U.S. Highway 431 adjacent to the Kennedy Unit. This center would serve as a focal point of public use opportunities on the refuge.

Public Availability of Comments

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Next Step

After the comment period ends for the Draft CCP/EA, we will analyze the comments and address them in the form of a Final CCP and Finding of No Significant Impact.

Authority: This notice is published under the authority of the National Wildlife Refuge System Improvement Act of 1997, Public Law 105–57.

Dated: December 31, 2007.

Jon Andrew,

Acting Regional Director.

Editorial Note: This document was received in the Office of the Federal Register on June 3, 2008.

[FR Doc. E8–12713 Filed 6–5–08; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R6–ES–2008–N0112; 60132–1261–60RC–P4]

Keystone Oil Pipeline Project, Right-of-Way Permit Application To Cross Six Wetland Management Districts in North Dakota and South Dakota

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; right-of-way permit application.

SUMMARY: The U.S. Fish and Wildlife Service (Service) is soliciting public comment on a right-of-way (ROW) permit application submitted by TransCanada Keystone Pipeline, LP (Keystone). If issued, the ROW permit would authorize the construction, operation, maintenance, and decommissioning of the pipeline through easements held by the Service in North Dakota and South Dakota. The Service is a cooperating agency with the Department of State on an Environmental Impact Statement (EIS) on the Keystone Oil Pipeline Project and has adopted the Final EIS. After reviewing any comments received on the ROW application, the Service will issue its own Record of Decision (ROD) on the EIS prior to granting the ROW permit.

DATES: Preparation of the ROD will begin no sooner than July 7, 2008. We will consider public comments received or postmarked by that date.

ADDRESSES: *Comment submission:* Submit comments on the ROW application to Rick Coleman, Assistant Regional Director, National Wildlife Refuge System, Region 6, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225, or electronically to *Rick_Coleman@fws.gov* (e-mail).

Document availability: Copies of the ROW permit application, digital maps, and legal descriptions of Service wetland easements that the ROW would cross, are available for viewing and download at the Service's Region 6 Web site: *http://www.fws.gov/mountain-prairie/keystonepipeline* or at the field office locations listed in supplementary information. Copies of the Final EIS, Record of Decision, National Interest Determination, Presidential Permit, and other project information are available for viewing and download at the Keystone project Web site: *http://www.keystonepipeline.state.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

Keystone proposes to construct and operate a pipeline and related facilities to transport crude oil from Alberta, Canada, to the midwestern United States. The proposed route of the pipeline would cross lands where the Service holds an easement interest.

Pursuant to the National Environmental Policy Act (NEPA), the Department of State, with the Service as a cooperating agency, prepared a Final EIS assessing the impacts of constructing and operating the proposed Keystone Pipeline. The Environmental Protection Agency published a Notice of Availability of the EIS in the **Federal Register** on January 11, 2008 (73 FR 2027) and a notice of the agency's comments on the EIS on March 21, 2008 (73 FR 15153). Subsequently, Keystone applied for a ROW easement per regulations at 50 CFR 29.21 for the Keystone Pipeline to cross through individual wetlands where the Service holds an easement for waterfowl management rights. The current route of the pipeline will cross 62 easement wetlands on 33 tracts.

The purpose of the ROW permit, if approved, and any preliminary permit is to describe the location of the pipeline through individual easement wetlands and the measures that will be taken by Keystone to ensure that construction, operation, maintenance, and decommissioning of the pipeline will only temporarily drain or fill easement wetlands. It also will describe measures that Keystone will take to restore easement wetlands if the Service determines that pipeline construction, operation, maintenance, and decommissioning drains or partially drains them. If wetland hydrology cannot be adequately restored and an easement wetland is drained by this project, permit conditions will require Keystone to acquire replacement wetland habitat that will be protected by a Service easement.

Based on the analysis described in the State Department's Final EIS, Record of Decision (ROD), and National Interest Determination, the Service has adopted the State Department's EIS and will consider issuance of a ROW permit. As required by 50 CFR 29.21–9(f), the Service is seeking public comment on the ROW application. After reviewing and considering any comments received, the Service will issue a ROD, Environmental Action Memorandum, and Environmental Action Statement before issuing a ROW permit allowing the pipeline to cross the described easement wetlands. The Service ROD will describe the rationale for the decision and the alternatives considered in reaching this decision. It will also identify those measures (permit conditions) that have been, and will be, taken to minimize environmental harm from the decision to issue a ROW permit.

B. Document Availability

Copies of the ROW application and other material from the Service's Web site can be obtained during office hours at the following Service field offices:

- Tewaukon Wetland Management District, 9756 143½ Ave, SE., Cayuga, North Dakota 58013, telephone 701–724–3598
- Devils Lake Wetland Management District, 221 Second Street Northwest, Devils Lake, North Dakota 58301, telephone 701–662–8611
- Valley City Wetland Management District, 11515 River Road, Valley City, North Dakota 58072, telephone 701–845–3466
- Waubay Wetland Management District, 44401 134 A Street, Waubay, South Dakota 57273, telephone 605–947–4521
- Huron Wetland Management District, 200 4th Street, SE., Room 309, Federal Building, Huron, South Dakota 57350, telephone 605–352–5894
- Lake Andes Wetland Management District, 38672 291st Street, Lake Andes, South Dakota 57356, telephone 605–487–7603
- Madison Wetland Management District, P.O. Box 48, Madison, South Dakota 57042, telephone 605–256–2974

The information also will be available at various public offices and locations throughout North Dakota and South Dakota. To obtain these locations, call the nearest Service office listed above.

Dated: May 28, 2008.

James J. Slack,

Deputy Regional Director.

[FR Doc. E8–12473 Filed 6–5–08; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Geological Survey

Agency Information Collection Activities: Comment Request

AGENCY: U.S. Geological Survey (USGS), Interior.

ACTION: Notice of a new information collection.

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), we are notifying the public that we will submit to OMB a new information collection request (ICR) for

approval of the paperwork requirements for the Mineral Resources Program's (MRP) Mineral Resource External Research Program (MRERP). To submit a proposal for the MRERP a project narrative must be completed and submitted via Grants.gov. Furthermore, for multi-year projects, an annual progress report must be completed, and for all projects, a final technical report is required at the end of the project period. This notice provides the public an opportunity to comment on the paperwork burden of these project narrative and report requirements. The narrative and report guidance is available at *http://www.usgs.gov/contracts/Minerals/index.html.*

DATES: Submit written comments by August 5, 2008.

ADDRESSES: You may submit comments on this information collection to the Department of the Interior, USGS, via:

- E-mail *pponds@usgs.gov.* Use Information Collection Number 1028–NEW, MRP in the subject line.
- FAX: (970) 226–9230. Use Information Collection Number 1028–NEW, MRP in the subject line.
- Mail to Phadrea Ponds, U.S. Geological Survey, 2150 Building C, Fort Collins, CO 80525. Please reference Information Collection 1028–NEW, MRP in your comments.

FOR FURTHER INFORMATION PLEASE CONTACT: Jeff L. Doebrich at 703–648–6103.

SUPPLEMENTARY INFORMATION:

Title: Mineral Resources Program.

OMB Control Number: 1028–NEW.

Form Number: Project narrative and report guidance posted on Grants.gov.

Abstract: Through the MRERP, the MRP of the USGS offers an annual competitive grant and/or cooperative agreement opportunity to universities, State agencies, Tribal governments or organizations, and industry or other private sector organizations. Applicants must have the ability to conduct research in topics related to non-fuel mineral resources and that meet the goals of the MRP. The MRERP will consider all research-based proposals that address one of the MRP's long-term goals. The long-term goals of the MRP, as described in the MRP Five-Year Plan for FY 2006–2010 (*http://minerals.usgs.gov/plan/2006-2010/2006-2010_plan.html*) are (1) Ensure availability of up-to-date quantitative assessments of potential for undiscovered mineral deposits, (2) ensure availability of up-to-date geoenvironmental assessments of priority Federal lands, (3) ensure availability of reliable geologic, geochemical, geophysical, and mineral locality data for the United States, and (4) ensure availability of long-term data sets describing mineral production and consumption. Furthermore, annual research priorities are provided as guidance for applicants to consider when submitting proposals. Annual research priorities are determined by USGS MRP management. Since its initiation in 2004, the MRERP has awarded more than $1.8 million to 30 different research projects across the country.

We will protect information from respondents considered proprietary under the Freedom of Information Act (5 U.S.C. 552) and implementing regulations (43 CFR part 2), and under regulations at 30 CFR 250.197, ''Data and information to be made available to the public or for limited inspection.'' Responses are voluntary. No questions of a ''sensitive'' nature are asked. We intend to release the project abstracts and primary investigators for awarded/funded projects only.

Frequency: Annually.

Estimated Annual Number and Description of Respondents: Approximately 500 research scientists from universities, State agencies, Tribal governments or organizations, and industry or other private sector organizations.

Estimated Total Number of Annual Responses: 48.

Estimated Annual Burden Hours: 2160.

Estimated Annual Reporting and Recordkeeping ''Hour'' Burden: We estimate the public reporting burden averages 45 hours per response. This includes the time for (1) Project conception and development, proposal writing and reviewing, and submitting project narrative through Grants.gov, (2) preparation of annual progress report, and (3) preparation of final technical report.

Estimated Reporting and Recordkeeping ''Non-Hour Cost'' Burden: There are no ''non-hour cost'' burdens associated with this collection of information.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

Comments: Before submitting an ICR to OMB, PRA section 3506(c)(2)(A) (44 U.S.C. 3501, *et seq.*) requires each agency ''* * * to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *'' Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

To comply with the public consultation process, we publish this **Federal Register** notice announcing that we will submit this ICR to OMB for approval. This notice provides the required 60-day public comment period.

USGS Information Collection Clearance Officer: Alfred Travnicek, 703–648–7231.

Dated: May 30, 2008.

Suzette M. Kimball,

Associate Director for Geology.

[FR Doc. E8–12721 Filed 6–5–08; 8:45 am]

BILLING CODE 4311–AM–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Notice of Intent To Prepare an Environmental Impact Statement for the Renewed Application for the Proposed Los Coyotes Band of Cahuilla and Cupeño Indians Fee-to-Trust Transfer and Casino-Hotel Project, San Bernardino County, California

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the Bureau of Indian Affairs (BIA) as lead agency, with the National Indian Gaming Commission and Los Coyotes Band of Cahuilla and Cupeño Indians (Tribe) as cooperating agencies, intends to gather information necessary for preparing an Environmental Impact Statement (EIS) for the Tribe's renewed application for a proposed 45-acre fee-to-trust transfer and casino and hotel project to be located in San Bernardino County, California. The BIA did not approve the original application as submitted, hence published a Notice of Cancellation of work on the EIS on May 19, 2008, in the **Federal Register** (73 FR 28841).

DATES: Written comments on the scope and implementation of this proposal must arrive by July 7, 2008.

ADDRESSES: You may mail or hand carry written comments to Dale Morris, Regional Director, Pacific Regional Office, Bureau of Indian Affairs, 2800 Cottage Way, Sacramento, California 95825. Please include your name, return caption, address and ''DEIS Scoping Comments, Los Coyotes Band of Cahuilla and Cupeño Indians 45-Acre Fee-to-Trust Casino/Hotel Project, San Bernardino County, California'', on the first page of your written comments.

FOR FURTHER INFORMATION CONTACT: John Rydzik, (916) 978–6042.

SUPPLEMENTARY INFORMATION: The proposed action would transfer approximately 45 acres of land from fee to trust status, upon which the Tribe would develop a casino, hotel, parking and other supporting facilities. The property is located within the incorporated boundaries of the City of Barstow, San Bernardino County, California, just east of Interstate-15, near State Highways 58 and 247 and Interstate-40.

The BIA published a Notice of Intent to prepare an EIS for the original application on April 19, 2006, in the **Federal Register** (71 FR 20126). The notice included project details, which remain unchanged in the renewed application. As this notice on the renewed application in effect resumes work on the EIS, public scoping for the issues and alternatives to be analyzed in the EIS has already been done. The BIA will not, therefore, hold any additional public scoping meetings. This notice, however, does provide the public another 30-day period to submit comments on what should be covered in the EIS.

Areas of environmental concern identified for analysis in the EIS include land resources, water resources, biological resources, cultural resources, traffic and transportation, noise, air quality, public health/environmental hazards, public services and utilities, hazardous waste and materials, socio-economics, environmental justice and visual resources/aesthetics. In addition to the proposed action, alternatives identified for analysis include no-action, reduced-intensity development and two alternate sites. The range of issues and alternatives are open to expansion based on comments received in response to this notice.

Public Comment Availability

Comments, including names and addresses of respondents, will be available for public review at the BIA address shown in the **ADDRESSES** section, during regular business hours, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: This notice is published in accordance with sections 1503.1 and 1506.6 of the Council on Environmental Quality Regulations (40 CFR Parts 1500 through 1508) implementing the procedural requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), and the Department of the Interior Manual (516 DM 1–6), and is in the exercise of authority delegated to the Assistant Secretary—Indian Affairs by 209 DM 8.1.

Dated: May 23, 2008.

Carl J. Artman,

Assistant Secretary—Indian Affairs.

[FR Doc. E8–12638 Filed 6–5–08; 8:45 am]

BILLING CODE 4310–W7–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Alabama-Coushatta Tribe of Texas Petition for Tribal Reassumption of Jurisdiction over Child Custody Proceedings

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This is a notice that the Department of the Interior has received a petition from the Alabama-Coushatta Tribe of Texas for the tribal reassumption of jurisdiction over Indian child custody proceedings. The petition is under review by, and may be inspected at, the address listed in the **ADDRESSES** section.

ADDRESSES: The Bureau of Indian Affairs, Office of Indian Services, Division of Human Services, 1849 C St., NW., Room MIB–4513, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Rochelle Apodaca (505) 563–3524.

SUPPLEMENTARY INFORMATION: The authority for the Assistant Secretary—Indian Affairs to publish this notice is contained in 25 CFR 13.14(a) and 209 DM 8. The Indian Child Welfare Act of 1978 (Pub. L. 95–608) provides, subject to certain specified conditions, that Indian tribes may petition the Secretary of the Interior for reassumption of jurisdiction over Indian child custody proceedings. This notice acknowledges receipt of the petition of Alabama-Coushatta Tribe of Texas for the tribal reassumption of jurisdiction.

Dated: May 10, 2008

Carl J. Artman,

Assistant Secretary—Indian Affairs.

[FR Doc. E8–12682 Filed 6–5–08; 8:45 am]

BILLING CODE 4310–4J–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA–6689–A, AA–6689–B, AA–6689–A2; AK–964–1410–KC–P]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of decision approving lands for conveyance.

SUMMARY: As required by 43 CFR 2650.7(d), notice is hereby given that an appealable decision approving lands for conveyance pursuant to the Alaska Native Claims Settlement Act will be issued to Sanak Corporation. The lands are in the vicinity of Pauloff Harbor, Alaska, and are located in:

Seward Meridian, Alaska

T. 53 S., R. 68 W.,
Secs. 3, 4, 5 and 8;
Secs. 9, 10, 15 and 16;
Sec. 21.
Containing approximately 2,120 acres.

T. 52 S., R. 70 W.,
Secs. 17 to 20, inclusive.
Containing 1,687.72 acres.

T. 52 S., R. 71 W.,
Secs. 9, 10, 15, and 16;
Secs. 21 to 24, inclusive;
Secs. 26 to 32, inclusive.
Containing 5,749.47 acres.

T. 53 S., R. 73 W.,
Secs. 33 and 34.
Containing approximately 952 acres.

T. 66 S., R. 90 W.,
Secs. 9 and 15.
Containing 3.77 acres.
Aggregating approximately 10,513 acres.

The subsurface estate in these lands will be conveyed to The Aleut Corporation when the surface estate is conveyed to Sanak Corporation. Notice of the decision will also be published four times in the Anchorage Daily News.

DATES: The time limits for filing an appeal are:

1. Any party claiming a property interest which is adversely affected by

the decision shall have until July 7, 2008 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

ADDRESSES: A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7504.

FOR FURTHER INFORMATION CONTACT: The Bureau of Land Management by phone at 907–271–5960, or by e-mail at *ak.blm.conveyance@ak.blm.gov.* Persons who use a telecommunication device (TTD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8330, 24 hours a day, seven days a week, to contact the Bureau of Land Management.

Hillary Woods,

Land Law Examiner, Land Transfer Adjudication I.

[FR Doc. E8–12726 Filed 6–5–08; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–079–08–1010–PH]

Notice of Public Meeting, Western Montana Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM), the Western Montana Resource Advisory Council will meet as indicated below.

DATES: The next two regular meetings of the Western Montana RAC will be held September 4, 2008 at the Dillon Field Office, 1005 Selway Drive, Dillon, Montana and November 20, 2008 at the Butte Field Office, 106 North Parkmont, Butte, Montana beginning at 9 a.m. The public comment period for both meetings will begin at 11:30 a.m. and the meetings are expected to adjourn at approximately 3 p.m. A field trip in the Dillon area on September 3 may be offered in conjunction with the regular meeting on September 4.

FOR FURTHER INFORMATION CONTACT: For the Western Montana RAC, contact the Resource Advisory Council Coordinator, at the Butte Field Office, 106 North Parkmont, Butte, Montana 59701, telephone 406–533–7600.

SUPPLEMENTARY INFORMATION: The 15-member Council advises the Secretary of the Interior, through the Bureau of Land Management, on a variety of planning and management issues associated with public land management in western Montana. Topics of discussion at the September 4 meeting will be announced through the local media. Topics for the November 20 meeting will be determined at the September 4 meeting.

All meetings are open to the public. The public may present written comments to the Council. Each formal Council meeting will also have time allocated for hearing public comments. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited. Individuals who plan to attend and need special assistance, such as sign language interpretation, or other reasonable accommodations, should contact the BLM as provided below.

Dated: May 29, 2008.

Richard M. Hotaling,

Field Manager.

[FR Doc. E8–12730 Filed 6–5–08; 8:45 am]

BILLING CODE 4310–$$–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–533]

In the Matter of Certain Rubber Antidegradants, Components Thereof, and Products Containing Same; Remand of Investigation to Presiding Administrative Law Judge; Rescission of Limited Exclusion Order

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to remand the above-captioned investigation to the presiding administrative law judge (''ALJ'') for proceedings consistent with the December 21, 2007 judgment of the U.S. Court of Appeals for the Federal Circuit in *Sinorgchem Co., Shandong* v. *International Trade Commission,* 511 F.3d 1132 (Fed. Cir. 2007). The Commission has also determined to rescind the limited exclusion order previously issued in this investigation.

FOR FURTHER INFORMATION CONTACT: James A. Worth, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–3065. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on March 29, 2005, based on a complaint brought by Flexsys America L.P. (''Flexsys''), alleging a violation of section 337 in the importation, the sale for importation, or the sale after importation of certain rubber antidegradants, components thereof, or products containing same by reason of infringement of claims 30 or 61 of U.S. Patent No. 5,117,063 (''the '063 patent''), or claims 7 or 11 of U.S. Patent No. 5,608,111 (''the '111 patent''), or claims 1, 32, or 40 of U.S. Patent No. 6,140,538 (''the '538 patent''). 70 FR 15,855 (Mar. 29, 2005). The patents teach processes for the production of 4–ADPA and alkylated derivatives of 4–ADPA. One of these alkylated derivatives, 6–PPD, is used to prevent the degradation of rubber.

The complaint named as respondents Sinorgchem Co. (''Sinorgchem'') of Shandong, China, as well as Sovereign Chemical Company (''Sovereign''), Korea Kumho Petrochemical Co., Ltd. (''KKPC''), Vilax Corporation (''Vilax''), and Stolt-Nielson Transportation Group Ltd. (''Stolt-Nielson''). It was alleged that the accused rubber antidegradant products were made using the patented processes. The investigation was terminated with regard to the '538 patent, and with regard to Vilax and Stolt-Nielson.

On February 16, 2006, the ALJ issued his final initial determination (''final ID'' or ''ID''). The ALJ found that Sinorgchem and Sovereign had violated section 337 by infringing the asserted claims of the '063 and '111 patents, but found that KKPC had not. All parties

petitioned for review of various parts of the final ID.

The Commission reviewed the ALJ's final ID in its entirety, and solicited further briefing from the parties on the issues on review, as well as the on the issues of remedy, the public interest, and bonding. 71 FR 20131 (April 19, 2006). On review, the Commission found the asserted claims to be infringed by Sinorgchem and Sovereign, made a determination of violation of section 337 by Sinorgchem and Sovereign, and issued a limited exclusion order. The limited exclusion order bars the unauthorized importation into the United States by Sinorgchem and Sovereign of 4–ADPA, made by a process covered by claim 30 of the '063 patent or claim 7 of the '111 patent, and 6–PPD, made by a process covered by claim 61 of the '063 patent or claim 11 of the '111 patent.

Sinorgchem appealed the Commission's final determination to the U.S. Court of Appeals for the Federal Circuit (''Federal Circuit''). On December 21, 2007, the Federal Circuit issued its judgment vacating and remanding the Commission's final determination for further proceedings consistent with the Court's opinion. *Sinorgchem Co., Shandong* v. *International Trade Commission,* 511 F.3d 1132 (Fed. Cir. 2007). Intervenor Flexsys America L.P. (''Flexsys'') petitioned the Federal Circuit for rehearing and rehearing *en banc.* The Commission supported rehearing. On April 7, 2008, the Federal Circuit denied the petition for rehearing and rehearing *en banc.* The mandate of the Court issued on April 14, 2008.

Upon consideration of this matter, the Commission has determined to rescind the limited exclusion order relating to the importation of rubber antidegradants made by Sinorgchem and Sovereign. The Commission has also determined to remand the investigation to the presiding ALJ for proceedings consistent with *Sinorgchem Co., Shandong* v. *International Trade Commission,* 511 F.3d 1132 (Fed. Cir. 2007), including issuance of a final initial determination on violation and a recommended determination on remedy and bonding.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), the Administrative Procedure Act, and Part 210 of the Commission's Rules of Practice and Procedure (19 CFR Part 210).

By order of the Commission.

Issued: June 3, 2008.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E8–12738 Filed 6–5–08; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that on May 23, 2008, a proposed Consent Decree in *United States* v. *Kaman Aerospace Corporation*, Civil Action No. 08–00794, was lodged with the United States District Court for the District of Connecticut.

In this action, the United States sought recovery of past and future response costs incurred by the United States Navy in connection with the Naval Weapons Industrial Reserve Plant in Bloomfield, Connecticut (''Facility''). The Consent Decree resolves the potential liability of both the United States, which owned the Facility, and Kaman Aerospace Corporation (''Kaman''), a government contractor that operated the Facility, for all response costs incurred or to be incurred in connection with the Facility. In return for transferring the Facility to Kaman, Kaman will complete the remaining environmental remediation of the Facility. In addition, each party releases the other from liability for all response costs.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *Kaman Aerospace Corporation*, D.J. Ref. No. 90–11–2–08604.

The Consent Decree may be examined at the Office of the United States Attorney, 915 Lafayette Blvd., Bridgeport, Connecticut. During the public comment period, the Consent Decree also may be examined on the following Department of Justice Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* A copy of the Consent Decree also may be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $27.75 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

Ronald Gluck,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. E8–12630 Filed 6–5–08; 8:45 am]

BILLING CODE 4410–CW–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0070]

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-Day Notice of Information Collection Under Review: Application for Explosives License or Permit.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until August 5, 2008. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Christopher Reeves, Chief, Federal Explosives Licensing Center, 244 Needy Road, Martinsburg, WV 25405.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including

whether the information will have practical utility;
—Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Enhance the quality, utility, and clarity of the information to be collected; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Revision of a currently approved collection.

(2) *Title of the Form/Collection:* Application for Explosives License or Permit.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: ATF F 5400.13/5400.16. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Business or other for-profit. *Other:* Individual or households. The form has been revised to include the new classes (types) of explosives for manufacturers, dealers, importers and users of explosives. The current type codes are obsolete. ATF will now categorize explosives licenses and permits by only six major classes. The classes are: Manufacturer, Dealer, Importer, User, User-Limited and Type 60. The form will still capture the types of explosives materials being manufactured, imported, acquired and used by explosives licensees and permittees, however, they will no longer be classified by type code.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 10,000 respondents will complete a 1 hour and 30 minute form.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 15,000 annual total burden hours associated with this collection.

If additional information is required contact: Lynn Bryant, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, Department of Justice, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: June 3, 2008.

Lynn Bryant,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. E8–12715 Filed 6–5–08; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms, and Explosives

[OMB Number 1140–0016]

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-Day Notice of Information Collection Under Review: Application for Registration of Firearms Acquired by Certain Governmental Entities.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 73, Number 66, page 18563 on April 4, 2008, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until July 7, 2008. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to The Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202)–395–5806.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:
—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
—Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Enhance the quality, utility, and clarity of the information to be collected; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Application for Registration of Firearms Acquired by Certain Governmental Entities.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: ATF F 10 (5320.10). Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: State, local or tribal Government. *Other:* None. *Abstract:* The form is required to be submitted by State and local government entities wishing to register an abandoned or seized and previously unregistered National Firearms Act weapon. The form is required whenever application for such a registration is made.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There will be an estimated 1,500 respondents, who will complete the form within approximately 30 minutes.

(6) *An estimate of the total burden (in hours) associated with the collection:* There are an estimated 3000 total burden hours associated with this collection.

If additional information is required contact: Lynn Bryant, Department Clearance Officer, United States Department of Justice, Policy and Planning Staff, Justice Management Division, Suite 1600, Patrick Henry Building, 601 D Street, NW., Washington, DC 20530.

Dated: June 3, 3008.

Lynn Bryant,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. E8–12718 Filed 6–5–08; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms, and Explosives

[OMB Number 1140–0021]

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-Day Notice of Information Collection Under Review: Firearms Transaction Record Part II—Intrastate Non-Over-The-Counter.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 73, Number 66, page 18563 April 4, 2008, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until July 7, 2008. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to The Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–5806.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agencies' estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Firearms Transaction Record Part II—Intrastate Non-Over-The-Counter.

(3) Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form Number: ATF F 4473 Part II (5300.9). Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) Affected public who will be asked or required to respond, as well as a brief abstract: *Primary:* Individuals or households. *Other:* Business or other for-profit. *Abstract:* The form is used to determine the eligibility of a person to receive a firearm from a Federal firearms licensee and to establish the identity of the buyer. The form is also used in law enforcement investigations to trace firearms or to confirm criminal activity.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: There will be an estimated 500 respondents, who will complete the form within approximately 20 minutes.

(6) An estimate of the total burden (in hours) associated with the collection: There are an estimated 165 total burden hours associated with this collection.

If additional information is required contact: Lynn Bryant, Department Clearance Officer, United States Department of Justice, Policy and Planning Staff, Justice Management Division, Suite 1600, Patrick Henry Building, 601 D Street NW., Washington, DC 20530.

Dated: June 3, 2008.

Lynn Bryant,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. E8–12719 Filed 6–5–08; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[OMB Number 1117–0023]

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-Day Notice of Information Collection Under Review; Import/Export Declaration for List I and List II Chemicals—DEA Form 486.

The Department of Justice (DOJ), Drug Enforcement Administration (DEA), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted until August 5, 2008. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Mark W. Caverly, Chief, Liaison and Policy Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the 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.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Import/Export Declaration for List I and List II Chemicals.

(3) *Agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number: DEA Form 486.

Component: Office of Diversion Control, Drug Enforcement Administration, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Business or other for-profit.

Other: None.

Abstract: Persons importing, exporting, and conducting international transactions with List I and List II chemicals must notify DEA of those transactions in advance of their occurrence, including information regarding the person(s) to whom the chemical will be transferred and the quantity to be transferred. For importations, persons must also provide return declarations, confirming the date of the importation and transfer, and the amounts of the chemical transferred. This information is used to prevent shipments not intended for legitimate purposes.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* A respondent may submit multiple responses. The below table presents information regarding the number of respondents, responses, and associated burden hours.

	Number of respondents	Number of responses	Average time per response	Total
Form 486 (export)	239	7,995	0.2 hour (12 minutes)	1,599 hours.
Form 486 (Export Return Declaration).	239	7,995	0.08 hour (5 minutes)	666.25 hours.
Form 486 (import)	230	2,398	0.25 hour (15 minutes)	599.5 hours.
Form 486 (import return declaration)*.	230	2,638	0.08 hour (5 minutes)	219.8 hours.
Form 486 (international transaction).	9	111	0.2 hour (12 minutes)	22.2 hours.
Form 486 (international transaction return declaration).	9	111	0.08 hour (5 minutes)	9.25 hours.
Quarterly reports for imports of acetone, 2-butanone, and toluene.	110	440	0.5 hour (30 minutes)	220 hours.
Total	239			3,336

* DEA assumes 10% of all imports will not be transferred in the first thirty days and will necessitate submission of a subsequent return declaration.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 3,336 annual burden hours.

If additional information is required contact: Lynn Bryant, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: June 3, 2008.

Lynn Bryant,

Department Clearance Officer, PRA, U.S. Department of Justice.

[FR Doc. E8–12703 Filed 6–5–08; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Executive Office for Immigration Review

[OMB Number 1125–0004]

Agency Information Collection Activities: Proposed Collection; Comments Request

ACTION: 30-Day Notice of Information Collection Under Review: Alien's Change of Address Form: 33/BIA Board of Immigration Appeals, 33/IC Immigration Court.

The Department of Justice (DOJ), Executive Office for Immigration Review (EOIR) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 73, Number 66, page 18571 on April 4, 2008, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until July 7, 2008. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20530. Additionally, comments may also be submitted to OMB via facsimile to (202) 395–5806. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the 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.

Overview of This Information Collection

(1) *Type of Information Collection:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Alien's Change of Address Form 33/BIA Board of Immigration Appeals, 33/IC Immigration Court.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: Form EOIR 33/BIA, 33/IC. Executive Office for Immigration Review, United States Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* An individual appearing before the Immigration Court or the Board of Immigration Appeals. *Other:* None. *Abstract:* The information on the change of address form is used by the Immigration Courts and the Board of Immigration Appeals to determine where to send notices of the next administrative action or of any decisions in an alien's case.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that 15,000 respondents will complete the form annually with an average of 3 minutes per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 750 total burden hours associated with this collection annually.

If additional information is required, contact: Lynn Bryant, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: June 3, 2008.

Lynn Bryant,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. E8–12704 Filed 6–5–08; 8:45 am]

BILLING CODE 4410–30–P

DEPARTMENT OF JUSTICE

Executive Office for Immigration Review

[OMB Number 1125–0003]

Agency Information Collection Activities: Proposed Collection; Comments Request

ACTION: 30-Day Notice of Information Collection Under Review: Fee Waiver Request.

The Department of Justice (DOJ), Executive Office for Immigration Review (EOIR) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 73, Number 66 page 18570, on April 4, 2008, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until July 7, 2008. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20530. Additionally, comments may also be submitted to OMB via facsimile to (202) 395–5806. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the 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.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Fee Waiver Request.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: Form EOIR 26A. Executive Office for Immigration Review, United States Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* An individual submitting an appeal or motion to the Board of Immigration Appeals. *Other:* None. *Abstract:* The information on the fee waiver request form is used by the Board of Immigration Appeals to determine whether the requisite fee for a motion or appeal will be waived due to an individual's financial situation.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that 1,500 respondents will complete the form annually with an average of one hour per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 1,500 total burden hours associated with this collection annually.

If additional information is required, contact: Lynn Bryant, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: June 3, 2008.

Lynn Bryant,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. E8–12706 Filed 6–5–08; 8:45 am]

BILLING CODE 4410–30–P

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

National Endowment for the Arts; National Council on the Arts 164th Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub.

L. 92–463), as amended, notice is hereby given that a meeting of the National Council on the Arts will be held on June 26–27, 2008 in Rooms 527 and M–09 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting, from 2 p.m.–5 p.m. on June 26th, will be closed for National Medal of Arts review and recommendations. The remainder of the meeting, from 9 a.m. to 11:45 a.m. on June 27th (ending time is approximate), will be open to the public on a space available basis. After opening remarks and announcements, including a tribute to Robert Rauschenberg, there will be an update from the Government Affairs office. The meeting will include a presentation on *The Big Read.* After the presentation the Council will review and vote on applications and guidelines, and the meeting will conclude with a general discussion.

If, in the course of the open session discussion, it becomes necessary for the Council to discuss non-public commercial or financial information of intrinsic value, the Council will go into closed session pursuant to subsection (c)(4) of the Government in the Sunshine Act, 5 U.S.C. 552b. Additionally, discussion concerning purely personal information about individuals, submitted with grant applications, such as personal biographical and salary data or medical information, may be conducted by the Council in closed session in accordance with subsection (c)(6) of 5 U.S.C. 552b.

Any interested persons may attend, as observers, Council discussions and reviews that are open to the public. If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY–TDD 202/682–5429, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from the Office of Communications, National Endowment for the Arts, Washington, DC 20506, at 202/682–5570.

Dated: June 2, 2008.

Kathy Plowitz-Worden,

Panel Coordinator, Office of Guidelines and Panel Operations.

[FR Doc. E8–12666 Filed 6–5–08; 8:45 am]

BILLING CODE 7537–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–331]

FPL Energy Duane Arnold, LLC; Notice of Withdrawal of Application for Amendment to Facility Operating License No. DPR–49

The U.S. Nuclear Regulatory Commission (NRC, the Commission) has granted the request of FPL Energy Duane Arnold, LLC (the licensee) to withdraw its November 14, 2007, application for proposed amendment (Agencywide Documents Access and Management System (ADAMS) Accession No. ML073320232) to Facility Operating License No. DPR–49 for the Duane Arnold Energy Center, located in Linn County.

The proposed amendment would have revised Technical Specification (TS) 5.5.12, ''Primary Containment Leakage Rate Testing Program,'' to allow use of the requirements of American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code (the Code), Section XI, Subsection IWE for visual examination of the steel containment. This license amendment request was consistent with NRC-approved Technical Specification Task Force (TSTF) Traveler number TSTF–343, Revision 1, ''Containment Structural Integrity.''

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on January 28, 2008 (73 FR 5220). However, by letter dated April 23, 2008, ADAMS Accession No. ML081270233, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated November 14, 2007, and the licensee's letter dated April 23, 2008, which withdrew the application for license amendment. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the internet at the NRC Web site, *http://www.nrc.gov/reading-rm.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, or 301–415–4737 or by e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 30th day of May 2008.

For the Nuclear Regulatory Commission.

Karl Feintuch,

Project Manager, Plant Licensing Branch III–1, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. E8–12699 Filed 6–5–08; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Final Regulatory Guide: Issuance, Availability

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Issuance, Availability of Regulatory Guide 1.210.

FOR FURTHER INFORMATION CONTACT: Satish Aggarwal, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–6005 or e-mail to *SKA@nrc.gov.*

SUPPLEMENTARY INFORMATION: The U.S. Nuclear Regulatory Commission (NRC) is issuing the new Regulatory Guide 1.210, ''Qualification of Safety-Related Battery Chargers and Inverters for Nuclear Power Plants.'' The NRC's regulatory guides describe and make available to the public information such as methods that are acceptable to the NRC staff for implementing specific parts of the agency's regulations, techniques that the staff uses in evaluating specific problems or postulated accidents, and data that the staff needs in its review of applications for permits and licenses.

The regulations in Title 10, Part 50, ''Domestic Licensing of Production and Utilization Facilities,'' of the Code of Federal Regulations (10 CFR Part 50) require that structures, systems, and components that are important to safety in a nuclear power plant must be designed to accommodate the effects of environmental conditions (i.e., remain functional under postulated design-basis events (DBEs)). Toward that end, the general requirements appear in General Design Criterion (GDC) 1, ''Quality Standards and Records,'' GDC 2, ''Design Bases for Protection Against Natural Phenomena,'' GDC 4, ''Environmental and Dynamic Effects Design Bases,'' and GDC 23, ''Protection System Failure Modes,'' of Appendix A, ''General Design Criteria for Nuclear Power Plants,'' to 10 CFR Part 50. Augmenting those general requirements, 10 CFR 50.49, ''Environmental Qualification of Electric Equipment Important to Safety for Nuclear Power Plants,'' contains the specific

requirements pertaining to qualification of certain electrical equipment important to safety. In addition, Criterion III, ''Design Control,'' of Appendix B, ''Quality Assurance Criteria for Nuclear Power Plants,'' to 10 CFR Part 50 requires that where a test program is used to verify the adequacy of a specific design feature, it should include suitable qualification testing of a prototype unit under the most severe DBE.

This regulatory guide describes a method that the NRC staff considers acceptable for complying with the regulations for qualification of safety-related battery chargers and inverters for nuclear power plants.

In July 2007, the NRC published a draft of this guide as DG–1148. The public comment period closed on October 2, 2007. The staff's responses to the public comments are located in the NRC's Agencywide Documents Access and Management System (ADAMS) under Accession No. ML080640181.

Electronic copies of Regulatory Guide 1.210 are available through the NRC's public Web site under ''Regulatory Guides'' at *http://www.nrc.gov/reading-rm/doc-collections/*.

In addition, regulatory guides are available for inspection at the NRC's Public Document Room (PDR), which is located at 11555 Rockville Pike, Rockville, MD. The PDR mailing address is USNRC PDR, Washington, DC 20555–0001. The PDR can also be reached by telephone at (301) 415–4737 or (800) 397–4209, by fax at (301) 415–3548, and by e-mail to *PDR@nrc.gov*.

Regulatory guides are not copyrighted, and NRC approval is not required to reproduce them.

Dated at Rockville, Maryland, this 2nd day of June, 2008.

For the Nuclear Regulatory Commission.

Stephen C. O'Connor,

Acting Chief, Regulatory Guide Development Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. E8–12695 Filed 6–5–08; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Notice of Public Meeting for the Partial Site Release of the Off-Shore Piping for San Onofre Generation Station, Unit 1

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of meeting.

SUMMARY: The NRC staff will hold a public meeting to discuss the proposed release for unrestricted use of the off-shore portion of the circulating water system from SONGS Unit 1, and to accept public comments on the proposed action. The proposed release is requested in accordance with NRC regulations at 10 CFR 50.83, Release of Part of a Power Reactor Facility or Site for Unrestricted Use. The public meeting will be held on June 11, 2008, at the Dana Point Marina Inn, 24800 Dana Point Harbor Drive, Dana Point, CA 92629. The meeting will convene at 6 p.m. and will continue until 8 p.m., as necessary. The meeting will include: (1) An overview of the NRC review and inspection processes; (2) a presentation of the proposed action; and (3) the opportunity for interested government agencies, organizations, and individuals to provide comments on the SONGS plan. To be considered, comments must be provided either at the transcribed public meeting or in writing. Persons may pre-register to attend or present oral comments at the meeting by contacting Mr. James Shepherd, the NRC Project Manager at 1–800–368–5642, extension 6712, or by e-mail at *James.Shepherd@nrc.gov* no later than June 9, 2008. Members of the public may also register to provide oral comments within 15 minutes of the start of the meeting. Individual, oral comments may be limited by the time available, depending on the number of persons who register. If special equipment or accommodations are needed to attend or present information at the public meeting, the need should be brought to Mr. Shepherd's attention no later than June 9, 2008, to provide the NRC staff adequate notice to determine whether the request can be accommodated.

FOR FURTHER INFORMATION CONTACT: Mr. James Shepherd, Reactor Decommissioning Branch, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Mail Stop T8 F05, Washington, DC 20555–0001. Mr. Shepherd may be contacted at the aforementioned telephone number or e-mail address.

Dated at Rockville, Maryland, this 29th day of May, 2008.

For the Nuclear Regulatory Commission.

Keith McConnell,

Deputy Director, Decommissioning and Uranium Recovery Licensing Directorate, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs.

[FR Doc. E8–12821 Filed 6–5–08; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos.: 50–295 and 50–304]

Exelon Generation Company, LLC; Zion Nuclear Power Station, Units 1 and 2; Notice of Public Meeting on the Proposed License Transfer and Draft Post Shutdown Decommissioning Activities Report

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of meeting.

FOR FURTHER INFORMATION, CONTACT: Mr. John B. Hickman, Mail Stop T–8F5, Decommissioning and Uranium Recovery Licensing Directorate, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: (301) 415–3017 or via e-mail: *john.hickman@nrc.gov*.

SUMMARY: The NRC is providing notice that the NRC staff will conduct a meeting to discuss and accept public comments on the Zion Nuclear Power Station, Units 1 and 2 (Zion) proposed license transfer and Zion Solutions (ZS) draft Post Shutdown Decommissioning Activities Report (PSDAR) on Wednesday, June 18, 2008, at 7 p.m. in a meeting room at the Illinois Beach Resort and Conference Center, 1 Lake Front Drive, Zion, Illinois (*http://www.ilresorts.com/*).

Zion began commercial operation in December 1973 for Unit 1, and September 1974 for Unit 2. Unit 1 permanently shut down on February 21, 1997, and Unit 2 permanently shut down on September 19, 1996. All fuel was removed from the reactor and placed in the spent fuel pool on April 27, 1997, for Unit 1 and February 25, 1998, for Unit 2. In accordance with 10 CFR 50.82(a)(1)(i), the licensee certified in a letter dated February 13, 1998, that operations have ceased at Zion. In accordance with 10 CFR 50.82(a)(1)(ii), the licensee certified in a letter dated March 9, 1998, that all fuel had been removed from the Zion reactor vessels

and committed to maintain them permanently defueled. The NRC acknowledged the certification of permanent cessation of power operation and permanent removal of fuel from the reactor vessels in a letter dated May 4, 1998. Pursuant to 10 CFR 50.82(a)(2), the 10 CFR 50 facility operating licenses for Zion no longer authorize operation of the reactors or emplacement or retention of fuel in the reactor vessels. Also, pursuant to 10 CFR 50.51(b), ''Continuation of license,'' the facility licenses remain in effect until the NRC notifies the licensee that the licenses have been terminated.

On January 25, 2008, Exelon, the Zion licensee, submitted a request for a license transfer. The proposal is to transfer the licensed ownership, management authorities, and decommissioning trust fund of the facility to ZS a subsidiary of Energy Solutions. ZS was formed for the purpose of decommissioning the Zion site. The title to the site real estate and the spent nuclear fuel will remain with Exelon. ZS will construct and transfer the spent fuel to an ISFSI as part of the decommissioning. Following the decommissioning, currently scheduled for 10 years, the license for the spent fuel will be transferred back to Exelon.

On March 18, 2008, ZS submitted an amended PSDAR for Zion. The PSDAR represents the ZS plan of activities to become effective if the application for license transfer is approved. The PSDAR describes the planned decommissioning activities, provides a schedule for the planned decommissioning activities, includes a cost estimate for the decommissioning, and assesses the environmental impacts.

Further Information

The application for license transfer and the draft PSDAR are available for public viewing at the NRC's Public Document Room (PDR) or electronically through the NRC Agencywide Documents Access and Management System (ADAMS) at accession numbers ML080310521 for the transfer request and ML080840398 for the PSDAR. Documents may be examined, and/or copied for a fee, at the PDR, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Public Electronic Reading Room). Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1–(800) 397–4209, or (301) 415–4737, or by e-mail at *pdr.resource@nrc.gov*.

Dated at Rockville, Maryland, this 2nd day of June 2008.

For the U.S. Nuclear Regulatory Commission.

Andrew Persinko,

Branch Chief, Reactor Decommissioning Branch, Decommissioning and Uranium Recovery Licensing Directorate, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs.

[FR Doc. E8–12696 Filed 6–5–08; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket No. CP2008–7; Order No. 79]

Express Mail International Bilateral/Multilateral Agreements

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: A new law gives the Postal Service considerable pricing flexibility for competitive products. Pursuant to this authority, the Postal Service has filed two notices with the Commission concerning prices for inbound international Express Mail, which is in the competitive category. The Commission has established a consolidated docket for consideration of these pricing decisions. This will allow interested persons an opportunity to comment.

DATES: Comments due June 16, 2008.

ADDRESSES: Submit documents electronically via the Commission's Filing Online system at *http://www.prc.gov.*

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, 202–789–6820 and *stephen.sharfman@prc.gov.*

SUPPLEMENTARY INFORMATION: On May 20, 2008, the Postal Service filed notice, pursuant to 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5, of the Governors' decision establishing prices for competitive products not of general applicability for Inbound Express Mail International (EMS).[1] The Postal Service's filing, docketed as Docket No. CP2008–6, includes supporting material, including the Governors' Decision, filed under seal. In support of this treatment, the Postal Service asserts that prices negotiated under bilateral/multilateral agreements are highly confidential among postal administrations and that their public disclosure would compromise the Postal Service's ability to negotiate agreements with other posts. *Id.* at 1.

Concurrently, the Postal Service filed notice, pursuant to 39 CFR 3015.5, of a specific negotiated service agreement covering Inbound EMS prices.[2] This filing, docketed as Docket No. CP2008–7, includes the contract and supporting materials filed under seal. In support, the Postal Service asserts that its ability to negotiate bilateral or multilateral EMS agreements would be compromised if the underlying prices are publicly disclosed. It also states that public disclosure would compromise foreign posts' ability to negotiate with other posts. *Id.*

The Postal Service filings in these dockets are related. Docket No. CP2008–6 establishes, in essence, a shell classification, while Docket No. CP2008–7 is a specific agreement negotiated pursuant to the conditions of the shell classification.[3] Given this interrelationship, the Commission will consolidate these proceedings for purposes of review.[4]

In Order No. 43, the Commission issued regulations establishing a modern system of rate regulation, including identifying a list of competitive products. PRC Order No. 43, October 29, 2007, paras. 3061, 4013. Among other things, the Commission determined that each negotiated service agreement would initially be classified as a separate product. The Commission also acknowledged, however, the possibility of grouping functionally equivalent agreements as a single product if they exhibit similar cost and market characteristics. *Id.* paras. 2177 and 3001. Thus, the EMS agreement filed in Docket No. CP2008–7, representing the first bilateral/multilateral agreement presented to the Commission, will be classified as a new product.

[1] Notice of United States Postal Service of Governors' Decision on Inbound Prices Under Express Mail International (EMS) Bilateral/Multilateral Agreements, May 20, 2008 (Notice).

[2] Notice of United States Postal Service of Filing an Agreement for Inbound Express Mail International (EMS) Prices, May 20, 2008 (Pricing Notice).

[3] The Postal Service notes that it previously suggested proposed language for inclusion in the draft Mail Classification Schedule (MCS) applicable to Inbound EMS. United States Postal Service Submission of Additional Mail Classification Schedule Information in Response to Order No. 43, November 20, 2007 (November 20 Filing). Its filings entail no changes to the previously proposed language. The draft MCS remains under review. The Commission anticipates providing interested persons an opportunity to comment on the draft MCS in the near future.

[4] All future filings in the consolidated docket shall be made under Docket No. CP2008–7.

As noted above, the Postal Service filed both dockets pursuant to rule 3015.5. Recognizing that the Postal Service's filings in this consolidated proceeding (along with the concomitantly filed notices in Docket Nos. CP2008–4 and CP2008–5) represent the Postal Service's first filings involving competitive rates not of general applicability under section 3632(b)(3) of title 39, the Commission will proceed as if the Inbound EMS agreement also had been filed pursuant to 39 CFR part 3020, subpart B and will review the consolidated dockets pursuant to rule 3020.34.[5]

The Postal Service's filing in Docket No. CP2008–6 is styled as applicable to Inbound EMS. So, too, is the negotiated agreement filed in Docket No. CP2008–7. To that extent, both are consistent with language it proposed for inclusion in the draft MCS in its November 20 Filing. In Order No. 43, the Commission listed inbound and outbound international expedited services as separate products. The Commission has made no determination, however, whether the outbound portion of the agreement in Docket No. CP2008–7 is subject to its review.

Agreements with foreign posts present unique issues that have not yet been fully briefed. In its November 20 Filing, the Postal Service contended that the outbound portion of agreements with foreign posts ''does not properly belong in the MCS'' because the outbound portion reflects a payment by the Postal Service for processing and delivery by foreign posts and not what the Postal Service charges for its services. November 20 Filing at 10.

The Postal Service's filings also raise issues concerning the treatment of confidential information, a broad topic that may require different solutions tailored to the specifics of each case. For instance, agreements with foreign posts may require different treatment than agreements with private entities (corporations, businesses, etc.). Agreements concerning competitive products may require different treatment than agreements concerning market dominant products. A common issue, however, is how individual agreements (contracts) are to be identified in the Mail Classification Schedule. For agreements with foreign posts involving competitive products, the Commission proposes, at a minimum, identifying each international mail agreement by the name(s) of the foreign post(s), the mail product(s) involved, and the agreement's expiration date.

The Commission assumes that the Postal Service has or will have agreements with many if not most foreign posts. Thus, with the potential for many agreements, some compelling justification for keeping the identity of the foreign posts confidential is warranted. To elaborate briefly in this proceeding, the Postal Service contends that the identities of the foreign posts with which it executes bilateral/multilateral agreements should not be disclosed, arguing generally that foreign posts' ability to negotiate with other posts could be compromised by public disclosure. Pricing Notice at 1. Absent more, this rationale would not appear to justify concealing the identity of foreign posts in proceedings before the Commission. The Postal Service should amplify on the rationale for its position, including addressing the putative harm associated with public disclosure.

The Commission has observed that typical international mail agreements are of approximately one year duration (with possible provisions for renewal). Absent justification, there would appear to be no compelling need to keep expiration dates confidential. Thus, in its comments, the Postal Service should also address the issue of including the expiration date of each agreement in the MCS, as well as identifying the product. Comments addressing these points are due no later than June 10, 2008.

Interested persons may comment on issues in this consolidated proceeding, including whether the Postal Service filings are consistent with the policies of sections 3632, 3633, or 3642. Comments are due no later than June 16, 2008.

Pursuant to 39 U.S.C. 505, Paul L. Harrington is appointed to serve as officer of the Commission (Public Representative) to represent the interests of the general public in the above-captioned docket.

It is ordered:

1. The proceedings in Docket Nos. CP2008–6 and CP2008–7 are consolidated. All future filings in the consolidated docket are to be made under Docket No. CP2008–7.

2. As set forth in the body of this order, the Postal Service comments on confidentiality are due no latter than June 10, 2008.

3. Comments on issues in this consolidated proceeding from interested persons are due no later than June 16, 2008.

4. The Commission appoints Paul L. Harrington as Public Representative to represent the interests of the general public in this proceeding.

5. The Secretary shall arrange for publication of this notice and order in the **Federal Register**.

By the Commission.

Steven W. Williams,

Secretary.

[FR Doc. E8–12764 Filed 6–5–08; 8:45 am]

BILLING CODE 7710–FW–P

[5] Filings to change or add rates not of general applicability are properly made under rule 3015.5. Postal Service filings to modify the product lists are properly made under part 3020, subpart B. Filings involving negotiated service agreements implicate both sets of rules until such time that a group of negotiated service agreements are shown to be classified properly as one product. The Commission anticipates that with experience and the adoption of the MCS the review process will proceed relatively quickly.

POSTAL REGULATORY COMMISSION

[Docket No. CP2008–5; Order No. 78]

Global Expedited Package Services Negotiated Service Agreements

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: A new law gives the Postal Service considerable pricing flexibility for competitive products. Pursuant to this authority, the Postal Service has filed two notices with the Commission concerning prices for Global Expedited Package Services (GEPS) contracts, which is in the competitive category. The Commission has established a consolidated docket for consideration of these pricing decisions. This will allow interested persons an opportunity to comment.

DATES: Comments due June 16, 2008.

ADDRESSES: Submit documents electronically via the Commission's Filing Online system at *http://www.prc.gov.*

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, 202–789–6820 and *stephen.sharfman@prc.gov.*

SUPPLEMENTARY INFORMATION: On May 20, 2008, the Postal Service filed two notices, which have been assigned to Docket Nos. CP2008–4 and CP2008–5, announcing prices and classification changes for competitive products not of general applicability. The notice in Docket No. CP2008–4 informs the Commission that ''the Governors have established prices and classifications for competitive products not of general applicability for Global Expedited Package Services (GEPS) contracts.'' [1] The Postal Service attached a revision of the draft Mail Classification Schedule (MCS) (section 2610.2) concerning GEPS

[1] Notice of United States Postal Service of Governors' Decision Establishing Prices and Classifications for Global Expedited Package Services Contracts, May 20, 2008 (Notice).

contracts to the Notice.[2] Docket No. CP2008–4 has been filed pursuant to 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5 and 3020.90. In support of this docket, the Postal Service has also filed materials under seal, including the Governors' decision. The Postal Service claims that ''[c]ontract prices are highly confidential in the business world * * * [and that its] ability * * * to negotiate individual contracts would be severely compromised if prices for these types of agreements were publicly disclosed.'' *Id.* at 1–2.

The notice in Docket No. CP2008–5, announces an individual negotiated service agreement, namely, a specific GEPS contract the Postal Service has entered into with an individual mailer.[3] Docket No. CP2008–5 has been filed pursuant to 39 CFR 3015.5. In support of this docket, the Postal Service has also filed materials, including the contract and supporting materials, under seal. Here the Postal Service asserts that ''[t]he names of customers who enter into respective contracts and the related contract prices are highly confidential business information.'' *Id.* at 1.

The Postal Service's filings in these dockets are related. Docket No. CP2008–4 establishes, in essence, a shell classification, while Docket No. CP2008–5 is a specific agreement negotiated pursuant to the conditions of the shell classification. Given this interrelationship, the Commission will consolidate these proceedings for purposes of review.[4]

In Order No. 43, the Commission issued regulations establishing a modern system of rate regulation, including a list of competitive products. PRC Order No. 43, October 29, 2007, paras. 3061, 4013. Among other things, the Commission determined that each negotiated service agreement would initially be classified as a separate product. The Commission also acknowledged, however, the possibility of grouping functionally equivalent agreements as a single product if they exhibit similar cost and market characteristics. Id. paras. 2177 and 3001. Thus, the specific GEPS agreement filed in Docket No. CP2008–5 will be classified as a new product.

As noted above, the Postal Service filed both dockets pursuant to rule 3015.5.[5] Recognizing that the Postal Service's filings in this consolidated proceeding (along with the concomitantly filed notices in Docket Nos. CP2008–6 and CP2008–7) represent the Postal Service's first filings involving competitive rates not of general applicability under section 3632(b)(3) of title 39, the Commission will proceed as if the GEPS negotiated service agreement also had been filed pursuant to 39 CFR part 3020, subpart B. As a consequence, the Commission will review the consolidated dockets pursuant to rule 3020.34.[6] Because the Commission in its own discretion consolidated Docket Nos. CP2008–4 and CP2008–5 and will review them under rule 3020.34, the Postal Service may, if it wishes to do so, supplement the materials already filed with the Commission.[7]

In addition, the Commission directs the Postal Service to identify and list any contracts currently in existence (and their respective expiration dates) that would no longer qualify as GEPS contracts under the proposed revised Mail Classification Schedule language for section 2610.2 attached to the Notice in Docket No. CP2008–4. The revised language modifies the GEPS eligibility criteria by, among other things, requiring the mailer on an annual basis to mail at least 5,000 pieces (instead of 600 pieces), or pay postage of at least $100,000 (instead of $12,000). The Commission also directs the Postal Service to provide a detailed justification for why it believes that GEPS contracts' expiration dates (without disclosing the identity of the customer) should not be made publicly available. Answers to the Commission's questions and any supplemental materials that the Postal Service plans to provide are due no later than June 10, 2008.

Interested persons may express views and offer comments on whether the planned changes are consistent with the policies of 39 U.S.C. 3632, 3633 or 3642. Comments are due no later than June 16, 2008.

Pursuant to 39 U.S.C. 505, Paul L. Harrington is appointed to serve as officer of the Commission (Public Representative) to represent the interests of the general public in the above-captioned docket.

It is ordered:

1. The proceedings under Docket Nos. CP2008–4 and CP2008–5 are consolidated. All future filings in the consolidated docket are to be made under Docket No. CP2008–5.

2. As set forth in the body of this order, the Postal Service is provided with an opportunity to supplement the materials already filed with the Commission. Any supplemental materials that the Postal Service wishes to provide are due no later than June 10, 2008.

3. Comments on issues in this consolidated proceeding are due no later than June 16, 2008.

4. The Commission appoints Paul L. Harrington as Public Representative to represent the interests of the general public in this proceeding.

5. The Secretary shall arrange for publication of this notice and order in the **Federal Register**.

By the Commission.

Steven W. Williams,

Secretary.

[FR Doc. E8–12767 Filed 6–5–08; 8:45 am]

BILLING CODE 7710–FW–P

[2] The draft MCS remains under review. The Commission anticipates providing interested persons an opportunity to comment on the draft MCS in the near future.

[3] Notice of United States Postal Service of Filing a Global Expedited Package Service Contract (Pricing Notice).

[4] All future filings in the consolidated docket shall be made under Docket No. CP2008–5.

[5] Docket No. CP2008–4 was also filed pursuant to 39 CFR 3020.90.

[6] Filings to change or add rates not of general applicability are properly made under rule 3015.5. Postal Service filings to modify the product lists are properly made under part 3020, subpart B. Filings involving negotiated service agreements implicate both sets of rules until such time that a group of negotiated service agreements are shown to be classified properly as one product. The Commission anticipates that with experience and the adoption of the MCS, the review process will proceed relatively quickly.

[7] The Commission characterizes the Governors' decision and associated materials filed in Docket No. CP2008–4 as material that supports the specific negotiated service agreement filed in Docket No. CP2008–5.

POSTAL REGULATORY COMMISSION

[Docket No. MC2008–4; Order No. 80]

Premium Forwarding Service

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: This document announces a formal docket to consider transferring the classification of Premium Forwarding Service from the market dominant products list to the competitive products list. It solicits comments to assist in this task.

DATES: Comments due June 16, 2008.

ADDRESSES: Submit documents electronically via the Commission's Filing Online system at *http://www.prc.gov.*

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, 202–789–6820 and *stephen.sharfman@prc.gov.*

SUPPLEMENTARY INFORMATION: On May 30, 2008, the Postal Service filed a request to modify the Mail Classification Schedule transferring Premium

Forwarding Service (PFS), which is currently classified as a market dominant product and part of the Special Services class, to the competitive products list.[1] The Request is made pursuant to 39 U.S.C. 3642 and 39 CFR 3020.30 et. seq. and includes two attachments.[2] Rule 3020.30 allows the Postal Service to request the transfer of a product from the market dominant products list to the competitive products list. The Postal Service must provide detailed support and justification for such a request. 39 CFR 3020.31 and 3020.32. The Commission reviews the Request and the comments of interested parties under § 3020.34.

PFS provides residential postal customers with a forwarding service for their mail when they are away from their primary residences. Most mail from a customer's permanent address is forwarded once a week via Priority Mail to the customer's temporary address.[3] The customer is charged a $10 enrollment fee and a weekly fee of $11.95.[4] PFS is used by postal customers with multiple residences, or those on extended travel for business, or personal reasons, and recreational vehicle owners.

The Postal Service supports its Request with a Statement of Supporting Justification from Maura Robinson, Pricing Systems and Analysis Manager, at the Postal Service. The Postal Service explains that no Governors' Decision was required in this case since no change in classification or price is proposed, but merely a transfer of a product from one product list to another. Request at 1. The Postal Service also asserts that PFS will ''meet the statutory cost coverage requirements'' applicable to competitive products under 39 U.S.C. 3633. Attachment B at 1–2. The Postal Service further asserts that because private alternative options to PFS are available in the form of commercial mail forwarding services or informal agreements with friends that PFS properly belongs in the competitive product category. *Id.* at 3–4. The Postal Service also contends with regard to PFS that it does not have the ''ability to set prices substantially above costs, raise prices significantly, decrease quality, or decrease output, without losing a significant level of business.'' *Id.* at 3. The Postal Service asserts the position that the ''[t]ransfer of PFS to the competitive product list will ensure that its revenues are appropriately classified, since * * * PFS is provided within a competitive market.'' *Id.* at 5.

Pursuant to § 3020.33, the Commission provides interested persons an opportunity to express views and offer comments on whether the planned transfer is consistent with the policies of 39 U.S.C. 3633 and 3642. Comments are due no later than June 16, 2008.

Pursuant to 39 U.S.C. 505, Kenneth E. Richardson is appointed to serve as officer of the Commission (Public Representative) to represent the interests of the general public in the above-captioned docket.

It is Ordered:

1. Docket No. MC2008–4 is established to consider the Postal Service Request referred to in the body of this order.

2. Comments are due no later than June 16, 2008.

3. The Commission appoints Kenneth E. Richardson as Public Representative to represent the interests of the general public in this proceeding.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Steven W. Williams,

Secretary.

[FR Doc. E8–12763 Filed 6–5–08; 8:45 am]

BILLING CODE 7710–FW–P

[1] Request of United States Postal Service, May 30, 2008 (Request).

[2] Attachment A illustrates the proposed changes to the Mail Classification Schedule. Attachment B is a Statement of Supporting Justification by Maura Robinson, Manager, Pricing Systems and Analysis for the Postal Service.

[3] Mail that will be rerouted separately includes mail requiring a scan, signature, or additional postage at delivery. Express Mail articles are rerouted immediately. Priority Mail articles are rerouted separately unless shipping them in the PFS package would not delay their delivery. First-Class Mail packages that do not fit in the weekly PFS shipment will be rerouted separately. Standard Mail pieces will only be included in the PFS package if they can be accommodated in the PFS package after letters, flats or large envelopes, and magazines have been included. Otherwise, Standard Mail pieces will be shipped postage due. Parcel Post, Bound Printed Matter, Media Mail, and Library Mail pieces will not be included in the PFS package, but will be shipped postage due.

[4] PFS is available for a minimum of two weeks and maximum of 52 weeks. Payment for the entire period of service is due with the application.

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon written request, copies available from: U.S. Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension: Rule 15c2–11; OMB Control No. 3235–0202; SEC File No. 270–196.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget a request for approval of extension of the existing collection of information provided for in the following rule: Rule 15c2–11 (17 CFR 240.15c2–11).

On September 13, 1971, effective December 13, 1971 (see 36 FR 18641, September 18, 1971), the Commission adopted Rule 15c2–11 (''Rule 15c2–11'' or ''Rule'') under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) to regulate the initiation or resumption of quotations in a quotation medium by a broker-dealer for over-the-counter (''OTC'') securities. The Rule was designed primarily to prevent certain manipulative and fraudulent trading schemes that had arisen in connection with the distribution and trading of unregistered securities issued by shell companies or other companies having outstanding but infrequently traded securities. Subject to certain exceptions, the Rule prohibits brokers-dealers from publishing a quotation for a security, or submitting a quotation for publication, in a quotation medium unless they have reviewed specified information concerning the security and the issuer.

Based on information provided by Financial Industry Regulatory Authority, Inc. (''FINRA''), in the 2006 calendar year, FINRA received approximately 970 applications from broker-dealers to initiate or resume publication of covered OTC securities in the OTC Bulletin Board and/or the Pink Sheets or other quotation mediums. We estimate that (i) 80% of the covered OTC securities were issued by reporting issuers, while the other 20% were issued by non-reporting issuers, and (ii) it will take a broker-dealer about 4 hours to review, record and retain the information pertaining to a reporting issuer, and about 8 hours to review, record and retain the information pertaining to a non-reporting issuer.

We therefore estimate that broker-dealers who initiate or resume publication of quotations for covered OTC securities of reporting issuers will require 3,104 hours ($970 \times 80\% \times 4$) to review, record and retain the information required by the Rule. We estimate that broker-dealers who initiate or resume publication of quotations for covered OTC securities of non-reporting issuers will require 1,552 hours ($970 \times 20\% \times 8$) to review, record and retain the information required by the Rule. Thus, we estimate the total annual burden hours for broker-dealers to initiate or resume publication of quotations of covered OTC securities to

be 4,656 hours (3,104 + 1,552). The Commission believes that these 4,656 hours would be borne by staff working at a rate of $40 per hour.[1]

Subject to certain exceptions, the Rule prohibits brokers-dealers from publishing a quotation for a security, or submitting a quotation for publication, in a quotation medium unless they have reviewed specified information concerning the security and the issuer. The broker-dealer must also make the information reasonably available upon request to any person expressing an interest in a proposed transaction in the security with such broker or dealer. The collection of information that is submitted to FINRA for review and approval is currently not available to the public from FINRA.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Comments should be directed to (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or by sending an e-mail to: *Alexander_T._Hunt@omb.eop.gov*; and (ii) R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, c/o Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312 or send an e-mail to: *PRA_Mailbox@sec.gov*. Comments must be submitted within 30 days of this notice.

Dated: May 28, 2008.

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–12628 Filed 6–5–08; 8:45 am]

BILLING CODE 8010–01–P

[1] See Appendix C, SIFMA Office Salaries Data—Sept. 2007 for General Clerk national hourly rate.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57900; File No. SR–BSE–2008–32]

Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change Relating to the Liquidity Make or Take Pricing Structure Linkage Fees Portion of the Fee Schedule for Exchange Services

June 2, 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 29, 2008, the Boston Stock Exchange, Inc. (''BSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''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 simultaneously granting accelerated approval of the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to amend the Liquidity Make or Take Pricing Structure (''Make or Take Pricing'')—Intermarket Linkage Transaction fees (''Linkage Fees'') portion of the Fee Schedule[3] of the Boston Options Exchange (''BOX'') to modify the Linkage Fees associated with the Make or Take Pricing.[4] The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and *http://www.bostonoptions.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III 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

The purpose of this filing is to amend Section 7(c) of the BOX Fee Schedule in order to revise the Liquidity Make or Take Pricing—Linkage Fees portion of the BOX Fee Schedule, so as to conform with fee changes the Exchange recently proposed for Liquidity Make or Take Pricing within certain liquid Penny Pilot Program classes.[5]

Executions on BOX resulting from orders sent via the Intermarket Linkage System (''Linkage Orders'') are subject to the same billing treatment as other broker-dealer orders. On September 6, 2007, the Exchange introduced the Liquidity Make or Take Pricing for all classes contained in the Penny Pilot Program.[6] Since Linkage Orders that are sent to and executed on BOX take liquidity, such orders are assessed a $0.45 per contract fee for executed transactions in issues participating in the Penny Pilot Program.[7]

On May 28, 2008, the Exchange filed a rule proposal with the Commission that reduces the fees and credits that it charges and applies to transactions in the iShares Russell 2000® Index Fund (''IWM''), Powershares® QQQ Trust Series 1 (''QQQQ'') and the Standard & Poor's Depositary Receipts® (''SPY'') (''Tier 2 Classes'') by fifteen cents ($0.15).[8] In conjunction with the reduction of these fees and credits for Tier 2 Classes, the Exchange is now proposing to make the applicable fee for Linkage Orders the same as those for classes included in the Liquidity Make or Take Pricing. Specifically, the Exchange proposes to change the fee schedule to state that: ''[t]he charge for inbound Linkage Orders in instruments which are contained in the Liquidity Make or Take pricing structure will be the applicable 'take' fee for classes included in the Liquidity Make or Take pricing structure.'' Consequently, the Exchange is proposing to reduce the fees that it charges for Linkage Orders in Tier 2 Classes by fifteen cents ($0.15) to thirty cents ($0.30). The Linkage Fee of forty-five cents ($0.45) will remain the same for Tier 1 classes.[9] The Exchange

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The BOX Fee Schedule can be found on the BOX Web site at *http://www.bostonoptions.com.*

[4] Capitalized terms not otherwise defined herein shall have the meanings set forth in the BOX Rules.

[5] *See* Securities Exchange Act Release No. 57887 (May 30, 2008) (SR–BSE–2008–31) (proposing reduced fees and credits for certain liquid Penny Pilot Program classes).

[6] Securities Exchange Act Release No. 56371 (September 7, 2007), 72 FR 52401 (September 13, 2007) (SR–BSE–2007–43). The Exchange may trade options contracts in one-cent increments in certain approved issues as part of the Penny Pilot Program through March 27, 2009. *See* Securities Exchange Act Release No. 56566 (September 27, 2007), 72 FR 56400 (October 3, 2007) (SR–BSE–2007–40).

[7] *See* Securities Exchange Act Release No. 56371 (September 7, 2007), 72 FR 52401 (September 13, 2007) (SR–BSE–2007–43). ''Linkage Orders that are not executed upon receipt are rejected back to the sender and are never posted in the BOX Book. Therefore, a Linkage Order would never be eligible to receive a credit of the Transaction Fee.'' *Id.*

[8] *See* note 5, *supra.* Fee changes made pursuant to the proposal, which was effective upon filing, are reflected in the Fee Schedule attached to SR–BSE–2008–31 as Exhibit 5.

[9] Tier 1 pricing applies to all classes that currently participate in the Penny Pilot, other than the Tier 2 Classes.

is proposing to amend the BOX Fee Schedule, effective June 2, 2008, pending Commission approval.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,[10] in general, and Section 6(b)(4) of the Act,[11] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities for the purpose of executing Linkage Orders that are routed to the Exchange from other market centers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change 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–BSE–2008–32 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–BSE–2008–32. 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–BSE–2008–32 and should be submitted on or before June 27, 2008.

IV. Commission's Findings and Order Granting Accelerated Approval of 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[12] and, in particular, with the requirements of Section 6(b) of the Act.[13] In particular, the Commission finds that the Exchange's proposal is consistent with Section 6(b)(4) of the Act,[14] which requires that the rules of the Exchange provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities. The Commission notes that this proposal conforms Linkages Fees with those fees charged on other broker-dealer executions.

The Exchange requests that the Commission approve the proposed rule change on an accelerated basis pursuant to Section 19(b)(2) of the Act.[15] The Commission finds good cause, pursuant to Section 19(b)(2)(B) of the Act,[16] for approving the proposed rule change prior to the 30th day after the date of publication of the notice of the filing thereof in the **Federal Register**. An accelerated approval will allow the Exchange to immediately implement a lower fee for market participants executing certain Linkage Orders on the Exchange.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act[17] that the proposed rule change (SR–BSE–2008–32), is hereby approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–12688 Filed 6–5–08; 8:45 am]

BILLING CODE 8010–01–P

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(4).

[12] In approving this rule, the Commission notes that it has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[13] 15. U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(4).

[15] 15 U.S.C. 78s(b)(2).

[16] 15 U.S.C. 78s(b)(2)(B).

[17] 15 U.S.C. 78s(b)(2).

[18] 15 U.S.C. 78s(b)(2)(B).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57884; File No. SR–CHX–2008–07]

Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change to Trade Shares of 12 Funds of the ProShares Trust Pursuant to Unlisted Trading Privileges

May 30, 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 15, 2008, the Chicago Stock Exchange, Inc. (''CHX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the Exchange. This order provides notice of the proposed rule change and approves the proposal on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to trade shares (''Shares'') of the following 12 funds of the ProShares Trust (f/k/a xtraShares Trust) (''Trust'') pursuant to unlisted trading privileges (''UTP''): (1) Ultra S&P 500 ProShares (f/k/a Ultra 500 Fund); (2) Ultra QQQ ProShares (f/k/a Ultra 100 Fund); (3) Ultra Dow 30 ProShares (f/k/a Ultra 30 Fund); (4) Ultra Mid-Cap 400 ProShares (f/k/a Ultra Mid-Cap 400 Fund); (5) Short S&P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

500 ProShares (f/k/a Short 500 Fund); (6) Short QQQ ProShares (f/k/a Short 100 Fund); (7) Short Dow 30 ProShares (f/k/a Short 30 Fund); (8) Short Mid-Cap 400 ProShares (f/k/a Short Mid-Cap 400 Fund); (9) UltraShort S&P 500 ProShares (f/k/a Ultra Short 500 Fund); (10) UltraShort QQQ ProShares (f/k/a Ultra Short 100 Fund); (11) UltraShort Dow 30 ProShares (f/k/a Ultra Short 30 Fund); and (12) UltraShort Mid-Cap 400 ProShares (Ultra Short Mid-Cap 400 Fund) (collectively, ''Funds''). The text of this proposed rule change is available on the Exchange's Web site at *http://www.chx.com/content/Participant_Information/Rules_Filings.html*, at the Exchange's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III 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

The Exchange proposes to trade pursuant to UTP the Shares of the Funds, which are ''investment company units'' under CHX Article 22, Rule 24 (''Rule 24''). [3]The Shares seek to provide investment results that exceed the daily performance of a specified stock index by a specified percentage, or that seek to provide investment results that correspond to the inverse or opposite of the index's daily performance or twice the inverse or opposite (−200%) of the index's daily performance. The Commission previously approved the original listing and trading of the Shares of the 12 Funds on the American Stock Exchange LLC (''Amex'').[4] In addition, the Funds are currently trading pursuant to UTP on NYSE Arca, Inc.[5]

Four of the Funds—the Ultra S&P 500 ProShares, Ultra QQQ ProShares, Ultra Dow 30 ProShares, and Ultra Mid-Cap 400 ProShares (''Bullish Funds'')—seek daily investment results, before fees and expenses, that correspond to twice (200%) the daily performance of the Standard & Poor's 500® Index (''S&P 500''), the Nasdaq-100® Index (''Nasdaq 100''), the Dow Jones Industrial Average℠ (''DJIA''), and the S&P MidCap400™ Index (''S&P MidCap''), respectively. Each such index is referred to herein individually as an ''Underlying Index'' or ''Index'' and collectively as ''Underlying Indexes.'' [6] Any such Fund, if successful in meeting its objective, should gain, on a percentage basis, approximately twice as much as the Fund's Underlying Index when the prices of the securities in such Index increase on a given day, and should lose approximately twice as much when such prices decline on a given day.

In addition, four Funds-the Short S&P 500 ProShares, Short QQQ ProShares, Short Dow 30 ProShares, and Short Mid-Cap 400 ProShares (''Initial Bearish Funds'')—seek daily investment results, before fees and expenses, which correspond to the inverse or opposite of the daily performance (−100%) of the S&P 500, Nasdaq 100, DJIA, and S&P MidCap, respectively. If one such Fund is successful in meeting its objective, the net asset value (''NAV'') of shares of the Fund should increase approximately as much, on a percentage basis, as the respective Underlying Index decreases when the prices of the securities in the Index decline on a given day; or should decrease approximately as much, on a percentage basis, as the respective Index gains when the prices of the securities in the index rise on a given day.

The remaining four Funds—the UltraShort S&P 500 ProShares, UltraShort QQQ ProShares, UltraShort Dow 30 ProShares, and UltraShort Mid-Cap 400 ProShares (the ''Additional Bearish Funds'')—seek daily investment results, before fees and expenses, that correspond to twice (or two times) the inverse or opposite (−200%) of the daily performance of the S&P 500, Nasdaq 100, DJIA, and S&P MidCap, respectively. If one such Fund is successful in meeting its objective, the NAV of the Shares of the Fund should increase approximately twice as much, on a percentage basis, as the respective Underlying Index loses when the prices of the securities in the Index decline on a given day; or should decrease approximately twice as much as the respective Underlying Index gains when the prices of the securities in the Index rise on a given day. The ''Initial Bearish Funds'' and the ''Additional Bearish Funds'' are referred to herein collectively as ''Bearish Funds.''

Each Share represents a beneficial ownership interest in the net assets of the corresponding Fund, less expenses. Each Bullish Fund generally will hold at least 80% of its assets in the component equity securities of the relevant Underlying Index (''Equity Securities''). The remainder of assets will be devoted to Financial Instruments (as defined below) that are intended to create the additional needed exposure to such Underlying Index necessary to pursue the Fund's investment objective. A Bearish Fund will not invest directly in the component securities of the relevant Underlying Index, but instead, will create short exposure to such Index. At least 80% of the value of the portfolio of each Bearish Fund will be devoted to Financial Instruments (defined below), debt instruments, and money market instruments, including U.S. government securities and repurchase agreements (''Money Market Instruments''). The financial instruments to be held by any of the Bullish or Bearish Funds may include stock index futures contracts; options on futures contracts; options on securities and indices; equity caps, collars, and floors; swap agreements; forward contracts; repurchase agreements and reverse repurchase agreements (''Financial Instruments'');

[3] CHX Rule 24(A)(1)(a) allows the listing and trading of investment company units issued by a registered investment company that holds securities comprising, or otherwise based on or representing an interest in, an index of portfolio or securities. The Exchange represents that the Shares qualify under CHX Rule 24 because they are being registered under the Investment Company Act of 1940 (''1940 Act'') and are ''otherwise based on'' an index.

[4] *See* Securities Exchange Act Release No. 52553 (October 3, 2005), 70 FR 59100 (October 11, 2005) (SR–Amex–2004–62) (''Amex Order I'') (approving the listing and trading on Amex of the following eight Funds: Ultra 500 Fund, Ultra 100 Fund, Ultra 30 Fund, Ultra Mid-Cap 400 Fund, Short 500 Fund, Short 100 Fund, Short 30 Fund, and Short Mid-Cap 400 Fund); Securities Exchange Act Release No. 52197 (August 2, 2005), 70 FR 46228 (August 9, 2005) (SR–Amex–2004–62) (''Amex Notice''). *See also* Securities Exchange Act Release No. 54040 (June 23, 2006) (SR–Amex–2006–41) (''Amex Order II'', together with Amex Order I and Amex Notice, ''Amex Releases'') (approving the listing and trading on Amex of the following four funds: Ultra Short 500 Fund, Ultra Short 100 Fund, Ultra Short 30 Fund, and Ultra Short Mid-Cap 400 Fund).

[5] *See* Securities Exchange Act Release No. 54026 (June 21, 2006), 71 FR 36850 (June 28, 2006) (SR–PCX–2005–115) (order approving the trading pursuant to UTP of the Ultra 500 Fund, Ultra 100 Fund, Ultra 30 Fund, Ultra Mid-Cap 400 Fund, Short 500 Fund, Short 100 Fund, Short 30 Fund, and Short Mid-Cap 400 Fund); Securities Exchange Act Release No. 54045 (June 26, 2006), 71 FR 37971 (July 3, 2006) (SR–PCX–2005–115) (order approving the trading of the Ultra Short 500 Fund, Ultra Short 100 Fund, Ultra Short 30 Fund, and Ultra Short Mid-Cap 400 Fund).

[6] Exchange-traded funds based on the Underlying Indexes are traded on several exchanges, including the CHX. The Statement of Additional Information (''SAI'') of each Fund discloses that such Fund reserves the right to substitute a different Underlying Index under certain circumstances.

and Money Market Instruments. ProShare Advisors LLC is the investment adviser (''Advisor'') to each Fund.

(a) *The Shares.* A description of the Trust, the operation of the Funds, and the creation and redemption process for the Shares is set forth in the Amex Releases. To summarize, issuances of Shares will be made only in aggregations of at least 75,000 Shares or multiples thereof (''Creation Units''). Each Fund will issue and redeem the Creation Units on a continuous basis, by or through participants that have entered into participant agreements (each, an ''Authorized Participant'') with the distributor.

The NAV per Share of each Fund is computed by dividing the value of the net assets of such Fund (*i.e.*, the value of its total assets less total liabilities) by its total number of Shares outstanding. The NAV of each Fund is calculated by the accounting agent for the Fund and determined each business day at the close of regular trading of the New York Stock Exchange (ordinarily 4 p.m. Eastern Time (''ET'')).

(b) *Dissemination of Information About the Shares and the Underlying Indexes.* The Trust's or Advisor's Web site, which is and will be publicly accessible at no charge (and to which the Exchange will provide a hyperlink on its Web site), will contain the following information for each Fund's Shares: (1) The prior business day's closing NAV, the reported closing price, and a calculation of the premium or discount of such price in relation to the closing NAV; (2) data for a period covering at least the four previous calendar quarters (or the life of a Fund, if shorter) indicating how frequently each Fund's Shares traded at a premium or discount to NAV based on the reported closing price and NAV, and the magnitude of such premiums and discounts; (3) its prospectus and Product Description; and (4) other quantitative information such as daily trading volume.

Amex represented that it will disseminate for each Fund on a daily basis by means of Consolidated Tape Association (''CTA'') and CQ High Speed Lines information with respect to an Indicative Intra-Day Value (''IIV'') (discussed below), recent NAV, shares outstanding, estimated cash amount, and total cash amount per Creation Unit. Quotations for and last-sale information regarding the Shares are disseminated through the facilities of the Consolidated Tape Association and Consolidated Quotation System. Amex also represented that it will make available on its Web site (*http://www.amex.com*) daily trading volume, closing price, the NAV, and final dividend amounts, if any, to be paid for each Fund. The closing prices of the Shares are readily available from exchanges, automated quotation systems, published or other public sources, or on-line information services such as Bloomberg or Reuters.

Each Fund's total portfolio composition will be disclosed on the Web site of the trust (*http://www.profunds.com*). The Trust expects that Web site disclosure of portfolio holdings will be made daily and will include, as applicable, the names and number of shares held of each specific Equity Security, the specific types of Financial Instruments and characteristics of such instruments, cash equivalents, and amount of cash held in the portfolio of each Fund.[7]

The daily closing index value and the percentage change in the daily closing index value for each Underlying Index will be publicly available on various Web sites (*e.g., http://www.bloomberg.com*).[8] The value of each Underlying Index will be updated intra-day on a real time basis as its individual component securities change in price. These intra-day values of each Underlying Index will be disseminated every 15 seconds throughout the trading day by the Amex or another organization authorized by the relevant Underlying Index provider.

To provide updated information relating to each Fund, Amex will disseminate through the facilities of the CTA from 9:30 a.m. ET to 4:15 p.m. ET: (1) Continuously, the market value of a Share; and (2) every 15 seconds, a calculation of the IIV as calculated by a third-party calculator. Comparing these two figures helps an investor to determine whether, and to what extent, the Shares may be selling at a premium or a discount to NAV. The IIV is designed to provide investors with a reference value that can be used in connection with other related market information. The IIV may not reflect the value of all securities included in the Underlying Index or the precise composition of the current portfolio of securities held by each Fund at a particular point in time. Therefore, the IIV should not be viewed as a real-time update of the NAV of a particular Fund, which is calculated only once a day.

(c) *UTP Trading Criteria.* The Exchange represents that it would immediately halt trading the Shares during the listing market's trading hours if: (1) The listing market stops trading the Shares because of a regulatory halt similar to a halt based on CHX Article 20, Rule 2 or a halt because the IIV or the value of the applicable Underlying Index is no longer widely disseminated; (2) the listing market delists the Shares; or (3) in the situations described in ''Trading Rules'' below. Additionally, the Exchange may cease trading the Shares if such other event shall occur or condition exists which in the opinion of the Exchange makes further dealings on the Exchange inadvisable.

The Exchange also represents that it would immediately halt trading the Shares of a Fund upon notification by the listing market that the NAV is not being disseminated to all market participants at the same time. The Exchange would resume trading only when trading in the Shares resumes on the listing market.

(d) *Other Trading Rules.* The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. Shares will trade on CHX during both its regular trading session (from 8:30 a.m. to 3 p.m. (Central Time (''CT'')) and during its late trading session (from 3 p.m. to 4 p.m. CT), even if the IIV is not disseminated from 3:14 to 4 p.m. CT.[9] The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions.

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of a Fund. Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which

[7] The same portfolio information (including accrued expenses and dividends) will be provided on the public Web site as well as in the IIV File and PCF File provided to Authorized Participants. The format of the public Web site disclosure and the IIV and PCF Files will differ because the public Web site will list all portfolio holdings, whereas the IIV and PCF Files provide the portfolio holdings in a different format appropriate for Authorized Participants, *i.e.,* the exact components of a Creation Unit.

[8] Data regarding each Underlying Index are also available from the respective index provider to subscribers. Several independent data vendors also package and disseminate index data in various value-added formats (including vendors displaying both securities and index levels and vendors displaying index levels only).

[9] Because NSCC does not disseminate the new basket amount to market participants until approximately 6 p.m. to 7 p.m. ET, an updated IIV is not possible to calculate during the Exchange's late trading session. Currently the official index sponsors for the Funds' indexes do not calculate updated index values during the Exchange's late trading session; however, if the index sponsors did so in the future, the Exchange would not trade this product unless such official index value is widely disseminated.

trading is not occurring in the securities comprising an Underlying Index and/or the Financial Instruments of a Fund, or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. In addition, trading in Shares will be subject to trading halts caused by extraordinary market volatility pursuant to the Exchange's ''circuit breaker'' rule or by the halt or suspension of trading of the underlying securities.

Shares will be deemed ''NMS stocks'' and therefore will be subject to, among other things, Rule 611 of Regulation NMS under the Act (''Order Protection Rule'').

(e) *Surveillance.* The Exchange intends to utilize its existing surveillance procedures applicable to Investment Company Units to monitor trading in the Shares. The Exchange represents that these procedures are adequate to monitor Exchange trading of the Shares and to deter and detect violations of Exchange rules.

The Exchange's current trading surveillance focuses on detecting securities trading on the Exchange outside their normal patterns. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations

(f) *Information Bulletin.* Prior to the commencement of trading, the Exchange will inform its Participants in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Specifically, the Information Bulletin will discuss the following: (1) The procedures for purchases and redemptions of Shares in Creation Unit Aggregations (and that Shares are not individually redeemable); (2) CHX Rules 11 and 16, which impose a suitability obligation and a duty of due diligence on Participants to learn the essential facts relating to every customer prior to trading the Shares; (3) how information regarding the IIV is disseminated; (4) the requirement that Participants deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (5) trading information.

The Information Bulletin also will advise Participants, prior to the commencement of trading, of the prospectus delivery requirements applicable to the Funds.[10] The Exchange notes that investors purchasing Shares directly from the Trust will receive a prospectus. Participants purchasing Shares from the Trust for resale to investors will deliver a prospectus to such investors. The Information Bulletin will also discuss any relief, if granted, by the Commission or the staff from any rules under the Act. In addition, the Information Bulletin will reference that the Trust is subject to various fees and expenses described in the Registration Statement. The Information Bulletin will also disclose that the NAV for the Shares will be calculated shortly after 4 p.m. ET each trading day.

2. Statutory Basis

The CHX believes the proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b).[11] The proposed rule change is consistent with Section 6(b)(5) of the Act because it would promote just and equitable principles of trade; remove impediments to, and perfect the mechanism of, a free and open market and a national market system; and, in general, protect investors and the public interest by allowing CHX participants to trade these products.

In addition, the Exchange believes that the proposal is consistent with Rule 12f–5 under the Act[12] because it deems the Shares to be equity securities, thus rendering the Shares subject to the Exchange's existing rules governing the trading of equity securities.

B. Self-Regulatory Organization's Statement of Burden on Competition

The Exchange does not believe that the proposed rule changes will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments Regarding the Proposed Rule Changes Received From Members, Participants or Others

No written comments were either solicited or 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–CHX–2008–07 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549.

All submissions should refer to File Number SR–CHX–2008–07. 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 CHX. 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–CHX–2008–07 and should be submitted on or before June 27, 2008.

[10] The Commission issued an exemptive order pursuant to, among other things, Section 24(d) of the 1940 Act that permits dealers to sell Shares in the secondary market unaccompanied by a statutory prospectus when prospectus delivery is not required by the Securities Act of 1933. *See* ProShares Trust, *et al.,* Investment Company Act Release Nos. 27323 (May 18, 2006) (notice) and 27394 (June 13, 2006) (order), as subsequently amended by ProShares Trust, *et al.,* Investment Company Act Release Nos. 27609 (December 22, 2006) (notice) and 27666 (January 18, 2007) (order). Under the orders, certain investors will receive a product description (''Product Description'') describing the Trust, the Funds, and the Shares. This Product Description will contain information about the Shares that is tailored to meet the needs of investors purchasing the Shares in the secondary market.

[11] 15 U.S.C. 78(f)(b).

[12] 17 CFR 240.12f–5.

IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

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.[13] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[14] which requires that an exchange have rules designed, among other things, 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 believes that this proposal should benefit investors by increasing competition among markets that trade the Shares.

In addition, the Commission finds that the proposal is consistent with Section 12(f) of the Act,[15] which permits an exchange to trade, pursuant to UTP, a security that is listed and registered on another exchange.[16] The Commission notes that it previously approved the listing and trading of the Shares on Amex.[17] The Commission also finds that the proposal is consistent with Rule 12f–5 under the Act,[18] which provides that an exchange shall not extend UTP to a security unless the exchange has in effect a rule or rules providing for transactions in the class or type of security to which the exchange extends UTP. The Exchange has represented that it meets this requirement because it deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities.

The Commission further believes that the proposal is consistent with Section 11A(a)(1)(C)(iii) of the Act,[19] which sets forth Congress' finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities. Quotations for and last-sale information regarding the Shares are disseminated through the facilities of the CTA and the Consolidated Quotation System. Furthermore, the IIV, updated to reflect changes in currency exchange rates, will be calculated by Amex and publicly disseminated on a 15-second delayed basis from 8:30 a.m. to 3:14 p.m. CT. As mentioned above, Amex's Web site provides various information about the value of the Shares, such as the prior business day's closing NAV, the reported closing price, and the daily trading volume.

The Commission also believes that the Exchange's trading halt procedures are reasonably designed to prevent trading in the Shares when transparency is impaired. CHX has represented that if the listing market halts trading when the IIV is not being calculated or disseminated, the Exchange would halt trading in the Shares until trading resumes on the listing market.

The Commission notes that, if the Shares should be delisted by the listing exchange, the Exchange would no longer have authority to trade the Shares pursuant to this order.

In support of this proposal, the Exchange has made the following representations:

1. The Exchange's surveillance procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules.

2. Prior to the commencement of trading, the Exchange would inform its Participants in an Information Bulletin of the special characteristics and risks associated with trading the Shares.

3. Prior to the commencement of trading, the Exchange would inform its Participants in an Information Bulletin of the requirement that Participants deliver a prospectus or Product Description to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction.

This approval order is based on the Exchange's representations.

The Commission finds good cause for approving this proposal before the thirtieth day after the publication of notice thereof in the **Federal Register**. As noted previously, the Commission previously found that the listing and trading of the Shares on other exchanges is consistent with the Act.[20] The Commission presently is not aware of any regulatory issue that should cause it to revisit those findings or would preclude the trading of the Shares on the Exchange pursuant to UTP. Therefore, accelerating approval of this proposal should benefit investors by creating, without undue delay, additional competition in the market for the Shares.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[21] that the proposed rule change (SR–CHX–2008–07) be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Florence E. Harmon,

Acting Secretary.

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BILLING CODE 8010–01–P

[13] In approving this rule change, the Commission notes that it has considered the proposal's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[14] 15 U.S.C. 78f(b)(5).

[15] 15 U.S.C. 78l(f).

[16] Section 12(a) of the Act, 15 U.S.C. 78*l*(a), generally prohibits a broker-dealer from trading a security on a national securities exchange unless the security is registered on that exchange pursuant to Section 12 of the Act. Section 12(f) of the Act excludes from this restriction trading in any security to which an exchange ''extends UTP.'' When an exchange extends UTP to a security, it allows its members to trade the security as if it were listed and registered on the exchange even though it is not so listed and registered.

[17] *See supra* notes 4 and 5.

[18] 17 CFR 240.12f–5.

[19] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[20] *See supra* notes 4 and 5.

[21] 15 U.S.C. 78s(b)(2).

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57901; File Nos. SR–DTC–2007–14 and SR–NSCC–2007–14]

Self-Regulatory Organizations; the Depository Trust Company and National Securities Clearing Corporation; Order Approving Proposed Rule Changes, as Amended, To Provide for the Settlement of Institutional Transactions in Conjunction With Each Other Through a Service Called ID Net

June 2, 2008.

I. Introduction

October 15, 2007, The Depository Trust Company (''DTC'') and the National Securities Clearing Corporation (''NSCC'') each filed with the Securities and Exchange Commission (''Commission'') and on December 20, 2007, and on February 25, 2008, each amended their proposed rule changes pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] Notice of the proposal was published in the **Federal Register** on April 2, 2008.[2] The Commission received no comment letters in response to the proposed rule changes. For the reasons discussed below, the

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 57573 (March 27, 2008), 73 FR 18019 (SR–DTC–2007–14 and SR–NSCC–2007–14).

Commission is approving the proposed rule changes, as amended.

II. Description

1. Background

Unlike exchange trades and most prime broker trades, most institutional delivery (''ID'') transactions do not currently flow through NSCC's Continuous Net Settlement system (''CNS'').[3] Rather, these institutional transactions are processed and settled at DTC. The ID Net Service will allow subscribers to the service to net all eligible affirmed institutional transactions at DTC against their CNS transactions at NSCC.

The ID Net Service will accept affirmed institutional transactions that are eligible for the ID Net Service from clearing agencies registered pursuant to Section 17A of the Act, other entities (such as Omgeo Matching Services—US LLC) which have obtained an exemption from clearing agency registration from the Commission, and Qualified Vendors, as defined in the rules of the New York Stock Exchange, the National Association of Securities Dealers, or other self-regulatory organizations (entities with exemptions from clearing agency registration or Qualified Vendor are collectively referred to as ''Affirming Agencies''), and net the broker-dealer side of such transaction with the broker-dealer's CNS obligations.

Eligibility for the ID Net Service will require that a broker-dealer be an NSCC Member eligible for CNS processing and a DTC Participant (''ID Net Firm'') and that a bank be a DTC Participant (''ID Net Bank'') (collectively ''ID Net Subscribers''). In addition, eligibility for ID Net Service processing will be based on the underlying security being processed, the type of transaction submitted for processing, and the timing of affirmation. Participation in the ID Net Service will be voluntary and will be governed by the rules and procedures applicable to the ID Net Service as described below. All ID Net Subscribers will be required to enter into separate ID Net Subscriber agreements with NSCC and/or DTC, as applicable, governing their use of the ID Net Service.

2. Current Processing

A typical ID transaction is currently processed as follows. An Investment Manager, acting on behalf of its Institutional client, executes a transaction with Firm A. The Investment Manager, or a Custodian acting on its behalf, and Firm A submit the transaction data to an Affirming Agency (for example, Omgeo) for confirmation/affirmation. Once affirmed, the Affirming Agency's automated systems transmit settlement instructions for the matched transaction to DTC's Inventory Management System (''IMS'') to be processed. These ID transactions are not netted, rather they are settled on a trade-for-trade basis at DTC.

3. Proposed Service

In order to extend netting benefits and efficiencies to institutional transactions, NSCC will extend its clearance and settlement functionalities to net the broker-dealer's side of institutional transactions with the broker-dealer's broker-to-broker activity that is eligible for processing through NSCC's CNS service.

Most equity securities that are currently eligible for CNS processing will be eligible for ID Net Service processing. However, ID Net Services will initially exclude the following: (1) Corporate and municipal bonds and unit investment trust issues; (2) new issue securities in their first day of IPO trading; (3) securities that are IPO tracked since the use of omnibus accounts will bypass the tracking system; (4) trades in issues that are currently undergoing a mandatory or voluntary reorganization; (5) trades in securities with a CNS buy-in; and (6) trades in securities appearing on the Commission's Regulation SHO list.[4]

To facilitate the processing of ID Net Service transactions, two new securities accounts will be established by NSCC at DTC on behalf of all ID Net Firms that have elected to use the ID Net Service—the ''ID Netting Subscriber Deliver Account'' and the ''ID Netting Subscriber Receive Account'' (collectively referred to as the ''ID Netting Subscriber Accounts''). NSCC will be the owner of both accounts and will act as agent for the ID Net Firms. NSCC will process ID Net Service transactions through these accounts on behalf of participating ID Net Firms. While NSCC will direct transactions through these accounts on behalf of the ID Net Firms, the ID Net Firms, not NSCC, will be responsible for satisfying applicable DTC risk management controls and Participant Fund requirements for their activity in the ID Netting Subscriber Accounts.

The ID Netting Subscriber Deliver Account will be maintained for all ID Net Firms receiving ID Net Eligible Securities from an ID Net Bank. The ID Netting Member Receive Account will be maintained for all ID Net Firms receiving ID Net Eligible Securities from CNS that are bound for delivery by that ID Net Firm to an ID Net Bank.[5]

With the establishment of these two new ID Netting accounts, ID Net Service transactions will be processed as follows. Upon affirmation, the Affirming Agency will check that the transaction is eligible for ID Net Service processing. If the transaction qualifies, the Affirming Agency prior to submitting that affirmed transaction to IMS will flag the transaction by populating the delivery instructions third party field with the account number of the ID Netting Subscriber.

IMS will facilitate the delivery of the securities, subject to DTC's risk management controls, to the ID Netting Subscriber Deliver Account. On the night of trade date plus two (''T+2''), the ID Net Firm's CNS position, if any, will be updated for the quantity and value of the ID Net Service transaction and an open obligation in the ID Netting Subscriber Deliver Account will be created.

For transactions in which the ID Net Firm is delivering securities to an ID Net Bank, on the night of T+2, the ID Net Firm's CNS position, if any, will be updated for the quantity and value of the ID Net Service transaction and an open obligation in the ID Netting Subscriber Receive Account will be created. Once the securities are credited to the ID Netting Subscriber Receive Account, the securities will be delivered, subject to DTC's Risk Management controls, to the ID Net Bank's account.

ID Net Service transactions not completed for any reason, including due to a party's failure to deliver or pass DTC's risk management controls, by 11:30 a.m. on settlement date will be ''dropped'' from ID Net Service and instead will be settled trade-for-trade between the original counterparties at DTC as if the transaction had not been included in the ID Net Service.

[3] NSCC's CNS is an automated accounting and securities settlement system that centralizes and nets the settlement of compared and recorded securities transactions and maintains an orderly flow of security and money balances. CNS provides clearance for equities, corporate bonds, unit investment trusts, and municipal bonds that are eligible for book-entry transfer at DTC.

[4] NSCC has determined that certain security types may have a relatively high rate of delivery failure or may disrupt normal processing of transactions in the ID Net Service. Such securities will initially be excluded from the service; however, as experience with the service grows, the status of such securities may be reevaluated.

[5] ID Net Firms will not have the ability to direct transactions to either ID Netting Subscriber Account. All ID Net Firm positions in either the ID Netting Subscriber Deliver Account or the ID Netting Subscriber Receive Account will be recorded separately by NSCC and in no event will securities positions of one ID Net Firm be attributed to another ID Net Firm.

4. Eligibility Requirements

Eligibility is based on the participants, the underlying security, the type of trade, and the timing of the affirmation as follows: (1) The broker-dealer must be both an NSCC Member and a DTC Participant; (2) The custodian bank must be a DTC Participant; (3) The broker-dealer and the custodian bank must both elect to participate in the ID Net Service; and (4) The security must be an equity security eligible for CNS. The following securities will not be eligible for the ID Net Service: (1) Corporate and municipal bonds; (2) unit investment trust issues; (3) new issue securities in their first day of trading; (4) securities that are IPO tracked since the use of omnibus accounts will bypass the tracking system; (5) securities that are undergoing a mandatory or voluntary reorganization; (6) securities with a pending CNS buy-in; and (7) Regulation SHO securities.[6] The trade must be affirmed before 9 p.m. on trade date plus one (''T+1''), and the trade must be ''regular-way'' (*i.e.*, scheduled for T+3 settlement).

After a transaction has been affirmed and deemed eligible for the ID Net Service, DTC will monitor the ID Net Service transaction's eligibility up until approximately 8 p.m. on the night of T+2. If the transaction becomes ineligible for any reason, the transaction will be exited from the ID Net Service processing and will be settled on a trade-for-trade basis between the ID Net Firm and the ID Net Bank outside of the ID Net Service at DTC.

5. Settlement

Upon receipt of the affirmation of an eligible trade from the Affirming Agency, DTC's IMS System will automate the following: (1) For bank deliveries, IMS will move the ''original clearing broker'' from the ''receiver's field'' to the ''third party field'' of the ID delivery instruction and will replace it with a with the ID Netting Subscriber Delivery Account and (2) For bank receives, IMS will move the ''original clearing broker'' from the ''deliverer's field'' to the ''third party field'' of the ID delivery instruction and will replace it with the ID Netting Subscriber Receive Account.

Custodian banks will still be able to exempt or authorize ID deliveries in IMS before the night cycle as they do today; and trades that are eligible for ID Net Service but which are still in a pending state by 11:30 a.m. on settlement date will revert to trade-for-trade settlement versus the original clearing participant and will not settle as part of ID Net Service. Accordingly, if the bank subsequently authorizes the delivery, it will be sent to the original clearing broker instead of to the ID Netting Subscriber Deliver Account.

ID Net Firms will still be able to exempt or cancel an ID delivery in IMS as they do today, but they will be limited to instructions transmitted through DTC's Participant Terminal Service and Participant Browser Service (PTS/PBS) and only on a trade-by-trade basis. Deliveries from the ID Netting Subscriber Receive Account will be attempted in random order until approximately 10 a.m. on settlement date. After that time, the system will attempt to complete any of the deliveries up until 11:30 a.m. in settlement value order with highest value first. ID Net Service transactions not completed for any reason by 11:30 a.m. due to a party's failure to deliver or pass DTC risk controls on settlement date will be exited from the ID Net Service and instead will settle trade-for-trade versus the original clearing broker. Deliveries that do not complete will be available for immediate reintroduction from the original clearing broker's account through a new IMS function at 11:30 a.m. Brokers can then create a profile to have these deliveries await authorization or to be processed immediately.

If an ID Net Bank reclaims a transaction from the ID Netting Subscriber Receive Account, the reclaim will be processed against the applicable ID Net Firm and not against the ID Netting Subscriber Receive Account.

6. DTC Risk Management Control Updates

In order to protect DTC from having a failure exported from NSCC, updates to DTC's participants' net debit caps and collateral monitors will be necessary. A new ID Net Service collateral monitor and net debit cap balance will be recorded for each ID Net Firm. The ID Net Service collateral monitor will record the net balance of collateral generated for all transactions processed through the ID Net Service. If the balance of collateral generated by all ID Net Service receives and delivers is positive, the ID Net Firm's collateral monitor will not be increased by that amount. However, if an ID Net Service transaction requires collateral, the system will use the ID Net Service collateral surplus for that ID Net Firm before attempting to use other collateral from that ID Net Firm. If there is insufficient ID Net Service collateral for that broker, the system will look to the ID Net Firm's excess collateral in its account.

Similar to collateral, the system will create a new ID Net Service settlement balance for each ID Net Firm. When this balance is a net credit from deliveries on the ID Net Firm's behalf through the ID Netting Subscriber Receive Account, it will only be used to offset incoming ID Net Services receives to the ID Netting Subscriber Deliver Account. If there is an insufficient ID Net Service credit to absorb the debit of the ID Net Service delivery to the ID Netting Subscriber Deliver Account for the ID Net Firm, the system will create an ID Net Service debit that will effectively treat the ID Net Service debit as a reduction of the ID Net Firm's net debit cap. The ID Net Service debit will only be used for net debit cap calculation purposes and will not represent a participant's actual settlement balance.[7] If the broker has insufficient collateral or net debit cap, the transaction will pend until 11:30 a.m. on settlement date.[8]

[6] *Supra* note 4.

[7] Currently, brokers receive market value credit for deliveries to CNS if the security is received versus payment (RVP) or collateral value (collateral value is market value less the DTC haircut) if the delivery to CNS was from securities in their start of day position or received for free. With respect to the ID Net Service, the system will no longer identify if a delivery came from a broker's RVP securities or not, and as such, the system will assume the delivery came from a broker's start of day position.

Likewise, to the extent that ID Net Firms have a net credit for their ID deliveries today, an ID Net Firm's settlement balance is reduced. Since these credits will no longer be generated from the ID Net Firm's account, it may require the need to fund DTC intraday to prevent net debit cap blockage.

[8] As an example of how DTC risk controls will be applied to ID Net Subscribers, assume that Investment Manager A sells 10 shares of Common Stock X using ID Net Firm B (a broker). If B sells the shares on an exchange for $20, and the trade is affirmed and the shares are delivered by A's Custodian Bank C, then C will receive a credit in DTC for $20 and the ID Netting Subscriber Deliver Account (owned by NSCC as agent for B) will have a DTC debit of $20. In this case, B's net debit cap will be reduced by $20 and its collateral monitor is reduced by the net of the $20 debit and the collateral value of the securities (*e.g.*, with a 10 percent haircut the collateral value will be $18), or $2. When the ID Netting Subscriber Deliver Account delivers the shares to CNS, it receives a credit for $20. This credit is offset with the DTC debit of $20 at end-of-day. Additionally, assume A then buys 10 shares of Commons Stock Y through B at $30. On the night of T+2, CNS will deliver the shares to the ID Netting Subscriber Receive Account and that account will be debited in CNS for $30. C will then receive 10 shares of Y from the ID Netting Subscriber Receive Account. C receives a debit in DTC for $30 and the ID Netting Subscriber Receive Account is credited at DTC for $30. B's account has its DTC net debit cap increased by $20 to offset the previous decrease of $20 (for the sale of Common Stock X) (and not $30 since the net of the ID Net receive relating to the sale of Common Stock X above of $20 and the delivery of Common Stock Y for $30 is a $10 credit and B's net debit cap is decremented only when the net balance is a debit. C will not receive a net credit, but will

Continued

7. NSCC Clearing Fund Offset and Mark-to-Market

ID Net Service transactions will be used to offset the balance of any other CNS transactions and the ''net'' of those transactions will be used for purposes of determining NSCC Clearing Fund obligations pursuant to NSCC's current procedures with a revised mark-to-market calculation applicable to ID Net Firms. The revised mark-to-market calculation for ID Net Firms will be based on (x) the current CNS mark-to-market component (which will exclude ID Net transactions) and (y) a mark-to-market component calculated with respect to ID Net Service-related positions. However, any positive value derived from either (x) or (y) will be set to zero.[9]

8. Prioritization

In order to reduce the potential number and value of fails in the ID Net Service, deliveries from CNS to the ID Netting Subscriber Receive Account will be given a higher delivery priority pursuant to the allocation algorithm set forth in NSCC's Procedure VII (CNS Accounting Operation) than other CNS deliveries with the exception of buy-in deliveries, corporate action deliveries, and deliveries of component securities of index receipts.[10] NSCC is also modifying this Procedure to clarify that deliveries of the component securities for index receipts shall have the same priority as deliveries to the ID Netting Subscriber Receive Account.

Any ID Net transactions that cannot be completed will be exited from the ID Net Service and instead will settle trade-for-trade between the ID Net Firm and the ID Net Bank (the original counterparties) at DTC.

9. DTC Fees

ID Net Banks and ID Net Firms will be charged a reduced DTC ID Net Service fee of $0.025 for each completed delivery and receive processed versus the ID delivery or receive fee of $0.05. For deliveries that are exited from the ID Net Service, there will not be a ''drop'' fee charged. For ID Net Service deliveries cancelled by ID Net Firms from the ID Netting Subscriber Receive Account, the $0.45 ''pend cancel'' fee will be charged. For ID Net Service deliveries to and from CNS on behalf of the ID Net Firms, no fee will be charged.

10. NSCC Rulebook Changes

Under the proposed rule change, a new Rule 65 and Procedure XVI (both titled ''ID Net Service'') will be added to NSCC's Rules, and additional conforming changes will be made elsewhere throughout NSCC's Rules to provide consistency with the new Rule 65. These additional changes include the following:

(a) Rule 3 (Lists To Be Maintained)

A subsection will be added to Rule 3 to provide that NSCC will maintain a list of Eligible ID Net Securities and may from time to time add or delete applicable CNS Securities from the list.

(b) Procedure VII (CNS Accounting Operation)

Procedure VII will be revised to incorporate the processing of transactions in Eligible ID Net Securities into the CNS Accounting Operation. The revisions will also reflect: (i) That Member's will not be able to exempt deliveries from an ID Netting Subscriber Account, (ii) the prioritization of ID Net Service deliveries and deliveries of the component securities of index receipts in the CNS allocation algorithm behind deliveries associated with reorganizations and buy-ins, and (iii) that ID Net Service transactions will be recorded on the Miscellaneous Activity Report on the night of T+2 and removals of such transactions from the ID Net Service will also be recorded on that report.

(c) Procedure XV (Clearing Fund Formula and Other Matters)

Procedure XV will be revised to indicate the exclusion of ID Net Service transactions from the ID offset process for the purposes of calculating the volatility component of a subscriber's Clearing Fund requirement. In addition language will be revised and added with respect to the calculation of mark-to-market to reflect the changes to the formula as described above.

III. Discussion

Section 19(b) of the Act directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization. Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions.[11] DTC and NSCC's proposed rule changes should promote the prompt and accurate clearance and settlement of securities transactions by leveraging the capabilities of the DTC and NSCC systems to provide for more streamlined securities deliveries and extend netting benefits and efficiencies to ID transactions.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule changes are consistent with the requirements of the Act and in particular Section 17A of the Act and the rules and regulations thereunder. In approving the proposed rule changes, the Commission considered the proposals' impact on efficiency, competition, and capital formation.[12]

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule changes (File Nos. SR–DTC–2007–14 and SR–NSCC–2007–14), as amended, be and hereby are approved.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.[13]

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–12667 Filed 6–5–08; 8:45 am]

BILLING CODE 8010–01–P

receive an offset of previous ID Net debits with ID Net credits) and the same for its collateral monitor which is increased only up to the amount it was debited for ID Net transactions (absent its participation in the ID Net service, B will have received a $3 credit to the collateral monitor which equals the net of the $30 credit and the collateral value of the securities $27 ($30 market value less a 10% haircut)). In this case, B will only receive a collateral credit of $2, but the ID Net credit balance of $1 will be registered to absorb future ID Net receives that have a collateral deficiency. If C was at its net debit cap or collateral monitor limit due to other receives, the ID Net transaction will recycle or pend in the system until the deficiency can be satisfied or until 11:30 a.m., when it will drop out of ID Net.

[9] Similar to the existing CNS mark-to-market component, the new ID Net Service mark-to-market component applicable to ID Net Service transactions will equal the net of each day's difference between the contract price of the Member's net positions relating to ID Net Service activity and the current market price for such positions.

For example, if an ID Net Firm has a ''regular'' mark-to-market debit of $500,000 and an ID Net Service mark-to-market debit of $100,000, then these debits will be added together and the ID Net Firm's total mark-to-market obligation will equal a debit of $600,000. However, if that same ID Net Firm's ID Net mark-to-market calculation results in a credit of $100,000, then the value of that credit will be set to zero, and therefore the total mark-to-market will equal a debit $500,000 (*i.e.*, the amount of the broker's regular mark-to-market debit).

[10] Currently, institutional deliveries processed through the DTC system from ID Net Firms to banks may be prioritized by ID Net Firms through IMS and/or through exempting their deliveries to CNS in order to ensure that available inventory will be used for such deliveries. Including these transactions in the proposed service allows for the ''automation'' of such prioritization through the CNS Accounting Operation.

[11] 15 U.S.C. 78q–1(b)(3)(F).

[12] 15 U.S.C. 78c(f).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56145A; File No. SR–NASD–2007–023

Self-Regulatory Organizations; National Association of Securities Dealers, Inc. (n/k/a Financial Industry Regulatory Authority, Inc.); Order Approving Proposed Rule Change To Amend the By-Laws of NASD To Implement Governance and Related Changes To Accommodate the Consolidation of the Member Firm Regulatory Functions of NASD and NYSE Regulation, Inc.

May 30, 2008.

Amended

In Part V of Securities Exchange Act Release No. 56145 (''Release No. 34–56145''), issued July 26, 2007,[1] the Securities and Exchange Commission (''Commission'') is adding, immediately after the following sentence:

Accordingly, after reviewing the record in this matter, the Commission believes that NASD has provided sufficient basis on which the Commission can find that, under the Exchange Act, NASD complied with its Certificate of Incorporation and By-Laws with respect to the proxy approval process and that the proposed amendments to its By-Laws were properly approved by NASD members.

the following paragraph:

This finding as to NASD compliance and members'' approval is not a definitive adjudication under state law, such as a trial court would make after an evidentiary hearing, regarding the claim that the proxy statement was misleading. Except to the extent that state law informs the Commission's finding that, as a federal matter under the Exchange Act, NASD complied with its Certificate of Incorporation and By-Laws with respect to the proxy approval process and that the proposed amendments to its By-Laws were properly approved by NASD members, the Commission is not purporting to decide a question of state law. The Commission does not intend that its determination regarding the NASD's uncontradicted prima facie showing before the Commission that the proxy statement was not misleading be binding on a court in a claim based on state law.

In adding this clarifying language, the Commission is not vacating, nullifying or rendering void Release No. 34–56145, which approved NASD's proposed rule change to amend the By-Laws of NASD to implement governance and related changes to accommodate the consolidation of the member firm regulatory functions of NASD and NYSE Regulation, Inc. Release No. 34–56145, as amended herein, remains in effect as of July 26, 2007, the date it was issued by the Commission.

By the Commission.

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–12631 Filed 6–5–08; 8:45 am]

BILLING CODE 8010–01–P

[1] *See* Securities Exchange Act Release No. 56145 (July 26, 2007), 72 FR 42169 (August 1, 2007) (FR Doc. E7–14855).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57906; File No. SR–NYSEArca–2008–40]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change Relating to the Listing and Trading of Shares of the NETS Tokyo Stock Exchange REIT Index Fund

June 2, 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 22, 2008, NYSE Arca, Inc. (''NYSE Arca'' or ''Exchange''), through its wholly owned subsidiary, NYSE Arca Equities, Inc. (''NYSE Arca Equities''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list and trade shares (''Shares'') of the NETS™ Tokyo Stock Exchange REIT Index Fund (''Fund'') issued by the NETS Trust (''Trust''). The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and *http://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 and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to list and trade the Shares under NYSE Arca Equities Rule 5.2(j)(3), the Exchange's listing standards for Investment Company Units (''ICUs'').[3]

The Fund seeks to provide investment results that correspond generally to the price and yield performance, before fees and expenses, of publicly-traded securities in the aggregate in the Japanese market, as represented by the Tokyo Stock Exchange REIT Index (''Underlying Index'' or ''Index''). The Underlying Index is a market capitalization weighted index consisting of stocks of all of the real estate investment trusts traded primarily on the Tokyo Stock Exchange.

The Exchange is submitting this proposed rule change because the Underlying Index does not meet all of the ''generic'' listing requirements of Commentary .01(a)(B) to NYSE Arca Equities Rule 5.2(j)(3) applicable to listing of ICUs based on international or global indexes. The Underlying Index meets all such requirements except for those set forth in Commentary .01(a)(B)(2).[4] The Exchange represents that: (1) Except for Commentary .01(a)(B)(2) to NYSE Arca Equities Rule 5.2(j)(3), the Shares currently satisfy all of the generic listing standards under NYSE Arca Equities Rule 5.2(j)(3); (2) the continued listing standards under NYSE Arca Equities Rules 5.2(j)(3) and 5.5(g)(2) applicable to ICUs shall apply to the Shares; and (3) the Trust is required to comply with Rule 10A–3[5] under the Act for the initial and continued listing of the Shares. In addition, the Exchange represents that

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] An Investment Company Unit is a security that represents an interest in a registered investment company that holds securities comprising, or otherwise based on or representing an interest in, an index or portfolio of securities (or holds securities in another registered investment company that holds securities comprising, or otherwise based on or representing an interest in, an index or portfolio of securities). *See* NYSE Arca Equities Rule 5.2(j)(3)(A).

[4] Commentary .01(a)(B)(2) to NYSE Arca Equities Rule 5.2(j)(3) provides that component stocks that in the aggregate account for at least 90% of the weight of the index or portfolio each shall have a minimum worldwide monthly trading volume during each of the last six months of at least 250,000 shares.

[5] 17 CFR 240.10A–3.

the Shares will comply with all other requirements applicable to ICUs including, but not limited to, requirements relating to the dissemination of key information such as the Index value and Intraday Indicative Value, rules governing the trading of equity securities, trading hours, trading halts, surveillance, and Information Bulletin to ETP Holders, as set forth in prior Commission orders approving the generic listing rules applicable to the listing and trading of ICUs.[6]

As of April 11, 2008, there were 41 stocks in the Index. For the period of October 2007 up to and including March 2008, component stocks that in the aggregate accounted for at least 90% of the weight of the Index had a minimum worldwide monthly trading volume of 2,918 shares.[7]

In view of the high average price of the Index component stocks, as noted above, the Exchange believes it is appropriate to use global notional volume traded (number of shares traded multiplied by price of security) as a measure of the trading activity of such stocks. For the period of October 2007 up to and including March 2008, component stocks that in the aggregate accounted for 93.42% of the weight of the Index each had global notional volume traded per month of at least $25,000,000, averaged over the last six months. The Exchange believes that averaged notional volume traded is an appropriate measure of the liquidity of component stocks of the Index. Specifically, notional volume nullifies the volume discrepancies that generally occur between low priced and high priced stocks[8] and averaging the volume and notional volume over a specific time period (*e.g.*, six months) eliminates seasonal volume fluctuations that may occur in the trading volume of a particular underlying security represented in an index.

Detailed descriptions of the Fund, the Underlying Index, procedures for creating and redeeming Shares, transaction fees and expenses, dividends, distributions, taxes, and reports to be distributed to beneficial owners of the Shares can be found in the Registration Statement[9] or on the Web site for the Fund (*http://www.netsetfs.com*), as applicable.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act,[10] in general, and Section 6(b)(5) of the Act,[11] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system. The Exchange believes that the proposed rule change will facilitate the listing and trading of an additional type of exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange 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. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange states that written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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 reason for so finding or (ii) as to which the Exchange 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–NYSEArca–2008–40 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–NYSEArca–2008–40. 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

[6] *See, e.g.*, Securities Exchange Act Release Nos. 55621 (April 12, 2007), 72 FR 19571 (April 18, 2007) (SR–NYSEArca–2006–86) (approving generic listing standards for ICUs based on international or global indexes); 44551 (July 12, 2001), 66 FR 37716 (July 19, 2001) (SR–PCX–2001–14) (approving generic listing standards for ICUs and Portfolio Depositary Receipts); and 41983 (October 6, 1999), 64 FR 56008 (October 15, 1999) (SR–PCX–98–29) (approving rules for the listing and trading of ICUs). *See also* email from Michael Cavalier, Associate General Counsel, NYSE Euronext, to Christopher W. Chow, Special Counsel, Commission, dated June 2, 2008.

[7] During the same period, component stocks that in the aggregate accounted for at least 90% of the weight of the Index had an average worldwide monthly trading volume of 16,693 shares. The Exchange notes, however, that the average price of the Index stocks was extremely high compared to prices of stocks included in index ETFs generally. As of March 31, 2008, the average price of the stocks in the Index was approximately $5,350. The total market capitalization of the Index stocks was $42,391,307,254 and the average market capitalization of the Index stocks was $1,033,934,323. The average market capitalization of the Index stocks in the top 70% of the Index weight was $2,015,574,320. There were 15 stocks in the bottom 10% weight of the Index. The highest weighted stock was Nippon Building Fund Inc. REIT, which accounted for 16.25% of the Index weight.

[8] For example, a stock priced at $10 per share that trades 2,500,000 shares in a month has a notional volume of $25,000,000. Conversely, a stock priced at $100 per share that trades 250,000 shares in a month has a notional volume of $25,000,000.

[9] *See* the Trust's Registration Statement on Form N–1A, dated February 13, 2008 (File Nos. 333–147077 and 811–22140) (''Registration Statement'').

[10] 15 U.S.C. 78f.

[11] 15 U.S.C. 78f(b)(5).

for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2008–40 and should be submitted on or before June 27, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–12705 Filed 6–5–08; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57899; File No. SR–Phlx–2008–40]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Disclaimer of Warranties and the Listing of $2.50 Strikes for Options on the SIG KCI Coal Index™

June 2, 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 23, 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 substantially prepared by Phlx. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Phlx proposes to add the SIG KCI Coal Index™ (''SIG KCI Coal Index'' or ''Index'') to Phlx Rule 1101A, Terms of Options Contracts, regarding listing options at strike price intervals of $2.50 or greater and to Phlx Rule 1104A, SIG Indices, LLLP, regarding disclaimer of express or implied warranties.[5] The text of the proposed rule change is available at Phlx's principal office, the Commission's Public Reference Room, and *http://www.phlx.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, 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 those 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 parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend Phlx Rules 1101A and 1104A to include the SIG KCI Coal Index that was recently licensed by SIG Indices, LLLP (''Susquehanna'') to the Exchange, which would enable the Exchange to list the index at $2.50 or greater strike price intervals and limit Susquehanna's liability with respect to the Index. This proposal should encourage listing such options at appropriate strike price intervals to the benefit of investors and should encourage maintenance of the Index by Susquehanna so that options overlying the index may be available for trading.[6]

Phlx Rule 1101A currently indicates that the Exchange shall determine fixed point strike price intervals for index options at no less than $5.00, provided that for indexes that are listed in Phlx Rule 1101A the Exchange may determine to list strike prices at no less than $2.50 intervals if the strike price is less than $200.[7] The rule also provides that such options may be traded at $2.50 strike price intervals in response to customer interest or specialist request. The proposed rule change adds the SIG KCI Coal Index to the list of indexes in Phlx Rule 1101A upon which the Exchange may list options at $2.50 strike price intervals.

Phlx Rule 1104A currently provides that Susquehanna makes no warranty, express or implied, as to results to be obtained by any person or entity from the use of Susquehanna proprietary indexes,[8] and that Susquehanna makes no express or implied warranties of merchantability or fitness for a particular purpose for use with respect to any of the named indexes or any data included therein.[9] The proposed rule change expands the coverage of Phlx Rule 1104A to include the Index, as required by the License Agreement.

The Exchange believes that the proposal should benefit investors by effectively encouraging the listing and trading of options on an additional Susquehanna index at more precise strike price intervals, thereby expanding the availability of appropriate investment choices for investors.

2. Statutory Basis

The Exchange believes that its proposal is consistent with section 6(b) of the Act,[10] in general, and furthers the objectives of section 6(b)(5) of the Act,[11] in particular, in that it is 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 the proposed rule change should

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] The SIG Indexes noted herein are trademarks of SIG Indices, LLLP.

[6] The Exchange has recently entered into a licensing agreement with Susquehanna that would, among other things, allow the Exchange to list and trade options on the SIG KCI Coal Index™ (''License Agreement'').

[7] *See* Securities Exchange Act Release No. 54973 (December 20, 2006), 71 FR 78252 (December 28, 2006) (SR–Phlx–2006–82).

[8] The indexes noted in Phlx Rule 1101A include the SIG Investment Managers Index™, the SIG Cable, Media & Entertainment Index™, the SIG Casino Gaming Index™, the SIG Semiconductor Equipment Index™, the SIG Semiconductor Device Index™, the SIG Specialty Retail Index™, the SIG Steel Producers Index™, the SIG Footwear & Athletic Index™, the SIG Education Index™, the SIG Restaurant Index™, the SIG Coal Producers Index™, and the SIG Energy MLP Index™.

[9] The Exchange noted in its filing to adopt Phlx Rule 1104A that the proposed disclaimer was appropriate given that it was similar to disclaimer provisions of American Stock Exchange (''AMEX'') Rule 902C relating to indexes underlying options listed on that exchange. *See* Securities Exchange Act Release No. 48135 (July 7, 2003), 68 FR 42154 (July 16, 2003) (approving SR–Phlx–2003–21). The Exchange has proposed amendments similar to the current proposal to include a new index in Phlx Rule 1104A. *See* Securities Exchange Act Release No. 51664 (May 6, 2005), 70 FR 25641 (May 13, 2005) (SR–Phlx–2005–24).

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

encourage SIG Indices, LLLP to continue maintaining indexes upon which options may be traded on the Exchange, thereby providing investors with enhanced investment opportunities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed 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 from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, it has become effective pursuant to section 19(b)(3)(A) of the Act [12] and Rule 19b–4(f)(6) thereunder.[13]

A proposed rule change filed under Rule 19b–4(f)(6) normally may not become operative prior to 30 days after the date of filing.[14] However, Rule 19b–4(f)(6) [15] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. Phlx has requested that the Commission waive the 30-day operative delay. The Commission believes that granting this request is consistent with the protection of investors and the public interest because it will allow the Exchange to offer additional strike prices for options on the SIG KCI Coal Index to investors without delay. For this reason, the Commission designates the proposal to be effective and operative upon filing with the Commission.[16]

At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in the 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–Phlx–2008–40 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–2008–40. 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 Phlx. 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–2008–40 and should be submitted on or before June 27, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–12687 Filed 6–5–08; 8:45 am]

BILLING CODE 8010–01–P

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6). When filing a proposed rule change pursuant to Rule 19b–4(f)(6) under the Act, an Exchange is required to give 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 provided notice to the Commission two business days prior to filing the proposed rule change, and the Commission has determined to waive the five business day requirement.

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] *Id.*

[16] For the purposes only of waiving the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[17] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 11264 and # 11265]

Iowa Disaster Number IA–00015

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Iowa (FEMA–1763–DR), dated 05/27/2008.

Incident: Severe Storms, Tornadoes, and Flooding.

Incident Period: 05/25/2008 and continuing.

EFFECTIVE DATE: 05/30/2008.

Physical Loan Application Deadline Date: 07/28/2008.

EIDL Loan Application Deadline Date: 02/27/2009.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the Presidential disaster declaration for the State of IOWA, dated 05/27/2008 is hereby amended to include the following areas as adversely affected by the disaster:

Primary Counties: (Physical Damage and Economic Injury Loans): Black Hawk, Buchanan.

Contiguous Counties: (Economic Injury Loans Only):

Iowa: Benton, Clayton, Delaware, Fayette, Linn, Tama.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. E8–12757 Filed 6–5–08; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 11272]

Iowa Disaster # IA–00016

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Iowa (FEMA–1763–DR), dated 05/27/2008.

Incident: Severe Storms, Tornadoes, and Flooding

Incident Period: 05/25/2008 and continuing.

EFFECTIVE DATE: 05/27/2008.

Physical Loan Application Deadline Date: 07/28/2008.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 05/27/2008, Private Non-Profit organizations that provide essential services of a governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Black Hawk, Buchanan, Butler, Delaware.

The Interest Rates are:

	Percent
Other (Including Non-Profit Organizations) With Credit Available Elsewhere	5.250
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 11272.

(Catalog of Federal Domestic Assistance Number 59008)

James E. Rivera,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. E8–12759 Filed 6–5–08; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 11271]

Nebraska Disaster # NE–00019

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Nebraska (FEMA–1765–DR), dated 05/30/2008.

Incident: Severe Storms, Tornadoes, and Flooding.

Incident Period: 04/23/2008 through 04/26/2008.

EFFECTIVE DATE: 05/30/2008.

Physical Loan Application Deadline Date: 07/29/2008.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 05/30/2008, Private Non-Profit organizations that provide essential services of a governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Gage, Johnson, Morrill, Nemaha, Pawnee.

The Interest Rates are:

	Percent
Other (Including Non-Profit Organizations) With Credit Available Elsewhere	5.250
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 11271.

(Catalog of Federal Domestic Assistance Number 59008)

James E. Rivera,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. E8–12743 Filed 6–5–08; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 6250]

Certification Related to Guatemalan Armed Forces Under Section 672 of the Department of State, Foreign Operations and Related Programs Appropriations Act, 2008 (Div. J, Pub. L. 110–161)

Pursuant to the authority vested in me as Deputy Secretary of State, including under Section 672 of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2008 (Div. J, Pub. L. 110–161) (''the Act'') and Delegation of Authority No. 245, I hereby certify that:

(A) The Guatemalan Air Force, Navy and Army Corps of Engineers are respecting human rights;

(B) the Guatemalan Air Force, Navy, and Army Corps of Engineers are cooperating with civilian judicial investigations and prosecutions of current and retired military personnel who have been credibly alleged to have committed violations of human rights; and

(C) the Guatemalan Armed Forces are fully cooperating (including access for investigators, the provision of documents and other evidence, and testimony of witnesses) with the Commission Against Impunity in Guatemala.

This Certification shall be published in the **Federal Register** and copies shall be transmitted to the appropriate committees of Congress.

Dated: May 22, 2008.

John D. Negroponte,

Deputy Secretary of State, Department of State.

[FR Doc. E8–12722 Filed 6–5–08; 8:45 am]

BILLING CODE 4710–29–P

DEPARTMENT OF STATE

[Public Notice 6249]

Advisory Committee International Postal and Delivery Services

AGENCY: Department of State.

ACTION: Notice; FACA Committee meeting announcement.

SUMMARY: As required by the Federal Advisory Committee Act, Public Law 92–463, the Department of State gives notice of the second meeting of the Advisory Committee on International Postal and Delivery Services. This Committee has been formed in fulfillment of the provisions of the 2006 Postal Accountability and Enhancement Act (Pub. L. 109–435) and in accordance with the Federal Advisory Committee Act.

Public input: Any member of the public interested in providing public input to the meeting should contact Mr. Chris Wood, whose contact information is listed under **FOR FURTHER INFORMATION CONTACT** section of this notice. Each individual providing oral input is requested to limit his or her comments to five minutes. Requests to be added to the speaker list must be received in writing (letter, e-mail or fax) prior to the close of business on June 13, 2008; written comments from members of the public for distribution at this meeting must reach Mr. Wood by letter, e-mail or fax by this same date.

Meeting agenda: The agenda of the meeting will include information about U.S. participation in the 24th UPU Congress in Geneva, for example, the Congress calendar, U.S. proposals, major decisions expected and the views of Consultative Committee members on the issues to be considered by Congress.

DATES: June 17, 2008 from 2 p.m. to about 5 p.m. (open to the public).

Location: Room 1107, Department of State, 2201 C Street, NW., Washington, DC 20520. Individuals attending the Committee meeting should enter the State Department at the C Street entrance, where photo identification will be required to be displayed to Diplomatic Security before entering the building. One of the following forms of valid photo identification will be required for admission to the State Department building: U.S. driver's license, U.S. Government identification card, or any valid passport. Members of the public interested in attending this meeting are invited to pre-register by sending their information including Name, Date of Birth, and an Identification number (U.S. driver's license, U.S. Government identification card, or Passport) to Mr. Chris Wood. This will expedite entrance into the building.

FOR FURTHER INFORMATION CONTACT: Christopher Wood, Office of Technical Specialized Agencies (IO/T), Bureau of International Organization Affairs, U.S. Department of State, at (202) 647–1044, *woodcs@state.gov*.

Dated: May 29, 2008.

Dennis M. Delehanty,

Foreign Affairs Officer, Department of State.

[FR Doc. E8–12724 Filed 6–5–08; 8:45 am]

BILLING CODE 4710–19–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (formerly Subpart Q) During the Week Ending January 18, 2008

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (See 14 CFR 301.201 *et seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: DOT–OST–2008–0026.

Date Filed: January 16, 2008.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: February 11, 2008.

Description: Application of Air Italy S.p.A. requesting a foreign air carrier permit authorizing (i) the carriage of international charter air traffic of passengers and their accompanying baggage and/or cargo between any point or points in the Republic of Italy and any point or points in the territory of the United States; and between any point or points in the United States and any point or points in any third country or countries; and (ii) such other charter trips in foreign air transportation.

Docket Number: DOT–OST–2007–28129 and DOT–OST–2008–0022.

Date Filed: January 14, 2008.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: February 4, 2008.

Description: Application of Oy Air Finland, Ltd. requesting an amended foreign air carrier permit and an exemption to engage in: (a) Foreign charter air transportation of persons, property and mail from any point or points behind any Member State of the European Community via any point or points in any Member State and via intermediate points to any point or points in the United States and beyond; (b) foreign charter air transportation of persons, property, and mail between any point or points in the United States and any point or points in any Member State of the European Common Aviation Area; (c) foreign charter cargo air transportation between any point or points in the United States and any other point or points; (d) other passenger charters pursuant to the prior approval requirements set forth in Part 212 of the Department's economic regulations; and (e) charter transportation authorities consistent with any future, additional rights that may be granted to foreign air carriers of the Member States of the European Community.

Renee V. Wright,

Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. E8–12788 Filed 6–5–08; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed the Week Ending January 18, 2008

The following Agreements were filed with the Department of Transportation under the sections 412 and 414 of the Federal Aviation Act, as amended (49 U.S.C. 1382 and 1384) and procedures governing proceedings to enforce these provisions. Answers may be filed within 21 days after the filing of the application.

Docket Number: DOT–OST–2008–0020.

Date Filed: January 14, 2008.

Parties: Members of the International Air Transport Association.

Subject: TC31 North & Central Pacific, Japan-North America, Caribbean, (Memo 0430), Intended effective date: 1 April 2008.

Docket Number: DOT–OST–2008–0027.

Date Filed: January 17, 2008.

Parties: Members of the International Air Transport Association.

Subject: Finally Adopted Resolutions For Expedited Effectiveness. Intended effective date: March 1, 2008 unless otherwise indicated.

Renee V. Wright,

Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. E8–12784 Filed 6–5–08; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2008–24]

Petition for Exemption; Summary of Petition Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number involved and must be received on or before June 26, 2008.

ADDRESSES: You may send comments identified by Docket Number FAA–2008–0260 using any of the following methods:

- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- *Fax:* Fax comments to the Docket Management Facility at 202–493–2251.
- *Hand Delivery:* Bring comments to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy: We will post all comments we receive, without change, to *http://www.regulations.gov*, including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Docket: To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Kenna Sinclair (425) 227–1556, Transport Airplane Directorate, ANM–113, Federal Aviation Administration, 1601 Lind Avenue SE., Renton, WA 98055–4056; or Fran Shaver (202) 267–9681, Office of Rulemaking (ARM–200), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591. This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on June 2, 2008.

Eve Taylor-Adams,

Acting Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2008–0260.

Petitioner: Bombardier.

Section of 14 CFR Affected: §§ 26.43, 26.45, and 26.49.

Description of Relief Sought: The petitioner is requesting an exemption from certain requirements of part 26 that require a design approval holder to develop and make available to operators lists of fatigue critical structure, damage tolerance inspections for repairs and alterations, and repair evaluation guidelines. The affected airplane model is Short Brothers PLC SD3–60.

[FR Doc. E8–12675 Filed 6–5–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on the I–94 North-South Corridor Study in Wisconsin and Illinois

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Limitation on Claims for Judicial Review of Actions by FHWA.

SUMMARY: This notice announces actions taken by the FHWA that are final within the meaning of 23 U.S.C. 139(l)(1). The actions relate to the I–94 North-South Corridor Study in Lake County, Illinois, and Kenosha, Racine and Milwaukee Counties, Wisconsin. Those actions grant licenses, permits, and approvals for the project.

DATES: By this notice, the FHWA is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before December 3, 2008. If the Federal law that authorizes judicial review of a claim provides a time period of less than 180 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: Mr. David Scott, Federal Highway Administration, 525 Junction Road, Suite 8000, Madison, Wisconsin 53717; telephone: (608) 829–7522, e-mail: *David.Scott@fhwa.dot.gov*. The FHWA Wisconsin Division's normal office hours are 7 a.m. to 4 p.m. (central time). For the Wisconsin Department of Transportation: Mr. Roberto Gutierrez, Wisconsin Department of Transportation, 141 NW. Barstow Street, Waukesha, Wisconsin 53188; telephone: (414) 548–5622; e-mail: *roberto.gutierrez@dot.state.wi.us*.

SUPPLEMENTARY INFORMATION: Notice is hereby given that FHWA has taken final agency actions subject to 23 U.S.C. 139(l)(1) by issuing licenses, permits, and approvals for the following highway project in the States of Wisconsin and Illinois: A range of alternatives to meet the transportation needs were evaluated, and FHWA selected the Safety and Design Improvements with Added Capacity Alternative. The actions taken by FHWA, and the laws under which such actions were taken, are described in the Final Environmental Impact Statement (FEIS) for the project, approved on March 25, 2008 (FHWA–WI–EIS–07–01–F), in the FHWA Record of Decision (ROD) issued on May 30, 2008, and in other documents in the FHWA or WisDOT project records. The FEIS, ROD, and other project records are available by contacting FHWA or WisDOT at the addresses provided above. The FHWA FEIS and ROD can also be viewed at the project Web site at *http://www.sefreeways.org* or at WisDOT's Waukesha office. This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including by not limited to:

1. General: National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4351]; Federal-Aid Highway Act (FAHA) [23 U.S.C. 109 and 23 U.S.C. 128].
2. Air: Clean Air Act [42 U.S.C. 7401–7671(q)].
3. Land: Section 4(f) of the Department of Transportation Act of 1966 [23 U.S.C. 138 and 49 U.S.C. 303].
4. Wildlife: Endangered Species Act [16 U.S.C. 1531–1544 and section 1536]; Fish and Wildlife Coordination Act [16 U.S.C. 661–667(d)].

5. Historic and Cultural Resources: Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(f) et seq.]; Archeological Resources Protection Act of 1977 [16 U.S.C. 470(aa)–470(ll)]; Archeological and Historic Preservation Act [16 U.S.C. 469–469(c)]; Native American Grave Protection and Repatriation Act [25 U.S.C. 3001–3013].

6. Social and Economic: Civil Rights Act of 1964 [42 U.S.C. 2000d)–2000(d)(1)]; Farmland Protection Policy Act [7 U.S.C. 4201–4209].

7. Executive Orders: E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Population; E.O. 13007, Indian Sacred Sites.

(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.)

Authority: 23 U.S.C. 139(l)(1).

Issued on: June 2, 2008.

Allen Radliff,

Division Administrator, Wisconsin Division.

[FR Doc. E8–12674 Filed 6–5–08; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34284]

Southwest Gulf Railroad Company—Construction and Operation Exemption—in Medina County, TX

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of Correction to the **Federal Register** Notice Announcing the Availability of a Final Environmental Impact Statement (EIS).

SUMMARY: The Section of Environmental Analysis (SEA) issued the Final EIS in the above-captioned proceeding on May 30, 2008, and published a notice of availability of the Final EIS in the **Federal Register** on the same day. It has come to our attention that a statement on page 2 of the notice of availability is incorrect.

Therefore, we will strike this language:

Parties who wish to file an administrative appeal of the Board's final decision may do so in writing within 30 days from the publication of the notice of the FEIS. * * * [T]he deadline for filing administrative appeals will be July 7, 2008.

And replace it with:

Parties who wish to file an administrative appeal of the Board's final decision may do so in writing within 20 days of the service date of the Board's final decision.

Please correct your copies accordingly.

By the Board, Victoria Rutson, Chief, Section of Environmental Analysis.

Decided: June 3, 2008.

Anne K. Quinlan,

Acting Secretary.

[FR Doc. E8–12668 Filed 6–5–08; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974; Deletion of System of Records

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

Notice is hereby given that the Department of Veterans Affairs (VA) is deleting a system of records entitled ''Integrated Data Communications Utility Network Management Data Base'' (78VA331), which was first published at 55 FR 22137 dated May 31, 1990, and revised at 58 FR 57673 dated October 26, 1993. The system of records known as Integrated Data Communications Utility (IDCU) Network Management Data Base is obsolete. The information was initially developed as a means to track and manage information regarding individuals who were authorized access to the IDCU or the network management resources of the IDCU. The requirement for VA to maintain this system of records no longer exists because the IDCU no longer operates within the Department of Veterans Affairs. IDCU records have not been amended nor added in several years and, due to mandatory routine destruction, in accordance with applicable records disposition authority, no records exist in the system.

A ''Report of Intention To Publish a **Federal Register** Notice of Deletion of a System of Records'' and an advance copy of the system notice have been provided to the appropriate congressional committees and to the Director, Office of Management and Budget (OMB), as required by 5 U.S.C. 552a(r) and guidelines issued by OMB (65 FR 77677), dated December 12, 2000.

This system deletion is effective June 6, 2008.

Approved: May 20, 2008.

Gordon H. Mansfield,

Deputy Secretary of Veterans Affairs.

[FR Doc. E8–12690 Filed 6–5–08; 8:45 am]

BILLING CODE 8320–01–P

Federal Register

Friday,
June 6, 2008

Part II

Nuclear Regulatory Commission

10 CFR Parts 170 and 171

Revision of Fee Schedules; Fee Recovery for FY 2008; Final Rule

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 170 and 171

RIN: 3150–AI28

[NRC–2008–0080]

Revision of Fee Schedules; Fee Recovery for FY 2008

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending the licensing, inspection, and annual fees charged to its applicants and licensees.

The amendments are necessary to implement the Omnibus Budget Reconciliation Act of 1990 (OBRA–90), as amended, which requires that the NRC recover approximately 90 percent of its budget authority in fiscal year (FY) 2008, less the amounts appropriated from the Nuclear Waste Fund (NWF), amounts appropriated for Waste Incidental to Reprocessing (WIR) activities, and amounts appropriated for generic homeland security activities. The required fee recovery amount for the FY 2008 budget is approximately $779.1 million. After accounting for carryover and billing adjustments, the total amount to be billed as fees is approximately $760.7 million.

DATES: *Effective Date:* August 5, 2008.

ADDRESSES: The comments received on the proposed rule and the NRC's work papers that support these final changes to 10 CFR parts 170 and 171 are available from the following locations:

Federal e-Rulemaking Portal: Go to *http://www.regulations.gov* and search for documents filed under Docket ID [NRC–2008–0080]. For further information about this site, contact Ms. Carol Gallagher, 301–415–5905; e-mail *Carol.Gallagher@nrc.gov*.

NRC's Public Document Room (PDR): The public may examine and have copied for a fee publicly available documents at the NRC's PDR, Public File Area O–1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

NRC's Agency Wide Document Access and Management System (ADAMS): Publicly available documents created or received at the NRC after November 1, 1998, are available electronically at the NRC's electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html*. From this page, the public can gain entry into ADAMS, which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC PDR reference staff at 1–899–397–4209, or 301–415–4737, or by e-mail to *pdr.resource@nrc.gov*.

FOR FURTHER INFORMATION CONTACT: Renu Suri, telephone 301–415–0161; Office of the Chief Financial Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Background
II. Response to Comments
III. Final Action
IV. Voluntary Consensus Standards
V. Environmental Impact: Categorical Exclusion
VI. Paperwork Reduction Act Statement
VII. Regulatory Analysis
VIII. Regulatory Flexibility Analysis
IX. Backfit Analysis
X. Congressional Review Act

I. Background

The NRC is required each year, under OBRA–90, as amended, (42 U.S.C. 2214) to recover approximately 90 percent of its budget authority, less the amounts appropriated from the NWF, amounts appropriated for WIR, and amounts appropriated for generic homeland security activities (''non-fee items''), through fees to NRC licensees and applicants. The 10 percent exclusion from fee recovery in NRC's annual appropriation is to pay for the costs of agency activities that do not provide a direct benefit to NRC licensees, such as international assistance and Agreement State activities under section 274 of the Atomic Energy Act of 1954, as amended. The NRC's required fee recovery amount for the FY 2008 budget is approximately $779.1 million, which is decreased by approximately $18.4 million to account for billing adjustments (i.e., carryover from prior year, expected unpaid invoices, payments for prior year invoices), resulting in a total of approximately $760.7 million to be billed as fees in FY 2008.

The NRC assesses two types of fees to meet the requirements of OBRA–90, as amended. First, license and inspection fees, established in 10 CFR part 170 under the authority of the Independent Offices Appropriation Act of 1952 (IOAA), 31 U.S.C. 9701, recover the NRC's costs of providing special benefits to identifiable applicants and licensees. Examples of the services provided by the NRC for which these fees are assessed are the review of applications for new licenses and the review of renewal applications, the review of amendment requests, and inspections. Second, annual fees established in 10 CFR part 171 under the authority of OBRA–90, as amended, recover generic and other regulatory costs not otherwise recovered through 10 CFR part 170 fees.

In accordance with OBRA–90, as amended, $29.4 million of the budgeted resources associated with generic homeland security activities are excluded from the NRC's fee base in FY 2008. This legislative provision was discussed in the NRC's FY 2006 proposed and final fee rules (71 FR 7349, February 10, 2006; 71 FR 30721, May 30, 2006). These funds cover generic activities that support an entire license fee class or classes of licensees such as rulemakings and guidance development. Under the authority of the IOAA, the NRC will continue to bill under part 170 for all licensee-specific homeland security-related services provided, including security inspections and security plan reviews.

The amount of the NRC's required fee collections is set by law, and is therefore outside the scope of this rulemaking. In FY 2008, the NRC's total fee recovery amount increased by $109.8 million from FY 2007, mostly in response to increased workload for new reactor licensing activities. The FY 2008 budget was allocated to the fee classes that the budgeted activities support. As such, the annual fees for reactor licensees increased. The annual fees for most other licensees decreased due to reductions in budgeted resources allocated to the fee classes. Another factor affecting the amount of annual fees for each fee class is the estimated collection under part 170. The annual fee amounts in the FY 2008 final fee rule are lower than those in the proposed rule primarily due to the increase in part 170 revenue estimates for all fee classes.

II. Response to Comments

The NRC published the FY 2008 proposed fee rule on February 13, 2008 (73 FR 8507) to solicit public comment on its proposed revisions to 10 CFR parts 170 and 171. The NRC received seven comments by the close of the comment period (March 14, 2008). The comments have been grouped by issue and are addressed in a collective response.

A. Specific Part 170 Issue

1. Direct Hours Per FTE

Comment. Some commenters requested a better explanation for the decrease in efficiency for the time, FY 2005 to FY 2008. NRC used 1,371 direct hours per FTE for calculation of hourly rates in FY 2008 compared with 1,446 direct hours per FTE in FY 2005.

Response. The purpose of the FY 2008 fee rulemaking, as with prior year fee rulemakings, is to establish fees in a fair and transparent manner to recover the required portion of the NRC's budget. The estimate of the direct staff hours per FTE used for the calculation of the hourly rate was revised based on data retrieved from NRC's time and labor system data. This revised estimate reflects changes that are taking place with the NRC's workforce.

In response to the comment on the lower estimated direct staff hours per FTE in FY 2008 as compared with FY 2005, the estimate is a reflection of the increase in retirements of more experienced NRC staff and the increase in hiring of new staff to fill these vacancies. In addition, the NRC is also recruiting new staff due to the projected increase in its workload, particularly as it relates to new reactors. In the near term, as new, less experienced staff continue to come on board, more hours are required for training and less staff are available for direct work. For the FY 2008 fee rule, NRC reviewed this estimate and updated it to 1,371 hours as compared with the lower 1,287 direct hours per FTE used for the FY 2007 hourly rate calculation. NRC plans to continue to review this estimate in future years and to update it as appropriate.

B. Specific Part 171 Issues

1. Annual Fee Changes

Comment. Two commenters supported the reduction in annual fees for uranium recovery licensees. One commenter suggested assessing higher fees to the uranium recovery licensees as a deterrent to increased uranium mining. One commenter noted that the annual fee for the registration of devices generally licensed is too high.

Response. In response to comments on the changes in annual fee amounts, NRC is rebaselining its fees in FY 2008, as noted in the proposed fee rule. Under this method, the annual fee amounts are calculated based on budgeted resources allocated to the fee class and may fluctuate from one year to the next. Changes in fee amounts in a fee class reflect the allocation of resources for regulatory activities to the fee class. As appropriate, the NRC will continue to recover its cost of application and amendment reviews by billing the identifiable applicants using the hourly rate.

The NRC fees are set after careful evaluation and allocation of the costs of its budgeted activities. Policy issues related to discouraging uranium mining are not within the scope of this rulemaking.

2. Agreement State Activities

Comment. Some commenters requested more discussion of the fee impact to NRC licensees once additional states beyond the Commonwealth of Pennsylvania become Agreement States.

Response. In response to concerns regarding decreasing numbers of NRC licensees in light of more states becoming Agreement States, the NRC notes that the fee calculation methodology considers the percentage of licensees in Agreement States in establishing fees for the materials users fee class. As explained in the proposed fee rule, the budgeted resources providing support to Agreement States or their licensees are included in total surcharge costs, which are offset by non-fee recovery funding provided by Congress. For example, if the NRC develops a rule, guidance document, or database or other tracking system, that is associated with or otherwise benefits Agreement State licensees, the costs of these activities are prorated to the surcharge according to the percentage of licensees in that fee class in Agreement States (e.g., if 82 percent of materials users licensees are in Agreement States, 82 percent of these regulatory infrastructure costs are included in the surcharge). To address fairness and equity concerns associated with licensees paying for the cost of activities that do not directly benefit them, as noted previously, the FY 2001 Energy and Water Development Appropriations Act amended OBRA–90 to decrease the NRC's fee recovery amount to 90 percent beginning in FY 2005. To the extent that the 10 percent of the budget authority which is not fee recoverable is insufficient to cover all surcharge costs, these remaining surcharge costs are spread to all licensees based on their percentage of the budget. In FY 2008, the NRC's fee relief exceeds the total surcharge cost. This excess fee relief is used to reduce all licensees' annual fees, based on their percentage of the fee recoverable budget authority.

C. Other Issues

1. Information Provided by NRC in Support of Proposed Rule

Comment. Some commenters requested more explanation for the operating reactors fee increases. The details requested include an explanation of increases in the budget for the new reactor work. The commenters also wanted more explanation for the reduction in non-fee items.

Response. In response to the comments on the explanation of increases in the budget for the new reactor work from FY 2007 to FY 2008 and decreases in non-fee items, the NRC reiterates that the purpose of this rulemaking is to establish fees to recover most of the NRC's budget, as required by OBRA–90, as amended. The NRC's budget and the manner in which the NRC carries out its activities are not within the scope of this rulemaking. The NRC's budget is submitted to the Office of Management and Budget (OMB) and Congress for review and approval. The Congressionally approved budget resulting from this process contains the NRC resources that must be allocated and then recovered through assessment of fees.

The purpose of the FY 2008 fee rulemaking, as with prior year fee rulemakings, is to establish fees in a fair and transparent manner to recover the required portion of the NRC's budget. As such, the purpose of this rulemaking is to describe and then solicit and evaluate comments on the allocation of these resources for fee calculation purposes. The rule and supporting work papers are not intended to justify why the budgeted resources for a given planned activity increased by a particular percentage. Each fiscal year, the NRC's Performance Budget submitted to the Congress for review provides the objectives of the budget and how it supports the agency's Strategic Plan goals and strategies. To assist commenters provide meaningful comments, the NRC made available NUREG–1100, Volume 23, ''Performance Budget: Fiscal Year 2008'' (February 2007), which discusses the NRC's budget for FY 2008, including the activities to be performed in each program. This document is available on the NRC public Web site at *http://www.nrc.gov/reading-rm.html*.

The fee rule and work papers show the value of the approved budgeted resources, and most importantly for fee calculation purposes, the fee classes and surcharge categories to which these resources are allocated. The proposed fee rule work papers included a separate document for each fee class and surcharge category to show the budget allocations for FY 2008 and FY 2007 at the planned activity level, thereby making it easier to see the reasons for any fee changes between FY 2008 and FY 2007. For example, the proposed fee rule stated that the power reactor annual fee increased due to an increase in budgeted resources for new reactor licensing activities. The work papers which listed the total budgeted FTE and contract resources at the planned

activity level showed that the budgeted resources for one of the new reactor licensing activities, Combined Licenses, increased by approximately 133 FTE and $36 million in FY 2008, as compared with FY 2007.

The information available in the rule, work papers, and the Performance Budget provided the public extensive information on the calculation of the proposed fees. Additionally, the contact listed in the proposed fee rule was available during the public comment period to answer any questions that commenters had on the development of the proposed fees. Therefore, the NRC believes that ample information was available on which to base constructive comments on the proposed revisions to parts 170 and 171.

2. Changing NRC's Small Entity Size Standards

Comment. One commenter requested that NRC consider revising fees for small businesses not engaged in manufacturing. The commenter suggested raising the lower gross receipts amount for the lower tier of the small entity fee or develop a sliding scale of the small entity fees.

Response. To alleviate the significant impact of the annual fees on a substantial number of small entities, NRC established the maximum small entity fee in FY 1991. In FY 1992, the NRC introduced a second, lower tier to the small entity fee. The NRC re-examined its small entity fees for the FY 2007 fee rulemaking, and did not believe that a change to the small entity fees was warranted. The NRC plans to re-examine the small entity fees again in FY 2009.

3. Need for Timely Budget Estimate

Comment. Several commenters raised concerns about the timing of the issuance of the fee rule. To address this issue, these commenters suggested that the NRC publish an estimate of fees for the following year, coincident with issuance of the proposed fee rule each year.

Response. The NRC acknowledges the concerns raised by these commenters, and has addressed similar comments in previous fee rulemakings. The timing of the fee rule each year is contingent upon when the NRC receives its Congressionally approved budget. The Commission makes every effort to issue the proposed fee rule as soon as possible after receiving its appropriation. Because the NRC can not estimate in advance what its future Congressionally approved budgets will be (i.e., proposed budgets must be submitted to the OMB for review before the President submits the budget to Congress for enactment), the NRC believes it is not practicable to project fees based on future estimated budgets. For example, at the time the FY 2007 proposed fee rule was published last year, the NRC was operating under a continuing resolution that limited the FY 2007 funds to the NRC's FY 2006 funding level which was approximately $83 million lower than what the President eventually signed into law on February 15, 2007. Had the NRC proposed or established preliminary fees based on the NRC funding in FY 2006, the FY 2007 estimated fees would have been quite different from the fees ultimately assessed to licensees.

Even if the NRC were able to estimate a future year budget, the annual fee amounts are highly sensitive to other factors, including the allocation of these budgeted resources to license fee classes, the numbers of licensees in a fee class, and the proportion of total class costs recovered from part 170. The part 170 revenue from a fee class is particularly difficult to predict in advance, and more so for fee classes with small numbers of licensees, whose annual fees are even more sensitive to part 170 revenue estimates. Estimating these factors in advance would likely lead to inaccurate future fee projections, which would be misleading to applicants and licensees.

The NRC staff is available to meet with interested licensees to explain the process of the fee rulemaking and the fee computations. To arrange a meeting, please contact Renu Suri, telephone 301–415–0161; e-mail *Renu.Suri@nrc.gov*; Office of the Chief Financial Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

4. Increase in the Fund Balance With Treasury

Comment. Some commenters requested an explanation for the increase in the NRC's fund balance with the Treasury account in FY 2007 as compared with FY 2006.

Response. The fund balance with the Treasury represents appropriated funds in a U.S. Treasury account that are available to pay NRC's current liabilities and to finance the agency's authorized purchase commitments. Note #2 to the annual financial statements, Fund Balance with Treasury, in the Performance and Accountability Report, FY 2007, NUREG–1542, Volume 13, describes the components of this NRC asset. The amount of the fund balance with the Treasury has no impact on the calculation of the fee amounts. The OBRA–90, as amended, requires the NRC to recover 90 percent of its budget authority for the fiscal year through fees. Therefore, an explanation for the increase in the NRC's fund balance with the Treasury for a prior year is outside the scope of this rulemaking. The NUREG–1542, Volume 13, which has more details on this fund balance is available on the NRC public Web site at *http://www.nrc.gov/reading-rm.html*.

III. Final Action

The NRC is amending its licensing, inspection, and annual fees to recover approximately 90 percent of its FY 2008 budget authority less the appropriations for non-fee items. The NRC's total budget authority for FY 2008 is $926.1 million. The non-fee items include approximately $29 million appropriated from the NWF, $2 million for WIR activities, and $29.4 million for generic homeland security activities. Based on the 90 percent fee-recovery requirement, the NRC must recover approximately $779.1 million in FY 2008 through part 170 licensing and inspection fees and part 171 annual fees. The amount required by law to be recovered through fees for FY 2008 is $109.8 million more than the amount estimated for recovery in FY 2007, an increase of approximately 16.4 percent.

The FY 2008 fee recovery amount of $779.1 million is further reduced for billing adjustments and carryover from the prior year. The FY 2008 billing adjustments of $5 million are primarily for FY 2008 invoices that the NRC estimates will not be paid during the fiscal year, less payments received in FY 2008 for FY 2007 invoices. In FY 2008, the carryover amount is approximately $13.3 million which includes additional collections in FY 2007 that were unanticipated when the final FY 2007 fee rule was published. This leaves approximately $760.7 million to be billed as fees in FY 2008 through part 170 licensing and inspection fees and part 171 annual fees.

Table 1 summarizes the budget and fee recovery amounts for FY 2008. (Individual values may not sum to totals due to rounding.)

TABLE 1.—BUDGET AND FEE RECOVERY AMOUNTS FOR FY 2008

[Dollars in millions]

Total Budget Authority	$926.1
Less non-fee items	−60.4
Balance	$865.7
Fee Recovery Rate for FY 2008	× 90.0%
Total Amount to be Recovered for FY 2008	$779.1
Less Carryover from FY 2007	−13.3
Less Part 171 Billing Adjustments	
Unpaid FY 2008 Invoices (estimated)	2.7
Less Payments Received in FY 2008 for Prior Year Invoices (estimated)	−7.8
Subtotal	−18.4
Amount to be Recovered Through Parts 170 and 171 Fees	$760.7
Less Estimated Part 170 Fees	−291.8
Part 171 Fee Collections Required	$468.9

Approximately 76 percent of the $13.3 million carryover amount was for unpredicted FY 2007 part 170 revenues for licensing and inspection services. At the time the FY 2007 final fee rule was published, NRC estimated the part 170 revenues based on billings for the prior four quarters. The rate of actual billings and revenues for the remainder of FY 2007 was higher than expected. Some of the factors contributing to the greater than estimated part 170 revenue collections were higher billings for review of design certifications and pre-application interactions related to new reactors, and materials licensing reviews billed to government agencies for the first time. In August 2007, NRC began billing government agencies in accordance with the Energy Policy Act of 2005 (see the discussion in the NRC's final fee rule for FY 2006, 71 FR 30731; May 30, 2006). The remainder of the $13.3 million carryover amount resulted from higher annual fees collected in FY 2007. Some of the factors for the higher collections were timing of the effective date of the FY 2007 fee rule, and collections for prior years. The FY 2007 fee rule went into effect August 6, 2007 with reduced fee amounts for most of the materials licensees. A majority of these licensees paid their fees on their anniversary month during FY 2007, based on the FY 2006 fee schedule (which had higher fees). This resulted in higher fee collections in FY 2007. NRC also collected greater than expected annual fees due to billings for prior years which were identified in FY 2007.

For FY 2008, the $13.3 million carryover amount will offset the fees statutorily required to be collected and results in a reduction in the annual fee for all fee classes. In addition, part 170 revenue estimates have been adjusted to reflect the current rate of billings to licensees. The NRC has updated the part 170 estimates for this final rule based on the latest invoice data available. In total, the part 170 estimates increased by approximately $8 million from the FY 2008 proposed fee rule; approximately $5 million of this increase is for the power reactor fee class.

The NRC estimates that in FY 2008 approximately $291.8 million will be recovered from part 170 fees. This represents an increase of approximately 37 percent as compared to the actual part 170 collections of $213.7 million for FY 2007. The NRC derived the FY 2008 estimate of part 170 fee collections based on the previous four quarters of billing data for each license fee class, with adjustments to account for changes in the NRC's FY 2008 budget, as appropriate. The remaining $468.9 million will be recovered through the part 171 annual fees in FY 2008, compared to $465.3 million for FY 2007, an increase of less than 1 percent. Annual fees for most licensees decreased between the FY 2008 proposed and final fee rules primarily due to higher part 170 fee collections.

The FY 2008 final fee rule is a ''major rule'' as defined by the Congressional Review Act of 1996, 5 U.S.C 801–808. Therefore, the NRC's fee schedules for FY 2008 will become effective 60 days after publication of the final rule in the **Federal Register**. The NRC will send an invoice for the amount of the annual fee to reactors, part 72 licensees, major fuel cycle facilities, and other licensees with annual fees of $100,000 or more, upon publication of the FY 2008 final rule. For these licensees, payment is due on the effective date of the FY 2008 final rule. Because these licensees are billed quarterly, the payment due is the amount of the total FY 2008 annual fee, less payments made in the first three quarters of the fiscal year.

Materials licensees with annual fees of less than $100,000 are billed annually. Those materials licensees whose license anniversary date during FY 2008 falls before the effective date of the FY 2008 final rule will be billed for the annual fee during the anniversary month of the license at the FY 2007 annual fee rate. Those materials licensees whose license anniversary date falls on or after the effective date of the FY 2008 final rule will be billed for the annual fee at the FY 2008 annual fee rate during the anniversary month of the license, and payment will be due on the date of the invoice.

The NRC will not routinely mail the FY 2008 final fee rule or future final fee rules to applicants or licensees. The NRC will send the final rule to any licensee or other person upon specific request. To request a copy, contact the License Fee Team, Division of Financial Management, Office of the Chief Financial Officer, at 301–415–7554, or e-mail *fees.resource@nrc.gov.* In addition to publication in the **Federal Register**, the final rule is available on the Internet at *http://www.regulations.gov*.

The NRC is amending 10 CFR parts 170 and 171 as discussed in Sections III.A and III.B of this document.

A. Amendments to 10 CFR Part 170: Fees for Facilities, Materials, Import and Export Licenses, and Other Regulatory Services Under the Atomic Energy Act of 1954, as Amended

The NRC is establishing a single hourly rate of $238 to recover the full cost of activities under part 170, and will use this rate to calculate ''flat'' application fees. The rule also makes minor administrative changes for

purposes of clarification and consistency.

The NRC is making the following changes:

1. Hourly Rate

The NRC's hourly rate is used in assessing full cost fees for specific services provided, as well as for flat fees for certain application reviews. The NRC is lowering the FY 2008 hourly rate to $238 from the FY 2007 rate of $258. This rate is applicable to all activities for which fees are assessed under §§ 170.21 and 170.31. The FY 2008 hourly rate is lower than the hourly rate of $258 in the FY 2007 final fee rule primarily due to the revised higher estimate of direct hours per FTE used in the hourly calculation. The hourly rate calculation is described in further detail in the following paragraphs.

The NRC's single hourly rate is calculated by dividing the recoverable budgeted resources (excluding direct contract activities) by mission direct FTE hours. The numerator, recoverable budget resources, is the sum of (1) mission direct program salaries and benefits; (2) mission indirect salaries and benefits and contract activity; and (3) agency management and support and Inspector General. The only budgeted resources excluded from the hourly rate are those for mission direct contract activities. The denominator, mission direct FTE hours, is derived by multiplying budgeted mission direct FTE by the annual direct hours per FTE. Although the numerator (i.e., net recoverable budget excluding contract activities) increased by 11 percent as compared with FY 2007, it is lower than the rate of increase in the denominator (i.e., mission direct FTE hours) which increased by 21 percent. This resulted in a lower hourly rate for FY 2008 as compared with FY 2007. The increase in the mission direct FTE hours in FY 2008 compared with FY 2007 is due to the increase in direct FTEs (2,079 FTE vs. 1,835 FTE) and revised higher estimate of direct hours per FTE (1,371 hours vs. 1,287 hours).

The NRC has reviewed data from its time and labor system to determine if the direct hours worked annually per direct FTE estimate requires updating for the FY 2008 fee rule. Based on this review of the most recent data available, the NRC determined that 1,371 hours is the best estimate of direct hours worked annually per direct FTE. This estimate excludes all non-mission direct hours, such as training, general administration, and leave. Because the NRC's hourly rates are calculated by dividing the net recoverable budget by the mission direct FTE hours (see descriptions above), the higher the number of direct hours per FTE used in the calculation, the lower the hourly rates.

The NRC is updating its hourly rate calculation to reflect its latest estimate of direct hours per FTE to more accurately reflect the NRC's cost of providing part 170 services, which would allow the NRC recover the cost of these services through part 170 fees. The NRC believes that this is consistent with guidance provided in the Office of Management and Budget Circular A–25 on recovering the full cost of services provided to identifiable recipients. The lower hourly rate caused a decrease in both the full cost fees for licensing and inspection activities, and the materials flat fees for license applications.

Table II shows the results of the hourly rate calculation methodology. (Individual values may not sum to totals due to rounding.)

TABLE II.—FY 2008 HOURLY RATE CALCULATION

Mission Direct Program Salaries & Benefits	$292.6M
Mission Indirect Salaries & Benefits, and Contract Activity	120.7M
Agency Management and Support, and IG	266.2M
Subtotal	$679.5M
Less Offsetting Receipts	−0.0M
Net Recoverable Budget Included in Hourly Rate	$679.5M
Mission Direct FTEs	2,079
Professional Hourly Rate (Net Recoverable Budget Included in Hourly Rate divided by Mission Direct FTE times 1,371 Annual Direct Hours Per FTE)	$238

As shown in Table II, dividing the $679.5 million budgeted amount (rounded) included in the hourly rate by total mission direct hours (2,079 FTE times 1,371 hours) results in an hourly rate of $238. The hourly rate is rounded to the nearest whole dollar.

2. ''Flat'' Application Fee Changes

As noted above, the NRC is adjusting the current flat application fees in §§ 170.21 and 170.31 to reflect the revised hourly rate of $238. These flat fees are calculated by multiplying the average professional staff hours needed to process the licensing actions by the professional hourly rate for FY 2008. The agency estimates the average professional staff hours needed to process licensing actions every other year as part of its biennial review of fees performed in compliance with the Chief Financial Officers Act of 1990. This review was last performed as part of the FY 2007 fee rulemaking. The lower hourly rate of $238 is the main reason for the reduction in the application fees.

The amounts of the materials licensing flat fees are rounded so that the fees would be convenient to the user and the effects of rounding would be *de minimis*. Fees under $1,000 are rounded to the nearest $10, fees that are greater than $1,000 but less than $100,000 are rounded to the nearest $100, and fees that are greater than $100,000 are rounded to the nearest $1,000.

The licensing flat fees are applicable for fee categories K.1. through K.5. of § 170.21, and fee categories 1.C., 1.D., 2.B., 2.C., 3.A. through 3.S., 4.B. through 9.D., 10.B., 15.A. through 15.R., 16, and 17 of § 170.31. Applications filed on or after the effective date of the FY 2008 final fee rule will be subject to the revised fees in the final rule.

3. Administrative Amendments

The NRC is adding program codes next to the materials users fee categories in § 170.31. At the time NRC receives a materials users license application, a five-digit program code number is assigned by the agency to each license to designate the major activity or principal use authorized in the license. More than one code may apply to a given license. The fee amount for the license under 10 CFR parts 170 and 171 is determined by the fee category, which is also based on the authorized usage contained on the license. To reduce the risk of misinterpretation of material uses authorized in the license while establishing a fee category, the NRC is implementing a process that links a

program code directly to a fee category. Once a program code is assigned to the license, it will assist the licensee to correctly identify the fee amount(s) by looking up the program code(s) in § 170.31.

In summary, the NRC is making the following changes to 10 CFR part 170:

1. Establish revised professional hourly rate to use in assessing fees for specific services;
2. Revise the license application fees to reflect the FY 2008 hourly rate; and
3. Make certain administrative changes for purposes of clarification.

B. Amendments to 10 CFR Part 171: Annual Fees for Reactor Licenses and Fuel Cycle Licenses and Materials Licenses, Including Holders of Certificates of Compliance, Registrations, and Quality Assurance Program Approvals and Government Agencies Licensed by the NRC

The NRC is making the following changes to part 171: Using its fee relief to reduce all licensees' annual fees; changing the number of NRC licensees for some fee categories; establishing rebaselined annual fees based on the NRC's FY 2008 budget authority; and making some minor administrative amendments. The final amendments are described as follows:

1. Application of ''Fee Relief''

The NRC is using its fee relief to reduce all licensees' annual fees, based on their percent of the budget.

The NRC applies the 10 percent of its budget that is excluded from fee recovery under OBRA–90, as amended (fee relief), to offset the cost of activities which do not directly benefit current NRC licensees. The cost of these ''surcharge'' activities are totaled, and then reduced by the amount of the NRC's fee relief. Historically, any remaining surcharge cost was allocated to all licensees' annual fees, based on their percent of the budget (i.e., over 80 percent was allocated to power reactors each year).

In FY 2008, the NRC's fee relief exceeds the total surcharge cost by approximately $8.9 million. In FY 2007, this fee relief exceeded the total surcharge cost by approximately $9.8 million. Although the fee relief in FY 2008 is approximately $12.2 million higher compared with FY 2007, the amount of fee relief allocated to licensees decreases primarily due to higher FY 2008 surcharge cost, which includes funding of $15 million for scholarships and fellowships. The scholarships and fellowships funding, to be administered by the NRC, is to enable students to pursue education in fields of study that constitute critical skills areas needed to sustain NRC's regulatory mission and benefit the nuclear sector. This $15 million funding for scholarships and fellowships does not directly benefit the existing NRC licensees. Therefore, the NRC has classified it as a surcharge activity to be offset by the fee relief.

The excess fee relief for the FY 2008 final rule increased by approximately $1.4 million compared with the proposed primarily due to a change in the generic decommissioning/reclamation surcharge costs. The amount in this surcharge category decreased from the proposed rule due to a smaller budget resource allocation for the generic decommissioning activities related to uranium recovery sites and a higher part 170 revenue estimate for all generic decommissioning/reclamation activities.

As in FY 2007, the NRC is using the $8.9 million excess fee relief to reduce all licensees' annual fees, based on their percent of the fee recoverable budget authority. This is consistent with the existing fee methodology, in that the benefits of the NRC's fee relief are allocated to licensees in the same manner as cost was allocated when the NRC did not receive enough fee relief to pay for surcharge activities. In FY 2008, the power reactors class of licensees will receive approximately 90 percent of the fee relief based on their share of the NRC fee recoverable budget authority.

The total budgeted resources for the NRC's surcharge activities in FY 2008 are $77.7 million. The NRC's total fee relief in FY 2008 is $86.6 million, leaving $8.9 million in fee relief to be used to reduce all licensees' annual fees. These values are shown in Table III. (Individual values may not sum to totals due to rounding.)

TABLE III.—SURCHARGE COSTS

[Dollars in millions]

Category of costs	FY 2008 budgeted costs
1. Activities not attributable to an existing NRC licensee or class of licensee:	
a. International activities	$12.9
b. Agreement State oversight	8.8
c. Scholarships and Fellowships	15.0
2. Activities not assessed part 170 licensing and inspection fees or part 171 annual fees based on existing law or Commission policy:	
a. Fee exemption for nonprofit educational institutions	10.9
b. Costs not recovered from small entities under 10 CFR 171.16(c)	3.8
3. Activities supporting NRC operating licensees and others:	
a. Regulatory support to Agreement States	9.9
b. Generic decommissioning/reclamation (not related to the power reactor and spent fuel storage fee classes)	13.5
c. In-situ Leach Uranium Extraction rulemaking and unregistered general licensees	2.9
Total surcharge costs	77.7
Less 10 percent of NRC's FY 2008 total budget (less non-fee items)	−86.6
Fee Relief to be Allocated to All Licensees' Annual Fees	−8.9

Table IV shows how the NRC is allocating the $8.9 million in fee relief to each license fee class. (Individual amounts may not sum to totals due to rounding.) As explained previously, the NRC is allocating this fee relief to each license fee class based on the percent of the budget for that fee class compared to the NRC's total budget. The fee relief is used to partially offset the required annual fee recovery from each fee class. Sections 171.15(d)(1) and 171.16(e)

clarify that the surcharge allocated to annual fees may be negative (i.e., an annual fee reduction).

Separately, the NRC has continued to allocate the low level waste (LLW) surcharge costs based on the volume of LLW disposal of certain classes of licenses. Table IV also shows the allocation of the LLW surcharge. Because LLW activities support NRC licensees, the costs of these activities are not offset by the NRC's fee relief. For FY 2008, the LLW surcharge cost is $2.8 million. The annual fee for the materials users fee class includes a surcharge (i.e., not an annual fee reduction), because the LLW surcharge allocated to the fee class is greater than its allocated fee relief.

TABLE IV.—ALLOCATION OF FEE RELIEF AND LLW SURCHARGE

	LLW surcharge		Non-LLW surcharge (fee reduction)		Total $M
	Percent	$M	Percent	$M	
Operating Power Reactors	74	2.1	89.6	−8.0	−5.9
Spent Fuel Storage/Reactor Decommissioning	.....	.....	2.9	−0.3	−0.3
Test and Research Reactors	.....	.....	0.1	0.0	0.0
Fuel Facilities	8	0.2	4.1	−0.4	−0.1
Materials Users	18	0.5	2.5	−0.2	0.3
Transportation	.....	.....	0.4	0.0	0.0
Rare Earth Facilities	.....	.....	0.0	0.0	0.0
Uranium Recovery	.....	.....	0.3	0.0	0.0
Total Surcharge	100	2.8	100.0	−8.9	−6.0

2. Agreement State Activities

By letter dated November 9, 2006, Governor Edward Rendell of the Commonwealth of Pennsylvania requested that the NRC enter into an Agreement with the State as authorized by Section 274 of the Atomic Energy Act of 1954, as amended. The NRC approved the request. This resulted in the transfer of approximately 650 licenses from the NRC to the Commonwealth of Pennsylvania effective March 31, 2008.

The continuing costs of Agreement State regulatory support and oversight for the Commonwealth of Pennsylvania, as for any other Agreement State, are recovered through the surcharge (as reduced by the 10 percent of its budget that the NRC receives in appropriations each year for these types of activities), consistent with existing policy. The budgeted resources for the regulatory infrastructure to support these types of licensees are prorated to the surcharge based on the percent of total licensees in Agreement States. The NRC has updated the allocation percentage in its fee calculation to make sure that resources are allocated equitably between the NRC materials users fee class and the Agreement States surcharge category. Accordingly, as a result of the Commonwealth of Pennsylvania becoming an Agreement State, the NRC has increased the percentage of materials users regulatory infrastructure costs prorated to the surcharge category from 80 percent in FY 2007 to 82 percent in FY 2008. However, some resources associated with the materials users fee class are not prorated to the surcharge (e.g., resources for licensing and inspection activities), because these resources are for the purpose of supporting NRC licensees only.

The number of NRC materials users licensees also has been updated to reflect the transfer of licensees to the Commonwealth of Pennsylvania effective March 31, 2008. Because of the effective date of March 31, 2008, which is at the end of the first half of the FY, the approximately 650 licensees transferred to the Commonwealth of Pennsylvania are subject to one-half of their NRC annual fee for FY 2008. The number of materials users licensees has been revised to reflect that NRC will still collect one-half of the annual fee from these licensees. Also, the single NRC rare earth license under fee category 2.A.(2)(c) has been transferred to the Commonwealth of Pennsylvania. Because no other rare earth facility application is expected for FY 2008, an annual fee was not computed for fee category 2.A.(2)(c). As with other licensees transferred to the Commonwealth of Pennsylvania in FY 2008, this rare earth facility paid one-half of the annual fee in effect on its anniversary date in January 2008.

This is not a substantive policy change, but rather a calculation change that will result in a more accurate estimate of the actual costs of Agreement State oversight activities.

3. Revised Annual Fees

The NRC is revising its annual fees in §§ 171.15 and 171.16 for FY 2008 to recover approximately 90 percent of the NRC's FY 2008 budget authority less the non-fee amounts and the estimated amount to be recovered through part 170 fees. The part 170 estimate for this final rule increased by approximately $8 million from the proposed fee rule based on the latest invoice data available. The total amount to be recovered through annual fees for FY 2008 decreased to $468.9 million compared with $477.2 million in the proposed fee rule primarily due to the increase in the part 170 estimate. The required annual fee collection in FY 2007 was $465.3 million.

The NRC uses one of two methods to determine the amounts of the annual fees, for each type of licensee, established in its fee rule each year. One method is ''rebaselining,'' for which the NRC's budget is analyzed in detail and budgeted resources are allocated to fee classes and categories of licensees. The second method is the ''percent change'' method, for which fees are revised based on the percent change in the total budget, taking into account other adjustments such as the number of licensees and the projected revenue to be received from part 170 fees.

As explained in the FY 2006 final fee rule (71 FR 30733; May 30, 2006), the Commission has determined that the agency should proceed with a presumption in favor of rebaselining in calculating annual fees each year, and that the percent change method should be used infrequently. This is because the Commission expects that most years there will be budget and other changes that warrant the use of the rebaselining method.

Rebaselining fees results in increased annual fees compared with FY 2007 for two classes of licensees (*power reactors*

and non-power reactors), and decreased annual fees for five classes of licensees (*spent fuel storage/reactor decommissioning, fuel facilities, uranium recovery, materials users, and transportation*). There is no annual fee for the rare earth fee class because this NRC fee class will no longer exist in FY 2008. As discussed in Section III.B.2 of this document, ''Agreement State Activities,'' NRC's only rare earth facility transferred to the Commonwealth of Pennsylvania, which became an Agreement State, effective March 31, 2008. In FY 2008, this rare earth facility paid one-half of the annual fee in effect on its anniversary date.

The significant factors affecting the changes to the annual fee amounts as compared with FY 2007 are the increase in budgeted resources for new reactor activities, a higher part 170 revenue estimate, and higher prior year fee collections. The NRC's total fee recoverable budget, as mandated by law, is approximately $109.8 million larger in FY 2008 as compared with FY 2007. Because much of this increase is for the additional workload demand in the area of new reactor licensing, this increase mainly affects the operating power reactors' annual fees. Other factors affecting all annual fees include the distribution of budgeted costs to the different classes of licenses (based on the specific activities NRC will perform in FY 2008), the estimated part 170 collections for the various classes of licenses, and allocation of the fee relief to all fee classes. The percentage of the NRC's budget not subject to fee recovery remained unchanged at 10 percent from FY 2007 to FY 2008.

Table V shows the rebaselined annual fees for FY 2008 for a representative list of categories of licenses. The FY 2007 fee is also shown for comparative purposes.

TABLE V.—REBASELINED ANNUAL FEES FOR FY 2008

Class/category of licenses	FY 2007 annual fee	FY 2008 annual fee
Operating Power Reactors (including Spent FuelStorage/Reactor Decommissioning annual fee)	$4,043,000	$4,167,000
Spent Fuel Storage/Reactor Decommissioning	159,000	135,000
Test and Research Reactors (Non-power Reactors)	76,300	76,500
High Enriched Uranium Fuel Facility	4,096,000	3,007,000
Low Enriched Uranium Fuel Facility	1,237,000	899,000
UF_6 Conversion Facility	811,000	589,000
Conventional Mills	18,700	10,300
Typical Materials Users:		
Radiographers	14,100	11,100
Well Loggers	4,400	3,400
Gauge Users (Category 3P)	2,700	2,100
Broad Scope Medical	29,000	22,900

The budgeted costs allocated to each class of licenses and the calculations of the rebaselined fees are described in paragraphs a. through h. of this section. The work papers which support this final rule show in detail the allocation of NRC's budgeted resources for each class of license and how the fees are calculated. The reports included in these work papers summarize the FY 2008 budgeted FTE and contract dollars allocated to each fee class and surcharge category at the planned activity and program level, and compare these allocations to those used to develop final FY 2007 fees. In FY 2008, NRC has also revised the format of the work papers to make it easier for stakeholders to find the information supporting this final fee rule. The sequence of the information in the work papers now matches the sequence in this final fee rule. In addition, a brief overview of each of the tabs in the work papers has been added for the reader's convenience. The work papers are available electronically at the NRC's Electronic Reading Room on the Internet at Web site address *http://www.nrc.gov/reading-rm/adams.html*. The work papers may also be examined at the NRC PDR located at One White Flint North, Room O–1F22, 11555 Rockville Pike, Rockville, Maryland.

a. Fuel Facilities

The FY 2008 budgeted cost to be recovered in the annual fees assessment to the fuel facility class of licenses (which includes licensees in fee categories 1.A.(1)(a), 1.A.(1)(b), 1.A.(2)(a), 1.A.(2)(b), 1.A.(2)(c), 1.E., and 2.A.(1), under § 171.16) is approximately $13.9 million. This value is based on the full cost of budgeted resources associated with all activities that support this fee class, which is reduced by estimated part 170 collections and adjusted to reflect the net allocated fee relief (negative surcharge), allocated generic transportation resources, and carryover. The summary calculations used to derive this value are presented in Table VI for FY 2008, with FY 2007 values shown for comparison. (Individual values may not sum to totals due to rounding.)

TABLE VI.—ANNUAL FEE SUMMARY CALCULATIONS FOR FUEL FACILITIES

[Dollars in millions]

Summary fee calculations	FY 2007 final	FY 2008 final
Total budgeted resources	$32.2	$31.5
Less estimated part 170 receipts	−13.6	−17.2
Net part 171 resources	18.6	14.3
Allocated generic transportation	+0.5	+0.5
Allocated surcharge	−0.2	−0.1

TABLE VI.—ANNUAL FEE SUMMARY CALCULATIONS FOR FUEL FACILITIES—Continued

[Dollars in millions]

Summary fee calculations	FY 2007 final	FY 2008 final
Billing adjustments (including carryover)	+0.1	−0.8
Total required annual fee recovery	18.9	13.9

The decrease in fuel facilities FY 2008 total budgeted cost to be recovered compared with FY 2007 is due to lower fuel facility resources for licensing activities, a higher part 170 revenue estimate, and adjustment for higher carryover. The part 170 revenue estimate for FY 2008 final rule increased by approximately 1 percent compared with the proposed rule due to increased billing for fuel facilities. This results in lower FY 2008 annual fees for fuel facilities in this final fee rule.

The total required annual fee recovery amount is allocated to the individual fuel facility licensees based on the effort/fee determination matrix developed for the FY 1999 final fee rule (64 FR 31447; June 10, 1999). In the matrix included in the NRC publicly available work papers, licensees are grouped into categories according to their licensed activities (i.e., nuclear material enrichment, processing operations, and material form). In addition, the licensees are grouped according to the level, scope, depth of coverage, and rigor of generic regulatory programmatic effort applicable to each category from a safety and safeguards perspective. This methodology can be applied to determine fees for new licensees, current licensees, licensees in unique license situations, and certificate holders.

This methodology is adaptable to changes in the number of licensees or certificate holders, licensed or certified material and/or activities, and total programmatic resources to be recovered through annual fees. When a license or certificate is modified, it may result in a change of category for a particular fuel facility licensee as a result of the methodology used in the fuel facility effort/fee matrix. Consequently, this change may also have an effect on the fees assessed to other fuel facility licensees and certificate holders. For example, if a fuel facility licensee amends its license/certificate (e.g., decommissioning or license termination) that results in it not being subject to part 171 costs applicable to the fee class, then the budgeted costs for the safety and/or safeguards components will be spread among the remaining fuel facility licensees/ certificate holders.

The methodology is applied as follows. First, a fee category is assigned based on the nuclear material and activity authorized by license or certificate. Although a licensee/ certificate holder may elect not to fully use a license/certificate, the license/ certificate is still used as the source for determining authorized nuclear material possession and use/activity. Second, the category and license/certificate information are used to determine where the licensee/certificate holder fits into the matrix. The matrix depicts the categorization of licensees/certificate holders by authorized material types and use/activities.

Once the structure of the matrix is established, the NRC's fuel facility project managers and regulatory analysts determine the level of effort associated with regulating each of these facilities. This is done by assigning, for each fuel facility, separate effort factors for the safety and safeguards activities associated with each type of regulatory activity. The matrix includes ten types of regulatory activities, including enrichment and scrap/waste related activities (see the work papers for the complete list). Effort factors are assigned as follows: One (low regulatory effort), five (moderate regulatory effort), and ten (high regulatory effort). These effort factors are then totaled for each fee category, so that each fee category has a total effort factor for safety activities and a total effort factor for safeguards activities.

The effort factors for the various fuel facility fee categories are summarized in Table VII. The value of the effort factors shown, as well as the percent of the total effort factor for all fuel facilities, reflects the total regulatory effort for each fee category (not per facility). Note that the effort factors for the High Enriched Uranium Fuel fee category have changed from FY 2007. The safety and safeguards factors increased in FY 2008 to reflect NRC's review of an amendment request by a licensee to handle liquid UF_6 workload. Taking into account both of these changes, the total safety and safeguards effort factor change is relatively small.

TABLE VII.—EFFORT FACTORS FOR FUEL FACILITIES

Facility type (fee category)	Number of facilities	Effort factors (percent of total)	
		Safety	Safeguards
High Enriched Uranium Fuel	2	92 (35.8)	102 (53.7)
Uranium Enrichment	2	70 (27.2)	40 (21.1)
Low Enriched Uranium Fuel	3	66 (25.7)	21 (11.1)
UF_6 Conversion	1	12 (4.7)	7 (3.7)
Limited Operations	1	8 (3.1)	3 (1.6)
Gas Centrifuge Enrichment Demonstration	1	3 (1.2)	15 (7.9)
Hot Cell	1	6 (2.3)	2 (1.1)

The budgeted resources for safety activities ($8,045,570) are allocated to each fee category based on its percent of the total regulatory effort for safety activities. For example, if the total effort factor for safety activities for all fuel

facilities is 100, and the total effort factor for safety activities for a given fee category is 10, that fee category will be allocated 10 percent of the total budgeted resources for safety activities. Similarly, the budgeted resources for safeguards activities ($5,948,086) are allocated to each fee category based on its percent of the total regulatory effort for safeguards activities. The fuel facility fee class' portion of the fee relief (negative surcharge of $137,150) and the billing adjustment (a fee reduction in FY 2008 of $752,859) is allocated to each fee category based on its percent of the total regulatory effort for both safety and safeguards activities. The annual fee per licensee is then calculated by dividing the total allocated budgeted resources for the fee category by the number of licensees in that fee category as summarized in Table VIII.

TABLE VIII.—ANNUAL FEES FOR FUEL FACILITIES

Facility type (fee category)	FY 2008 annual fee
High Enriched Uranium Fuel	$3,007,000
Uranium Enrichment	1,705,000
Low Enriched Uranium	899,000
UF_6 Conversion	589,000
Gas Centrifuge Enrichment Demonstration	558,000
Limited Operations Facility	341,000
Hot Cell (and others)	248,000

The NRC does not expect to authorize operation of any new uranium enrichment facility in FY 2008. The annual fee applicable to any type of new uranium enrichment facility is the annual fee in § 171.16, fee category 1.E., Uranium Enrichment, unless the NRC establishes a new fee category for the facility in a subsequent rulemaking.

b. Uranium Recovery Facilities

The total FY 2008 budgeted cost to be recovered through annual fees assessed to the uranium recovery class (which includes licensees in fee categories 2.A.(2)(a), 2.A.(2)(b), 2.A.(3), 2.A.(4), 2.A.(5) and 18.B., under § 171.16), is approximately $0.46 million. The derivation of this value is shown in Table IX, with FY 2007 values shown for comparison purposes. (Individual values may not sum to totals due to rounding.)

TABLE IX.—ANNUAL FEE SUMMARY CALCULATIONS FOR URANIUM RECOVERY FACILITIES

[Dollars in millions]

Summary fee calculations	FY 2007 final	FY 2008 final
Total budgeted resources	$1.32	$2.56
Less estimated part 170 receipts	−0.61	−2.02
Net part 171 resources	0.71	0.54
Allocated generic transportation	+N/A	+N/A
Allocated surcharge	−0.02	−0.03
Billing adjustments (including carryover)	+0.00	−0.06
Total required annual fee recovery	0.69	0.46

The decrease in the total required annual fee recovery in FY 2008 compared with FY 2007 is mainly due to a higher part 170 revenue estimate and higher billing adjustment partially offset by an increase in uranium recovery licensing and inspection resources. The budgeted resources for the final rule increased by approximately $0.9 million compared with the proposed rule due to change in allocations to the uranium recovery fee class. More of FY 2008 resources are being used to support licensing work for new uranium recovery facilities and less for generic decommissioning activities related to uranium recovery sites. Therefore, resources from the surcharge category, generic decommissioning/reclamation, were shifted to the uranium recovery fee class for the final rule. This increase in the uranium recovery budget allocations was offset by a higher part 170 revenue estimate compared with the proposed rule. The part 170 revenue estimate increased by $1.07 million compared with the proposed rule due to increased billing for review of applications for new uranium recovery facilities. The annual fee in the final rule decreased compared with the proposed rule for the DOE and non DOE licensees in the uranium recovery fee class primarily due to higher part 170 revenue estimate.

Of the required annual fee collections, $398,000 (rounded) is assessed to DOE for licensing its Uranium Mill Tailings Radiation Control Act (UMTRCA) sites under fee category 18.B. The remaining $58,000 (rounded) will be recovered through annual fees assessed to the other licensees in this fee class (i.e., conventional mills, in-situ leach solution mining facilities), 11e.(2) mill tailings disposal facilities (incidental to existing tailings sites), and a uranium water treatment facility.

In the FY 2002 final fee rule (67 FR 42611; June 24, 2002), the NRC developed a fee recovery methodology for the uranium recovery fee class that would allocate the total annual fee amount for this fee class, less the amounts specifically budgeted for Title I activities, equally between DOE (for its UMTRCA Title I and Title II sites) and the other licensees in this fee class. In the FY 2007 final rule (72 FR 31414; June 6, 2007), the NRC changed this

methodology to allocate 45 percent of the total annual fee amount, less the amounts specifically budgeted for Title I activities, to DOE's UMTRCA annual fee and 55 percent to the other licensees in this fee class. Based on updated information, NRC is changing this allocation percentage in FY 2008. In FY 2008, 40 percent of the total annual fee amount of $484,581, less $359,471 specifically budgeted for Title I activities, is allocated to DOE's UMTRCA sites. The remaining 60 percent of the total annual fee (less the amounts specifically budgeted for Title I activities) is allocated to other licensees. The reduction in allocation percentage of budgeted resources for licensing the DOE is based on the reduced effort expended for DOE UMTRCA sites.

The annual fee assessed to DOE is the sum of the resources specifically budgeted for NRC's Title I activities plus 40 percent of the remaining annual fee amount (including the surcharge and generic/other costs) for the uranium recovery class. The remaining 60 percent of the budgeted resources, surcharge, and generic/other costs allocated to this fee class are assessed to the other NRC uranium recovery licensees. The costs to be recovered through annual fees assessed to the uranium recovery class are shown in Table X.

TABLE X.—COSTS RECOVERED THROUGH ANNUAL FEES; URANIUM RECOVERY FEE CLASS

DOE Annual Fee Amount (UMTRCA) Title I and Title II general licenses:	
UMTRCA Title I budgeted costs	$359,471
40 percent of generic/other uranium recovery budgeted costs	50,044
40 percent of uranium recovery surcharge	−11,585
Total Annual Fee Amount for DOE (rounded)	398,000
Annual Fee Amount for Other Uranium Recovery Licenses:	
60 percent of generic/other uranium recovery budgeted costs less the amounts specifically budgeted for Title I activities	75,066
60 percent of uranium recovery surcharge	−17,377
Total Annual Fee Amount for Other Uranium Recovery Licenses	57,688

The NRC will continue to use a matrix (which is included in the supporting work papers) to determine the level of effort associated with regulating the different (non-DOE) licensees in this fee class. The weights derived in this matrix are used to allocate the approximately $58,000 annual fee amount to these licensees. The use of this uranium recovery annual fee matrix was established in the FY 1995 final fee rule (60 FR 32217; June 20, 1995). The FY 2008 matrix is described as follows.

First, the methodology identifies the categories of licenses included in this fee class (excluding DOE). In FY 2008, these categories are conventional uranium mills (Class I facilities), uranium solution mining facilities (Class II facilities), mill tailings disposal facilities (11e.(2) disposal facilities), and uranium water treatment facilities. The uranium water treatment facility fee category in the uranium recovery fee class was created in FY 2007 (72 FR 31413; June 6, 2007).

Second, the matrix identifies the types of operating activities that support these licensees. Note that the activities related to generic decommissioning/reclamation are not included in the matrix, because generic decommissioning/reclamation activities are included in the surcharge, and therefore need not be a factor in determining annual fees. The activities included in the FY 2008 matrix are 'operations,' 'waste operations,' and 'groundwater remediation.' The relative weight of each type of activity is then determined, based on the regulatory resources associated with each activity. The 'operations,' 'waste operations,' and 'groundwater remediation' activities have weights of 10, 5, and 10, respectively, in the FY 2008 matrix.

Once the structure of the matrix is established, the NRC's uranium recovery project managers and regulatory analysts determine the level of effort associated with regulating each of these facilities. This is done by assigning, for each fee category, separate effort factors for each type of regulatory activity in the matrix. Effort factors are assigned as follows: One (low regulatory effort), five (moderate regulatory effort), and ten (high regulatory effort). These effort factors are first multiplied by the relative weight assigned to each activity (described previously). Total effort factors by fee category, and per licensee in each fee category, are then calculated. These effort factors thus reflect the relative regulatory effort associated with each licensee and fee category.

The effort factors per licensee and per fee category, for each of the non-DOE fee categories included in the uranium recovery fee class, are as follows:

TABLE XI.—EFFORT FACTORS FOR URANIUM RECOVERY LICENSES

Fee category	Number of licensees	Effort factor per licensee	Total effort factor	
			Value	Percent total
Class I (conventional mills)	1	75	75	18
Class II (solution mining)	3	75	225	54
11e.(2) disposal incidental to existing tailings sites	1	75	75	18
Uranium water treatment	1	45	45	11

The annual fee per licensee is calculated by dividing the total allocated budgeted resources for the fee category by the number of licensees in that fee category as summarized in Table XII. Applying these factors to the approximately $58,000 in budgeted costs to be recovered from non-DOE uranium recovery licensees results in the following annual fees for FY 2008:

TABLE XII.—ANNUAL FEES FOR URANIUM RECOVERY LICENSEES (OTHER THAN DOE)

Facility type	FY 2008 annual fee
Class I (conventional mills)	$10,300
Class II (solution mining)	10,300
11e.(2) disposal	N/A
11e.(2) disposal incidental to existing tailings sites	10,300
Uranium water treatment	6,200

Because there are no longer any 11e.(2) disposal facilities under the NRC's regulatory jurisdiction, the NRC has not allocated any budgeted resources for these facilities, and therefore has not established an annual fee for this fee category. If NRC issues a license for this fee category in the future, then the Commission will establish the appropriate annual fee.

c. Operating Power Reactors

The approximately $419.3 million in budgeted costs to be recovered through FY 2008 annual fees assessed to the power reactor class was calculated as shown in Table XIII. FY 2007 values are shown for comparison. (Individual values may not sum to totals due to rounding.)

TABLE XIII.—ANNUAL FEE SUMMARY CALCULATIONS FOR OPERATING POWER REACTORS

[Dollars in millions]

Summary fee calculations	FY 2007 final	FY 2008 final
Total budgeted resources	$588.6	$698.8
Less estimated part 170 receipts	−180.7	−258.1
Net part 171 resources	407.9	440.7
Allocated generic transportation	+1.0	+1.0
Allocated surcharge	−6.0	−5.9
Billing adjustments (including carryover)	+1.1	−16.5
Total required annual fee recovery	404.0	419.3

The budgeted costs to be recovered through annual fees to power reactors are divided equally among the 104 power reactors licensed to operate. This results in a FY 2008 annual fee of $4,032,000 per reactor. Additionally, each power reactor licensed to operate is assessed the FY 2008 spent fuel storage/reactor decommissioning annual fee of $135,000. This results in a total FY 2008 annual fee of $4,167,000 for each power reactor licensed to operate. The part 170 revenue estimate for the final rule increased by approximately $5.3 million compared with the proposed rule due to increased billings for work related to new applications. As a result, the annual fee for each power reactor decreased by approximately 2 percent in the final rule.

The annual fee for power reactors increases in FY 2008 compared to FY 2007 due to an increase in budgeted resources for a number of activities, including regulatory infrastructure for new reactor licensing activities related to combined license applications and design certifications. This increase is partially offset by the higher estimated part 170 collections, and adjustment for higher carryover compared with FY 2007. The annual fees for power reactors are presented in § 171.15.

d. Spent Fuel Storage/Reactor Decommissioning

For FY 2008, budgeted costs of approximately $16.6 million for spent fuel storage/reactor decommissioning are to be recovered through annual fees assessed to part 50 power reactors, and to part 72 licensees who do not hold a part 50 license. Those reactor licensees that have ceased operations and have no fuel onsite are not subject to these annual fees. Table XIV shows the calculation of this annual fee amount. FY 2007 values are shown for comparison. (Individual values may not sum to totals due to rounding.)

TABLE XIV.—ANNUAL FEE SUMMARY CALCULATIONS FOR THE SPENT FUEL STORAGE/REACTOR DECOMMISSIONING FEE CLASS

[Dollars in millions]

Summary fee calculations	FY 2007 final	FY 2008 final
Total budgeted resources	$23.9	$22.4
Less estimated part 170 receipts	−4.2	−5.3
Net part 171 resources	19.7	17.1
Allocated generic transportation	+0.3	+0.2
Allocated surcharge	−0.4	−0.3
Billing adjustments (including carryover)	+0.0	−0.5
Total required annual fee recovery	19.6	16.6

The required annual fee recovery amount is divided equally among 123 licensees, resulting in a FY 2008 annual fee of $135,000 per licensee. The total required annual fee for this fee class decreased in FY 2008 compared to FY 2007 due to a decrease in the budgeted resources for decommissioning, higher estimated part 170 collections, and adjustment for higher carryover. The part 170 revenue estimate for the final rule increased by approximately 13 percent due to increased billings for spent fuel storage, which resulted in a lower annual fee compared with the proposed rule.

e. Test and Research Reactors (Non-power Reactors)

Approximately $310,000 in budgeted costs is to be recovered through annual fees assessed to the test and research reactor class of licenses for FY 2008. Table XV summarizes the annual fee calculation for test and research reactors for FY 2008. FY 2007 values are shown for comparison. (Individual values may not sum to totals due to rounding.)

TABLE XV.—ANNUAL FEE SUMMARY CALCULATIONS FOR TEST AND RESEARCH REACTORS

[Dollars in millions]

Summary fee calculations	FY 2007 final	FY 2008 final
Total budgeted resources	$0.85	$0.99
Less estimated part 170 receipts	−0.55	−0.66
Net part 171 resources	0.30	0.33
Allocated generic transportation	+0.01	+0.01
Allocated surcharge	−0.01	−0.01
Billing adjustments (including carryover)	+0.00	−0.02
Total required annual fee recovery	0.31	0.31

This required annual fee recovery amount is divided equally among the 4 test and research reactors subject to annual fees and results in a FY 2008 annual fee of $76,500 for each licensee. The slight increase in annual fees from FY 2007 to FY 2008 is due to an increase in budget resources partially offset by a higher part 170 revenue estimate for test and research reactors class and adjustment for higher prior year collections. The part 170 revenue estimates for FY 2008 increased by approximately 20 percent compared with FY 2007 due to increased billing for test and research reactors, including Federal facilities. The Energy Policy Act of 2005 authorizes the NRC to bill Federal facilities for part 170 services.

f. Rare Earth Facilities

As discussed previously in Section III.B.2 of this document, ''Agreement State Activities'', NRC will no longer regulate any licensees under the Rare Earth fee class. The one licensee who has a specific license for receipt and processing of source material transferred to the Agreement State, Commonwealth of Pennsylvania, effective March 31, 2008. In FY 2008, this rare earth facility paid one-half of the annual fee in effect on its anniversary date in January 2008.

Because the agency does not anticipate receiving an application for a rare earth facility this fiscal year, no budget resources were allocated to this fee class. NRC will not publish an annual fee for the fee category 2.A.(2)(c) in FY 2008.

g. Materials Users

Table XVI shows the calculation of the FY 2008 annual fee amount for materials users licensees. FY 2007 values are shown for comparison. (Individual values may not sum to totals due to rounding.) The following fee categories under § 171.16 are included in this fee class: 1.C., 1.D., 2.B., 2.C., 3.A. through 3.S., 4.A. through 4.C., 5.A., 5.B., 6.A., 7.A. through 7.C., 8.A., 9.A. through 9.D., 16, and 17.

TABLE XVI.—ANNUAL FEE SUMMARY CALCULATIONS FOR MATERIALS USERS

[Dollars in millions]

Summary fee calculations	FY 2007 final	FY 2008 final
Total budgeted resources	$25.8	$22.8
Less estimated part 170 receipts	−1.2	−2.0
Net part 171 resources	24.6	20.8
Allocated generic transportation	+0.9	+0.9
Allocated surcharge	+0.3	+0.3
Billing adjustments (including carryover)	+0.0	−0.5
Total required annual fee recovery	25.9	21.4

The annual fee for materials users decreased in the final rule compared with the proposed rule due to a decrease in allocated generic transportation charge. The generic transportation charge decreased primarily due to higher part 170 revenues for the Transportation fee class. See further discussion of the decrease in generic transportation resources in Section III.B.3.h. The total required annual fees to be recovered from materials licensees decreased in FY 2008 mainly because of decreases in the budgeted resources allocated to this fee class for licensing

activities, and adjustment for higher carryover. Annual fees for all fee categories within the materials users fee class decreased. The number of licensees also decreased because of the transfer of licensees to the Commonwealth of Pennsylvania. Because the agreement with the Commonwealth of Pennsylvania became effective March 31, 2008, the licenses that transferred to the Commonwealth of Pennsylvania are subject to one-half of the NRC annual fees in FY 2008.

To equitably and fairly allocate the FY 2008 $21.4 million (budgeted costs to be recovered in annual fees) assessed to the approximately 4,400 diverse materials users licensees, the NRC will continue to base the annual fees for each fee category within this class on the part 170 application fees and estimated inspection costs for each fee category. Because the application fees and inspection costs are indicative of the complexity of the license, this approach continues to provide a proxy for allocating the generic and other regulatory costs to the diverse categories of licenses based on NRC's cost to regulate each category. This fee calculation also continues to consider the inspection frequency (priority), which is indicative of the safety risk and resulting regulatory costs associated with the categories of licenses.

The annual fee for these categories of materials users licenses is developed as follows:

Annual fee = Constant x [Application Fee + (Average Inspection Cost divided by Inspection Priority)] + Inspection Multiplier x (Average Inspection Cost divided by Inspection Priority) + Unique Category Costs.

The constant is the multiple necessary to recover approximately $14.7 million in general costs (including allocated generic transportation costs) and is 0.77 for FY 2008. The average inspection cost is the average inspection hours for each fee category multiplied by the hourly rate of $238. The inspection priority is the interval between routine inspections, expressed in years. The inspection multiplier is the multiple necessary to recover approximately $6.3 million in inspection costs, and is 1.39 for FY 2008. The unique category costs are any special costs that the NRC has budgeted for a specific category of licenses. For FY 2008, approximately $103,000 in budgeted costs for the implementation of revised 10 CFR part 35, Medical Use of Byproduct Material (unique costs), has been allocated to holders of NRC human use licenses.

The annual fee to be assessed to each licensee also includes a share of the $226,000 in fee relief allocated to the materials users fee class (see Section III.B.1., ''Application of Fee Relief,'' of this document), and for certain categories of these licensees, a share of the approximately $509,000 in LLW surcharge costs allocated to the fee class. The annual fee for each fee category is shown in § 171.16(d).

h. Transportation

Table XVII shows the calculation of the FY 2008 generic transportation budgeted resources to be recovered through annual fees. FY 2007 values are shown for comparison. (Individual values may not sum to totals due to rounding.)

TABLE XVII.—ANNUAL FEE SUMMARY CALCULATIONS FOR TRANSPORTATION

[Dollars in millions]

Summary fee calculations	FY 2007 final	FY 2008 final
Total budgeted resources	$5.0	$5.7
Less estimated part 170 receipts	−1.2	−2.3
Net part 171 resources	3.8	3.4

The net FY 2008 budgeted resources for generic transportation activities, including those to support DOE Certificates of Compliance (CoCs), are $3.4 million. The net part 171 resources for these activities in the FY 2008 final rule decreased by $0.6 million compared with the proposed rule. This decrease in the final rule is primarily due to approximately 35 percent increase in part 170 revenue estimate as a result of increased billings for transportation-related reviews. Generic transportation resources associated with fee-exempt entities are not included in this total. These costs are included in the appropriate surcharge category (e.g., the surcharge category for nonprofit educational institutions).

Consistent with the policy established in the NRC's FY 2006 final fee rule (71 FR 30734; May 30, 2006), the NRC will recover generic transportation costs unrelated to DOE as part of existing annual fees for license fee classes. NRC will continue to assess a separate annual fee under § 171.16, fee category 18.A., for DOE transportation activities. The CoCs for DOE decreased in FY 2008 compared to FY 2007 resulting in a lower annual fee for DOE under fee category 18.A.

These resources are distributed to DOE (to be included in its annual fee under fee category 18.A. of § 171.16) and each license fee class based on the CoCs used by DOE and each fee class, as a proxy for the generic resources expended for each fee class. As such, the amount of the generic resources allocated is calculated by multiplying the percentage of total CoCs used by each fee class (and DOE) by the total generic transportation resources to be recovered. In FY 2008, the generic transportation cost allocated to the other fee classes decreased slightly compared to FY 2007 due to the decrease in net budgeted resources for transportation. For the final fee rule, the generic transportation cost allocation to the other fee classes decreased compared with the proposed rule due to higher part 170 estimate for generic transportation activities.

The distribution of these resources to the license fee classes and DOE is shown in Table XVIII. (Individual values may not sum to totals due to rounding.) The distribution is adjusted to account for the licensees in each fee class that are fee exempt. For example, if 3 CoCs benefit the entire test and research reactor class, but only 4 of 30 test and research reactors are subject to annual fees, the number of CoCs used to determine the proportion of generic transportation resources allocated to test and research reactor annual fees equals ((4/30)×3), or 0.4 CoCs.

TABLE XVIII.—DISTRIBUTION OF GENERIC TRANSPORTATION RESOURCES, FY 2008

[Dollars in millions]

License fee class/DOE	Number CoCs benefiting fee class (or DOE)	(Percentage of total CoCs percent)	Allocated generic transportation resources
Total	128.0	100.0	$3.41
DOE	31.0	24.2	0.83
Operating Power Reactors	37.0	28.9	0.99
Spent Fuel Storage/Reactor Decommissioning	9.0	7.0	0.24
Test and Research Reactors	0.4	0.3	0.01
Fuel Facilities	18.0	14.1	0.48
Materials Users	32.6	25.4	0.87

The NRC will continue to assess DOE an annual fee based on the part 71 CoCs it holds, and not allocate these DOE-related resources to other licensees' annual fees, because these resources specifically support DOE. Note that DOE's annual fee includes a reduction for the fee relief (see Section III.B.1, 'Application of ''Fee Relief''', of this document), resulting in a total annual fee of $719,000 for FY 2008. The fee decrease from last year is primarily due to a decrease in the number of DOE CoCs. The annual fee for DOE in the final rule decreased by approximately 18 percent compared with the proposed rule due to higher part 170 estimate.

4. Administrative Amendments

The NRC is adding program codes next to the materials users fee categories in § 171.16. At the time NRC receives a materials users license application, a five-digit program code number is assigned by the agency to each license to designate the major activity or principal use authorized in the license. More than one code may apply to a given license. The fee amount for the license under the 10 CFR parts 170 and 171 is determined by the fee category which is also based on the authorized usage described on the license. To reduce the risk of misinterpretation of material uses authorized in the license while establishing a fee category, the NRC is implementing a process that links a program code directly to a fee category. Once a program code is assigned to the license, it will assist the licensee to correctly identify the fee amount(s) by looking up the program code(s) in § 171.16.

The NRC is modifying the second sentence of footnote 1 in § 171.16 to clarify that the annual fee waiver will be granted if the licensed activities have permanently ceased before the beginning of the fiscal year. The reference to the last day of the prior year as the date for cessation of licensed activities has been deleted. This will improve the clarity of the sentence.

In summary, the NRC is—

1. Using the NRC's fee relief to reduce all licensees' annual fees, based on their percent of the NRC budget;

2. Revising the number of NRC licensees due to the Commonwealth of Pennsylvania becoming an Agreement State effective March 31, 2008;

3. Establishing rebaselined annual fees for FY 2008; and

4. Making certain administrative changes for purposes of clarification and consistency.

IV. Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995, 15 U.S.C. 3701, requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless using these standards is inconsistent with applicable law or is otherwise impractical. In this final rule, the NRC is amending the licensing, inspection, and annual fees charged to its licensees and applicants as necessary to recover approximately 90 percent of its budget authority in FY 2008, as required by the OBRA–90, as amended. This action does not constitute the establishment of a standard that contains generally applicable requirements.

V. Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(1). Therefore, neither an environmental assessment nor an environmental impact statement has been prepared for the final regulation. By its very nature, this regulatory action does not affect the environment and, therefore, no environmental justice issues are raised.

VI. Paperwork Reduction Act Statement

This final rule does not contain information collection requirements and, therefore, is not subject to the requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*

VII. Regulatory Analysis

With respect to 10 CFR part 170, this final rule was developed under Title V of the IOAA (31 U.S.C. 9701) and the Commission's fee guidelines. When developing these guidelines the Commission took into account guidance provided by the U.S. Supreme Court on March 4, 1974, in *National Cable Television Association, Inc.* v. *United States*, 415 U.S. 36 (1974) and *Federal Power Commission* v. *New England Power Company*, 415 U.S. 345 (1974). In these decisions, the Court held that the IOAA authorizes an agency to charge fees for special benefits rendered to identifiable persons measured by the ''value to the recipient'' of the agency service. The meaning of the IOAA was further clarified on December 16, 1976, by four decisions of the U.S. Court of Appeals for the District of Columbia: *National Cable Television Association* v. *Federal Communications Commission*, 554 F.2d 1094 (D.C. Cir. 1976); *National Association of Broadcasters* v. *Federal Communications Commission*, 554 F.2d 1118 (D.C. Cir. 1976); *Electronic Industries Association* v. *Federal Communications Commission*, 554 F.2d 1109 (D.C. Cir. 1976); and *Capital Cities Communication, Inc.* v. *Federal Communications Commission*, 554 F.2d 1135 (D.C. Cir. 1976). The Commission's fee guidelines were developed based on these legal decisions.

The Commission's fee guidelines were upheld on August 24, 1979, by the U.S. Court of Appeals for the Fifth Circuit in *Mississippi Power and Light Co.* v. *U.S. Nuclear Regulatory Commission*, 601 F.2d 223 (5th Cir. 1979), *cert. denied*,

444 U.S. 1102 (1980). This court held that:

(1) The NRC had the authority to recover the full cost of providing services to identifiable beneficiaries;

(2) The NRC could properly assess a fee for the costs of providing routine inspections necessary to ensure a licensee's compliance with the Atomic Energy Act of 1954 and with applicable regulations;

(3) The NRC could charge for costs incurred in conducting environmental reviews required by the National Environmental Policy Act, 42 U.S.C. 4321;

(4) The NRC properly included the costs of uncontested hearings and of administrative and technical support services in the fee schedule;

(5) The NRC could assess a fee for renewing a license to operate a low-level radioactive waste burial site; and

(6) The NRC's fees were not arbitrary or capricious.

With respect to 10 CFR part 171, on November 5, 1990, the Congress passed OBRA–90, which required that, for FYs 1991 through 1995, approximately 100 percent of the NRC budget authority be recovered through the assessment of fees. OBRA–90 was subsequently amended to extend the 100 percent fee recovery requirement through FY 2000. The FY 2001 Energy and Water Development Appropriation Act (EWDAA) amended OBRA–90 to decrease the NRC's fee recovery amount by 2 percent per year beginning in FY 2001, until the fee recovery amount was 90 percent in FY 2005. The FY 2007 EWDAA extended this 90 percent fee recovery requirement for FY 2007. Section 637 of the Energy Policy Act of 2005 made the 90 percent fee recovery requirement permanent in FY 2007. As a result, the NRC is required to recover approximately 90 percent of its FY 2008 budget authority, less the amounts appropriated from the NWF, amounts appropriated for WIR, and amounts appropriated for generic homeland security activities through fees. To comply with this statutory requirement and in accordance with 10 CFR 171.13, the NRC is publishing the amount of the FY 2008 annual fees for reactor licensees, fuel cycle licensees, materials licensees, and holders of Certificates of Compliance, registrations of sealed source and devices, and Government agencies. OBRA–90, consistent with the accompanying Conference Committee Report, and the amendments to OBRA–90, provides that—

(1) The annual fees be based on approximately 90 percent of the Commission's FY 2008 budget of $926.1 million less the funds directly appropriated from the NWF to cover the NRC's high-level waste program and for WIR, generic homeland security activities, and less the amount of funds collected from part 170 fees;

(2) The annual fees shall, to the maximum extent practicable, have a reasonable relationship to the cost of regulatory services provided by the Commission; and

(3) The annual fees be assessed to those licensees the Commission, in its discretion, determines can fairly, equitably, and practicably contribute to their payment.

10 CFR part 171, which established annual fees for operating power reactors effective October 20, 1986 (51 FR 33224; September 18, 1986), was challenged and upheld in its entirety in *Florida Power and Light Company* v. *United States*, 846 F.2d 765 (D.C. Cir. 1988), *cert. denied*, 490 U.S. 1045 (1989). Further, the NRC's FY 1991 annual fee rule methodology was upheld by the D.C. Circuit Court of Appeals in *Allied Signal* v. *NRC*, 988 F.2d 146 (D.C. Cir. 1993).

VIII. Regulatory Flexibility Analysis

The NRC is required by the OBRA–90, as amended, to recover approximately 90 percent of its FY 2008 budget authority through the assessment of user fees. This Act further requires that the NRC establish a schedule of charges that fairly and equitably allocates the aggregate amount of these charges among licensees.

This final rule establishes the schedules of fees that are necessary to implement the Congressional mandate for FY 2008. This rule would result in increases in the annual fees charged to certain licensees and holders of certificates, registrations, and approvals, and decreases in annual fees for others. Licensees affected by the annual fee decreases include those that qualify as a small entity under NRC's size standards in 10 CFR 2.810. The Regulatory Flexibility Analysis, prepared in accordance with 5 U.S.C. 604, is included as Appendix A to this final rule.

The Congressional Review Act of 1996 requires all Federal agencies to prepare a written compliance guide for each rule for which the agency is required by 5 U.S.C. 604 to prepare a regulatory flexibility analysis. Therefore, in compliance with the law, Attachment 1 to the Regulatory Flexibility Analysis is the small entity compliance guide for FY 2008.

IX. Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this final rule and that a backfit analysis is not required for this final rule. The backfit analysis is not required because these amendments do not require the modification of, or additions to systems, structures, components, or the design of a facility, or the design approval or manufacturing license for a facility, or the procedures or organization required to design, construct, or operate a facility.

X. Congressional Review Act

In accordance with the Congressional Review Act of 1996, 5 U.S.C. 801–808, the NRC has determined that this action is a major rule and has verified the determination with the Office of Information and Regulatory Affairs of the Office of Management and Budget.

List of Subjects

10 CFR Part 170

Byproduct material, Import and export licenses, Intergovernmental relations, Non-payment penalties, nuclear materials, nuclear power plants and reactors, source material, special nuclear material.

10 CFR Part 171

Annual charges, byproduct material, holders of certificates, registrations, approvals, intergovernmental relations, non-payment penalties, nuclear materials, nuclear power plants and reactors, source material, special nuclear material.

■ For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 553, the NRC is adopting the following amendments to 10 CFR parts 170 and 171.

PART 170—FEES FOR FACILITIES, MATERIALS, IMPORT AND EXPORT LICENSES, AND OTHER REGULATORY SERVICES UNDER THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

■ 1. The authority citation for part 170 continues to read as follows:

Authority: Sec. 9701, Pub. L. 97–258, 96 Stat. 1051 (31 U.S.C. 9701); sec. 301, Pub. L. 92–314, 86 Stat. 227 (42 U.S.C. 2201w); sec. 201, Pub. L. 93–438, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec. 205a, Pub. L. 101–576, 104 Stat. 2842, as amended (31 U.S. C. 901, 902); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); sec. 623, Pub. L. 109–58, 119 Stat. 783 (42 U.S.C. 2201(w)); sec. 651(e), Pub. L. 109–58, 119 Stat. 806–810 (42 U.S.C. 2014, 2021, 2021b, 2111).

■ 2. Section 170.20 is revised to read as follows:

§ 170.20 Average cost per professional staff-hour.

Fees for permits, licenses, amendments, renewals, special projects, 10 CFR part 55 re-qualification and replacement examinations and tests, other required reviews, approvals, and inspections under §§ 170.21 and 170.31 will be calculated using the professional staff-hour rate of $238 per hour.

■ 3. In § 170.21, in the table, fee category K is revised to read as follows:

§ 170.21 Schedule of fees for production and utilization facilities, review of standard referenced design approvals, special projects, inspections and import and export licenses.

* * * * *

SCHEDULE OF FACILITY FEES

[See footnotes at end of table]

Facility categories and type of fees	Fees [1, 2]
* * * * * * *	
K. Import and export licenses:	
Licenses for the import and export only of production and utilization facilities or the export only of components for production and utilization facilities issued under 10 CFR part 110:	
1. Application for import or export of production and utilization facilities [4] (including reactors and other facilities) and exports of components requiring Commission and Executive Branch review, for example, actions under 10 CFR 110.40(b).	
Application—new license, or amendment; or license exemption request	$15,500
2. Application for export of reactor and other components requiring Executive Branch review only, for example, those actions under 10 CFR 110.41(a)(1)–(8).	
Application—new license, or amendment; or license exemption request	9,100
3. Application for export of components requiring the assistance of the Executive Branch to obtain foreign government assurances.	
Application—new license, or amendment; or license exemption request	3,800
4. Application for export of facility components and equipment (examples provided in 10 CFR part 110, Appendix A, Items (5) through (9)) not requiring Commission or Executive Branch review, or obtaining foreign government assurances.	
Application—new license, or amendment; or license exemption request	2,400
5. Minor amendment of any active export or import license, for example, to extend the expiration date, change domestic information, or make other revisions which do not involve any substantive changes to license terms or conditions or to the type of facility or component authorized for export and therefore, do not require in-depth analysis or review or consultation with the Executive Branch, U.S. host state, or foreign government authorities.	
Minor amendment to license	720

[1] Fees will not be charged for orders related to civil penalties or other civil sanctions issued by the Commission under § 2.202 of this chapter or for amendments resulting specifically from the requirements of these orders. For orders unrelated to civil penalties or other civil sanctions, fees will be charged for any resulting licensee-specific activities not otherwise exempted from fees under this chapter. Fees will be charged for approvals issued under a specific exemption provision of the Commission's regulations under Title 10 of the Code of Federal Regulations (e.g., 10 CFR 50.12, 73.5) and any other sections in effect now or in the future, regardless of whether the approval is in the form of a license amendment, letter of approval, safety evaluation report, or other form.

[2] Full cost fees will be determined based on the professional staff time and appropriate contractual support services expended. For applications currently on file and for which fees are determined based on the full cost expended for the review, the professional staff hours expended for the review of the application up to the effective date of the final rule will be determined at the professional rates in effect at the time the service was provided. For those applications currently on file for which review costs have reached an applicable fee ceiling established by the June 20, 1984, and July 2, 1990, rules, but are still pending completion of the review, the cost incurred after any applicable ceiling was reached through January 29, 1989, will not be billed to the applicant. Any professional staff-hours expended above those ceilings on or after January 30, 1989, will be assessed at the applicable rates established by § 170.20, as appropriate, except for topical reports whose costs exceed $50,000. Costs which exceed $50,000 for any topical report, amendment, revision or supplement to a topical report completed or under review from January 30, 1989, through August 8, 1991, will not be billed to the applicant. Any professional hours expended on or after August 9, 1991, will be assessed at the applicable rate established in § 170.20.

* * * * * * *

[4] Imports only of major components for end-use at NRC–licensed reactors are now authorized under NRC general import license.

■ 4. In § 170.31, the table is revised to read as follows:

§ 170.31 Schedule of fees for materials licenses and other regulatory services, including inspections, and import and export licenses.

* * * * *

SCHEDULE OF MATERIALS FEES

[See footnotes at end of table]

Category of materials licenses and type of fees [1]	Fee [2, 3]
1. Special nuclear material:	
A. (1) Licenses for possession and use of U–235 or plutonium for fuel fabrication activities.	
(a) Strategic Special Nuclear Material (High Enriched Uranium) [Program Code(s): 21130]	Full Cost.
(b) Low Enriched Uranium in Dispersible Form Used for Fabrication of Power Reactor Fuel [Program Code(s): 21210]	Full Cost.
(2) All other special nuclear materials licenses not included in Category 1.A.(1) which are licensed for fuel cycle activities	
(a) Facilities with limited operations [Program Code(s): 21310, 21320]	Full Cost.
(b) Gas centrifuge enrichment demonstration facilities	Full Cost.
(c) Others, including hot cell facilities	Full Cost.

SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

Category of materials licenses and type of fees [1]	Fee [2, 3]
B. Licenses for receipt and storage of spent fuel and reactor-related Greater than Class C (GTCC) waste at an independent spent fuel storage installation (ISFSI) [Program Code(s): 23200].	Full Cost.
C. Licenses for possession and use of special nuclear material in sealed sources contained in devices used in industrial measuring systems, including x-ray fluorescence analyzers [4]	
Application [Program Code(s): 22140]	$1,100.
D. All other special nuclear material licenses, except licenses authorizing special nuclear material in unsealed form in a combination that would constitute a critical quantity, as defined in § 150.11 of this chapter, for which the licensee shall pay the same fees as those under Category 1.A [4]	
Application [Program Code(s): 22110, 22111, 22120, 22131, 22136, 22150, 22151, 22161, 22163, 22170, 23100, 23300, 23310].	2,200.
E. Licenses or certificates for construction and operation of a uranium enrichment facility [Program Code(s): 21200]	Full Cost.
2. Source material:	
A. (1) Licenses for possession and use of source material for refining uranium mill concentrates to uranium hexafluoride [Program Code(s): 11400].	Full Cost.
(2) Licenses for possession and use of source material in recovery operations such as milling, in situ leaching, heap-leaching, ore buying stations, ion exchange facilities and in processing of ores containing source material for extraction of metals other than uranium or thorium, including licenses authorizing the possession of byproduct waste material (tailings) from source material recovery operations, as well as licenses authorizing the possession and maintenance of a facility in a standby mode.	
(a) Class I facilities [Program Code(s): 11100]	Full Cost.
(b) Class II facilities [Program Code(s): 11500]	Full Cost.
(c) Other facilities [Program Code(s): 11700]	Full Cost.
(3) Licenses that authorize the receipt of byproduct material, as defined in § 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal, except those licenses subject to the fees in Category 2.A.(2) or Category 2.A.(4) [Program Code(s): 11600].	Full Cost.
(4) Licenses that authorize the receipt of byproduct material, as defined in § 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal incidental to the disposal of the uranium waste tailings generated by the licensee's milling operations, except those licenses subject to the fees in Category 2.A.(2).	Full Cost.
(5) Licenses that authorize the possession of source material related to removal of contaminants (source material) from drinking water.	Full Cost.
B. Licenses which authorize the possession, use, and/or installation of source material for shielding.	
Application [Program Code(s): 11210]	260.
C. All other source material licenses.	
Application [Program Code(s): 11200, 11220, 11221, 11230, 11300, 11800, 11810]	9,400.
3. Byproduct material:	
A. Licenses of broad scope for the possession and use of byproduct material issued under parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution.	
Application [Program Code(s): 03211, 03212, 03213]	11,200.
B. Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution.	
Application [Program Code(s): 03214, 03215, 22135, 22162]	4,200.
C. Licenses issued under §§ 32.72 and/or 32.74 of this chapter that authorize the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources and devices containing byproduct material. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under § 170.11(a)(4). These licenses are covered by fee Category 3.D.	
Application [Program Code(s): 02500, 02511, 02513]	7,400.
D. Licenses and approvals issued under §§ 32.72 and/or 32.74 of this chapter authorizing distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources or devices not involving processing of byproduct material. This category includes licenses issued under §§ 32.72 and/or 32.74 of this chapter to nonprofit educational institutions whose processing or manufacturing is exempt under § 170.11(a)(4).	
Application [Program Code(s): 02512, 02514]	4,100.
E. Licenses for possession and use of byproduct material in sealed sources for irradiation of materials in which the source is not removed from its shield (self-shielded units).	
Application [Program Code(s): 03510, 03520]	2,700.
F. Licenses for possession and use of less than 10,000 curies of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials where the source is not exposed for irradiation purposes.	
Application [Program Code(s): 03511]	5,600.
G. Licenses for possession and use of 10,000 curies or more of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials where the source is not exposed for irradiation purposes.	
Application [Program Code(s): 03521]	13,300.
H. Licenses issued under Subpart A of part 32 of this chapter to distribute items containing byproduct material that require device review to persons exempt from the licensing requirements of part 30 of this chapter. The category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter.	
Application [Program Code(s): 03255]	9,700.

SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

Category of materials licenses and type of fees [1]	Fee [2, 3]
I. Licenses issued under Subpart A of part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require device evaluation to persons exempt from the licensing requirements of part 30 of this chapter. This category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter.	
Application [Program Code(s): 03250, 03251, 03252, 03253, 03254, 03256]	9,700.
J. Licenses issued under Subpart B of part 32 of this chapter to distribute items containing byproduct material that require sealed source and/or device review to persons generally licensed under part 31 of this chapter. This category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this chapter.	
Application [Program Code(s): 03240, 03241, 03243]	1,700.
K. Licenses issued under Subpart B of part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require sealed source and/or device review to persons generally licensed under part 31 of this chapter. This category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this chapter.	
Application [Program Code(s): 03242, 03244]	1,000.
L. Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution.	
Application [Program Code(s): 01100, 01110, 01120, 03610, 03611, 03612, 03613]	9,400.
M. Other licenses for possession and use of byproduct material issued under part 30 of this chapter for research and development that do not authorize commercial distribution.	
Application [Program Code(s): 03620]	3,300.
N. Licenses that authorize services for other licensees, except:	
(1) Licenses that authorize only calibration and/or leak testing services are subject to the fees specified in fee Category 3P; and	
(2) Licenses that authorize waste disposal services are subject to the fees specified in fee Categories 4.A., 4.B., and 4.C	
Application [Program Code(s): 03219, 03225, 03226]	6,100.
O. Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations.	
Application [Program Code(s): 03310, 03320]	4,500.
P. All other specific byproduct material licenses, except those in Categories 4.A. through 9.D.	
Application [Program Code(s): 02400, 02410, 03120, 03121, 03122, 03123, 03124, 03220, 03221, 03222, 03800, 03810, 22130].	1,300.
Q. Registration of a device(s) generally licensed under part 31 of this chapter.	
Registration	270.
R. Possession of items or products containing radium-226 identified in 10 CFR 31.12 which exceed the number of items or limits specified in that section.[6]	
1. Possession of quantities exceeding the number of items or limits in 10 CFR 31.12(a)(4) or (5) but less than or equal to 10 times the number of items or limits specified.	
Application [Program Code(s): 02700]	550.
2. Possession of quantities exceeding 10 times the number of items or limits specified in 10 CFR 31.12(a)(4) or (5).C.	
Application [Program Code(s): 02710]	1,300.
S. Licenses for production of accelerator-produced radionuclides.	
Application [Program Code(s): 03210]	7,400.
4. Waste disposal and processing:	
A. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of contingency storage or commercial land disposal by the licensee; or licenses authorizing contingency storage of low-level radioactive waste at the site of nuclear power reactors; or licenses for receipt of waste from other persons for incineration or other treatment, packaging of resulting waste and residues, and transfer of packages to another person authorized to receive or dispose of waste material [Program Code(s): 03231, 03233, 03235, 03236, 06100, 06101].	Full Cost.
B. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of packaging or repackaging the material. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material.	
Application [Program Code(s): 03234]	2,900.
C. Licenses specifically authorizing the receipt of prepackaged waste byproduct material, source material, or special nuclear material from other persons. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material.	
Application [Program Code(s): 03232]	4,300.
5. Well logging:	
A. Licenses for possession and use of byproduct material, source material, and/or special nuclear material for well logging, well surveys, and tracer studies other than field flooding tracer studies.	
Application [Program Code(s): 03110, 03111, 03112]	1,600.
B. Licenses for possession and use of byproduct material for field flooding tracer studies.	
Licensing [Program Code(s): 03113]	Full Cost.
6. Nuclear laundries:	
A. Licenses for commercial collection and laundry of items contaminated with byproduct material, source material, or special nuclear material.	
Application [Program Code(s): 03218]	19,000.
7. Medical licenses:	

SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

Category of materials licenses and type of fees [1]	Fee [2, 3]
A. Licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices.	
Application [Program Code(s): 02300, 02310]	10,400.
B. Licenses of broad scope issued to medical institutions or two or more physicians under parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.	
Application [Program Code(s): 02110]	7,400.
C. Other licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices.	
Application [Program Code(s): 02120, 02121, 02200, 02201, 02210, 02220, 02230, 02231, 02240, 22160]	2,300.
8. Civil defense:	
A. Licenses for possession and use of byproduct material, source material, or special nuclear material for civil defense activities.	
Application [Program Code(s): 03710]	550.
9. Device, product, or sealed source safety evaluation:	
A. Safety evaluation of devices or products containing byproduct material, source material, or special nuclear material, except reactor fuel devices, for commercial distribution.	
Application—each device	19,500.
B. Safety evaluation of devices or products containing byproduct material, source material, or special nuclear material manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel devices.	
Application—each device	19,500.
C. Safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, except reactor fuel, for commercial distribution.	
Application—each source	2,700.
D. Safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel.	
Application—each source	910.
10. Transportation of radioactive material:	
A. Evaluation of casks, packages, and shipping containers.	
1. Spent Fuel, High-Level Waste, and plutonium air packages	Full Cost.
2. Other Casks	Full Cost.
B. Quality assurance program approvals issued under part 71 of this chapter.	
1. Users and Fabricators.	
Application	4,400.
Inspections	Full Cost.
2. Users.	
Application	4,400.
Inspections	Full Cost.
C. Evaluation of security plans, route approvals, route surveys, and transportation security devices (including immobilization devices).	Full Cost.
11. Review of standardized spent fuel facilities	Full Cost.
12. Special projects:	
Including approvals, preapplication/licensing activities, and inspections	Full Cost.
13. A. Spent fuel storage cask Certificate of Compliance	Full Cost.
B. Inspections related to storage of spent fuel under § 72.210 of this chapter	Full Cost.
14. A. Byproduct, source, or special nuclear material licenses and other approvals authorizing decommissioning, decontamination, reclamation, or site restoration activities under parts 30, 40, 70, 72, and 76 of this chapter.	Full Cost.
B. Site-specific decommissioning activities associated with unlicensed sites, regardless of whether or not the sites have been previously licensed.	Full Cost.
15. Import and Export licenses:	
Licenses issued under part 110 of this chapter for the import and export only of special nuclear material, source material, tritium and other byproduct material, and the export only of heavy water, or nuclear grade graphite (fee categories 15.A. through 15.E.).	
A. Application for export or import of nuclear materials, including radioactive waste requiring Commission and Executive Branch review, for example, those actions under 10 CFR 110.40(b).	
Application—new license, or amendment; or license exemption request	15,500.
B. Application for export or import of nuclear material, including radioactive waste, requiring Executive Branch review, but not Commission review. This category includes applications for the export and import of radioactive waste and requires NRC to consult with domestic host state authorities, Low-Level Radioactive Waste Compact Commission, the U.S. Environmental Protection Agency, etc.	
Application—new license, or amendment; or license exemption request	9,100.
C. Application for export of nuclear material, for example, routine reloads of low enriched uranium reactor fuel and/or natural uranium source material requiring the assistance of the Executive Branch to obtain foreign government assurances.	
Application—new license, or amendment; or license exemption request	3,800.
D. Application for export or import of nuclear material, including radioactive waste, not requiring Commission or Executive Branch review, or obtaining foreign government assurances. This category includes applications for export or import of radioactive waste where the NRC has previously authorized the export or import of the same form of waste to or from the same or similar parties located in the same country, requiring only confirmation from the receiving facility and licensing authorities that the shipments may proceed according to previously agreed understandings and procedures.	

SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

Category of materials licenses and type of fees [1]	Fee [2, 3]
Application—new license, or amendment; or license exemption request	2,400.
E. Minor amendment of any active export or import license, for example, to extend the expiration date, change domestic information, or make other revisions which do not involve any substantive changes to license terms and conditions or to the type/quantity/chemical composition of the material authorized for export and therefore, do not require in-depth analysis, review, or consultations with other Executive Branch, U.S. host state, or foreign government authorities.	
Minor amendment	720.
Licenses issued under part 110 of this chapter for the import and export only of Category 1 and Category 2 quantities of radioactive material listed in Appendix P to part 110 of this chapter (fee categories 15.F. through 15.R.) [5]	
Category 1 Exports:	
F. Application for export of Category 1 materials involving an exceptional circumstances review under 10 CFR 110.42(e)(4).	
Application—new license, or amendment; or license exemption request	15,500.
G. Application for export of Category 1 materials requiring Executive Branch review, Commission review, and/or government-to-government consent.	
Application—new license, or amendment; or license exemption request	9,100.
H. Application for export of Category 1 materials requiring Commission review and government-to-government consent.	
Application—new license, or amendment; or license exemption request	5,700.
I. Application for export of Category 1 material requiring government-to-government consent	
Application—new license, or amendment; or license exemption request	4,800.
Category 2 Exports:	
J. Application for export of Category 2 materials involving an exceptional circumstances review under 10 CFR 110.42(e)(4).	
Application—new license, or amendment; or license exemption request	15,500.
K. Applications for export of Category 2 materials requiring Executive Branch review and/or Commission review.	
Application—new license, or amendment; or license exemption request	9,100.
L. Application for the export of Category 2 materials.	
Application—new license, or amendment; or license exemption request	4,300.
Category 1 Imports:	
M. Application for the import of Category 1 material requiring Commission review.	
Application—new license, or amendment; or license exemption request	4,500.
N. Application for the import of Category 1 material.	
Application—new license, or amendment; or license exemption request	3,800.
Category 2 Imports:	
O. Application for the import of Category 2 material.	
Application—new license, or amendment; or license exemption request	3,300.
Category 1 Imports With Agent and Multiple Licensees:	
P. Application for the import of Category 1 material with agent and multiple licensees requiring Commission review.	
Application—new license, or amendment; or license exemption request	5,200.
Q. Application for the import of Category 1 material with agent and multiple licensees.	
Application—new license, or amendment; or license exemption request	4,300.
Minor Amendments (Category 1 and 2 Export and Imports):	
R. Minor amendment of any active export or import license, for example, to extend the expiration date, change domestic information, or make other revisions which do not involve any substantive changes to license terms and conditions or to the type/quantity/chemical composition of the material authorized for export and therefore, do not require in-depth analysis, review, or consultations with other Executive Branch, U.S. host state, or foreign authorities.	
Minor amendment	720.
16. Reciprocity:	
Agreement State licensees who conduct activities under the reciprocity provisions of 10 CFR 150.20.	
Application	1,400.
17. Master materials licenses of broad scope issued to Government agencies:	
Application	22,000.
18. Department of Energy	
A. Certificates of Compliance. Evaluation of casks, packages, and shipping containers (including spent fuel, high-level waste, and other casks, and plutonium air packages).	Full Cost.
B. Uranium Mill Tailings Radiation Control Act (UMTRCA) activities	Full Cost.

[1] *Types of fees*—Separate charges, as shown in the schedule, will be assessed for pre-application consultations and reviews; applications for new licenses, approvals, or license terminations; possession only licenses; issuance of new licenses and approvals; certain amendments and renewals to existing licenses and approvals; safety evaluations of sealed sources and devices; generally licensed device registrations; and certain inspections. The following guidelines apply to these charges:

(a) *Application and registration fees.* Applications for new materials licenses and export and import licenses; applications to reinstate expired, terminated, or inactive licenses except those subject to fees assessed at full costs; applications filed by Agreement State licensees to register under the general license provisions of 10 CFR 150.20; and applications for amendments to materials licenses that would place the license in a higher fee category or add a new fee category must be accompanied by the prescribed application fee for each category.

(1) Applications for licenses covering more than one fee category of special nuclear material or source material must be accompanied by the prescribed application fee for the highest fee category.

(2) Applications for new licenses that cover both byproduct material and special nuclear material in sealed sources for use in gauging devices will pay the appropriate application fee for fee Category 1.C. only.

(b) *Licensing fees.* Fees for reviews of applications for new licenses and for renewals and amendments to existing licenses, pre-application consultations and reviews of other documents submitted to NRC for review, and project manager time for fee categories subject to full cost fees, are due upon notification by the Commission in accordance with § 170.12(b).

(c) *Amendment fees.* Applications for amendments to export and import licenses must be accompanied by the prescribed amendment fee for each license affected. An application for an amendment to an export or import license or approval classified in more than one fee category must be accompanied by the prescribed amendment fee for the category affected by the amendment unless the amendment is applicable to two or more fee categories, in which case the amendment fee for the highest fee category would apply.

(d) *Inspection fees*. Inspections resulting from investigations conducted by the Office of Investigations and non-routine inspections that result from third-party allegations are not subject to fees. Inspection fees are due upon notification by the Commission in accordance with § 170.12(c).

(e) *Generally licensed device registrations under 10 CFR 31.5*. Submittals of registration information must be accompanied by the prescribed fee.

[2] Fees will not be charged for orders related to civil penalties or other civil sanctions issued by the Commission under 10 CFR 2.202 or for amendments resulting specifically from the requirements of these orders. For orders unrelated to civil penalties or other civil sanctions, fees will be charged for any resulting licensee-specific activities not otherwise exempted from fees under this chapter. Fees will be charged for approvals issued under a specific exemption provision of the Commission's regulations under Title 10 of the Code of Federal Regulations (e.g., 10 CFR 30.11, 40.14, 70.14, 73.5, and any other sections in effect now or in the future), regardless of whether the approval is in the form of a license amendment, letter of approval, safety evaluation report, or other form. In addition to the fee shown, an applicant may be assessed an additional fee for sealed source and device evaluations as shown in Categories 9.A. through 9.D.

[3] Full cost fees will be determined based on the professional staff time multiplied by the appropriate professional hourly rate established in § 170.20 in effect at the time the service is provided, and the appropriate contractual support services expended. For applications currently on file for which review costs have reached an applicable fee ceiling established by the June 20, 1984, and July 2, 1990, rules, but are still pending completion of the review, the cost incurred after any applicable ceiling was reached through January 29, 1989, will not be billed to the applicant. Any professional staff-hours expended above those ceilings on or after January 30, 1989, will be assessed at the applicable rates established by § 170.20, as appropriate, except for topical reports whose costs exceed $50,000. Costs which exceed $50,000 for each topical report, amendment, revision, or supplement to a topical report completed or under review from January 30, 1989, through August 8, 1991, will not be billed to the applicant. Any professional hours expended on or after August 9, 1991, will be assessed at the applicable rate established in § 170.20.

[4] Licensees paying fees under Categories 1.A., 1.B., and 1.E. are not subject to fees under Categories 1.C. and 1.D. for sealed sources authorized in the same license except for an application that deals only with the sealed sources authorized by the license.

[5] For a combined import and export license application for material listed in Appendix P to part 110 of this chapter, only the higher of the two applicable fee amounts must be paid.

[6] Persons who possess radium sources that are used for operational purposes in another fee category are not also subject to the fees in this category. (This exception does not apply if the radium sources are possessed for storage only.)

PART 171—ANNUAL FEES FOR REACTOR LICENSES AND FUEL CYCLE LICENSES AND MATERIALS LICENSES, INCLUDING HOLDERS OF CERTIFICATES OF COMPLIANCE, REGISTRATIONS, AND QUALITY ASSURANCE PROGRAM APPROVALS AND GOVERNMENT AGENCIES LICENSED BY THE NRC

■ 5. The authority citation for part 171 continues to read as follows:

Authority: Sec. 7601, Pub. L. 99–272, 100 Stat. 146, as amended by sec. 5601, Pub. L. 100–203, 101 Stat. 1330 as amended by sec. 3201, Pub. L. 101–239, 103 Stat. 2132, as amended by sec. 6101, Pub. L. 101–508, 104 Stat. 1388, as amended by sec. 2903a, Pub. L. 102–486, 106 Stat. 3125 (42 U.S.C. 2213, 2214), and as amended by Title IV, Pub. L. 109–103, 119 Stat. 2283 (42 U.S.C. 2214); sec. 301, Pub. L. 92–314, 86 Stat. 227 (42 U.S.C. 2201w); sec. 201, Pub. L. 93–438, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); sec. 651(e), Pub. L. 109–58, 119 Stat. 806–810 (42 U.S.C. 2014, 2021, 2021b, 2111).

■ 6. In § 171.15, paragraph (b)(1), the introductory text of paragraph (b)(2), paragraph (c)(1), the introductory text of paragraphs (c)(2) and (d)(1), and paragraphs (d)(2), (d)(3), and (e), are revised to read as follows:

§ 171.15 Annual fees: Reactor licenses and independent spent fuel storage licenses.

* * * * *

(b)(1) The FY 2008 annual fee for each operating power reactor which must be collected by September 30, 2008, is $4,032,000.

(2) The FY 2008 annual fee is comprised of a base annual fee for power reactors licensed to operate, a base spent fuel storage/reactor decommissioning annual fee, and associated additional charges (surcharges). The activities comprising the FY 2008 spent storage/reactor decommissioning base annual fee are shown in paragraphs (c)(2)(i) and (ii) of this section. The activities comprising the FY 2008 surcharge are shown in paragraph (d)(1) of this section. The activities comprising the FY 2008 base annual fee for operating power reactors are as follows:

* * * * *

(c)(1) The FY 2008 annual fee for each power reactor holding a 10 CFR part 50 license that is in a decommissioning or possession only status and has spent fuel onsite, and each independent spent fuel storage 10 CFR part 72 licensee who does not hold a 10 CFR part 50 license is $135,000.

(2) The FY 2008 annual fee is comprised of a base spent fuel storage/reactor decommissioning annual fee (which is also included in the operating power reactor annual fee shown in paragraph (b) of this section), and an additional charge (surcharge). The activities comprising the FY 2008 surcharge are shown in paragraph (d)(1) of this section. The activities comprising the FY 2008 spent fuel storage/reactor decommissioning rebaselined annual fee are:

* * * * *

(d)(1) The surcharge allocated to annual fees includes the budgeted resources for the activities listed in paragraph (d)(1)(i) of this section, plus the total budgeted resources for the activities included in paragraphs (d)(1)(ii) and (d)(1)(iii) of this section as reduced by the appropriations NRC receives for these types of activities. If the NRC's appropriations for these types of activities are greater than the budgeted resources for the activities included in paragraphs (d)(1)(ii) and (d)(1)(iii) of this section for a given FY, a negative surcharge (or annual fee reduction) will be allocated to annual fees. The activities comprising the FY 2008 surcharge are as follows:

* * * * *

(2) The total FY 2008 surcharge allocated to the operating power reactor class of licenses is −$5.9 million, not including the amount allocated to the spent fuel storage/reactor decommissioning class. The FY 2008 operating power reactor surcharge to be assessed to each operating power reactor is approximately −$57,000. This amount is calculated by dividing the total operating power reactor surcharge (−$5.9 million) by the number of operating power reactors (104).

(3) The FY 2008 surcharge allocated to the spent fuel storage/reactor decommissioning class of licenses is −$258,000. The FY 2008 spent fuel storage/reactor decommissioning surcharge to be assessed to each operating power reactor, each power reactor in decommissioning or possession only status that has spent fuel onsite, and to each independent spent fuel storage 10 CFR part 72 licensee who does not hold a 10 CFR part 50 license is approximately −$2,097. This amount is calculated by dividing the total surcharge costs allocated to this class by the total number of power reactor licenses, except those that permanently ceased operations and have no fuel onsite, and 10 CFR part 72 licensees who do not hold a 10 CFR part 50 license.

(e) The FY 2008 annual fees for licensees authorized to operate a test and research (non-power) reactor licensed under part 50 of this chapter, unless the reactor is exempted from fees under § 171.11(a), are as follows:

Research reactor	$76,500
Test reactor	76,500

■ 7. In § 171.16, paragraphs (c), (d), and the introductory text of paragraph (e) are revised to read as follows:

§ 171.16 Annual fees: Materials licensees, holders of certificates of compliance, holders of sealed source and device registrations, holders of quality assurance program approvals, and government agencies licensed by the NRC.

* * * * *

(c) A licensee who is required to pay an annual fee under this section may qualify as a small entity. If a licensee qualifies as a small entity and provides the Commission with the proper certification along with its annual fee payment, the licensee may pay reduced annual fees as shown in the following table. Failure to file a small entity certification in a timely manner could result in the denial of any refund that might otherwise be due. The small entity fees are as follows:

	Maximum annual fee per licensed category
Small Businesses Not Engaged in Manufacturing (Average gross receipts over last 3 completed fiscal years):	
$350,000 to $6.5 million	$2,300
Less than $350,000	500
Small Not-For-Profit Organizations (Annual Gross Receipts):	
$350,000 to $6.5 million	2,300
Less than $350,000	500
Manufacturing entities that have an average of 500 employees or fewer:	
35 to 500 employees	2,300
Fewer than 35 employees	500
Small Governmental Jurisdictions (Including publicly supported educational institutions) (Population):	
20,000 to 50,000	2,300
Fewer than 20,000	500
Educational Institutions that are not State or Publicly Supported, and have 500 Employees or Fewer:	
35 to 500 employees	2,300
Fewer than 35 employees	500

(d) The FY 2008 annual fees are comprised of a base annual fee and an additional charge (surcharge). The activities comprising the FY 2008 surcharge are shown for convenience in paragraph (e) of this section. The FY 2008 annual fees for materials licensees and holders of certificates, registrations or approvals subject to fees under this section are shown in the following table:

SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC

[See footnotes at end of table]

Category of materials licenses	Annual fees [1, 2, 3]
1. Special nuclear material:	
A. (1) Licenses for possession and use of U–235 or plutonium for fuel fabrication activities	
(a) Strategic Special Nuclear Material (High Enriched Uranium) [Program Code(s): 21130]	$3,007,000
(b) Low Enriched Uranium in Dispersible Form Used for Fabrication of Power Reactor Fuel [Program Code(s): 21210]	899,000
(2) All other special nuclear materials licenses not included in Category 1.A.(1) which are licensed for fuel cycle activities.	
(a) Facilities with limited operations [Program Code(s): 21310, 21320]	341,000
(b) Gas centrifuge enrichment demonstration facilities	558,000
(c) Others, including hot cell facilities	248,000
B. Licenses for receipt and storage of spent fuel and reactor-related Greater than Class C (GTCC) waste at an independent spent fuel storage installation (ISFSI) [Program Code(s): 23200].	N/A [11]
C. Licenses for possession and use of special nuclear material in sealed sources contained in devices used in industrial measuring systems, including x-ray fluorescence analyzers [Program Code(s): 22140].	1,600
D. All other special nuclear material licenses, except licenses authorizing special nuclear material in unsealed form in combination that would constitute a critical quantity, as defined in § 150.11 of this chapter, for which the licensee shall pay the same fees as those for Category 1.A.(2) [Program Code(s): 22110, 22111, 22120, 22131, 22136, 22150, 22151, 22161, 22163, 22170, 23100, 23300, 23310].	4,500
E. Licenses or certificates for the operation of a uranium enrichment facility [Program Code(s): 21200]	1,705,000
2. Source material:	
A. (1) Licenses for possession and use of source material for refining uranium mill concentrates to uranium hexafluoride [Program Code(s): 11400].	589,000
(2) Licenses for possession and use of source material in recovery operations such as milling, in-situ leaching, heap-leaching, ore buying stations, ion exchange facilities and in-processing of ores containing source material for extraction of metals other than uranium or thorium, including licenses authorizing the possession of byproduct waste material (tailings) from source material recovery operations, as well as licenses authorizing the possession and maintenance of a facility in a standby mode.	
(a) Class I facilities [4] [Program Code(s): 11100]	10,300
(b) Class II facilities [4] [Program Code(s): 11500]	10,300
(c) Other facilities [4] [Program Code(s): 11700]	N/A [5]

SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC—Continued

[See footnotes at end of table]

Category of materials licenses	Annual fees [1, 2, 3]
(3) Licenses that authorize the receipt of byproduct material, as defined in § 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal, except those licenses subject to the fees in Category 2.A.(2) or Category 2.A.(4) [Program Code(s): 11600].	N/A [5]
(4) Licenses that authorize the receipt of byproduct material, as defined in § 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal incidental to the disposal of the uranium waste tailings generated by the licensee's milling operations, except those licenses subject to the fees in Category 2.A.(2).	10,300
(5) Licenses that authorize the possession of source material related to removal of contaminants (source material) from drinking water.	6,200
B. Licenses that authorize only the possession, use and/or installation of source material for shielding [Program Code(s): 11210].	590
C. All other source material licenses [Program Code(s): 11200, 11220, 11221, 11230, 11300, 11800, 11810]	10,200
3. Byproduct material:	
A. Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution [Program Code(s): 03211, 03212, 03213].	22,900
B. Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution [Program Code(s): 03214, 03215, 22135, 22162].	6,500
C. Licenses issued under §§ 32.72 and/or 32.74 of this chapter authorizing the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits and/or sources and devices containing byproduct material. This category also includes the possession and use of source material for shielding authorized under part 40 of this chapter when included on the same license. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under § 171.11(a)(1). These licenses are covered by fee under Category 3.D. [Program Code(s): 02500, 02511, 02513].	9,200
D. Licenses and approvals issued under §§ 32.72 and/or 32.74 of this chapter authorizing distribution or redistribution of radiopharmaceuticals, generators, reagent kits and/or sources or devices not involving processing of byproduct material. This category includes licenses issued under §§ 32.72 and 32.74 of this chapter to nonprofit educational institutions whose processing or manufacturing is exempt under § 171.11(a)(1). This category also includes the possession and use of source material for shielding authorized under part 40 of this chapter when included on the same license [Program Code(s): 02512, 02514].	5,200
E. Licenses for possession and use of byproduct material in sealed sources for irradiation of materials in which the source is not removed from its shield (self-shielded units) [Program Code(s): 03510, 03520].	3,100
F. Licenses for possession and use of less than 10,000 curies of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials in which the source is not exposed for irradiation purposes [Program Code(s): 03511].	6,100
G. Licenses for possession and use of 10,000 curies or more of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials in which the source is not exposed for irradiation purposes [Program Code(s): 03521].	24,400
H. Licenses issued under Subpart A of part 32 of this chapter to distribute items containing byproduct material that require device review to persons exempt from the licensing requirements of part 30 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter [Program Code(s): 03255].	8,700
I. Licenses issued under Subpart A of part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require device evaluation to persons exempt from the licensing requirements of part 30 of this chapter, except for specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter [Program Code(s): 03250, 03251, 03252, 03253, 03254, 03256].	8,100
J. Licenses issued under Subpart B of part 32 of this chapter to distribute items containing byproduct material that require sealed source and/or device review to persons generally licensed under part 31 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this chapter [Program Code(s): 03240, 03241, 03243].	1,900
K. Licenses issued under Subpart B of part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require sealed source and/or device review to persons generally licensed under part 31 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this chapter [Program Code(s): 03242, 03244].	1,500
L. Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution [Program Code(s): 01100, 01110, 01120, 03610, 03611, 03612, 03613].	11,600
M. Other licenses for possession and use of byproduct material issued under part 30 of this chapter for research and development that do not authorize commercial distribution [Program Code(s): 03620].	4,200
N. Licenses that authorize services for other licensees, except: (1) Licenses that authorize only calibration and/or leak testing services are subject to the fees specified in fee Category 3.P.; and (2) Licenses that authorize waste disposal services are subject to the fees specified in fee categories 4.A., 4.B., and 4.C. [Program Code(s): 03219, 03225, 03226].	6,500
O. Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations. This category also includes the possession and use of source material for shielding authorized under part 40 of this chapter when authorized on the same license [Program Code(s): 03310, 03320].	11,100
P. All other specific byproduct material licenses, except those in Categories 4.A. through 9.D. [Program Code(s): 02400, 02410, 03120, 03121, 03122, 03123, 03124, 03220, 03221, 03222, 03800, 03810, 22130].	2,100
Q. Registration of devices generally licensed under part 31 of this chapter	N/A [13]

SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC—Continued

[See footnotes at end of table]

Category of materials licenses	Annual fees [1, 2, 3]
R. Possession of items or products containing radium-226 identified in 10 CFR 31.12 which exceed the number of items or limits specified in that section: [14]	
1. Possession of quantities exceeding the number of items or limits in 10 CFR 31.12(a)(4), or (5) but less than or equal to 10 times the number of items or limits specified [Program Code(s): 02700].	1,700
2. Possession of quantities exceeding 10 times the number of items or limits specified in 10 CFR 31.12(a)(4), or (5) [Program Code(s): 02710].	2,100
S. Licenses for production of accelerator-produced radionuclides [Program Code(s): 03210]	8,400
4. Waste disposal and processing:	
A. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of contingency storage or commercial land disposal by the licensee; or licenses authorizing contingency storage of low-level radioactive waste at the site of nuclear power reactors; or licenses for receipt of waste from other persons for incineration or other treatment, packaging of resulting waste and residues, and transfer of packages to another person authorized to receive or dispose of waste material [Program Code(s): 03231, 03233, 03235, 03236, 06100, 06101].	N/A [5]
B. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of packaging or repackaging the material. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material [Program Code(s): 03234].	9,300
C. Licenses specifically authorizing the receipt of prepackaged waste byproduct material, source material, or special nuclear material from other persons. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material [Program Code(s): 03232].	7,200
5. Well logging:	
A. Licenses for possession and use of byproduct material, source material, and/or special nuclear material for well logging, well surveys, and tracer studies other than field flooding tracer studies [Program Code(s): 03110, 03111, 03112].	3,400
B. Licenses for possession and use of byproduct material for field flooding tracer studies [Program Code(s): 03113]	N/A [5]
6. Nuclear laundries:	
A. Licenses for commercial collection and laundry of items contaminated with byproduct material, source material, or special nuclear material [Program Code(s): 03218].	20,600
7. Medical licenses:	
A. Licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license [Program Code(s): 02300, 02310.	10,500
B. Licenses of broad scope issued to medical institutions or two or more physicians under parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9] [Program Code(s): 02110].	22,900
C. Other licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9] [Program Code(s): 02120, 02121, 02200, 02201, 02210, 02220, 02230, 02231, 02240, 22160].	3,900
8. Civil defense:	
A. Licenses for possession and use of byproduct material, source material, or special nuclear material for civil defense activities [Program Code(s): 03710].	1,700
9. Device, product, or sealed source safety evaluation:	
A. Registrations issued for the safety evaluation of devices or products containing byproduct material, source material, or special nuclear material, except reactor fuel devices, for commercial distribution.	14,700
B. Registrations issued for the safety evaluation of devices or products containing byproduct material, source material, or special nuclear material manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel devices.	14,700
C. Registrations issued for the safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, except reactor fuel, for commercial distribution.	2,000
D. Registrations issued for the safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel.	700
10. Transportation of radioactive material:	
A. Certificates of Compliance or other package approvals issued for design of casks, packages, and shipping containers.	
1. Spent Fuel, High-Level Waste, and plutonium air packages	N/A [6]
2. Other Casks	N/A [6]
B. Quality assurance program approvals issued under part 71 of this chapter.	
1. Users and Fabricators	N/A [6]
2. Users	N/A [6]
C. Evaluation of security plans, route approvals, route surveys, and transportation security devices (including immobilization devices).	N/A [6]
11. Standardized spent fuel facilities	N/A [6]
12. Special Projects	N/A [6]
13. A. Spent fuel storage cask Certificate of Compliance	N/A [6]
B. General licenses for storage of spent fuel under 10 CFR 72.210	N/A [12]
14. Decommissioning/Reclamation:	

SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC—Continued

[See footnotes at end of table]

Category of materials licenses	Annual fees [1, 2, 3]
A. Byproduct, source, or special nuclear material licenses and other approvals authorizing decommissioning, decontamination, reclamation, or site restoration activities under parts 30, 40, 70, 72, and 76 of this chapter.	N/A [7]
B. Site-specific decommissioning activities associated with unlicensed sites, whether or not the sites have been previously licensed.	N/A [7]
15. Import and Export licenses	N/A [8]
16. Reciprocity	N/A [8]
17. Master materials licenses of broad scope issued to Government agencies	225,000
18. Department of Energy:	
A. Certificates of Compliance	719,000 [10]
B. Uranium Mill Tailings Radiation Control Act (UMTRCA) activities	398,000

[1] Annual fees will be assessed based on whether a licensee held a valid license with the NRC authorizing possession and use of radioactive material during the current FY. The annual fee is waived for those materials licenses and holders of certificates, registrations, and approvals who either filed for termination of their licenses or approvals or filed for possession only/storage licenses before October 1, 2007, and permanently ceased licensed activities entirely before this date. Annual fees for licensees who filed for termination of a license, downgrade of a license, or for a possession only license during the FY and for new licenses issued during the FY will be prorated in accordance with the provisions of § 171.17. If a person holds more than one license, certificate, registration, or approval, the annual fee(s) will be assessed for each license, certificate, registration, or approval held by that person. For licenses that authorize more than one activity on a single license (e.g., human use and irradiator activities), annual fees will be assessed for each category applicable to the license. Licensees paying annual fees under Category 1.A.(1) are not subject to the annual fees for Categories 1.C. and 1.D. for sealed sources authorized in the license.

[2] Payment of the prescribed annual fee does not automatically renew the license, certificate, registration, or approval for which the fee is paid. Renewal applications must be filed in accordance with the requirements of parts 30, 40, 70, 71, 72, or 76 of this chapter.

[3] Each FY, fees for these materials licenses will be calculated and assessed in accordance with § 171.13 and will be published in the **Federal Register** for notice and comment.

[4] A Class I license includes mill licenses issued for the extraction of uranium from uranium ore. A Class II license includes solution mining licenses (in-situ and heap leach) issued for the extraction of uranium from uranium ores including research and development licenses. An ''other'' license includes licenses for extraction of metals, heavy metals, and rare earths.

[5] There are no existing NRC licenses in these fee categories. If NRC issues a license for these categories, the Commission will consider establishing an annual fee for this type of license.

[6] Standardized spent fuel facilities, 10 CFR parts 71 and 72 Certificates of Compliance and related Quality Assurance program approvals, and special reviews, such as topical reports, are not assessed an annual fee because the generic costs of regulating these activities are primarily attributable to users of the designs, certificates, and topical reports.

[7] Licensees in this category are not assessed an annual fee because they are charged an annual fee in other categories while they are licensed to operate.

[8] No annual fee is charged because it is not practical to administer due to the relatively short life or temporary nature of the license.

[9] Separate annual fees will not be assessed for pacemaker licenses issued to medical institutions that also hold nuclear medicine licenses under Categories 7.B. or 7.C.

[10] This includes Certificates of Compliance issued to DOE that are not under the Nuclear Waste Fund.

[11] *See* § 171.15(c).

[12] *See* § 171.15(c).

[13] No annual fee is charged for this category because the cost of the general license registration program applicable to licenses in this category will be recovered through 10 CFR part 170 fees.

[14] Persons who possess radium sources that are used for operational purposes in another fee category are not also subject to the fees in this category. (This exception does not apply if the radium sources are possessed for storage only.)

(e) The surcharge allocated to annual fees includes the budgeted resources for the activities listed in paragraph (e)(1) of this section, plus the total budgeted resources for the activities included in paragraphs (e)(2) and (e)(3) of this section as reduced by the appropriations NRC receives for these types of activities. If the NRC's appropriations for these types of activities are greater than the budgeted resources for the activities included in paragraphs (e)(2) and (e)(3) of this section for a given FY, a negative surcharge (or annual fee reduction) will be allocated to annual fees. The activities comprising the FY 2008 surcharge are as follows:

* * * * *

Dated at Rockville, Maryland, this 16th day of May, 2008.

For the Nuclear Regulatory Commission.

J.E. Dyer,

Chief Financial Officer.

Note: THIS APPENDIX WILL NOT APPEAR IN THE CODE OF FEDERAL REGULATIONS.

Appendix A to This Final Rule—Regulatory Flexibility Analysis for the Final Amendments to 10 CFR Part 170 (License Fees) and 10 CFR Part 171 (Annual Fees)

I. Background

The Regulatory Flexibility Act (RFA), as amended 5 U.S.C. 601 *et. seq.*, requires that agencies consider the impact of their rulemakings on small entities and, consistent with applicable statutes, consider alternatives to minimize these impacts on the businesses, organizations, and government jurisdictions to which they apply.

The NRC has established standards for determining which NRC licensees qualify as small entities (10 CFR 2.810). These size standards were established based on the Small Business Administration's most common receipts-based size standards and include a size standard for business concerns that are manufacturing entities. The NRC uses the size standards to reduce the impact of annual fees on small entities by establishing a licensee's eligibility to qualify for a maximum small entity fee. The small entity fee categories in § 171.16(c) of this final rule are based on the NRC's size standards.

The NRC is required each year, under OBRA–90, as amended, to recover approximately 90 percent of its budget authority (less amounts appropriated from the NWF and for other activities specifically removed from the fee base), through fees to NRC licensees and applicants. In total, the NRC is required to bill approximately $760.7 million in fees for FY 2008.

OBRA–90 requires that the schedule of charges established by rulemaking should fairly and equitably allocate the total amount to be recovered from the NRC's licensees and be assessed under the principle that licensees who require the greatest expenditure of agency resources pay the greatest annual

charges. Since FY 1991, the NRC has complied with OBRA–90 by issuing a final rule that amends its fee regulations. These final rules have established the methodology used by the NRC in identifying and determining the fees to be assessed and collected in any given FY.

The Commission is rebaselining its part 171 annual fees in FY 2008. Rebaselining fees results in increased annual fees compared to FY 2007 for the power reactors and non-power reactors, and decreased annual fees for four classes of licenses (spent fuel storage/reactor decommissioning, fuel facilities, transportation, and materials users). Within the uranium recovery fee class, annual fees for the all the non DOE licensees decrease, while annual fee for the DOE increases slightly. There is no annual fee for the rare earth fee class because this NRC fee class will no longer exist in FY 2008. As discussed in Section III.B.2., ''Agreement State Activities'', of this document, the only rare earth facility license transferred to the Commonwealth of Pennsylvania when it became an Agreement State.

The Congressional Review Act of 1996 provides Congress with the opportunity to review agency rules before they go into effect. Under this legislation, the NRC annual fee rule is considered a ''major'' rule and must be reviewed by Congress and the Comptroller General before the rule becomes effective.

The Small Business Regulatory Enforcement Fairness Act of 1996 requires that an agency prepare a guide to assist small entities in complying with each rule for which a final RFA is prepared. This analysis and the small entity compliance guide (Attachment 1) have been prepared for the FY 2008 fee rule as required by law.

II. Impact on Small Entities

The fee rule results in substantial fees being charged to those individuals, organizations, and companies licensed by the NRC, including those licensed under the NRC materials program. The comments received on previous proposed fee rules and the small entity certifications received in response to previous final fee rules indicate that NRC licensees qualifying as small entities under the NRC's size standards are primarily materials licensees. Therefore, this analysis will focus on the economic impact of the fees on materials licensees. In FY 2007, about 32 percent of these licensees (approximately 1,400 licensees) qualified as small entities.

The commenters on previous fee rulemakings consistently indicated that the following results would occur if the proposed annual fees were not modified:

1. Large firms would gain an unfair competitive advantage over small entities. Commenters noted that small and very small companies would find it more difficult to absorb the annual fee than a large corporation or a high-volume type of operation. In competitive markets, such as soil testing, annual fees would put small licensees at an extreme competitive disadvantage with their much larger competitors because the proposed fees would be the same for a two-person licensee as for a large firm with thousands of employees.

2. Some firms would be forced to cancel their licenses. A licensee with receipts of less than $500,000 per year stated that the proposed rule would, in effect, force it to relinquish its soil density gauge and license, thereby reducing its ability to do its work effectively. Other licensees, especially well-loggers, noted that the increased fees would force small businesses to get rid of the materials license altogether. Commenters stated that the proposed rule would result in about 10 percent of the well-logging licensees terminating their licenses immediately and approximately 25 percent terminating their licenses before the next annual assessment.

3. Some companies would go out of business.

4. Some companies would have budget problems. Many medical licensees noted that, along with reduced reimbursements, the proposed increase of the existing fees and the introduction of additional fees would significantly affect their budgets. Others noted that, in view of the cuts by Medicare and other third party carriers, the fees would produce a hardship and some facilities would experience a great deal of difficulty in meeting this additional burden.

Over 3,000 licenses, approvals, and registration terminations have been requested since the NRC first established annual fees for materials licenses. Although some of these terminations were requested because the license was no longer needed or licenses or registrations could be combined, indications are that other termination requests were due to the economic impact of the fees.

To alleviate the significant impact of the annual fees on a substantial number of small entities, the NRC considered the following alternatives in accordance with the RFA in developing each of its fee rules since FY 1991.

1. Base fees on some measure of the amount of radioactivity possessed by the licensee (e.g., number of sources).

2. Base fees on the frequency of use of the licensed radioactive material (e.g., volume of patients).

3. Base fees on the NRC size standards for small entities.

The NRC has reexamined its previous evaluations of these alternatives and continues to believe that establishment of a maximum fee for small entities is the most appropriate and effective option for reducing the impact of its fees on small entities.

III. Maximum Fee

The RFA and its implementing guidance do not provide specific guidelines on what constitutes a significant economic impact on a small entity; therefore, the NRC has no benchmark to assist it in determining the amount or the percent of gross receipts that should be charged to a small entity. In developing the maximum small entity annual fee in FY 1991, the NRC examined its 10 CFR part 170 licensing and inspection fees and Agreement State fees for those fee categories which were expected to have a substantial number of small entities. Six Agreement States (Washington, Texas, Illinois, Nebraska, New York, and Utah), were used as benchmarks in the establishment of the maximum small entity annual fee in FY 1991.

The NRC maximum small entity fee was established as an annual fee only. In addition to the annual fee, NRC small entity licensees were required to pay amendment, renewal and inspection fees. In setting the small entity annual fee, NRC ensured that the total amount small entities paid annually would not exceed the maximum paid in the six benchmark Agreement States.

Of the six benchmark states, the maximum Agreement State fee of $3,800 in Washington was used as the ceiling for the total fees. Thus the NRC's small entity fee was developed to ensure that the total fees paid by NRC small entities would not exceed $3,800. Given the NRC's FY 1991 fee structure for inspections, amendments, and renewals, a small entity annual fee established at $1,800 allowed the total fee (small entity annual fee plus yearly average for inspections, amendments and renewal fees) for all categories to fall under the $3,800 ceiling.

In FY 1992, the NRC introduced a second, lower tier to the small entity fee in response to concerns that the $1,800 fee, when added to the license and inspection fees, still imposed a significant impact on small entities with relatively low gross annual receipts. For purposes of the annual fee, each small entity size standard was divided into an upper and lower tier. Small entity licensees in the upper tier continued to pay an annual fee of $1,800 while those in the lower tier paid an annual fee of $400.

Based on the changes that had occurred since FY 1991, the NRC re-analyzed its maximum small entity annual fees in FY 2000, and determined that the small entity fees should be increased by 25 percent to reflect the increase in the average fees paid by other materials licensees since FY 1991, as well as changes in the fee structure for materials licensees. The structure of the fees that NRC charged to its materials licensees changed during the period between 1991 and 1999. Costs for materials license inspections, renewals, and amendments, which were previously recovered through part 170 fees for services, are now included in the part 171 annual fees assessed to materials licensees. As a result of the 25 percent increase, the maximum small entity annual fee increased from $1,800 to $2,300 in FY 2000. Although the maximum annual fee for small entities increased from $1,800 to $2,300, the total fee for many small entities was reduced because they no longer paid part 170 fees for services. The costs not recovered from small entities were allocated to other materials licensees and to power reactors.

While reducing the impact on many small entities, the NRC determined that the maximum annual fee of $2,300 for small entities may continue to have a significant impact on materials licensees with annual gross receipts in the thousands of dollars range. Therefore, the NRC continued to provide a lower-tier small entity annual fee for small entities with relatively low gross annual receipts, and for manufacturing concerns and educational institutions not State or publicly supported, with fewer than 35 employees. The NRC also increased the

lower tier small entity fee by the same percentage increase to the maximum small entity annual fee. This 25 percent increase resulted in the lower tier small entity fee increasing from $400 to $500 in FY 2000.

The NRC stated in the RFA for the FY 2001 final fee rule that it would re-examine the small entity fees every two years, in the same years in which it conducts the biennial review of fees as required by the Chief Financial Officer's Act. Accordingly, the NRC examined the small entity fees again in FY 2003 (68 FR 36714; June 18, 2003), and determined that a change was not warranted to the small entity fees established in FY 2001. The NRC performed a similar review, and reached the same conclusion, in FY 2005.

The NRC re-examined its small entity fees for the FY 2007 fee rulemaking, and did not believe that a change to the small entity fees was warranted. Unlike the annual fees assessed to other licensees, the small entity fees are not designed to recover the entire agency costs associated with particular licensees. Instead, the reduced fees for small entities are designed to provide some fee relief for qualifying small entity licensees while at the same time recovering from them some of the agency's costs for activities that benefit them. The costs not recovered from small entities for activities that benefit them are offset by the 10 percent fee relief provided to NRC by the Congress. Given the reduction in annual fees from FY 2000 to FY 2007, on average, for those categories of materials licensees that contain a number of small entities, the NRC determined that the current small entity fees of $500 and $2,300 continued to meet the objective of providing relief to many small entities while recovering from them some of the costs that benefit them.

As part of the small entity review in FY 2007, the NRC also considered whether it should establish reduced fees for small entities under part 170. The NRC received one comment requesting that such small entity fees be considered for certain export licenses, particularly in light of the recent increases to part 170 fees for these licenses. Because the NRC's part 170 fees are not assessed to a licensee or applicant on a regular basis (i.e., they are only assessed when a licensee or applicant requests a specific service from the NRC), the NRC does not believe that the impact of its part 170 fees warrants a fee reduction for small entities under part 170, in addition to the part 171 small entity fee reduction. Regarding export licenses, in particular, the NRC notes that interested parties can submit a single application for a broad scope, multi-year license that permits exports to multiple countries. Because the NRC's fees are charged per application, this streamlining process minimizes the fees for export applicants. Because a single NRC fee can cover numerous exports, and because there are a limited number of entities who apply for these licenses, the NRC does not anticipate that the part 170 export fees will have a significant impact on a substantial number of small entities.

Therefore, the NRC retained the $2,300 small entity annual fee and the $500 lower tier small entity annual fee for FY 2007, and is not changing these fees in FY 2008. The NRC plans to re-examine the small entity fees again in FY 2009.

IV. Summary

The NRC has determined that the 10 CFR part 171 annual fees significantly impact a substantial number of small entities. A maximum fee for small entities strikes a balance between the requirement to recover 90 percent of the NRC budget and the requirement to consider means of reducing the impact of the fee on small entities. Based on its regulatory flexibility analysis, the NRC concludes that a maximum annual fee of $2,300 for small entities and a lower-tier small entity annual fee of $500 for small businesses and not-for-profit organizations with gross annual receipts of less than $350,000, small governmental jurisdictions with a population of fewer than 20,000, small manufacturing entities that have fewer than 35 employees, and educational institutions that are not State or publicly supported and have fewer than 35 employees reduces the impact on small entities. At the same time, these reduced annual fees are consistent with the objectives of OBRA–90. Thus, the fees for small entities maintain a balance between the objectives of OBRA–90, as amended, and the RFA. Therefore, the analysis and conclusions previously established remain valid for FY 2008.

ATTACHMENT 1 TO APPENDIX A—U. S. Nuclear Regulatory Commission Small Entity Compliance Guide; Fiscal Year 2008

Contents

Introduction
NRC Definition of Small Entity
NRC Small Entity Fees
Instructions for Completing NRC Form 526

Introduction

The Small Business Regulatory Enforcement Fairness Act requires all Federal agencies to prepare a written guide for which the agency Prepares a final regulatory flexibility analysis. The NRC has prepared such an analysis. Therefore, in compliance with the law, this guide has been prepared to assist NRC materials licensees in complying with the FY 2008 fee rule.

Licensees may use this guide to determine whether they qualify as a small entity under NRC regulations and are eligible to pay reduced FY 2008 annual fees assessed under 10 CFR part 171. The NRC has established two tiers of annual fees for those materials licensees who qualify as small entities under the NRC's size standards.

Licensees who meet the NRC's size standards for a small entity (listed in 10 CFR 2.810) must submit a completed NRC Form 526 ''Certification of Small Entity Status for the Purposes of Annual Fees Imposed under 10 CFR Part 171'' to qualify for the reduced annual fee. This form can be accessed on the NRC's Web site at *http://www.nrc.gov*. The form can then be accessed by selecting ''Business with NRC,'' then ''License Fees'' and under ''Forms'' selecting NRC Form 526. For licensees who cannot access the NRC's Web site, NRC Form 526 may be obtained through the local point of contact listed in the NRC's ''Materials Annual Fee Billing Handbook,'' NUREG/BR–0238, which is enclosed with each annual fee billing. Alternatively, the form may be obtained by calling the fee staff at 301–415–7554, or by e-mailing the fee staff at *fees@nrc.gov*. The completed form, the appropriate small entity fee, and the payment copy of the invoice should be mailed to the U.S. Nuclear Regulatory Commission, License Fee Team, at the address indicated on the invoice. Failure to file the NRC small entity certification Form 526 in a timely manner may result in the denial of any refund that might otherwise be due.

NRC Definition of Small Entity

For purposes of compliance with its regulations (10 CFR 2.810), the NRC has defined a small entity as follows:

(1) *Small business*—a for-profit concern that provides a service, or a concern that is not engaged in manufacturing, with average gross receipts of $6.5 million or less over its last 3 completed fiscal years;

(2) *Manufacturing industry*—a manufacturing concern with an average of 500 or fewer employees based on employment during each pay period for the preceding 12 calendar months;

(3) *Small organizations*—a not-for-profit organization that is independently owned and operated and has annual gross receipts of $6.5 million or less;

(4) *Small governmental jurisdiction*—a government of a city, county, town, township, village, school district or special district, with a population of fewer than 50,000;

(5) *Small educational institution*—an educational institution supported by a qualifying small governmental jurisdiction, or one that is not State or publicly supported and has 500 or fewer employees.[1]

To further assist licensees in determining if they qualify as a small entity, the following guidelines are provided, which are based on the Small Business Administration's regulations (13 CFR part 121).

(1) A small business concern is an independently owned and operated entity which is not considered dominant in its field of operations.

(2) The number of employees means the total number of employees in the parent company, any subsidiaries and/or affiliates, including both foreign and domestic locations (i.e., not solely the number of employees working for the licensee or conducting NRC licensed activities for the company).

(3) Gross annual receipts includes all revenue received or accrued from any source, including receipts of the parent company, any subsidiaries and/or affiliates, and account for both foreign and domestic locations. Receipts include all revenues from

[1] An educational institution referred to in the size standards is an entity whose primary function is education, whose programs are accredited by a nationally recognized accrediting agency or association, who is legally authorized to provide a program of organized instruction or study, who provides an educational program for which it awards academic degrees, and whose educational programs are available to the public.

sales of products and services, interest, rent, fees, and commissions, from whatever sources derived (i.e., not solely receipts from NRC licensed activities).

(4) A licensee who is a subsidiary of a large entity, including a foreign entity, does not qualify as a small entity.

NRC Small Entity Fees

In 10 CFR 171.16(c), the NRC has established two tiers of fees for licensees that qualify as a small entity under the NRC's size standards. The fees are as follows:

	Maximum annual fee per licensed category
Small Businesses Not Engaged in Manufacturing (Average gross receipts over last 3 completed fiscal years):	
$350,000 to $6.5 million	$2,300
Less than $350,000	500
Small Not-For-Profit Organizations (Annual Gross Receipts):	
$350,000 to $6.5 million	2,300
Less than $350,000	500
Manufacturing entities that have an average of 500 employees or fewer:	
35 to 500 employees	2,300
Fewer than 35 employees	500
Small Governmental Jurisdictions (Including publicly supported educational institutions) (Population):	
20,000 to 50,000	2,300
Fewer than 20,000	500
Educational Institutions that are not State or Publicly Supported, and have 500 Employees or Fewer:	
35 to 500 employees	2,300
Fewer than 35 employees	500

Instructions for Completing NRC Small Entity Form 526

1. Complete all items on NRC Form 526 as follows: (**Note:** Incomplete or improperly completed forms will be returned as unacceptable)

(a) Enter the license number and invoice number exactly as they appear on the annual fee invoice.

(b) Enter the North American Industry Classification System (NAICS).

(c) Enter the licensee's name and address exactly as they appear on the invoice. Annotate name and/or address changes for billing purposes on the payment copy of the invoice—include contact's name, telephone number, e-mail address, and company Web site address. Correcting the name and/or address on NRC Form 526 or on the invoice does not constitute a request to amend the license.

(d) Check the appropriate size standard under which the licensee qualifies as a small entity. Check one box only. Note the following:

(i) A licensee who is a subsidiary of a large entity, including foreign entities, does not qualify as a small entity. The calculation of a firm's size includes the employees or receipts of all affiliates. Affiliation with another concern is based on the power to control, whether exercised or not. Such factors as common ownership, common management and identity of interest (often found in members of the same family), among others, are indications of affiliation. The affiliated business concerns need not be in the same line of business (67 CFR part 59).

(ii) Gross annual receipts, as used in the size standards, include all revenue received or accrued by your company from all sources, regardless of the form of the revenue and not solely receipts from licensed activities.

(iii) NRC's size standards on small entity are based on the Small Business Administration's regulations (13 CFR part 121).

(iv) The size standards apply to the licensee, not to the individual authorized users who may be listed in the license.

2. If the invoice states the ''Amount Billed Represents 50% Proration,'' the amount due is not the prorated amount shown on the invoice but rather one-half of the maximum small entity annual fee shown on NRC Form 526 for the size standard under which the licensee qualifies (either $1,150 or $250) for each category billed.

3. If the invoice amount is less than the reduced small entity annual fee shown on this form, pay the amount on the invoice; there is no further reduction. In this case, do not file NRC Form 526. However, if the invoice amount is greater than the reduced small entity annual fee, file NRC Form 526 and pay the amount applicable to the size standard you checked on the form.

4. The completed NRC Form 526 must be submitted with the required annual fee payment and the ''Payment Copy'' of the invoice to the address shown on the invoice.

5. 10 CFR 171.16(c)(3) states licensees shall submit a new certification with its annual fee payment each year. Failure to submit NRC Form 526 at the time the annual fee is paid will require the licensee to pay the full amount of the invoice.

The NRC sends invoices to its licensees for the full annual fee, even though some licensees qualify for reduced fees as small entities. Licensees who qualify as small entities and file NRC Form 526, which certifies eligibility for small entity fees, may pay the reduced fee, which is either $2,300 or $500 for a full year, depending on the size of the entity, for each fee category shown on the invoice. Licensees granted a license during the first 6 months of the fiscal year, and licensees who file for termination or for a ''possession only'' license and permanently cease licensed activities during the first 6 months of the fiscal year, pay only 50 percent of the annual fee for that year. Such invoices state that the ''amount billed represents 50% proration.''

Licensees must file a new small entity form (NRC Form 526) with the NRC each fiscal year to qualify for reduced fees in that year. Because a licensee's ''size,'' or the size standards, may change from year to year, the invoice reflects the full fee and licensees must complete and return NRC Form 526 for the fee to be reduced to the small entity fee amount. LICENSEES WILL NOT RECEIVE A NEW INVOICE FOR THE REDUCED AMOUNT. The completed NRC Form 526, the payment of the appropriate small entity fee, and the ''Payment Copy'' of the invoice should be mailed to the U. S. Nuclear Regulatory Commission, License Fee Team at the address indicated on the invoice.

If you have questions regarding the NRC's annual fees, please contact the license fee staff at 301–415–7554, e-mail the fee staff at *fees.resource@nrc.gov*, or write to the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Office of the Chief Financial Officer.

False certification of small entity status could result in civil sanctions being imposed by the NRC under the Program Fraud Civil Remedies Act, 31 U.S.C. 3801 *et seq.* NRC's implementing regulations are found at 10 CFR part 13.

[FR Doc. E8–12086 Filed 6–5–08; 8:45 am]

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Federal Register

Friday,
June 6, 2008

Part III

Office of Management and Budget

2 CFR Part 33

Amending Federal Financial Assistance-Related Forms To Include Universal Identifier; Notice

Requirements for Federal Funding Accountability and Transparency Act Implementation; Proposed Rule

OFFICE OF MANAGEMENT AND BUDGET

Amending Federal Financial Assistance-Related Forms To Include Universal Identifier

AGENCY: Office of Federal Financial Management and Office of Information and Regulatory Affairs, Office of Management and Budget.

ACTION: Final Notice.

SUMMARY: The Office of Management and Budget (OMB) has issued a memorandum authorizing each Federal agency to add a field for the applicant's Dun and Bradstreet Data Universal Numbering System (DUNS) number to application forms for types of Federal financial assistance that are subject to the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109–282, ''the Transparency Act''). The OMB memorandum broadens the effect of a policy issued in 2003, which authorized agencies to include a DUNS number field in applications for grants and cooperative agreements. It broadens the 2003 policy to other forms of Federal financial assistance subject to the Transparency Act, including loans and subawards. The additional authority is needed in order for agencies to implement the requirements of the Transparency Act.

FOR FURTHER INFORMATION CONTACT: Marguerite Pridgen, Office of Federal Financial Management, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503; telephone 202–395–7844; fax 202–395–3952.

Authority: Sec. 2, Pub. L. 109–282, 102 Stat. 1186.

SUPPLEMENTARY INFORMATION:

I. Background

On August 2, 2007 [72 FR 42444], OMB proposed to authorize Federal agencies to add a field for the DUNS numbers of applicants other than individual persons to Federal financial assistance application forms that were previously approved by OMB. The purpose of the proposal was to allow agencies to comply with the reporting requirements of the Transparency Act.

The Transparency Act requires OMB to ensure the existence and operation of a Web site at which the public can access and search data on Federal financial assistance awards (note that the Web site has been established at *http://www.usaspending.gov*). A universal identifier for the award recipient is one of the data elements for each award that the Act requires to be available at the Web site. In implementing the Act, OMB established the DUNS number as the universal identifier that would be used. Therefore, an agency must be able to collect DUNS numbers for recipients in order to be able to comply with the Act, and collecting them in the application is the most efficient way to do that.

Prior to the August 2007 proposal, there was authority in a 2003 OMB policy issuance for agencies to collect DUNS numbers in applications for grants and cooperative agreements. Therefore, the proposal in the **Federal Register** notice in August was to broaden the earlier policy so that it also would apply to other forms of Federal financial assistance subject to the Transparency Act and not just to grants and cooperative agreements.

II. Comment and Response

OMB received one public comment in response to the August 2, 2007, proposal in the **Federal Register**. The comment was considered in developing this final version of the update to the 2003 OMB policy. The comment and our response are summarized in the following paragraphs.

Comment: A business commented that it was having difficulty obtaining a DUNS Number and expressed concern about associated fees.

Response: There is no fee associated with obtaining a DUNS Number through Dun and Bradstreet's Web site or toll-free phone number. To assist Federal contractors and grant recipients with entities obtaining a DUNS Number, Dun and Bradstreet maintains a Web site with general information at *http://fedgov.dnb.com/webform/displayHomePage.do;jsessionid=735D9C974C65C66AEE38AD278154DBDA.*

III. Next Steps

The OMB memorandum is an interim measure, pending issuance of more permanent policy for Transparency Act reporting requirements. In the document following this one in this section of today's **Federal Register**, we are proposing guidance to Federal agencies that would be issued in title 2 of the Code of Federal Regulations. The proposed guidance covers collection of DUNS numbers from applicants as part of a larger set of actions implementing the Transparency Act for Federal financial assistance. When the guidance is issued in final form, we therefore anticipate that it will supersede the memorandum to agencies described in this notice, as well as the 2003 policy issuance on use of DUNS numbers for grants and cooperative agreements.

Because the Transparency Act applies to Federal procurement, as well as Federal financial assistance, a final point to note is that the memorandum described in this notice applies only to Federal financial assistance. The implementation of the Transparency Act as it applies to Federal procurement contracts, purchase orders, task orders, and delivery orders is separately addressed by Federal Acquisition Regulation issuances under the purview of the Civilian Agency Acquisition Council and Defense Acquisition Regulations Council.

Danny Werfel,

Deputy Controller.

[FR Doc. E8–12560 Filed 6–5–08; 8:45 am]

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OFFICE OF MANAGEMENT AND BUDGET

2 CFR Part 33

Requirements for Federal Funding Accountability and Transparency Act Implementation

AGENCY: Office of Federal Financial Management, Office of Management and Budget (OMB).

ACTION: Proposed guidance to agencies.

SUMMARY: OMB proposes to issue guidance to agencies to establish requirements for federal financial assistance applicants, recipients, and subrecipients that are necessary for the implementation of the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109–282, hereafter referred to as ''the Transparency Act'' or ''the Act''). An agency under the proposed guidance would require applicants other than individuals, with some specific exceptions, to have Dun and Bradstreet Data Universal Numbering System (DUNS) numbers and maintain current registrations in the Central Contractor Registration (CCR) database. The guidance also provides standard wording for an award term that each agency would include in its financial assistance awards. The award term would require recipients and subrecipients that are subject to the policy to have DUNS numbers, maintain current CCR registrations, and report subaward data that the implementation of the Transparency Act requires. This proposed implementation of the requirement for reporting of subawards under federal financial assistance awards parallels the Federal Acquisition Regulation implementation of that Transparency Act reporting requirement for subcontracts under federal procurement contracts (72 FR 51306, September 6, 2007).

DATES: Comments are due on or before August 5, 2008.

ADDRESSES: Due to potential delays in OMB's receipt and processing of mail sent through the U.S. Postal Service, we encourage respondents to submit comments electronically to ensure timely receipt. We cannot guarantee that comments mailed will be received before the comment closing date.

Electronic mail comments may be submitted to: Marguerite Pridgen at *mpridgen@omb.eop.gov.* Please include ''Transparency Act Guidance'' in the subject line and the full body of your comments in the text of the electronic message and not as an attachment. Please include your name, title, organization, postal address, telephone number, and e-mail address in the text of the message. Comments may also be submitted via facsimile to 202–395–3952.

Comments may be mailed to Marguerite Pridgen, Office of Federal Financial Management, Office of Management and Budget, Room 6025, New Executive Office Building, Washington, DC 20503.

Comments may also be sent via *http://www.regulations.gov*—a Federal E-Government Web site that allows the public to find, review, and submit comments on documents that agencies have published in the **Federal Register** and that are open for comment. Simply type ''Transparency Act Guidance'' (in quotes) in the Comment or Submission search box, click Go, and follow the instructions for submitting comments. Comments received by the date specified above will be included as part of the official record.

All responses will be summarized and included in the request for OMB approval.

FOR FURTHER INFORMATION CONTACT: Marguerite Pridgen, Office of Federal Financial Management, Office of Management and Budget, telephone (202) 395–7844 (direct) or (202) 395–3993 (main office) and e-mail: *Marguerite_E._Pridgen@omb.eop.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on the Transparency Act

The Act requires the Office of Management and Budget (OMB) to ensure the existence and operation of a single Web site at which the public may access and search data on federal financial assistance awards. It:

- Specifies that data on federal agencies' awards to non-federal entities are to be available at the Web site by January 1, 2008.
- Specifies that data on subawards under those federal awards are to be available by January 1, 2009.
- Exempts awards to individuals and individual transactions of less than $25,000.

The Act identifies sixteen specific data elements that the Web site must include for each federal award and authorizes OMB to specify additional elements for other relevant information. The sixteen elements the Act specifies are:

- The name of the entity receiving the award;
- The amount of the award;
- The transaction type;
- The funding agency;
- The Catalog of Federal Domestic Assistance number;
- The program source;
- The location of the entity receiving the award, including four data elements for the city, State, Congressional district, and country;
- The location of the primary place of performance under the award, including four data elements for the city, State, Congressional district, and country;
- A unique identifier of the entity receiving the award; and
- A unique identifier of the parent entity of the recipient, should the recipient be owned by another entity.

Although the Act does not identify specific data elements for subaward reporting, it does require that the data about subawards be disclosed in the same manner as the data for federal agencies' awards. It also requires OMB to conduct a pilot to determine how best to implement a reporting system under which the entity issuing a subaward is responsible for fulfilling the subaward reporting requirement.

II. Purposes of the Guidance

The proposed guidance following this preamble has three purposes, all of which are related to the implementation of the Transparency Act. Those purposes, which are identified in section 33.100 of the guidance, are to establish:

- A requirement to use the Data Universal Numbering System (DUNS) number as the unique identifier for each entity receiving an award or subaward;
- Requirements for applicant, recipient and subrecipient registration in the Central Contractor Registration (CCR) as a way to maintain a reliable source of standard information about organizations for Transparency Act reporting and other purposes; and
- Requirements for recipient and subrecipient reporting of obligations of federal funds for subawards.

The following paragraphs provide further information about these three requirements.

DUNS number. The interagency task force that OMB established to help implement the Transparency Act selected the DUNS number as the unique identifier that the Act requires to be reported both for the recipient and, if applicable, its parent entity. The proposed guidance following this preamble therefore includes a Government-wide policy under which agencies will require federal financial assistance applicants and recipients, with a few exceptions, to have DUNS numbers. The proposed guidance thereby would expand a current OMB policy requiring use of DUNS numbers in conjunction with grants and cooperative agreements, by broadening the policy to loans and other types of

federal financial assistance awards. The current policy, the full text of which is in the **Federal Register** [68 FR 38402, June 27, 2003], was established by the July 15, 2003, OMB memorandum M–03–16, ''OMB Issues Grants Management Policies'' (available at *http://www.whitehouse.gov/omb/memoranda/m03–16.pdf*).

Central Contractor Registration. The proposed guidance also would establish a requirement for applicant, recipient, and subrecipient registration in the CCR, as a way to help ensure consistent reporting of data about each entity and thereby make the data more useful to the public. Without the requirement, multiple agencies doing business with the same entity may use different variations of the entity's name, address, or parent organization when they each report on their awards to the entity. Using the DUNS number as the identifier for the entity, as described in the preceding paragraph, can partially alleviate that problem—each report of an award or subaward then can be linked to standard information about the award recipient in data bases of Dun and Bradstreet, Inc., which assigns and maintains DUNS numbers and associated organizational information. The proposed guidance requiring recipient and subrecipient registration in the CCR would further improve data quality by allowing a report of an award or subaward to also be linked to standard information that federal business partners provide about themselves to that Government repository.

Subaward reporting. The Transparency Act requires reporting of information about subawards under federal financial assistance awards. The proposed guidance therefore includes a basic policy requiring recipients and subrecipients to report on subawards they make. For two reasons, however, it does not specify the data elements that must be reported about each subaward. One reason is that data elements are best maintained separately from the Code of Federal Regulations. The other reason is that the data elements may be refined due to lessons learned during the subaward pilot that The Transparency Act requires, so they need not be formally established until after the pilot. At a later date, separately from today's policy proposal, we will publish the data elements for subaward reporting in the **Federal Register** with an opportunity for comment before formally establishing them as the required set.

III. The Proposed Guidance

The proposed guidance in 2 CFR part 33 is organized into three subparts:

- Subpart A states the purposes of the guidance, as described above in Section II of this preamble. It also specifies the types of federal financial assistance awards and types of recipient and subrecipient entities to which the proposed guidance would apply.
- Subpart B contains five sections that provide authorities and specify responsibilities for agencies. Section 33.200 states requirements for the content of agencies' program announcements, regulations, or other issuances providing instructions for applicants. Section 33.205 authorizes agencies to disqualify applicants that do not comply with requirements to provide a DUNS er and register in the CCR. Section 33.210 permits agencies to add DUNS number fields to application forms or formats that OMB cleared previously and section 33.215 establishes requirements for agencies' information systems. Finally, section 33.220 specifies standard wording of an award term for federal financial assistance subject to The Transparency Act. The award term requires recipients and subrecipients to register in the CCR and report on subaward obligations that are subject to the Transparency Act reporting requirements.
- Subpart C contains definitions of terms used in 2 CFR part 33.

IV. Invitation To Comment

We invite comments from the affected public on all aspects of the proposed guidance to agencies, including the proposal to require use of the DUNS number, registration in the CCR, and reporting on subawards. All comments will be considered in developing the final guidance.

List of Subjects in 2 CFR Part 33

Business and industry, Colleges and universities, Cooperative agreements, Farmers, Federal aid programs, Grant programs, Grants administration, Hospitals, Indians, Insurance, International organizations, Loan programs, Nonprofit organizations, Reporting and recordkeeping requirements, State and local governments, Subsidies.

Danny Werfel,
Deputy Controller.

Authority and Issuance

For the reasons set forth above, the Office of Management and Budget proposes to amend 2 CFR chapter I by adding part 33 to read as follows:

PART 33—UNIVERSAL IDENTIFIER, CENTRAL CONTRACTOR REGISTRATION, AND SUBAWARD REPORTING

Sec.

Subpart A—General

33.100 Purposes of this part.
33.105 Applicability.
33.110 Deviations.

Subpart B—Policy

33.200 Requirements for program announcements, regulations, and application instructions.
33.205 Effect of noncompliance with requirements in § 33.200.
33.210 Authority to modify agency application forms or formats.
33.215 Requirements for agency information systems.
33.220 Award term.

Subpart C—Definitions

33.300 Agency.
33.305 Award.
33.310 Central Contractor Registration (CCR).
33.315 Data Universal Numbering System (DUNS) Number.
33.320 Entity.
33.325 Federal financial assistance subject to the Transparency Act.
33.330 For-profit organization.
33.335 Foreign public entity.
33.340 Indian tribe (or ''federally recognized Indian tribe'').
33.345 Local government.
33.350 Nonprofit organization.
33.355 State.
33.360 Subaward.
33.365 Subrecipient.

Authority: Pub. L. 109–282; 31 U.S.C. 6102.

Subpart A–General

§ 33.100 Purposes of this part.

This part provides guidance to agencies to establish:

(a) The Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS) number as a universal identifier for federal financial assistance applicants, recipients, and subrecipients.

(b) The Central Contractor Registration (CCR) as the repository for standard information about federal financial assistance applicants, recipients, and subrecipients.

(c) Requirements for recipients' and subrecipients' reporting of information on subawards, as required by the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109–282, hereafter referred to as ''the Transparency Act'').

§ 33.105 Applicability.

(a) *Types of awards.* This part applies to an agency's grants, cooperative

agreements, loans, and other federal financial assistance subject to the Transparency Act, as defined in § 33.325.

(b) *Types of recipient and subrecipient entities.* (1) *General.* Through an agency's implementation of the guidance in this part, this part applies to all entities, other than those excepted in paragraph (b)(2) of this section, that—

(i) Apply for or receive agency awards; or

(ii) Receive subawards under those awards.

(2) *Exceptions.* (i) None of the requirements in this part apply to an individual who applies for or receives federal financial assistance as a natural person (i.e., unrelated to any business or non-profit organization he or she may own or operate in his or her name).

(ii) The requirement in this part to maintain a current registration in the CCR does not apply to:

(A) An agency of the Federal Government that receives an award from another agency.

(B) A foreign entity applying for or receiving an award or subaward for a project or program performed outside the United States, if an agency deems it to be impractical for the entity to register in the CCR.

(C) An entity to which an agency grants an exception based on a need to protect information about the entity from disclosure, to avoid compromising classified information or national security or jeopardizing the personal safety of the entity's clients.

§ 33.110 Deviations.

Deviations from this part require the prior approval of the Office of Management and Budget (OMB).

Subpart B—Policy

§ 33.200 Requirements for program announcements, regulations, and application instructions.

(a) Each agency that awards grants, cooperative agreements, loans, or other Federal financial assistance subject to the Transparency Act must include the requirements described in paragraph (b) of this section in each program announcement, regulation, or other issuance containing instructions for applicants:

(1) Under which awards may be made that are subject to Transparency Act reporting requirements; and

(2) That either:

(i) Is issued on or after the effective date of this part; or

(ii) Has application or plan due dates or anticipated award dates after October 1, 2008.

(b) The program announcement, regulation, or other issuance must require each entity that applies and does not have an exception under § 33.105(b)(2) to:

(1) Be registered in the CCR prior to submitting an application or plan;

(2) Maintain a current CCR registration at all times during which it has an active federal award or an application or plan under consideration by an agency; and

(3) Provide its DUNS number in each application or plan it submits to the agency.

(c) For purposes of this policy:

(1) The applicant is the entity that meets the agency's or program's eligibility criteria and has the legal authority to apply and to receive the award. For example, if a consortium applies for an award to be made to the consortium as the recipient, the consortium must have a DUNS number. If a consortium is eligible to receive funding under an agency program but the agency's policy is to make the award to a lead entity for the consortium, the DUNS number of the lead entity will be used.

(2) A ''program announcement'' is any paper or electronic issuance that an agency uses to announce a funding opportunity, whether it is called a ''program announcement,'' ''notice of funding availability,'' ''broad agency announcement,'' ''research announcement,'' ''solicitation,'' or something else.

§ 33.205 Effect of noncompliance with requirements in § 33.200.

(a) An agency may not make an award to an entity until the entity has complied with all applicable requirements to provide a valid DUNS number and register in the CCR.

(b) If an entity does not comply with an applicable requirement to provide a DUNS number or register in the CCR, as specified in the program announcement or other instructions, the agency:

(1) May determine that the applicant is not qualified to receive an award; and

(2) May use that determination as a basis for making an award to an alternative applicant.

§ 33.210 Authority to modify agency application forms or formats.

To implement the policies in §§ 33.200 and 33.205, an agency may add a DUNS number field to application forms or formats previously approved by OMB, without having to obtain further approval to add the field.

§ 33.215 Requirements for agency information systems.

Each agency that awards or administers grants, cooperative agreements, loans, or other federal financial assistance subject to the Transparency Act must ensure that systems processing information related to the awards, and other systems as appropriate, are able to accept and use the DUNS number as the universal identifier for financial assistance applicants and recipients.

§ 33.220 Award term.

(a) To accomplish the purposes described in § 33.100, an agency must include the following award term in each award to a non-federal entity of federal financial assistance subject to the Transparency Act:

I. Central Contractor Registration and subaward reporting.

a. Central Contractor Registration.

1. Unless you are excepted from this requirement under 2 CFR 33.105(b)(2), you as the recipient must maintain the currency of your information in the Central Contractor Registration (CCR) until you submit the final financial report required under this award or receive the final payment, whichever is later.

2. If you are authorized to make subawards under this award and it is possible that you will make a subaward to an entity (see definition in paragraph d of this award term) with a total value of $25,000 or more in federal funds over the life of the subaward, you:

i. Must notify potential subrecipients that no entity may receive funds for a subaward with a total value in that range unless the entity is registered in the CCR, which also requires that the subrecipient have a Data Universal Numbering System (DUNS) number.

ii. May not make a subaward to an entity with a total value in that range, or obligate additional funds for the subaward, unless the entity is registered in the CCR.

b. Reporting of first-tier subawards.

1. Applicability. Unless you have a current exception from this requirement under paragraph (e) of the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109–282), you must report each action that obligates $25,000 or more in federal funds under any subaward to an entity (see definitions in paragraph d of this award term).

2. Where and when to report. You must report each action described in paragraph b.1 of this award term:

i. To the *http://WWW.USASpending.gov* at usaspendingdata@gsa.gov.

ii. No later than 30 days after the date of the obligation.

3. What to report. You must report the information about each action that the *http://WWW.USASpending.gov* specifies.

c. Requirements for lower-tier subawards and obligating actions.

1. Subawards. In any subaward that you make to an entity under this award that you expect to have a total value of $25,000 or more in federal funds over the life of the subaward, you must include an award term that:

i. Provides the subrecipient with the federal award number or other unique federal identifying number for this award.

ii. Requires the subrecipient to maintain a current registration in the CCR during the period of performance under the subaward; and

iii. Requires the subrecipient, if it makes any obligating action to which paragraph b.1 of this award term applies, to:

A. Report the action to either:

(1) The *http://WWW.USASpending.gov* within 30 days of the date of obligation, providing the information about the action that the system specifies; or

(2) You, if you prefer to have your subrecipient report each obligating action to you, in which case you must report the action to the *http://WWW.USASpending.gov* within 30 days of the subrecipient's obligation; and

B. Ensure that the lower-tier subaward includes a term requiring the lower-tier subrecipient to comply with the requirements in paragraph c of this award term.

2. Obligating actions. For each action that you take to obligate funding under a subaward described in paragraph c.1 of this award term, you must provide the subrecipient with the amount of federal funding that is included in the amount of funding obligated by the action.

d. Definitions. For purposes of this award term:

1. Central Contractor Registration (CCR) means the federal repository into which an entity must provide information required for the conduct of business as an award recipient or subrecipient. Additional information about registration procedures may be found at the CCR Internet site (currently at *http://www.ccr.gov*).

2. Data Universal Numbering System (DUNS) number means the nine-digit number established and assigned by Dun and Bradstreet, Inc. (D&B) to uniquely identify business entities. A DUNS number may be obtained from D&B by telephone or the Internet (currently at *http://www.dunandbradstreet.com*).

3. Entity means all of the following, as defined at 2 CFR part 33, subpart C:

i. A Governmental organization, which is a State, local government, or Indian tribe;

ii. A foreign public entity;

iii. A domestic or foreign nonprofit organization; and

iv. A domestic or foreign for-profit organization.

4. Subaward:

i. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that:

A. You as the recipient awards to an eligible subrecipient; or

B. A subrecipient at one tier awards to a subrecipient at the next lower tier.

ii. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see §__.210 of the attachment to OMB Circular A–133, ''Audits of States, Local Governments, and Non-Profit Organizations'').

iii. A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.

5. Subrecipient means an entity that:

i. Receives a subaward from you or from another subrecipient under this award; and

ii. Is accountable to you or the other subrecipient for the use of the federal funds provided by the subaward.

(b) An agency may—

(1) Reserve paragraphs b and c of the award term in paragraph (a) of this section if there is no possibility of a subaward with a total value of $25,000 or more in federal funds over the life of the subaward; and

(2) Use different letters and numbers to designate the paragraphs of the award term, if necessary, to conform the system of paragraph designations with the one used in other terms and conditions in the agency's awards.

Subpart C—Definitions

§ 33.300 Agency.

Agency means a Federal agency as defined at 5 U.S.C. 551(1) and further clarified by 5 U.S.C. 552(f).

§ 33.305 Award.

Award means an award of Federal financial assistance subject to the Transparency Act, as defined in § 33.325.

§ 33.310 Central Contractor Registration (CCR).

Central Contractor Registration (CCR) has the meaning given in paragraph d.1 of the award term in § 33.220.

§ 33.315 Data Universal Numbering System (DUNS) Number.

Data Universal Numbering System (DUNS) Number has the meaning given in paragraph d.2 of the award term in § 33.220.

§ 33.320 Entity.

Entity has the meaning given in paragraph d.3 of the award term in § 33.220.

§ 33.325 Federal financial assistance subject to the Transparency Act.

Federal financial assistance subject to the Transparency Act means assistance that non-federal entities described in § 33.105(b) receive or administer in the form of—

(a) Grants;

(b) Cooperative agreements;

(c) Loans;

(d) Loan guarantees;

(e) Subsidies;

(f) Insurance;

(g) Food commodities;

(h) Direct appropriations; and

(i) Other financial assistance transactions that authorize the non-federal entities' expenditure of federal funds.

§ 33.330 For-profit organization.

For-profit organization means a non-Federal party organized for profit. It includes, but is not limited to:

(a) An ''S corporation'' incorporated under Subchapter S of the Internal Revenue Code;

(b) A corporation incorporated under another authority;

(c) A partnership;

(d) A limited liability corporation or partnership; and

(e) A sole proprietorship.

§ 33.335 Foreign public entity.

Foreign public entity means:

(a) A foreign government or foreign governmental entity;

(b) A public international organization, which is an organization entitled to enjoy privileges, exemptions, and immunities as an international organization under the International Organizations Immunities Act (22 U.S.C. 288–288f);

(c) An entity owned (in whole or in part) or controlled by a foreign government; and

(d) Any other entity consisting wholly or partially of one or more foreign governments or foreign governmental entities.

§ 33.340 Indian tribe (or ''federally recognized Indian tribe'').

Indian tribe (or ''federally recognized Indian tribe'') means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation (as defined in, or established under, the Alaskan Native Claims Settlement Act (43 U.S.C. 1601, *et seq.*)) that is recognized by the United States as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

§ 33.345 Local government.

Local government means a:

(a) County;

(b) Borough;

(c) Municipality;

(d) City;

(e) Town;

(f) Township;

(g) Parish;

(h) Local public authority, including any public housing agency under the United States Housing Act of 1937;

(i) Special district;

(j) School district;

(k) Intrastate district;

(l) Council of governments, whether or not incorporated as a nonprofit corporation under State law; and

(m) Any other instrumentality of a local government.

§ 33.350 Nonprofit organization.

Nonprofit organization—

(a) Means any corporation, trust, association, cooperative, or other organization that—

(1) Is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;

(2) Is not organized primarily for profit; and

(3) Uses net proceeds to maintain, improve, or expand the operations of the organization.

(b) Includes nonprofit—

(1) Institutions of higher education;

(2) Hospitals; and

(3) Tribal organizations other than those included in the definition of ''Indian tribe.''

§ 33.355 State.

State means—

(a) Any State of the United States;

(b) The District of Columbia;

(c) Any agency or instrumentality of a State other than a local government or State-controlled institution of higher education;

(d) The Commonwealths of Puerto Rico and the Northern Mariana Islands; and

(e) The United States Virgin Islands, Guam, American Samoa, and a territory or possession of the United States.

§ 33.360 Subaward.

Subaward has the meaning given in paragraph d.4 of the award term in § 33.220.

§ 33.365 Subrecipient.

Subrecipient has the meaning given in paragraph d.5 of the award term in § 33.220.

[FR Doc. E8–12558 Filed 6–5–08; 8:45 am]

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Federal Register

Friday,
June 6, 2008

Part IV

Department of Labor

Office of the Secretary

Delegation of Authorities and Assignment of Responsibilities to the Assistant Secretary for Employment Standards and Other Officials in the Employment Standards Administration; Notice

DEPARTMENT OF LABOR

Office of the Secretary

[Secretary's Order 01–2008]

Delegation of Authorities and Assignment of Responsibilities to the Assistant Secretary for Employment Standards and Other Officials in the Employment Standards Administration

1. *Purpose.* To delegate authorities and assign responsibilities to the Assistant Secretary for Employment Standards and other officials in the Employment Standards Administration.

2. *Authorities.* This Order is issued under the authority of 5 U.S.C. 301 (Departmental Regulations); 29 U.S.C. 551 (Establishment of Department; Secretary; Seal); Reorganization Plan No. 6 1950 (5 U.S.C. App. 1 Reorg. Plan 6 1950); National Apprenticeship Act of 1937 (29 U.S.C. 50); 29 CFR part 30.

3. *References.* Secretary's Order 10–83; Secretary's Order 14–77; and Secretary's Order 9–75.

4. *Directives Affected.* Secretary's Order 4–2007 is hereby canceled (Employment Standards). Secretary's Order 9–75 is superseded to the extent that it is inconsistent with section 7a.(29) of this Order.

5. *Background.* This Order, which supersedes Secretary's Order 4–2007, constitutes the generic Secretary's Order for the Employment Standards Administration (ESA). Specifically, this Order delegates authorities and assigns responsibilities to the Assistant Secretary for Employment Standards and other officials in ESA.

This Order clarifies the leadership role of the Inspector General with respect to organized crime and labor racketeering investigations under the Labor-Management Reporting and Disclosure Act of 1959 for which both the Inspector General and the Assistant Secretary for Employment Standards have investigative authority.

6. *Delegation to the Assistant Secretary for Employment Standards.*

A. Paragraph 7.a. (29) of this Order contains the delegation of authority and the assignment of responsibility for section 211(a) of the LMRA, 29 U.S.C. 181(a) (''Compilation of Collective Bargaining Agreements, etc., Use Data'').

B. All other authorities and responsibilities set forth in this Order were delegated or assigned previously to the Assistant Secretary for Employment Standards and other officials in the Employment Standards Administration in Secretary's Order 4–2001, and this Order continues those delegations and assignments in full force and effect, except as expressly modified herein.

7. *Delegation of Authority and Assignment of Responsibility.*

A. *The Assistant Secretary for Employment Standards* is hereby delegated authority and assigned responsibility, except as hereinafter provided, for carrying out the employment standards, labor standards, and labor-management standards policies, programs, and activities of the Department of Labor, including those functions to be performed by the Secretary of Labor under the designated provisions of the following statutes:

(1) The Fair Labor Standards Act of 1938, as amended, 29 U.S.C. 201 *et seq.* (FLSA), including the issuance thereunder of child labor hazardous occupation orders and other regulations concerning child labor standards, and subpoena authority under 29 U.S.C. 209. Authority and responsibility for the Equal Pay Act, section 6(d) of the FLSA, were transferred to the Equal Employment Opportunity Commission on July 1, 1979, pursuant to the President's Reorganization Plan No. 1 of February 1978, set out in the Appendix to Title 5, Government Organization and Employees.

(2) The Walsh-Healey Public Contracts Act of 1936, as amended, 41 U.S.C. 35 *et seq.*, except those provisions relating to safety and health delegated to the Assistant Secretary for Occupational Safety and Health or the Assistant Secretary for Mine Safety and Health. The authority of the Assistant Secretary for Employment Standards includes subpoena authority under 41 U.S.C. 39.

(3) The McNamara-O'Hara Service Contract Act of 1965, as amended, 41 U.S.C. 351 *et seq.*, except those provisions relating to safety and health delegated to the Assistant Secretary for Occupational Safety and Health. The authority of the Assistant Secretary for Employment Standards includes subpoena authority under 41 U.S.C. 353(a).

(4) The Davis-Bacon Act, as amended, 40 U.S.C. 276a *et seq.*, and any laws now existing or subsequently enacted, providing for prevailing wage findings by the Secretary in accordance with or pursuant to the Davis-Bacon Act; the Copeland Act, 40 U.S.C. 276c; Reorganization Plan No. 14 of 1950; and the Tennessee Valley Authority Act, 16 U.S.C. 831.

(5) The Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. 327 *et seq.*, except those provisions relating to safety and health delegated to the Assistant Secretary for Occupational Safety and Health.

(6) Title III of the Consumer Credit Protection Act, 15 U.S.C. 1671 *et seq.*

(7) The labor standards provisions contained in sections 5(i) and 7(g) of the National Foundation for the Arts and the Humanities Act, 20 U.S.C. 954(i) and 956(g), except those provisions relating to safety and health delegated to the Assistant Secretary for Occupational Safety and Health.

(8) The Migrant and Seasonal Agricultural Worker Protection Act of 1983, 29 U.S.C. 1801 *et seq.*, including subpoena authority under 29 U.S.C. 1862(b).

(9) The Employee Polygraph Protection Act of 1988, 29 U.S.C. 2001 *et seq.*, including subpoena authority under 29 U.S.C. 2004(b).

(10) The Federal Employees' Compensation Act, as amended and extended, 5 U.S.C. 8101 *et seq.*, except 5 U.S.C. 8149, as it pertains to the Employees' Compensation Appeals Board.

(11) The Longshore and Harbor Workers' Compensation Act, as amended and extended, 33 U.S.C. 901 *et seq.*, except: 33 U.S.C. 919(d), with respect to administrative law judges in the Office of Administrative Law Judges; 33 U.S.C. 921(b), as it applies to the Benefits Review Board; and activities pursuant to 33 U.S.C. 941, assigned to the Assistant Secretary for Occupational Safety and Health.

(12) The Black Lung Benefits Act, as amended, 30 U.S.C. 901 *et seq.*

(13) The affirmative action provisions of the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. 4212, except for monitoring of the Federal contractor job listing activities under 38 U.S.C. 4212(a) and the annual Federal contractor reporting obligations under 38 U.S.C. 4212(d), delegated to the Assistant Secretary for Veterans' Employment and Training.

(14) Section 503 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 793; and Executive Order 11758 (''Delegating Authority of the President Under the Rehabilitation Act of 1973'') of January 15, 1974.

(15) Executive Order 11246 ''Equal Employment Opportunity'' (September 24, 1965), as amended by Executive Order 11375 of October 13, 1967; and Executive Order 12086 (''Consolidation of Contract Compliance Functions for Equal Employment Opportunity'') of October 5, 1978.

(16) The following provisions of the Immigration and Nationality Act of 1952, as amended, 8 U.S.C. 1101 *et seq.* (INA): Section 218(g)(2), 8 U.S.C. 1188(g)(2), relating to assuring employer compliance with terms and conditions of employment under the temporary alien agricultural labor certification (H–

2A) program; and section 274A(b)(3), 8 U.S.C. 1324A(b)(3), relating to employment eligibility verification and related recordkeeping.

(17) Section 212(m)(2)(E)(ii) through (v) of the INA, 8 U.S.C. 1182(m)(2)(E)(ii) through (v), relating to the complaint, investigation, and penalty provisions of the attestation process for users of nonimmigrant registered nurses (*i.e.*, H–1A Visas).

(18) The enforcement of the attestations required by employers under the INA pertaining to the employment of nonimmigrant longshore workers, section 258 of the INA, 8 U.S.C. 1288(c)(4)(B)–(F); and foreign students working off-campus, 8 U.S.C. 1184 note; and enforcement of labor condition applications for employment of nonimmigrant professionals, section 212(n)(2) of the INA, 8 U.S.C. 1182(n)(2).

(19) Title I of the Americans with Disabilities Act of 1990, 42 U.S.C. 12101 *et seq.*, and the regulations at 41 CFR Part 60–742.

(20) The Family and Medical Leave Act of 1993, 29 U.S.C. 2601 *et seq.*, including subpoena authority under 29 U.S.C. 2616.

(21) The Occupational Safety and Health Act of 1970, 29 U.S.C. 651 *et seq.*, to conduct inspections and investigations, issue administrative subpoenas, issue citations, assess and collect penalties, and enforce any other remedies available under the statute, and to develop and issue compliance interpretations under the statute, with regard to the standards on:

(a) Field sanitation, 29 CFR 1928.110; and

(b) Temporary labor camps, 29 CFR 1910.142, with respect to any agricultural establishment where employees are engaged in ''agricultural employment'' within the meaning of the Migrant and Seasonal Agricultural Worker Protection Act, 29 U.S.C. 1802(3), regardless of the number of employees, including employees engaged in hand packing of produce into containers, whether done on the ground, on a moving machine, or in a temporary packing shed, except that the Assistant Secretary for Occupational Safety and Health retains enforcement responsibility over temporary labor camps for employees engaged in egg, poultry, or red meat production, or the post-harvest processing of agricultural or horticultural commodities.

The authority of the Assistant Secretary for Employment Standards under the Occupational Safety and Health Act with regard to the standards on field sanitation and temporary labor camps does not include any other agency authorities or responsibilities, such as rulemaking authority. Such authorities under the statute are retained by the Assistant Secretary for Occupational Safety and Health.

Moreover, nothing in this Order shall be construed as derogating from the right of States operating OSHA-approved State plans under 29 U.S.C. 667 to continue to enforce field sanitation and temporary labor camp standards if they so choose. The Assistant Secretary for Occupational Safety and Health retains the authority to monitor the activity of such States with respect to field sanitation and temporary labor camps.

(22) The Labor-Management Reporting and Disclosure Act of 1959, as amended, 29 U.S.C. 401 *et seq.* If, in the course of investigations under the Labor-Management Reporting and Disclosure Act, there appear to be indications of organized crime and labor racketeering , the Assistant Secretary for Employment Standards shall promptly notify the Inspector General, who also has statutory authority to investigate such issues. The Inspector General shall have the power to assume the lead in further investigative activities arising from such case with respect to issues involving organized crime and labor racketeering.

(23) Section 701 (Standards of Conduct for Labor Organizations) of the Civil Service Reform Act of 1978, 5 U.S.C. 7120; section 1017 of the Foreign Service Act of 1980, 22 U.S.C. 4117; Section 220(a)(1) of the Congressional Accountability Act of 1995, 2 U.S.C. 1351(a)(1); and the regulations pertaining to such sections at 29 CFR Parts 457–459.

(24) Section 1209 of the Postal Reorganization Act of 1970, 39 U.S.C. 1209.

(25) The employee protection provisions of the Federal Transit law, as codified at 49 U.S.C. 5333(b), and related provisions.

(26) The employee protection provisions certified under section 405(a), (b), (c), and (e) of the Rail Passenger Service Act of 1970, 45 U.S.C. 565(a), (b), (c), and (e).

(27) Executive Order 13201, (''the Notification of Employee Rights Concerning Payment of Union Dues or Fees'') of February 17, 2001.

(28) The Energy Employees Occupational Illness Compensation Program Act of 2000, Title XXXVI of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Pub. L. 106–398), and Executive Order 13179 (''Providing Compensation to America's Nuclear Weapons Workers'') of December 7, 2000.

(29) Section 211(a) of the Labor Management Relations Act, 1947, 29 U.S.C. 181(a) (''Compilation of Collective Bargaining Agreements, etc.; Use of Data'').

(30) Such additional Federal acts that from time to time may assign to the Secretary or the Department duties and responsibilities similar to those listed under subparagraphs (1)—(29) of this paragraph, as directed by the Secretary.

B. *The Wage and Hour Administrator of the Employment Standards Administration* is hereby delegated authority and assigned responsibility to:

(1) Issue administrative subpoenas under section 9 of the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. 209; section 5 of the Walsh-Healey Public Contracts Act, 41 U.S.C. 39; section 4(a) of the McNamara-O'Hara Service Contract Act, 41 U.S.C. 353(a); section 512(b) of the Migrant and Seasonal Agricultural Worker Protection Act of 1983, 29 U.S.C. 1862(b); section 5(b) of the Employee Polygraph Protection Act of 1988, 29 U.S.C. 2004(b); section 106 of the Family and Medical Leave Act of 1993, 29 U.S.C. 2616; and section 8(b) of the Occupational Safety and Health Act of 1970, 29 U.S.C. 657(b), with respect to the authority delegated by this Order.

C. *The Wage and Hour Regional Administrators of the Employment Standards Administration* are hereby delegated authority and assigned responsibility to issue administrative subpoenas under section 9 of the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. 209; section 5 of the Walsh-Healey Public Contracts Act, 41 U.S.C. 39; section 4(a) of the McNamara-O'Hara Service Contract Act, 41 U.S.C. 353(a); section 512(b) of the Migrant and Seasonal Agricultural Worker Protection Act of 1983, 29 U.S.C. 1862(b); section 5(b) of the Employee Polygraph Protection Act of 1988, 29 U.S.C. 2004(b); section 106 of the Family and Medical Leave Act of 1993, 29 U.S.C. 2616; and section 8(b) of the Occupational Safety and Health Act of 1970, 29 U.S.C. 657(b), with respect to the authority delegated by this Order.

D. *The Assistant Secretary for Employment Standards and the Assistant Secretary for Occupational Safety and Health* are directed to confer regularly on enforcement of the Occupational Safety and Health Act with regard to the standards on field sanitation and temporary labor camps (see section 7.a. (21) of this Order), and to enter into any memoranda of understanding which may be appropriate to clarify questions of coverage which arise in the course of such enforcement.

E. *The Assistant Secretary for Administration and Management* is delegated authority and assigned responsibility to assure that any transfer of resources affecting this Order is fully consistent with the budget policies of the Department and that consultation and negotiation, as appropriate, with representatives of any employees affected by this exchange of responsibilities is conducted. The Assistant Secretary for Administration and Management is also responsible for providing or assuring that appropriate administrative and management support is furnished, as required, for the efficient and effective operation of these programs.

F. *The Solicitor of Labor* is delegated authority and assigned responsibility for providing legal advice and assistance to all officers of the Department relating to the administration of the statutory provisions, regulations, and Executive Orders listed above. The bringing of legal proceedings under those authorities, the representation of the Secretary and/or other officials of the Department of Labor, and the determination of whether such proceedings or representations are appropriate in a given case, are delegated exclusively to the Solicitor.

8. *Reservation of Authority and Responsibility.*

A. The submission of reports and recommendations to the President and the Congress concerning the administration of the statutory provisions and Executive Orders listed above is reserved to the Secretary.

B. Nothing in this Order shall limit or modify the delegation of authority and assignment of responsibility to the Administrative Review Board by Secretary's Order 2–96 (April 17, 1996).

C. Except as expressly provided, nothing in this Order shall limit or modify the provisions of any other Order, including Secretary's Order 4–2006 (Office of Inspector General).

9. *Redelegation of Authority.* The Assistant Secretary for Employment Standards, the Assistant Secretary for Administration and Management, and the Solicitor of Labor may re-delegate authority delegated in this Order.

10. *Effective Date.* This order is effective immediately.

Dated: May 30, 2008.

Elaine L. Chao,

Secretary of Labor.

[FR Doc. E8–12700 Filed 6–5–08; 8:45 am]

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To amend title 4, United States Code, to encourage the display of the flag of the United States on Father's Day. (June 3, 2008; 122 Stat. 1559)

H.R. 2517/P.L. 110–240

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S. 2829/P.L. 110–242

To make technical corrections to section 1244 of the National Defense Authorization Act for Fiscal Year 2008, which provides special immigrant status for certain Iraqis, and for other purposes. (June 3, 2008; 122 Stat. 1567)

S.J. Res. 17/P.L. 110–243

Directing the United States to initiate international discussions and take necessary steps with other Nations to negotiate an agreement for managing migratory and transboundary fish stocks in the Arctic Ocean. (June 3, 2008; 122 Stat. 1569)

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