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Rules and Regulations

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

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 250

RIN 3206–AJ92

Human Resources Management in Agencies

AGENCY: Office of Personnel Management.

ACTION: Correcting amendment.

SUMMARY: The Office of Personnel Management (OPM) is correcting a final rule to implement certain provisions of the Chief Human Capital Officers Act of 2002, which set forth new OPM and agency responsibilities and requirements to enhance and improve the strategic management of the Federal Government's civilian workforce, as well as the planning and evaluation of agency efforts in that regard. This technical correction makes sure that the authority citation for 5 CFR part 250 is revised for subparts A, B, and C.

DATES: *Effective Date:* June 18, 2008.

FOR FURTHER INFORMATION CONTACT: Charles D. Grimes by phone at 202–418–3163, by FAX at 202–606–2838, or by e-mail at *pay-performance-policy@opm.gov*. You may contact Mr. Grimes by TTY on 202–418–3134.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management (OPM) published a document in the **Federal Register** of April 28, 2008, (73 FR 23012) which issued final regulations to change 5 CFR part 250, to read ''Human Resources Management in Agencies'' to reflect current usage, to make a plain language revision in subpart A, and to add regulations on strategic human resources management as new subpart B. On May 6, 2008, OPM published a correcting amendment in the **Federal Register** (73 FR 24851) to ensure that subpart C of part 250 remained unaffected by the changes of the new final rule. OPM was later notified that the correcting amendment, as it stands, results in two authority citations for 5 CFR part 250. This correction consolidates these two authority citations into a single citation.

List of Subjects in 5 CFR Part 250

Authority delegations (Government agencies), Government employees.

Office of Personnel Management.

Charles D. Grimes III,

Deputy Associate Director, Center for Performance and Pay Systems.

■ Accordingly, 5 CFR part 250 is corrected by making the following correcting amendment:

PART 250—HUMAN RESOURCES MANAGEMENT IN AGENCIES

■ 1. The authority citation for part 250 is revised to read as follows:

Authority: 5 U.S.C. 1101 note, 1103(a)(5), 1103(c), 1104, 1302, 3301, 3302; E.O. 10577, 12 FR 1259, 3 CFR, 1954–1958 Comp., p. 218; E.O. 13197, 66 FR 7853, 3 CFR 748 (2002).

Subpart B also issued under 5 U.S.C. 1401, 1401 note, 1402.

[FR Doc. E8–13734 Filed 6–17–08; 8:45 am]

BILLING CODE 6325–39–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0637; Directorate Identifier 2008–NM–078–AD; Amendment 39–15561; AD 2008–12–17]

RIN 2120–AA64

Airworthiness Directives; Lockheed Model L–1011 Series Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is superseding an existing airworthiness directive (AD), which applies to all Lockheed Model L–1011 series airplanes. That AD currently requires an inspection of the fuel level control switch, the fuel level control switch wiring harness, and the wiring harness conduit for damage, wear or chafing, broken or missing O-rings, or indications of electrical arcing. That AD also requires replacement of a certain conduit in the fuel level control switch wiring harness, installation of electrical sleeving over the fuel level control switch wiring harness, and installation of the fuel level control switch that has been so modified. This new AD requires an inspection of the fuel level control switch, wiring harnesses, and harness conduit for any visible damage, wear or chafing, broken or missing O-rings, or indications of electrical arcing; an inspection to determine the part number of the wiring harness conduit; and corrective actions if necessary. This new AD also requires replacing certain sleeving with new, improved sleeving over the wiring harness of the fuel level control switch. This AD results from a design review of the fuel tank systems. We are issuing this AD to prevent chafing of the fuel level control switch wiring harness, which could cause arcing and result in a fire in the fuel tank.

DATES: This AD becomes effective July 23, 2008.

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in the AD as of July 23, 2008.

On June 1, 2001 (66 FR 21072, April 27, 2001), the Director of the Federal Register approved the incorporation by reference of a certain service bulletin.

ADDRESSES: For service information identified in this AD, contact Lockheed Continued Airworthiness Project Office, Attention: Airworthiness, 86 South Cobb Drive, Marietta, Georgia 30063–0567.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov*; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (telephone 800–647–5527) is the Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Robert A. Bosak, Aerospace Engineer, Propulsion and Services Branch, ACE–118A, FAA, Atlanta Aircraft

Certification Office, One Crown Center, 1895 Phoenix Boulevard, Suite 450, Atlanta, Georgia 30349; telephone (770) 703–6094; fax (770) 703–6097.

SUPPLEMENTARY INFORMATION:

Discussion

On April 18, 2001, we issued AD 2001–08–21, amendment 39–12198 (66 FR 21072, April 27, 2001), for all Lockheed Model L–1011 series airplanes. That AD requires a general visual inspection of the fuel level control switch, the fuel level control switch wiring harness, and the wiring harness conduit for damage, wear or chafing, broken or missing O-rings, or indications of electrical arcing. That AD also requires replacement of a certain conduit in the fuel level control switch wiring harness, installation of electrical sleeving over the fuel level control switch wiring harness, and installation of the fuel level control switch that has been so modified. That AD resulted from a design review of the fuel tank systems. We issued that AD to prevent chafing of the fuel level control switch wiring harness, which could cause arcing and result in a fire in the fuel tank. That AD refers to the original issue of Lockheed Service Bulletin 093–28–094, dated March 3, 2000, as the appropriate source of service information for accomplishing the actions required by that AD.

Actions Since Existing AD Was Issued

Since we issued AD 2001–08–21, we issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an airworthiness directive (AD) that would apply to all Lockheed Model L–1011 series airplanes. That NPRM, Docket No. FAA–2008–0181, was published in the **Federal Register** on February 20, 2008 (73 FR 9235). That NPRM proposed to require revising the FAA-approved maintenance program by incorporating new airworthiness limitations for fuel tank systems to satisfy Special Federal Aviation Regulation No. 88 (''SFAR 88'') requirements. That NPRM also proposed to require the accomplishment of certain fuel system modifications, the initial inspections of certain repetitive fuel system limitations (FSLs) to phase in those inspections, and repair if necessary. One of those FSLs involved accomplishing the actions specified in Lockheed Service Bulletin 093–28–094, Revision 1, dated June 23, 2006.

We gave the public the opportunity to participate in developing that NPRM, and we received a comment from ATA Airlines requesting that we revise the NPRM by removing the proposed requirement to accomplish the FSL specified in Revision 1 of Lockheed Service Bulletin 093–28–094. The commenter further requested that we instead issue a separate rulemaking action to supersede AD 2001–08–21 to require the accomplishment of Revision 1 of the service bulletin. As stated in the NPRM, AD 2001–08–21 requires the accomplishment of the original issue of the service bulletin, but more work is necessary for Revision 1 of the service bulletin. The additional work includes replacing any wiring harness conduit having part number (P/N) 741652–105 with new conduit having P/N 741652–121, removing any braided fiberglass sleeving installed in accordance with the original issue of the service bulletin, and installing PVC electrical sleeving having P/N PVC–105–2 over the wiring harness of the fuel level control switch.

We agree that it is more appropriate to supersede AD 2001–08–21 to require the additional work specified in Revision 1 of the service bulletin. Therefore, we are issuing this new action to amend 14 CFR part 39 to include an AD that supersedes AD 2001–08–21. Further, we also removed the proposed requirement to accomplish the FSL specified in Revision 1 of the service bulletin from the NPRM, and we issued AD 2008–11–02, amendment 39–15524 (73 FR 29410, May 21, 2008), on May 8, 2008, to require all other actions proposed by the NPRM.

Relevant Service Information

We have reviewed Revision 1 of Lockheed Service Bulletin 093–28–094. That service bulletin describes the following procedures:

- Inspecting the fuel level control switch, wiring harness, and wiring harness conduit for any visible damage, wear or chafing, broken or missing O-rings, or indications of electrical arcing.
- Verifying the part number of the wiring harness conduit.
- Removing any braided fiberglass sleeving installed in accordance with the original issue of the service bulletin, and installing PVC electrical sleeving having P/N PVC–105–2 over the wiring harness of the fuel level control switch.
- Doing corrective actions if necessary.

The corrective actions include replacing the fuel level control switch with a new part if any visible damage, wear or chafing, broken or missing O-ring, or indication of electrical arcing is found; and replacing any wiring harness conduit having P/N 741652–103 or -105 with new conduit having P/N 741652–121.

The service bulletin also describes procedures for notifying Lockheed of any discrepancies found during the inspection, and revising the airplane records and maintenance planning documents to repeat the inspection at intervals not to exceed 120 months.

FAA's Determination and Requirements of the AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to develop on other airplanes of the same type design. For this reason, we are issuing this AD, which would supersede AD 2001–08–21 and would retain the requirements of the existing AD. This AD would also require the following actions:

- A general visual inspection of the fuel level control switch, wiring harness, and wiring harness conduit for any visible damage, wear or chafing, broken or missing O-rings, or indications of electrical arcing, and corrective action as applicable.
- An inspection to determine the part number of the wiring harness conduit, and corrective action as applicable.
- Replacement of any braided fiberglass sleeving with PVC electrical sleeving over the wiring harness of the fuel level control switch.
- A revision to the FAA-approved maintenance program to incorporate repetitive general visual inspections of the fuel level control switch, wiring harness, and wiring harness conduit for any visible damage, wear or chafing, broken or missing O-rings, or indications of electrical arcing.

This AD allows accomplishing the revision to the FAA-approved maintenance program in accordance with later revisions of Lockheed Service Bulletin 093–28–094 as an acceptable method of compliance if they are approved by the Manager, Atlanta Aircraft Certification Office, FAA.

Difference Between This AD and Service Bulletin

Although Lockheed Service Bulletin 093–28–094, Revision 1, describes procedures for notifying Lockheed of any discrepancies found during the inspection, this AD does not require that action.

Clarification of Inspection Terminology

The ''inspection'' specified in Lockheed Service Bulletin 093–28–094, Revision 1, is referred to as a ''general visual inspection'' in this AD. We have included the definition for a general visual inspection in a note in this AD.

Change to Existing AD

This AD retains all requirements of AD 2001–08–21. Since AD 2001–08–21 was issued, the AD format has been revised, and certain paragraphs have

been rearranged. As a result, the corresponding paragraph identifiers have changed in this AD, as listed in the following table:

REVISED PARAGRAPH IDENTIFIERS

Requirement in AD 2001–08–21	Corresponding requirement in this AD
paragraph (a)	paragraph (f).
paragraph (b)	paragraph (g).

Costs of Compliance

There are about 108 airplanes of the affected design in the worldwide fleet. The following table provides the estimated costs, at an average labor rate of $80 per work hour, for U.S. operators to comply with this AD.

ESTIMATED COSTS

Action	Work hours	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Inspection of fuel level control switch and installation of braided fiberglass sleeving (required by AD 2001–08–21)	19	$200	$1,720	63	$108,360
Inspection of fuel level control switch and installation of PVC sleeving (new action)	3	41,785	42,025	63	2,647,575
Maintenance program revision to incorporate repetitive inspection (new action)	1	None	80	63	5,040

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

We prepared a regulatory evaluation of the estimated costs to comply with this AD and placed it in the AD docket. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The Federal Aviation Administration (FAA) amends § 39.13 by removing amendment 39–12198 (66 FR 21072, April 27, 2001) and by adding the following new airworthiness directive (AD):

2008–12–17 Lockheed: Amendment 39–15561. Docket No. FAA–2008–0637; Directorate Identifier 2008–NM–078–AD.

Effective Date

(a) This AD becomes effective July 23, 2008.

Affected ADs

(b) This AD supersedes AD 2001–08–21.

Applicability

(c) This AD applies to all Lockheed Model L–1011 series airplanes, certificated in any category.

Note 1: This AD requires revisions to certain operator maintenance documents to include new inspections. Compliance with these inspections is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by these inspections, the operator may not be able to accomplish the inspections described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance (AMOC) according to paragraph (l) of this AD. The request should include a description of changes to the required inspections that will ensure the continued operational safety of the airplane.

Unsafe Condition

(d) This AD results from a design review of the fuel tank systems. We are issuing this AD to prevent chafing of the fuel level control switch wiring harness, which could cause arcing and result in a fire in the fuel tank.

Compliance

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

Restatement of Requirements of AD 2001–08–21

Inspection, Replacement, and Installation

(f) Within 18 months after June 1, 2001 (the effective date of AD 2001–08–21): Verify the part number (P/N) of the wiring harness conduit and perform a general visual inspection of the fuel level control switch, the fuel level control switch wiring harness, and the wiring harness conduit to detect any visible damage, any wear or chafing, broken or missing O-rings, or indications of electrical arcing, in accordance with the Accomplishment Instructions in Lockheed Service Bulletin 093–28–094, dated March 3, 2000; or Revision 1, dated June 23, 2006.

Note 2: For the purposes of this AD, a general visual inspection is defined as: ''A visual examination of an interior or exterior

area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or drop-light, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

(g) Prior to further flight after accomplishment of the requirements in paragraph (f) of this AD, accomplish the actions specified in paragraphs (g)(1) and (g)(2), as applicable, in accordance with the Accomplishment Instructions in Lockheed Service Bulletin 093–28–094, dated March 3, 2000; or Revision 1, dated June 23, 2006.

(1) Install sleeving over each fuel level control switch wiring harness and install the modified fuel level control switch.

(2) If a conduit with P/N 97590–103 is installed, replace the conduit with one having P/N 97590–121, install sleeving over each fuel level control switch wiring harness, and install the modified fuel level control switch.

New Requirements of This AD

New Inspections, Replacement, and Corrective Actions

(h) Within 60 months after the effective date of this AD: Do a general visual inspection of the fuel level control switch, wiring harness, and wiring harness conduit for any visible damage, wear or chafing, broken or missing O-rings, or indications of electrical arcing; do an inspection to determine the part number of the wiring harness conduit; replace any braided fiberglass sleeving with PVC electrical sleeving over the wiring harness of the fuel level control switch; and do all applicable corrective actions; by accomplishing all of the applicable actions specified in the Accomplishment Instructions of Lockheed Service Bulletin 093–28–094, Revision 1, dated June 23, 2006. The corrective actions must be done before further flight after doing the inspections.

Maintenance Program Revision

(i) Concurrently with accomplishing the actions specified in paragraph (h) of this AD: Revise the FAA-approved maintenance program to incorporate the information specified in Table 1 of this AD.

TABLE 1.—FUEL SYSTEM LIMITATION FOR FUEL LEVEL CONTROL SWITCH

Task	Repetitive Interval	Applicability	Description
Airworthiness limitation instruction (ALI).	120 months	All airplanes modified in accordance with Lockheed Service Bulletin 093–28–094, Revision 1, dated June 23, 2006.	General visual inspection of the fuel level control switch, wiring harness, and wiring harness conduit for any visible damage, wear or chafing, broken or missing O-rings, or indications of electrical arcing, in accordance with Lockheed Service Bulletin 093–28–094, Revision 1, dated June 23, 2006.

No Alternative Inspections or Inspection Intervals

(j) After accomplishing the action specified in paragraph (i) of this AD, no alternative inspections or inspection intervals may be used unless the inspections or intervals are part of a later revision of Lockheed Service Bulletin 093–28–094, Revision 1, dated June 23, 2006, that is approved by the Manager, Atlanta Aircraft Certification Office (ACO), FAA; or unless the inspections or intervals are approved as an AMOC in accordance with the procedures specified in paragraph (l) of this AD.

No Reporting Requirement

(k) Although Lockheed Service Bulletin 093–28–094, Revision 1, dated June 23, 2006, specifies notifying Lockheed of any discrepancies found during the inspection, this AD does not require that action.

Alternative Methods of Compliance (AMOCs)

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

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

Material Incorporated by Reference

(m) You must use Lockheed Service Bulletin 093–28–094, dated March 3, 2000; or Lockheed Service Bulletin 093–28–094, Revision 1, dated June 23, 2006; as applicable; to perform the actions that are required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of Lockheed Service Bulletin 093–28–094, Revision 1, dated June 23, 2006, in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) On June 1, 2001 (66 FR 21072, April 27, 2001), the Director of the Federal Register approved the incorporation by reference of Lockheed Service Bulletin 093–28–094, dated March 3, 2000.

(3) Contact Lockheed Continued Airworthiness Project Office, Attention: Airworthiness, 86 South Cobb Drive, Marietta, Georgia 30063–0567, for a copy of this service information. You may review copies at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html*.

Issued in Renton, Washington, on June 5, 2008.

Michael J. Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–13277 Filed 6–17–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0364; Directorate Identifier 2006–NM–281–AD; Amendment 39–15562; AD 2008–12–18]

RIN 2120–AA64

Airworthiness Directives; Dassault Model Falcon 2000EX Airplanes and Model Falcon 900EX Airplanes

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

ACTION: Final rule.

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

During a flight test performed on an EASy aircraft, subsequently to an air data probe failure, the crew realized that the Flight path vectors and the Vertical speeds that were displayed on pilot's and co-pilot's PDU (primary display unit) were identically wrong.

A review of the EASy architecture reveals that * * * One single ADS (air data system) unflagged air data error may lead to the

computation and display on both pilot's and co-pilot's display units of unnoticed and misleading flight information.

At take-off or during go-around this situation might considerably reduce flight safety.

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

DATES: This AD becomes effective July 23, 2008.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of July 23, 2008.

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

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

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on March 31, 2008 (73 FR 16787). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

During a flight test performed on an EASy aircraft, subsequently to an air data probe failure, the crew realized that the Flight path vectors and the Vertical speeds that were displayed on pilot's and co-pilot's PDU (primary display unit) were identically wrong.

A review of the EASy architecture reveals that the current wiring of Air Data System (ADS) and IRS (inertial reference system) units is not compliant with the certified safety objectives. All IRS primary inputs are wired to the same General Purpose (GP) Bus and thus basic requirements for ADS segregation are not met. One single ADS unflagged air data error may lead to the computation and display on both pilot's and co-pilot's display units of unnoticed and misleading flight information.

At take-off or during go-around this situation might considerably reduce flight safety.

This AD mandates a wiring modification of IRS [no.] 2 and a test of General Purpose bus IRS entry per application of SB–F2000EX–89 on Falcon 2000EX EASy and per application of SB–F900EX–274 on Falcon 900EX EASy.

Furthermore in order to maintain ADS parameter segregation against possible failures, this AD also requires F2000EX EASy and F900EX EASy operators to comply with the modifications made to the respective Chapter 5.40 of the Aircraft Maintenance Manuals that contain an additional periodic functional test of the IRS GP Bus I/O (input/output).

Dispatch conditions under MMEL (master minimum equipment list) in case of an IRS2 failure are modified after implementation of the wiring change.

The corrective actions involve checking the integrity of the GP bus and IRS2, and repairing them as applicable. You may obtain further information by examining the MCAI in the AD docket.

Comments

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

Conclusion

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

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

We estimate that this AD will affect about 62 products of U.S. registry. We also estimate that it will take about 3 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $80 per work-hour. Required parts will cost a negligible amount per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these parts. 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 this AD to the U.S. operators to be $14,880, 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 AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2008–12–18 Dassault Aviation: Amendment 39–15562. Docket No. FAA–2008–0364; Directorate Identifier 2006–NM–281–AD.

Effective Date

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

Affected ADs

(b) None.

Applicability

(c) This AD applies to Dassault Model Falcon 2000EX airplanes, serial number (S/N) 6, and S/N 28 and subsequent; and Model Falcon 900EX airplanes, S/N 97, and S/N 120 and subsequent; certificated in any category.

Subject

(d) Air Transport Association (ATA) of America Code 34: Navigation.

Reason

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

During a flight test performed on an EASy aircraft, subsequently to an air data probe failure, the crew realized that the Flight path vectors and the Vertical speeds that were displayed on pilot's and co-pilot's PDU (primary display unit) were identically wrong.

A review of the EASy architecture reveals that the current wiring of Air Data System (ADS) and IRS (inertial reference system) units is not compliant with the certified safety objectives. All IRS primary inputs are wired to the same General Purpose (GP) Bus and thus basic requirements for ADS segregation are not met. One single ADS unflagged air data error may lead to the computation and display on both pilot's and co-pilot's display units of unnoticed and misleading flight information.

At take-off or during go-around this situation might considerably reduce flight safety.

This AD mandates a wiring modification of IRS [no.] 2 and a test of General Purpose bus IRS entry per application of SB–F2000EX–89 on Falcon 2000EX EASy and per application of SB–F900EX–274 on Falcon 900EX EASy.

Furthermore in order to maintain ADS parameter segregation against possible failures, this AD also requires F2000EX EASy and F900EX EASy operators to comply with the modifications made to the respective Chapter 5.40 of the Aircraft Maintenance Manuals that contain an additional periodic functional test of the IRS GP Bus I/O (input/output).

Dispatch conditions under MMEL (master minimum equipment list) in case of an IRS2 failure are modified after implementation of the wiring change.

The corrective actions involve checking the integrity of the GP bus and IRS2, and repairing them as applicable.

Actions and Compliance

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

(1) For Model Falcon 2000EX airplanes without Dassault Modification M2758 and Model Falcon 900EX airplanes without Dassault Modification M5143 in the applicability range: Within 3 months after the effective date of this AD, do the IRS2 wiring modification and test the GP (general purpose) bus IRS entry. Do all actions in accordance with the Accomplishment Instructions of Dassault Service Bulletin F2000EX–89, dated March 17, 2006; or Dassault Service Bulletin F900EX–274, dated March 17, 2006; as applicable. Repeat the test at intervals not to exceed 5,000 flight hours. If the GP bus IRS entry fails any test, before further flight, do all applicable corrective actions in accordance with the procedures in Section 34–209, dated March 2007, of the Dassault Falcon 900EX EASy/900DX Maintenance Manual; or Section 34–209, dated May 2007, of the Dassault Falcon 2000EX EASy Maintenance Manual; as applicable.

(2) For Model Falcon 2000EX airplanes with Dassault Modification M2758 and Model Falcon 900EX airplanes with Dassault Modification M5143 in the applicability range: Within 5,000 flight hours after the date of issuance of the original French standard airworthiness certificate or the date of issuance of the original French export certificate of airworthiness, or within 3 months after the effective date of this AD, whichever occurs later, do a test of the GP bus IRS entry in accordance with the Accomplishment Instructions of Dassault Service Bulletin F2000EX–89, dated March 17, 2006; or Dassault Service Bulletin F900EX–274, dated March 17, 2006; as applicable. Repeat the test at intervals not to exceed 5,000 flight hours. If the GP bus IRS entry fails any test, before further flight, do the corrective actions in accordance with the procedures in Section 34–209, dated March 2007, of the Dassault Falcon 900EX EASy/900DX Maintenance Manual; or Section 34–209, dated May 2007, of the Dassault Falcon 2000EX EASy Maintenance Manual; as applicable.

FAA AD Differences

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

(1) Where the MCAI specifies to do a test of the GP bus IRS entry in accordance with Chapter 5.40 of the applicable Dassault Maintenance Manual and does not specify a corrective action, we require those corrective actions to be done in accordance with Section 34–209, dated March 2007, of the Dassault Falcon 900EX EASy/900DX Maintenance Manual; or Section 34–209, dated May 2007, of the Dassault Falcon 2000EX EASy Maintenance Manual; as applicable.

(2) The MCAI specified to revise the applicable Dassault MMEL by incorporating Dassault Temporary Change 4, dated June 15, 2006, to the Dassault Falcon 2000EX EASy MMEL (for Model F2000EX EASy airplanes); and Dassault Temporary Change 3, dated June 15, 2006, to the Dassault Falcon 900EX EASy MMEL (for Model F900EX EASy airplanes); as applicable. However, the FAA-approved MMEL (which is required to be used by operators) has been revised to include the information specified in the Dassault temporary changes. Therefore, we have not included a requirement for this revision in this AD.

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, Transport Airplane Directorate, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1137; fax (425) 227–1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

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

Related Information

(h) Refer to MCAI European Aviation Safety Agency (EASA) Airworthiness Directive 2006–0157, dated June 7, 2006; Section 34–209, dated March 2007, of the Dassault Falcon 900EX EASY/900DX Maintenance Manual; Section 34–209, dated May 2007, of the Dassault Falcon 2000EX EASy Maintenance Manual; and Dassault Service Bulletins F2000EX–89 and F900EX–274, both dated March 17, 2006; for related information.

Material Incorporated by Reference

(i) You must use the service information specified in Table 1 of this AD to do the actions required by this AD, as applicable, unless the AD specifies otherwise.

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

(2) For service information identified in this AD, contact Dassault Falcon Jet, P.O. Box 2000, South Hackensack, New Jersey 07606.

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

TABLE 1.—MATERIAL INCORPORATED BY REFERENCE

Service information	Date
Dassault Falcon 2000EX EASy Maintenance Manual, Section 34–209.	May 2007.
Dassault Falcon 900EX EASY/900DX Maintenance Manual, Section 34–209.	March 2007.
Dassault Service Bulletin F2000EX–89.	March 17, 2006.
Dassault Service Bulletin F900EX–274.	March 17, 2006.

Issued in Renton, Washington, on June 5, 2008.

Michael J. Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–13275 Filed 6–17–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0393 Directorate Identifier 2008–CE–011–AD; Amendment 39–15533; AD 2008–11–11]

RIN 2120–AA64

Airworthiness Directives; Viking Air Limited Model DHC–2 Series Airplanes

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

ACTION: Final rule.

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

Cracks have been reported in the front spar center web of the tailplane at the pick-up bracket and at lightening holes. If not detected early and repaired, these cracks may lead to failure of the tailplane.

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

DATES: This AD becomes effective July 23, 2008.

On July 23, 2008, the Director of the Federal Register approved the incorporation by reference of Viking DHC–2 Beaver Service Bulletin 2/47, Revision E, dated January 23, 2007, listed in this AD.

As of December 15, 1992 (57 FR 53254, November 9, 1992), the Director of the Federal Register approved the incorporation by reference of deHavilland Technical News Sheet B55, dated August 1, 1952; and Bombardier de Havilland DHC–2 (Beaver) Service Bulletin 2/47 Revision C, revised September 4, 1992, listed in this AD.

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

FOR FURTHER INFORMATION CONTACT: Pong Lee, Aerospace Engineer, FAA, New York Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone: (516) 228–7324; fax: (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on April 2, 2008 (73 FR 17937), and proposed to supersede AD 92–24–02, Amendment 39–8407 (57 FR 53254, November 9, 1992). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

Cracks have been reported in the front spar center web of the tailplane at the pick-up bracket and at lightening holes. If not detected early and repaired, these cracks may lead to failure of the tailplane. This revision is issued to reflect the new requirement to inspect the tailplane front spar web behind the pick-up brackets using fluorescent penetrant inspection (FPI) instead of the visual inspection method used previously.

Comments

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

Conclusion

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

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

Based on the service information, we estimate that this AD will affect 396 products of U.S. registry. We also estimate that it will take about 10 work-hours per product to comply with basic requirements of this AD. The average labor rate is $80 per work-hour.

Based on these figures, we estimate the cost of this AD to the U.S. operators to be $316,800 or $800 per product.

In addition, we estimate that any necessary follow-on actions would take about 48 work-hours and require parts costing $1,854, for a cost of $5,694 per product. We have no way of determining the number of products that may need these actions.

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Amendment 39–8407 (57 FR 53254, November 9, 1992), and adding the following new AD:

2008–11–11 Viking Air Limited: Amendment 39–15533; Docket No. FAA–2008–0393; Directorate Identifier 2008–CE–011–AD.

Effective Date

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

Affected ADs

(b) This AD supersedes AD 92–24–02, Amendment 39–8407.

Applicability

(c) This AD applies to Models DHC–2 Mk. I, DHC–2 Mk. II, and DHC–2 Mk. III airplanes, all serial numbers, certificated in any category.

Subject

(d) Air Transport Association of America (ATA) Code 55: Stabilizers.

Reason

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

Cracks have been reported in the front spar center web of the tailplane at the pick-up bracket and at lightening holes. If not detected early and repaired, these cracks may lead to failure of the tailplane. This revision is issued to reflect the new requirement to inspect the tailplane front spar web behind the pick-up brackets using fluorescent penetrant inspection (FPI) instead of the visual inspection method used previously.

Actions and Compliance

(f) Unless already done, do the following:

(1) *For airplanes with cracks that have been previously repaired with stop-drilled holes:* Within the next 12 calendar months after December 15, 1992 (the compliance date retained from AD 92–24–02), replace the tailplane front spar following Bombardier de Havilland DHC–2 (Beaver) Service Bulletin 2/47 Revision C, revised September 4, 1992.

(2) *For airplanes with lightening holes (without modification 2/466):* Within the next 200 hours time-in-service (TIS) after December 15, 1992 (the compliance date retained from AD 92–24–02), visually inspect the front spar web in the area of the lightening holes for cracks between the pickup brackets.

(i) If cracks are found, before further flight, incorporate Modification 2/466: installation of tailplane front spar without lightening holes, following Bombardier de Havilland DHC–2 (Beaver) Service Bulletin 2/47 Revision C, revised September 4, 1992; or Viking DHC–2 Beaver Service Bulletin 2/47, Revision E, dated January 23, 2007.

(ii) If cracks are not found, within the next 24 calendar months after December 15, 1992 (the compliance date retained from AD 92–24–02), incorporate Modification 2/466: installation of tailplane front spar without lightening holes, following Bombardier de Havilland DHC–2 (Beaver) Service Bulletin 2/47 Revision C, revised September 4, 1992; or Viking DHC–2 Beaver Service Bulletin 2/47, Revision E, dated January 23, 2007.

Note 1: Modification 2/466, installation of tailplane front spar without lightening holes, is referenced in AD 92–24–02 and Bombardier de Havilland DHC–2 (Beaver) Service Bulletin 2/47 Revision C, revised September 4, 1992; and Viking DHC–2 Beaver Service Bulletin 2/47, Revision E, dated January 23, 2007. Accomplishment of AD 92–24–02 or this AD incorporates modification 2/466.

(3) *For the following airplanes:* Within the next 24 calendar months after December 15, 1992 (the compliance date retained from AD 92–24–02), do the following:

(i) *For airplanes having serial numbers (S/Ns) 1 through 100:* Install longer pick-up brackets (modification 2/436) following deHavilland Technical News Sheet B55, dated August 1, 1952.

Note 2: Modification 2/436 was incorporated at manufacture on airplanes beginning with S/N 101. Other airplanes may have incorporated this modification in the field.

(ii) *For airplanes having S/N 1 through 317:* Install a gusset plate on the rear face at each of the pick-up brackets (modification 2/758) following deHavilland Technical News Sheet B55, dated August 1, 1952.

Note 3: Modification 2/758 was incorporated at manufacture on airplanes beginning with S/N 318. Other airplanes may have incorporated this modification in the field.

(4) *For all airplanes:* Within 200 hours time-in-service (TIS) after July 23, 2008 (the effective date of this AD) and repetitively thereafter at intervals not to exceed every 24 months, remove the tailplane front spar pick-up brackets and do a fluorescent penetrant inspection of the tailplane front spar web for cracks in the area of the pick-up brackets following Appendix A of Viking DHC–2 Beaver Service Bulletin 2/47, Revision E, dated January 23, 2007.

(5) *For all airplanes:* If during any of the inspections required in paragraph (f)(4) of this AD cracks are found, before further flight, replace the tailplane front spar following Viking DHC–2 Beaver Service Bulletin 2/47, Revision E, dated January 23, 2007. The 24-month repetitive fluorescent penetrant inspection is still required.

Note 4: The replacement and modifications required by this AD do not terminate the 24-month repetitive fluorescent penetrant inspection required by paragraph (f)(4) of this AD.

(6) *For all airplanes:* If any cracks are found as a result of the inspections required by this AD, use the following contact information to report your results: Viking Air Limited, Technical Support, 9574 Hampden road, Sidney, British-Columbia, Canada, V8L 5V5; telephone: regional 250–656–7227, North America 1–800–0663–8444, or international 1–800–6727–6727; fax: 250–656–0673; e-mail: *technical.support@vikingair.com.*

FAA AD Differences

Note 5: This AD differs from the MCAI and/or service information as follows: No differences.

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York Aircraft Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Pong Lee, Aerospace Engineer, FAA, New York Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone: (516) 228–7324; fax: (516) 794–5531. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

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

Related Information

(h) Refer to Transport Canada AD CF–1991–42R1, dated March 13, 2007; and Viking DHC–2 Beaver Service Bulletin No. 2/47, Revision E, dated January 23, 2007, for related information.

Material Incorporated by Reference

(i) You must use Bombardier de Havilland DHC–2 (Beaver) Service Bulletin 2/47 Revision C, revised September 4, 1992; deHavilland Technical News Sheet B55, dated August 1, 1952; and Viking DHC–2 Beaver Service Bulletin 2/47, Revision E, dated January 23, 2007, to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of Viking DHC–2 Beaver Service Bulletin 2/47, Revision E, dated January 23, 2007, under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) On December 15, 1992 (57 FR 53254, November 9, 1992), the Director of the Federal Register previously approved the incorporation by reference of deHavilland Technical News Sheet B55, dated August 1, 1952; and Bombardier de Havilland DHC–2 (Beaver) Service Bulletin 2/47 Revision C, revised September 4, 1992.

(3) For service information identified in this AD, contact Viking Air Limited, 9574 Hampden Road, Sidney, B.C., Canada V8L 5V5 or R.W. Martin, Inc., 37552 Winchester Road, Hangar 20, Murrieta, California 92563.

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

Issued in Kansas City, Missouri, on June 10, 2008.

Kim Smith,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–13478 Filed 6–17–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0294; Directorate Identifier 2007–NM–288–AD; Amendment 39–15558; AD 2008–12–14]

RIN 2120–AA64

Airworthiness Directives; Dassault Model Falcon 2000EX Airplanes

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

ACTION: Final rule.

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

Analyses of in-service reports revealed that in case of failure of the wings' anti-ice valve, indications of untimely anti-icing with the wings' anti-ice selector on ''OFF'' or of insufficient anti-icing with the wings' anti-ice selector on ''AUTO'' might not be properly displayed to the flight crew. It may result, on ground, in potential structural damages due to a leading edge overheat, or in-flight, in an insufficient anti-ice power.

* * * * *

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

DATES: This AD becomes effective July 23, 2008.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of July 23, 2008.

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

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

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on March 13, 2008 (73 FR 13488). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

Analyses of in-service reports revealed that in case of failure of the wings' anti-ice valve, indications of untimely anti-icing with the wings' anti-ice selector on ''OFF'' or of insufficient anti-icing with the wings' anti-ice selector on ''AUTO'' might not be properly displayed to the flight crew. It may result, on ground, in potential structural damages due to a leading edge overheat, or in-flight, in an insufficient anti-ice power.

This Airworthiness Directive (AD) mandates an upgrade of the wings' anti-ice monitoring circuitry per implementation of modifications M2814 (Service Bulletin (SB) F2000EX–116) and M2949 (SB F2000EX–140) to cover the whole monitoring logic of the wings' anti-ice system.

The modifications include adding a relay between the bleed air computer and the wing anti-ice valve; modifying the aircraft wiring; and rerouting an existing wire between the right- and left-hand electrical cabinets. You may obtain further information by examining the MCAI in the AD docket.

Comments

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

Conclusion

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

Differences Between This AD and the MCAI or Service Information

We have reviewed the MCAI and related service information and, in general, agree with their substance. But we might have found it necessary to use

different words from those in the MCAI to ensure the AD is clear for U.S. operators and is enforceable. In making these changes, we do not intend to differ substantively from the information provided in the MCAI and related service information.

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

Costs of Compliance

We estimate that this AD will affect about 13 products of U.S. registry. We also estimate that it will take about 46 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $80 per work-hour. Required parts will cost about $1,344 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 parts. 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 this AD to the U.S. operators to be $65,312, or $5,024 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2008–12–14 Dassault Aviation: Amendment 39–15558. Docket No. FAA–2008–0294; Directorate Identifier 2007–NM–288–AD.

Effective Date

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

Affected ADs

(b) None.

Applicability

(c) This AD applies to Dassault Model Falcon 2000EX airplanes; certificated in any category; having serial numbers 1 through 5 and 7 through 27 inclusive.

Subject

(d) Air Transport Association (ATA) of America Code 30: Ice and Rain Protection.

Reason

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

Analyses of in-service reports revealed that in case of failure of the wings' anti-ice valve, indications of untimely anti-icing with the wings' anti-ice selector on ''OFF'' or of insufficient anti-icing with the wings' anti-ice selector on ''AUTO'' might not be properly displayed to the flight crew. It may result, on ground, in potential structural damages due to a leading edge overheat, or in-flight, in an insufficient anti-ice power.

This Airworthiness Directive (AD) mandates an upgrade of the wings' anti-ice monitoring circuitry per implementation of modifications M2814 (Service Bulletin (SB) F2000EX–116) and M2949 (SB F2000EX–140) to cover the whole monitoring logic of the wings' anti-ice system.

The modifications include adding a relay between the bleed air computer and the wing anti-ice valve; modifying the aircraft wiring; and rerouting an existing wire between the right- and left-hand electrical cabinets.

Actions and Compliance

(f) Within 6 months after the effective date of this AD, unless already done, modify the electrical wiring of the wings' anti-ice system, in accordance with the Accomplishment Instructions of Dassault Service Bulletin F2000EX–116, dated May 31, 2006; and Service Bulletin F2000EX–140, dated February 28, 2007.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1137; fax (425) 227–1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

(3) *Reporting Requirements:* For any reporting requirement in this AD, under the

provisions of the Paperwork Reduction Act, the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120–0056.

Related Information

(h) Refer to MCAI European Aviation Safety Agency (EASA) Airworthiness Directive 2007–0137, dated May 16, 2007; Dassault Service Bulletin F2000EX–116, dated May 31, 2006; and Dassault Service Bulletin F2000EX–140, dated February 28, 2007 for related information.

Material Incorporated by Reference

(i) You must use Dassault Service Bulletin F2000EX–116, dated May 31, 2006 and Dassault Service Bulletin F2000EX–140, dated February 28, 2007, as applicable, to do the actions required by this AD, unless the AD specifies otherwise. Dassault Service Bulletin F2000EX–140, dated February 28, 2007, contains the following effective pages:

Page No.	Shown on page
1–4, 6–8	February 28, 2007.
5	June 14, 2007.

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

(2) For service information identified in this AD, contact Dassault Falcon Jet, P.O. Box 2000, South Hackensack, New Jersey 07606.

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

Issued in Renton, Washington, on June 3, 2008.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–13320 Filed 6–17–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0313; Directorate Identifier 2007–CE–095–AD; Amendment 39–15560; AD 2008–12–16]

RIN 2120–AA64

Airworthiness Directives; M7 Aerospace LP SA226 and SA227 Series Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain M7 Aerospace LP SA226 and SA227 series airplanes. This AD requires you to inspect electrical wires/components, hydraulic and bleed air tube assemblies at left-hand (LH) and right-hand (RH) inboard wing leading edge/battery box areas, LH/RH wing stations 51.167 to 81.174, and at all feed-through locations into the LH/RH inboard keelson. If chafing/arcing is found, this AD requires you to reposition, repair, and/or replace all chafed electrical wires, components, and hydraulic and bleed air tube assemblies, as required. This AD also requires you to reposition the battery lead cables, cover four-gauge wires leaving the battery box with firesleeving and secure with clamps, and protect the battery power cable. This AD results from five reports of chafing between the bleed air tube and the electrical starter cables with one incident resulting in a fire. We are issuing this AD to detect and correct chafing/arcing of electrical wires, components, and bleed air lines. This condition could result in arcing of the exposed wires and burn a hole in the bleed air line or the nearby hydraulic line, and lead to a possible hydraulic fluid leak and fire in the engine nacelle compartment.

DATES: This AD becomes effective on July 23, 2008.

On July 23, 2008, the Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD.

ADDRESSES: For service information identified in this AD, contact M7 Aerospace Repair Station, P.O. Box 790490, San Antonio, Texas 78279–0490; telephone: (210) 824–9421; fax: (210) 804–7789.

To view the AD docket, go to U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, or on the Internet at *http://www.regulations.gov.* The docket number is FAA–2008–0313; Directorate Identifier 2007–CE–095–AD.

FOR FURTHER INFORMATION CONTACT: Werner Koch, Aerospace Engineer, FAA, Airplane Certification Office, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone: (817) 222–5133; fax: (817) 222–5960.

SUPPLEMENTARY INFORMATION:

Discussion

On March 7, 2008, we issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain M7 Aerospace LP SA226 and SA227 series airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on March 14, 2008 (73 FR 13806). The NPRM proposed to require you to inspect electrical wires/components, hydraulic and bleed air tube assemblies at LH and RH inboard wing leading edge/battery box areas, LH/RH wing stations 51.167 to 81.174, and at all feed-through locations into the LH/RH inboard keelson. If chafing/arcing is found, this proposed AD would require you to reposition, repair, and/or replace all chafed electrical wires, components, and hydraulic and bleed air tube assemblies, as required. This proposed AD would also require you to reposition the battery lead cables, cover four-gauge wires leaving the battery box with firesleeving and secure with clamps, and protect the battery power cable.

Comments

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

Conclusion

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

- Are consistent with the intent that was proposed in the NPRM for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

Costs of Compliance

We estimate that this AD affects 330 airplanes in the U.S. registry.

We estimate the following costs for all Models SA226, SA227, SA227–CC, and SA227–DC airplanes to do the inspection following SA226 Series Service Bulletin No. 226–24–036, SA227 Series Service Bulletin No. 227–24–019, or SA227 Series Commuter Category Service Bulletin No. CC7–24–010:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
4 work-hours × $80 per hour = $320	Not Applicable	$320	$105,600

We estimate the following costs for certain Models SA226–AT, SA226–T, and SA226–TC airplanes for the repositioning of battery lead cables following SA226 Series Service Bulletin No. SB 24–001:

Labor cost	Parts cost	Total cost per airplane	Number of airplanes affected	Total cost on U.S. operators
4 work-hours × $80 per hour = $320	$6.80	$326.80	2	$653.60

We estimate the following costs for certain Models SA226–AT, SA226–T, SA226–TC, SA227–AC, and SA227–AT airplanes following SA226 Series Service Bulletin No. SB24–019 or SA227 Series Service Bulletin No. SB24–001, for the covering of four-gauge wires leaving battery box with firesleeving and securing with clamp:

Labor cost	Parts cost	Total cost per airplane	Number of airplanes affected	Total cost on U.S. operators
13 work-hours × $80 per hour = $1,040	$6.80	$1,046.80	70	$73,276

We estimate the following costs for certain Models SA226–AT, SA226–TC, SA227–AC, and SA227–AT airplanes following SA226 Series Service Bulletin No. SB24–020 or SA227 Series Service Bulletin No. SB24–002, for the protection of the battery power cable:

Labor cost	Parts cost	Total cost per airplane	Number of airplanes affected	Total cost on U.S. operators
50 work-hours × $80 per hour = $4,000	$3,000	$7,000	60	$420,000

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

We prepared a summary of the costs to comply with this AD (and other information as included in the Regulatory Evaluation) and placed it in the AD Docket. You may get a copy of this summary by sending a request to us at the address listed under **ADDRESSES**. Include ''Docket No. FAA–2008–0313; Directorate Identifier 2007–CE–095–AD'' in your request.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2008–12–16–M7 Aerospace LP: Amendment 39–15560; Docket No. FAA–2008–0313; Directorate Identifier 2007–CE–095–AD.

Effective Date

(a) This AD becomes effective on July 23, 2008.

Affected ADs

(b) None.

Applicability

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

(1) Group 1: Model SA226–AT Airplanes, All S/N.

(2) Group 2: Model SA226–T Airplanes, All S/N.

(3) Group 3: Model SA226–TC Airplanes, All S/N.

(4) Group 4: Model SA227–AC Airplanes, All S/N.

(5) Group 5: Model SA227–AT Airplanes, All S/N.

(6) Group 6: Model SA227–CC Airplanes, All S/N.

(7) Group 7: Model SA227–DC Airplanes, All S/N.

Unsafe Condition

(d) This AD results from five reports of chafing between the bleed air tube and the electrical starter cables with one incident resulting in a fire. We are adopting this AD to detect and correct chafing/arcing of electrical wires, components, and bleed air lines. This condition could result in arcing of the exposed wires and burn a hole in the bleed air line or the nearby hydraulic line, and lead to a possible hydraulic fluid leak and fire in the engine nacelle compartment.

Compliance

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

TABLE 1.—ACTIONS, COMPLIANCE, AND PROCEDURES

Actions	Compliance	Procedures
(1) For Group 1, Group 2, and Group 3 Airplanes: (i) Inspect electrical wires/components, hydraulic and bleed air tube assemblies at left-hand (LH)/right-hand (RH) inboard wing leading edge/battery box areas, LH/RH wing stations 51.167 to 81.174, and at all feed-through locations into the LH/RH inboard keelson for any evidence of chafing/arcing. Clear, repair, and/or replace all chafed electrical wires and components, hydraulic, and bleed air tube assemblies, and all feed-through locations, as required. (ii) Reposition battery lead cables, protect the battery power cable, and cover four-gauge wires leaving battery box with firesleeving and secure with clamp.	Within 250 hours time-in-service (TIS) after July 23, 2008 (the effective date of this AD). Repetitively thereafter inspect (paragraph (e)(1)(i) of this AD) at intervals not to exceed 12 months.	Follow M7 Aerospace SA226 Series Service Bulletin No. 226–24–036, issued: September 19, 2007; Swearingen Aviation Corporation SA226 Series Service Bulletin No. SB 24–001, issued: May 18, 1971; revised: September 16, 1975; Fairchild Aircraft Corporation SA226 Series Service Bulletin No. SB 24–019, issued: June 2, 1982; revised: May 17, 1983; and Fairchild Aircraft Corporation SA226 Series Service Bulletin No. SB 24–020, issued: January 18, 1983; revised: February 15, 1984.
(2) For Group 4 and Group 5 Airplanes: (i) Inspect electrical wires/components, hydraulic and bleed air tube assemblies at LH/RH inboard wing leading edge/battery box areas, LH/RH wing stations 51.167 to 81.174, and at all feed-through locations into the LH/RH inboard keelson for any evidence of chafing/arcing. Clear, repair, and/or replace all chafed electrical wires and components, hydraulic, and bleed air tube assemblies, and all feed-through locations, as required. (ii) Protect the battery power cable and cover four-gauge wires leaving battery box with firesleeving and secure with clamp.	Within 250 hours TIS after July 23, 2008 (the effective date of this AD). Repetitively thereafter inspect (paragraph (e)(2)(i) of this AD) at intervals not to exceed 12 months.	Follow M7 Aerospace SA227 Series Service Bulletin No. 227–24–019, issued: September 19, 2007; Fairchild Aircraft Corporation SA227 Series Service Bulletin No. SB24–001, issued: June 2, 1982; revised: May 17, 1983; and Fairchild Aircraft Corporation SA227 Series Service Bulletin No. SB24–002, issued: January 18, 1983; revised: February 15, 1984.
(3) For Group 6 and Group 7 Airplanes: Inspect electrical wires/components, hydraulic and bleed air tube assemblies at LH/RH inboard wing leading edge/battery box areas, LH/RH wing stations 51.167 to 81.174, and at all feed-through locations into the LH/RH inboard keelson for any evidence of chafing/arcing. Clear, repair, and/or replace all chafed electrical wires and components, hydraulic, and bleed air tube assemblies, and all feed-through locations, as required.	Within 250 hours TIS after July 23, 2008 (the effective date of this AD). Repetitively thereafter inspect at intervals not to exceed 12 months.	Follow M7 Aerospace SA227 Series Commuter Category Service Bulletin No. CC7–24–010, issued: September 19, 2007.

Note: Although not a requirement of this AD, you may incorporate Swearingen Aviation Corporation SA226 Series Service Bulletin No. 57–010, Revised: December 5, 1975, on those airplanes that have not installed the access panel. Installation of the access panel will simplify the incorporation of the service bulletins referenced in this AD and future inspections of the areas of concern.

Alternative Methods of Compliance (AMOCs)

(f) The Manager, Fort Worth Airplane Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Werner Koch, Aerospace Engineer, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone: (817) 222–5133; fax: (817) 222–5960. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

Material Incorporated by Reference

(g) You must use the service information specified in TABLE 2—*Material Incorporated by Reference* of this AD to do the actions required by this AD, unless the AD specifies otherwise.

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

(2) For service information identified in this AD, contact M7 Aerospace Repair Station, P.O. Box 790490, San Antonio, Texas 78279–0490; telephone: (210) 824–9421; fax: (210) 804–7789.

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

TABLE 2.—MATERIAL INCORPORATED BY REFERENCE

Service Bulletin No.	Date
(i) M7 Aerospace SA226 Series Service Bulletin No. 226–24–036	Issued: September 19, 2007.
(ii) Swearingen Aviation Corporation SA226 Series Service Bulletin No. SB 24–001	Issued: May 18, 1971, Revised: September 16, 1975.
(iii) Fairchild Aircraft Corporation SA226 Series Service Bulletin No. SB 24–019	Issued: June 2, 1982, Revised: May 17, 1983.
(iv) Fairchild Aircraft Corporation SA226 Series Service Bulletin No. SB 24–020	Issued: January 18, 1983, Revised: February 15, 1984.
(v) M7 Aerospace SA227 Series Service Bulletin No. 227–24–019	Issued: September 19, 2007.
(vi) Fairchild Aircraft Corporation SA227 Series Service Bulletin No. SB24–001	Issued: June 2, 1982, Revised: May 17, 1983.
(vii) Fairchild Aircraft Corporation SA227 Series Service Bulletin No. SB24–002	Issued: January 18, 1983, Revised: February 15, 1984.
(viii) M7 Aerospace SA227 Series Commuter Category Service Bulletin No. CC7–24–010.	Issued: September 19, 2007.

Issued in Kansas City, Missouri, on June 4, 2008.

David R. Showers,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–13180 Filed 6–17–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0444; Directorate Identifier 2008–CE–024–AD; Amendment 39–15555; AD 2008–12–12]

RIN 2120–AA64

Airworthiness Directives; Viking Air Limited Models DHC–2 Mk. I, DHC–2 Mk. II, and DHC–3 Airplanes

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

ACTION: Final rule.

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

A complete loss of both ignition systems occurred on a DHC–3 Otter when the lock wire hole in the ignition connector plug on the firewall broke out, allowing the plug to vibrate loose. A maintenance safety feature grounds out both magneto systems through a spring-loaded safety pin incorporated into the Cannon plug. The DHC–2 system is similar in design.

Subsequent to the issuance of AD CF–2001–36 a complete loss of both ignition systems occurred on a DHC–2 Beaver resulting in engine failure and subsequent forced approach and landing. Investigation by the Transportation Safety Board determined the internal failure of the magneto firewall connector resulted in both magneto ''P'' leads shorting to ground. A maintenance ''safety'' feature through a spring-loaded safety pin incorporated in the firewall connector on many DHC–2 aircraft grounds out both magneto systems when the connector is disconnected. This connector type is readily identified when disconnected by the existence of three internal pins on the firewall and magneto harness side, one of which is shorted directly to ground.

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

DATES: This AD becomes effective July 23, 2008.

On July 23, 2008, the Director of the Federal Register approved the incorporation by reference of Viking DHC–2 Beaver Service Bulletin Number V2/0001, dated June 27, 2007; and Viking DHC–3 Otter Service Bulletin Number V3/0001, dated June 27, 2007, listed in this AD.

As of December 6, 2004 (69 FR 61758, October 21, 2004), the Director of the Federal Register approved the incorporation by reference of deHavilland Beaver Alert Service Bulletin Number A2/53, Revision B, dated May 28, 2004; and deHavilland Otter Alert Service Bulletin Number A3/53, Revision B, dated May 28, 2004, listed in this AD.

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

FOR FURTHER INFORMATION CONTACT: Fabio Buttitta, Aerospace Engineer, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone: (516) 228–7303; fax: (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on April 18, 2008 (73 FR 21074), and proposed to supersede AD 2004–21–06, Amendment 39–13827 (69 FR 61758, October 21, 2004). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states that:

A complete loss of both ignition systems occurred on a DHC–3 Otter when the lock wire hole in the ignition connector plug on the firewall broke out, allowing the plug to vibrate loose. A maintenance safety feature grounds out both magneto systems through a spring-loaded safety pin incorporated into the Cannon plug. The DHC–2 system is similar in design.

Subsequent to the issuance of AD CF–2001–36 a complete loss of both ignition systems occurred on a DHC–2 Beaver resulting in engine failure and subsequent forced approach and landing. Investigation by the Transportation Safety Board determined the internal failure of the magneto firewall connector resulted in both magneto ''P'' leads shorting to ground. A maintenance ''safety'' feature through a spring-loaded safety pin incorporated in the firewall connector on many DHC–2 aircraft ground out both magneto systems when the connector is disconnected. This connector type is readily identified when disconnected by the existence of three internal pins on the firewall and magneto harness side, one of which is shorted directly to ground.

These connectors are no longer in production.

Since no effective Instructions for Continued Airworthiness exist to ensure the safety feature of these connectors will operate correctly when disconnected, or will ensure the internal integrity of the connector while

in service, this directive is revised to mandate replacement of connectors with a different design.

Viking Air Limited has developed SB V2/0001 to provide for the installation of a replacement connector, similar in design to magneto systems in service today. This modification incorporates a ''straight through'' type connector, ensuring magneto circuit integrity should the connection open.

Comments

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

Conclusion

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

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

We estimate that this AD will affect 159 products of U.S. registry. We also estimate that it will take about 10 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $80 per work-hour. Required parts will cost about $881 per product.

Based on these figures, we estimate the cost of the AD on U.S. operators to be $267,279, or $1,681 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Amendment 39–13827 (69 FR 61758; October 21, 2004), and adding the following new AD:

2008–12–12 Viking Air Limited: Amendment 39–15555; Docket No. FAA–2008–0444; Directorate Identifier 2008–CE–024–AD.

Effective Date

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

Affected ADs

(b) This AD supersedes AD 2004–21–06, Amendment 39–13827.

Applicability

(c) This AD applies to the following model and serial number airplanes certificated in any category:

Model	Serial No.
DHC–2 Mk. I	All.
DHC–2 Mk. II	All.
DHC–3	All serial numbers with piston engines.

Subject

(d) Air Transport Association of America (ATA) Code 74: Engine Ignition.

Reason

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

A complete loss of both ignition systems occurred on a DHC–3 Otter when the lock wire hole in the ignition connector plug on the firewall broke out, allowing the plug to vibrate loose. A maintenance safety feature grounds out both magneto systems through a spring-loaded safety pin incorporated into the Cannon plug. The DHC–2 system is similar in design.

Subsequent to the issuance of AD CF–2001–36 a complete loss of both ignition systems occurred on a DHC–2 Beaver resulting in engine failure and subsequent forced approach and landing. Investigation by the Transportation Safety Board determined the internal failure of the magneto firewall connector resulted in both magneto ''P'' leads shorting to ground. A maintenance ''safety'' feature through a spring-loaded safety pin incorporated in the firewall connector on many DHC–2 aircraft ground out both magneto systems when the connector is disconnected. This connector type is readily identified when disconnected by the existence of three internal pins on the firewall and magneto harness side, one of which is shorted directly to ground.

These connectors are no longer in production.

Since no effective Instructions for Continued Airworthiness exist to ensure the safety feature of these connectors will operate correctly when disconnected, or will ensure the internal integrity of the connector while in service, this directive is revised to

mandate replacement of connectors with a different design.

Viking Air Limited has developed SB V2/0001 to provide for the installation of a replacement connector, similar in design to magneto systems in service today. This modification incorporates a ''straight through'' type connector, ensuring magneto circuit integrity should the connection open.

Actions and Compliance

(f) Inspect the connector plugs on the fore side of the firewall for security and the connector plug lockwire to assure it is intact and the holes in the plugs are not broken out or cracked. Initially inspect within the next 100 hours time-in-service (TIS) after December 6, 2004 (the compliance date retained from AD 2004–21–06). Repetitively inspect thereafter at intervals not to exceed 100 hours TIS until the modification required in paragraph (h) of this AD is done. Do the inspections following deHavilland Beaver Alert Service Bulletin Number A2/53, Revision B, dated May 28, 2004; and deHavilland Otter Alert Service Bulletin Number A3/53, Revision B, dated May 28, 2004, as applicable.

(g) During any inspection required in paragraph (f) of this AD, if the lockwire holes or the lockwire is found damaged, install Modification Kit Number C2VMK0001–1 or Modification Kit Number C3VMK0001–1, as applicable. Install the modification kit before further flight following the Accomplishment Instructions in Viking DHC–2 Beaver Service Bulletin Number V2/0001, dated June 27, 2007; and Viking DHC–3 Otter Service Bulletin Number V3/0001, dated June 27, 2007, as applicable. Installing the modification kit terminates the repetitive inspections required in paragraph (f) of this AD.

(h) Unless already done, replace the magneto firewall connector by installing Modification Kit Number C2VMK0001–1 or Modification Kit Number C3VMK0001–1, as applicable. Install the modification kit within the next 6 months after July 23, 2008 (the effective date of this AD) following the Accomplishment Instructions in Viking DHC–2 Beaver Service Bulletin Number V2/0001, dated June 27, 2007; and Viking DHC–3 Otter Service Bulletin Number V3/0001, dated June 27, 2007, as applicable. Installing the modification kit terminates the repetitive inspections required in paragraph (f) of this AD.

FAA AD Differences

Note: This AD differs from the MCAI and/or service information as follows: AD 2004–21–06 required incorporating repetitive inspections of the connector plugs and the connector plug lockwire on the fore side of the firewall into the maintenance program while the MCAI required incorporating Temporary Revision No. 14, dated August 24, 2001, into the applicable maintenance manual in order to incorporate the repetitive inspections into the maintenance program.

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Fabio Buttitta, Aerospace Engineer, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone: (516) 228–7303; fax: (516) 794–5531. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

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

Related Information

(j) Refer to MCAI Transport Canada AD No. CF–2001–36R1, dated January 21, 2008; Transport Canada AD No. CF–2001–37R, dated January 21, 2008; deHavilland Beaver Alert Service Bulletin Number A2/53, Revision B, dated May 28, 2004; deHavilland Otter Alert Service Bulletin Number A3/53, Revision B, dated May 28, 2004; Viking DHC–2 Beaver Service Bulletin Number V2/0001, dated June 27, 2007; and Viking DHC–3 Otter Service Bulletin Number V3/0001, dated June 27, 2007, for related information.

Material Incorporated by Reference

(k) You must use deHavilland Beaver Alert Service Bulletin Number A2/53, Revision B, dated May 28, 2004; deHavilland Otter Alert Service Bulletin Number A3/53, Revision B, dated May 28, 2004; Viking DHC–2 Beaver Service Bulletin Number V2/0001, dated June 27, 2007; and Viking DHC–3 Otter Service Bulletin Number V3/0001, dated June 27, 2007, to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of Viking DHC–2 Beaver Service Bulletin Number V2/0001, dated June 27, 2007; and Viking DHC–3 Otter Service Bulletin Number V3/0001, dated June 27, 2007, under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) On December 6, 2004 (69 FR 61758, October 21, 2004), the Director of the Federal Register previously approved the incorporation by reference of deHavilland Beaver Alert Service Bulletin Number A2/53, Revision B, dated May 28, 2004; and deHavilland Otter Alert Service Bulletin Number A3/53, Revision B, dated May 28, 2004.

(3) For service information identified in this AD, contact Viking, 9574 Hampden Road, Sidney, British Columbia, Canada V8L 5V5.

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

Issued in Kansas City, Missouri, on June 5, 2008.

David R. Showers,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–13112 Filed 6–17–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0423 Directorate Identifier 2008–CE–010–AD; Amendment 39–15556; AD 2008–12–13]

RIN 2120–AA64

Airworthiness Directives; GENERAL AVIA Costruzioni Aeronatiche Models F22B, F22C, and F22R Airplanes

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

ACTION: Final rule.

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

ENAC Italy AD 2004–376 was issued in response to two separate reports of cracks found in the Firewall-to-Engine mounting attachments. Detachment of the engine mounts from the structure is the possible consequence. Although the actual cause has not been finally determined, some repairs have been approved to address and correct the unsafe condition.

This new AD, which supersedes ENAC Italy AD 2004–376, retains the initial inspection requirement, adds repetitive inspections and clarifies the conditions under which aircraft that have been repaired by an approved method can be allowed to return to service.

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

DATES: This AD becomes effective July 23, 2008.

On July 23, 2008, the Director of the Federal Register approved the

incorporation by reference of certain publications listed in this AD.

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

FOR FURTHER INFORMATION CONTACT: Sarjapur Nagarajan, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4145; fax: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on April 11, 2008 (73 FR 19775). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

ENAC Italy AD 2004–376 was issued in response to two separate reports of cracks found in the Firewall-to-Engine mounting attachments. Detachment of the engine mounts from the structure is the possible consequence. Although the actual cause has not been finally determined, some repairs have been approved to address and correct the unsafe condition.

This new AD, which supersedes ENAC Italy AD 2004–376, retains the initial inspection requirement, adds repetitive inspections and clarifies the conditions under which aircraft that have been repaired by an approved method can be allowed to return to service.

Comments

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

Conclusion

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

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

Based on the service information, we estimate that this AD will affect no products of U.S. registry. We also estimate that it will take about 100 work-hours per product to comply with basic requirements of this AD. The average labor rate is $80 per work-hour. Required parts will cost about $740 per product.

Based on these figures, we estimate the cost of this AD to the U.S. operators to be $0 or $8,740 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2008–12–13 GENERAL AVIA Costruzioni Aeronatiche: Amendment 39–15556; Docket No. FAA–2008–0423; Directorate Identifier 2008–CE–010–AD.

Effective Date

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

Affected ADs

(b) None.

Applicability

(c) This AD applies to Models F22B, F22C, and F22R airplanes, all serial numbers, certificated in any category.

Subject

(d) Air Transport Association of America (ATA) Code 71: Power Plant-General.

Reason

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

ENAC Italy AD 2004–376 was issued in response to two separate reports of cracks found in the Firewall-to-Engine mounting attachments. Detachment of the engine mounts from the structure is the possible

consequence. Although the actual cause has not been finally determined, some repairs have been approved to address and correct the unsafe condition.

This new AD, which supersedes ENAC Italy AD 2004–376, retains the initial inspection requirement, adds repetitive inspections and clarifies the conditions under which aircraft that have been repaired by an approved method can be allowed to return to service.

The MCAI requires you to repetitively inspect the structure surrounding the heads of the four bolts of the engine mount attachment bracket for cracks or damages and repair any cracks or damages found as a result of the inspection.

Actions and Compliance

(f) Do the following actions:

(1) Unless already done within the last 100 hours time-in-service (TIS) before July 23, 2008 (the effective date of this AD), before further flight and repetitively thereafter at intervals not to exceed 100 hours TIS, inspect the structure surrounding the heads of the four bolts of the engine mount attachment bracket, approaching from the cabin of the aircraft in the zone below the instrument panel. In case the indicated area (in particular for the upper bolts) is not visible due to equipment presence (relay, cooling fan, and so forth), remove all of the upper right-hand panel and part of the left-hand panel of the fireproof bulkhead to approach the area to be inspected through the engine compartment. In this case the use of a small mirror is necessary.

(2) If as a result of any inspection required by paragraphs (f)(1) of this AD you find any discrepancies (for example, cracked or broken parts), do one of the following actions before further flight:

(i) Repair the aircraft following Gomolzig Flugzeug-und Maschinenbau GmbH General Avia F22 Modification 15328 Repair Instructions, dated September 10, 2007; or

(ii) Repair the aircraft following a repair method approved by the FAA for this AD.

(3) If you repair the aircraft as specified in paragraph (f)(2)(i) of this AD, repetitively thereafter inspect the aircraft at intervals not to exceed 500 hours TIS following the instructions in paragraph (f)(1) of this AD. If as a result of these repetitive inspections you find any discrepancies, prior to further flight, repair the aircraft following Gomolzig Flugzeug-und Maschinenbau GmbH General Avia F22 Modification 15328 Repair Instructions, dated September 10, 2007.

(4) If you repair the aircraft as specified in paragraph (f)(2)(ii) of this AD, repetitively thereafter inspect the aircraft using the repetitive inspection interval established by the FAA-approved repair method used. Follow the inspection instruction in paragraph (f)(1) of this AD. If as a result of the inspection you find any discrepancies, repair before further flight following a repair method approved by the FAA for this AD.

FAA AD Differences

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

Other FAA AD Provisions

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

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

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

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

Related Information

(h) Refer to MCAI European Aviation Safety Agency (EASA) AD No. 2008–0015, dated January 18, 2008; and Gomolzig Flugzeug-und Maschinenbau GmbH General Avia F22 Modification 15328 Repair Instructions, dated September 10, 2007, for related information.

Material Incorporated by Reference

(i) You must use Gomolzig Flugzeug-und Maschinenbau GmbH General Avia F22 Modification 15328 Repair Instructions, dated September 10, 2007, to do the actions required by this AD, unless the AD specifies otherwise.

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

(2) For service information identified in this AD, contact Gomolzig Flugzeug-und Maschinenbau GmbH, Eisenwerkstrasse 9; D–58332 Schwelm, Federal Republic of Germany; telephone: +49 (0)2336 490 332; fax: +49 (0)2336 490 339; e-mail: *info@Gomolzig.de*.

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

Issued in Kansas City, Missouri, on June 5, 2008.

David R. Showers,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–13108 Filed 6–17–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0446; Directorate Identifier 2008–CE–021–AD; Amendment 39–15568; AD 2008–13–05]

RIN 2120–AA64

Airworthiness Directives; Lindstrand Balloons Ltd. Models 42A, 56A, 60A, 69A, 77A, 90A, 105A, 120A, 150A, 180A, 210A, 240A, 260A, and 310A Balloons

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

ACTION: Final rule.

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

Defective burner hoses have been identified which might develop a leak. A significant leak, if it was ignited, could hazard the balloon and occupants.

Since the issue of AD G–2003–0010 there have been occurrences of hose failure in batches not identified in the earlier bulletins. LHAB Service Bulletin (SB) No 11 supersedes the earlier SBs and revises the applicability as required.

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

DATES: This AD becomes effective July 23, 2008.

As of April 1, 2008 (73 FR 13113, March 12, 2008), the Director of the Federal Register approved the incorporation by reference of Lindstrand Hot Air Balloons Ltd. Service Bulletin No. 11, Issue 1, dated September 24, 2007, listed in this AD.

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

New Jersey Avenue, SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Taylor Martin, Aerospace Engineer, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4138; fax: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on April 18, 2008 (73 FR 21072), and proposed to supersede AD 2008–06–15, Amendment 39–15427 (73 FR 13113, March 12, 2008). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states that:

> Defective burner hoses have been identified which might develop a leak. A significant leak, if it was ignited, could hazard the balloon and occupants.
>
> Since the issue of AD G–2003–0010 there have been occurrences of hose failure in batches not identified in the earlier bulletins. LHAB Service Bulletin (SB) No 11 supersedes the earlier SBs and revises the applicability as required.

The MCAI requires you inspect the hose to identify whether the hose is from the affected batch of hoses and to inspect for defective hoses and end fittings, immediately replace any defective hose and end fittings, and eventually replace any of the hoses and end fittings from the affected batch that are not defective.

Comments

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

Conclusion

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

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

We estimate that this AD will affect 422 products of U.S. registry. We also estimate that it will take about 1 work-hour per product to comply with basic requirements of this AD. The average labor rate is $80 per work-hour.

Based on these figures, we estimate the cost of this AD to the U.S. operators to be $33,760 or $80 per product.

In addition, we estimate that any necessary follow-on actions would take about 1 work-hour and require parts costing $200, for a cost of $280 per product. We have no way of determining the number of products that may need these actions.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Amendment 39–15427 (73 FR 13113, March 12, 2008) and adding the following new AD:

2008–13–05 Lindstrand Balloons Ltd.: Amendment 39–15568; Docket No. FAA–2008–0446; Directorate Identifier 2008–CE–021–AD.

Effective Date

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

Affected ADs

(b) This AD supersedes AD 2008–06–15, Amendment 39–15427.

Applicability

(c) This AD applies to Models 42A, 56A, 60A, 69A, 77A, 90A, 105A, 120A, 150A, 180A, 210A, 240A, 260A, and 310A balloons that are:

(i) certificated in any category; and

(ii) equipped with burners with serial numbers BU502 through BU792, except BU507, BU511, BU512, BU614, BU643, BU655, BU656, BU719, BU723, BU746, BU749, BU752, BU754, BU762, BU779, BU781, BU785, BU787, and BU789.

Subject

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

Reason

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

Defective burner hoses have been identified which might develop a leak. A significant leak, if it was ignited, could hazard the balloon and occupants.

Since the issue of AD G–2003–0010 there have been occurrences of hose failure in batches not identified in the earlier bulletins. LHAB Service Bulletin (SB) No. 11 supersedes the earlier SBs and revises the applicability as required.

The MCAI requires you inspect the hose to identify whether the hose is from the affected batch of hoses and to inspect for defective hoses and end fittings, immediately replace any defective hose and end fittings, and eventually replace any of the hoses and end fittings from the affected batch that are not defective.

Actions and Compliance

(f) Do the following unless already done:

(1) Before further flight after April 1, 2008 (the compliance date retained from AD 2008–06–15), inspect the balloon burner to determine whether it has a hose from the affected batch of hoses following Lindstrand Hot Air Balloons Ltd. Service Bulletin No. 11, Issue 1, dated September 24, 2007.

(2) If as a result of the inspection required by (f)(1) of this AD you find a hose from the affected batch, before further flight, inspect for leaks and conduct a pressure test following Lindstrand Hot Air Balloons Ltd. Service Bulletin No. 11, Issue 1, dated September 24, 2007, and repetitively thereafter inspect and conduct a pressure test at intervals not to exceed 10 hours time-in-service.

(3) If as a result of any inspection or test required by (f)(2) of this AD you find a defective hose, before further flight, replace it and the end fitting with a new hose and new end fitting following FAA-approved instructions. The Lindstrand Balloons Ltd. maintenance manual contains FAA-approved instructions. This action terminates the repetitive requirement in (f)(2) of this AD.

(4) Unless already done, within 12 months after July 23, 2008 (the effective date of this AD), replace any hose from the affected batch with a new hose and end fitting following FAA-approved instructions. The Lindstrand Balloons Ltd. maintenance manual contains FAA-approved instructions. After doing this replacement, no further action is required by this AD.

Note 1: At any time after July 23, 2008 (the effective date of this AD), you may replace the hose and end fitting to terminate the repetitive inspection and testing requirements of this AD.

FAA AD Differences

Note 2: This AD differs from the MCAI and/or service information as follows: No differences.

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Taylor Martin, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4138; fax: (816) 329–4090. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

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

Related Information

(h) Refer to MCAI United Kingdom Civil Aviation Authority Emergency Airworthiness Directive AD No. G–2008–0001, dated January 9, 2008; and Lindstrand Hot Air Balloons Ltd. Service Bulletin No. 11, Issue 1, dated September 24, 2007, for related information.

Material Incorporated by Reference

(i) You must use Lindstrand Hot Air Balloons Ltd. Service Bulletin No. 11, Issue 1, dated September 24, 2007, to do the actions required by this AD, unless the AD specifies otherwise.

(1) On April 1, 2008 (73 FR 13113, March 12, 2008), the Director of the Federal Register previously approved the incorporation by reference of Lindstrand Hot Air Balloons Ltd. Service Bulletin No. 11, Issue 1, dated September 24, 2007.

(2) For service information identified in this AD, contact Lindstrand Balloons Ltd., Maesbury Road, OSWESTRY, Shropshire SY10 8ZZ, England, Telephone +44 (0) 1691–671717; FAX +4 (0) 1691–671122.

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

Issued in Kansas City, Missouri, on June 10, 2008.

Kim Smith,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–13674 Filed 6–17–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0301; Directorate Identifier 2007–NM–284–AD; Amendment 39–15559; AD 2008–12–15]

RIN 2120–AA64

Airworthiness Directives; Dassault Model Falcon 2000EX and 900EX Airplanes

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

ACTION: Final rule.

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

On early FALCON airplanes featuring the EASy cockpit, a new oxygen controller has been installed. An internal review has determined that the passenger oxygen mask boxes do not fit this new controller. In OVERRIDE mode, that is to say, when the internal pressure reducer is by-passed, oxygen (O_2) flow is nominal, while in NORMAL mode O_2 flow is reduced by half compared to what it should be.

Consequently, in NORMAL mode the minimum mass flow of supplemental O_2 for each passenger, as required by Certification Specifications, is no longer met. This could lead to passenger incommodation due to insufficient body oxygenation.

The unsafe condition is incorrectly fitted passenger oxygen mask boxes for the new controllers, which could result in incapacitation of passengers due to insufficient oxygen in the event of rapid depressurization of the airplane when the controller is in NORMAL mode. We are issuing this AD to require actions to correct the unsafe condition on these products.

DATES: This AD becomes effective July 23, 2008.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of July 23, 2008.

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

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

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on March 18, 2008 (73 FR 14403). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

> On early FALCON airplanes featuring the EASy cockpit, a new oxygen controller has been installed. An internal review has determined that the passenger oxygen mask boxes do not fit this new controller. In OVERRIDE mode, that is to say, when the internal pressure reducer is by-passed, oxygen (O_2) flow is nominal, while in NORMAL mode O_2 flow is reduced by half compared to what it should be.
>
> Consequently, in NORMAL mode the minimum mass flow of supplemental O_2 for each passenger, as required by Certification Specifications, is no longer met. This could lead to passenger incommodation due to insufficient body oxygenation.
>
> The purpose of this Airworthiness Directive (AD) is to mandate the replacement of the passenger oxygen mask boxes by new-design ones [boxes] adapted to the controller.

The unsafe condition is incorrectly fitted passenger oxygen mask boxes for the new controllers, which could result in incapacitation of passengers due to insufficient oxygen in the event of rapid depressurization of the airplane when the controller is in NORMAL mode. You may obtain further information by examining the MCAI in the AD docket.

Comments

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

Conclusion

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

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

We estimate that this AD will affect about 27 products of U.S. registry. We also estimate that it will take about 16 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $80 per work-hour. Required parts will 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 parts. 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 this AD to the U.S. operators to be $34,560, or $1,280 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

1. Is not a ''significant regulatory action'' under Executive Order 12866;
2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and
3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2008–12–15 Dassault Aviation: Amendment 39–15559. Docket No. FAA–2008–0301; Directorate Identifier 2007–NM–284–AD.

Effective Date

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

Affected ADs

(b) None.

Applicability

(c) This AD applies to Dassault Model Falcon 2000EX and 900EX airplanes, certificated in any category, as identified in paragraphs (c)(1) and (c)(2) of this AD.

(1) Falcon 900EX airplanes, serial number (S/N) 120 through 146 inclusive, on which Dassault Service Bulletin F900EX–257 has not been implemented.

(2) Falcon 2000EX airplanes, S/N 28 through 55 inclusive, on which Dassault Service Bulletin F2000EX–61 has not been implemented.

Subject

(d) Air Transport Association (ATA) of America Code 35: Oxygen.

Reason

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

On early FALCON airplanes featuring the EASy cockpit, a new oxygen controller has been installed. An internal review has determined that the passenger oxygen mask boxes do not fit this new controller. In OVERRIDE mode, that is to say, when the internal pressure reducer is by-passed, oxygen (O2) flow is nominal, while in NORMAL mode O2 flow is reduced by half compared to what it should be.

Consequently, in NORMAL mode the minimum mass flow of supplemental O2 for each passenger, as required by Certification Specifications, is no longer met. This could lead to passenger incommodation due to insufficient body oxygenation.

The purpose of this Airworthiness Directive (AD) is to mandate the replacement of the passenger oxygen mask boxes by new-designed ones [boxes] adapted to the controller.

The unsafe condition is incorrectly fitted passenger oxygen mask boxes for the new controllers, which could result in incapacitation of passengers due to insufficient oxygen in the event of rapid depressurization of the airplane when the controller is in NORMAL mode.

Actions and Compliance

(f) Unless already done do the following actions:

(1) Within 15 months after the effective date of this AD, replace the passenger oxygen mask boxes in accordance with Dassault Service Bulletins F900EX–257 or F2000EX–61, both Revision 1, both dated March 22, 2007, as applicable.

(2) Actions done before the effective date of this AD in accordance with Dassault Service Bulletins F900EX–257, dated March 15, 2006; and F2000EX–61, dated March 22, 2006; are acceptable for compliance with the corresponding actions of this AD.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1137; fax (425) 227–1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

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

Related Information

(h) Refer to MCAI European Aviation Safety Agency Airworthiness Directive 2007–0073, dated March 22, 2007; and Dassault Service Bulletins F900EX–257 and F2000EX–61, both Revision 1, both dated March 22, 2007; for related information.

Material Incorporated by Reference

(i) You must use Dassault Service Bulletin F900EX–257, Revision 1, dated March 22, 2007; or Dassault Service Bulletin F2000EX–61, Revision 1, dated March 22, 2007; as applicable; to do the actions required by this AD, unless the AD specifies otherwise.

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

(2) For service information identified in this AD, contact Dassault Falcon Jet, P.O. Box 2000, South Hackensack, New Jersey 07606.

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

Issued in Renton, Washington, on June 3, 2008.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–13315 Filed 6–17–08; 8:45 am]

BILLING CODE 4910–13–P

FEDERAL TRADE COMMISSION

16 CFR Part 24

Guides for Select Leather and Imitation Leather Products

AGENCY: Federal Trade Commission.

ACTION: Confirmation of guides.

SUMMARY: The Federal Trade Commission (''FTC'' or ''Commission'') has completed the regulatory review of its Guides for Select Leather and Imitation Leather Products (''Leather Guides'' or ''Guides'') as part of its systematic review of all current Commission regulations and guides, and has decided to retain the Guides in their current form.

DATES: This action is effective as of June 18, 2008.

ADDRESSES: Requests for copies of this notice should be sent to the Consumer Response Center, Room 130, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC 20580. The notice also is available on the Internet at the Commission's Web site, *http://www.ftc.gov*.

FOR FURTHER INFORMATION CONTACT: Susan E. Arthur, Attorney, Southwest Region, Federal Trade Commission, 1999 Bryan Street, Suite 2150, Dallas, Texas 75201. E-mail: *sarthur@ftc.gov*, telephone: (214) 979-9370.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Commission has determined, as part of its oversight responsibilities, to review all Commission rules and guides periodically. These reviews seek information about the costs and benefits of the Commission's rules and guides and their regulatory and economic impact. The information obtained during the reviews assists the Commission in determining whether rules and guides should be confirmed, amended, or rescinded.

II. Background

The Commission's Leather Guides address misrepresentations regarding the composition and characteristics of specific leather and imitation leather products.[1] The Guides apply to the manufacture, sale, distribution, marketing, or advertising of leather or simulated leather purses, luggage, wallets, footwear, and other similar products. Importantly, the Guides state that disclosure of non-leather content should be made for material which has the appearance of leather but is not leather.

The Commission adopted the Leather Guides in 1996, as part of its periodic review of its rules and guides.[2] The

[1] The Leather Guides ''are administrative interpretations of laws administered by the Commission for the guidance of the public in conducting its affairs in conformity with legal requirements. They provide the basis for voluntary and simultaneous abandonment of unlawful practices by members of industry.'' 16 C.F.R. 1.5. Conduct inconsistent with the Guides may result in corrective action by the Commission under applicable statutory provisions.

[2] 61 Fed. Reg. 51577 (October 3, 1996).

Leather Guides consolidated portions of the Guides for the Luggage and Related Products Industry (''Luggage Guides''), the Guides for Shoe Content Labeling and Advertising (''Shoe Guides''), and the Guides for the Ladies' Handbag Industry (''Handbag Guides'').[3] The Leather Guides also include provisions previously contained in the Commission's Trade Regulation Rule Concerning Misbranding and Deception as to Leather Content of Waist Belts (''Waist Belt Rule'').[4]

The language of the Luggage Guides, the Shoe Guides, the Handbag Guides, and the Waist Belt Rule was updated and clarified in the Leather Guides, and unnecessary provisions were deleted. Further, the Leather Guides modified a number of provisions from the older guides and rule. Among these modifications were an expansion of the scope of the Guides to include misrepresentations in marketing and advertising, the removal of the limitation that only top grain leather should be called ''leather'' without qualification, and the addition of a provision regarding the disclosure of the percentage of non-leather and leather material contained in bonded leather.

On May 23, 2007, the Commission published a **Federal Register** notice (''FRN'') seeking public comment on the Leather Guides.[5] The FRN sought comment concerning the continuing need for the Leather Guides; industry adoption of the Guides; costs and benefits of the Guides; effects of the modifications to the provisions previously contained in the Luggage Guides, the Shoe Guides, the Handbag Guides, and the Waist Belt Rule; any changes that should be made to the Guides; conflicts or overlap between the Guides and other laws or regulations; changes in consumer perceptions and preferences; and the effect that changes in technology, economic conditions, or environmental conditions have had on the Guides.

III. Regulatory Review Comments

The Commission received four comments in response to the FRN.[6] The comments were submitted by the Footwear Distributors and Retailers of America (''FDRA''), an association of retailers, distributors, importers, and manufacturers of footwear; the Leather Industries of America (''LIA''), which represents a number of companies engaged in the tanning and/or marketing of leather and related companies; the Sponge and Chamois Institute (''SCI''), an organization comprised of producers and distributors of sponges and chamois products in the United States; and Design Resources, Inc. (''DRI''), a company engaged in the leather products business.

A. Comments Concerning the Usefulness of the Guides

Three of the comments support continuing the Guides, and the other commenter asks that its products be removed from the coverage of the Guides. LIA comments that the FTC should retain the Guides and expand them in a number of respects.[7] DRI also supports continuation of the Guides.[8] SCI's request that the Guides be expanded to include chamois indicates support for continuation of the Guides.[9] FDRA requests that the Commission abandon the Guides as they relate to footwear, but does not comment on the general need for the Guides in other industries.[10]

In addressing industry adoption of the Guides, LIA comments that it is frequently asked to help members apply the Guides to consumer products.[11] DRI says that the industry follows and embraces the Guides and their current labeling disclosure requirements,[12] and that companies ''rely on the Guides and factor them into their investment and critical business decisions regarding product development.'' [13]

Two comments address the Guides' benefits to consumers. DRI states that the Guides have a theme of avoiding deception.[14] In LIA's comment, the association says the Guides have ''fundamental importance'' as a reference point for consumers.[15]

In response to the FRN questions regarding costs and benefits of the Guides for businesses, LIA comments that ''the Guides provide a framework for communicating truthful and non-misleading messages to consumers'' concerning industry products,[16] inhibit advertisers from making deceptive claims, promote honest business practices, and have ''fundamental importance'' as a reference point for U.S. businesses.[17] LIA states that several specific provisions are helpful to industry because they encourage companies to communicate information that consumers may not be able to determine on their own prior to purchase.[18] DRI also addressed this issue, saying that the Guides provide voluntary guidelines for the marketing and sale of leather and imitation leather products to members of the leather industry that are promoting truthful, non-misleading advertising to consumers.[19] Additionally, DRI explains that leather businesses look to the Guides to understand their disclosure obligations for labels, tags, and advertising, and to ensure that they accurately represent their products to consumers.[20] With regard to bonded leather and composition disclosures, DRI's comment says that the Guides help businesses understand their disclosure obligations and avoid consumer deception and confusion.[21] According to DRI, with regard to bonded leather, the Guides ''have worked well for the past ten years and continue to do so.''[22]

B. Suggested Changes to the Guides

LIA suggests that the Commission make numerous changes to the Guides. LIA says that the Guides ''require expansion to make them more comprehensive and consistent with global industry practice.''[23] LIA comments that the absence of the information incorporated in its suggested modifications will facilitate ''an escalating trend of deceptive practice'' within the United States.[24] SCI's sole recommendation is that the Commission add one definition to the Guides.[25] The comment from DRI primarily relates to one of the changes proposed by LIA and urges the Commission to refuse to make that requested change.[26] FDRA asks that the

[3] The Luggage Guides, the Shoe Guides, and the Handbag Guides were repealed in 1995. 60 Fed. Reg. 48027 (September 18, 1995). On the same day, the Commission requested public comment regarding proposed Leather Guides. 60 Fed. Reg. 48056 (September 18, 1995).

[4] The Commission repealed the Waist Belt Rule earlier in 1996. 61 Fed. Reg. 25560 (May 22, 1996).

[5] 72 Fed. Reg. 28906 (May 23, 2007).

[6] The comments are cited in this notice by the name of the commenter. All comments are on the public record and available for public inspection in the Consumer Response Center, Room 130, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC 20580, from 9 a.m. to 5 p.m., Monday through Friday, except Federal holidays. The comments are also available on the Internet at the Commission's Web site, *http://www.ftc.gov*.

[7] LIA at 5.

[8] DRI at 1, 2, 6, and 11.

[9] SCI at 1 and 5.

[10] FDRA at 1-2.

[11] LIA at 5.

[12] DRI at 2.

[13] *Id.* at 11.

[14] *Id.* at 10.

[15] LIA at 5.

[16] *Id.* at 2.

[17] *Id.* at 5.

[18] *Id.* at 5-6.

[19] DRI at 1.

[20] *Id.* at 11.

[21] *Id.* at 1.

[22] *Id.* at 11.

[23] LIA at 6.

[24] *Id.* at 6-7.

[25] SCI at 1 and 5.

[26] DRI at 1-12.

Guides be abandoned as they related to footwear.[27]

1. Suggested Definitions and Disclosures

LIA proposes adding definitions for the following terms to the Guides: (1) top grain or full grain leather, (2) corrected grain leather, (3) semi-aniline leather, (4) leather, (5) coated leather, (6) laminated leather, (7) split leather, (8) leatherette, (9) bonded leather, and (10) chamois.[28] SCI asks that the Commission add a definition of the term ''chamois.''[29] DRI's comment primarily concerns its opposition to LIA's proposed definition of the term ''bonded leather,''[30] but DRI also states that LIA is asking the FTC to make the Guides ''even more complex by adopting a number of complicated definitions that are shrouded in industry jargon and terminology.''[31]

The definitions that LIA suggests for the terms ''top grain'' or ''full grain'' leather, ''corrected grain'' leather, ''split leather,'' and ''semi-aniline'' leather are based on the presence or absence of grain surface and the finishes used on the material. These definitions are not needed, as the Guides apply to all types of leather, as well as non-leather material with the appearance of leather. Further, the record contains no evidence regarding consumer understanding of these terms, several of which may be unfamiliar to many consumers. Absent evidence as to how consumers would understand these suggested terms, it is difficult to determine whether adoption of the definitions would assist or hinder consumers. For these reasons, the Commission is not adding these suggested definitions. However, if industry members desire to label their products with these terms, they may do so provided that the terms used are truthful and non-deceptive.

LIA also recommends that the Commission modify the Guides to include a lengthy definition of the term ''leather.''[32] Like the proposed definitions discussed above, there are portions of this definition that are not needed because of the Guides' broad coverage of all types of leather, as well as non-leather material with the appearance of leather. A portion of the suggested definition dealing with disintegrated hide or skin is not needed because Section 24.2(f) of the Guides already provides guidance relating to ground leather and similar materials.

Also included within LIA's proposed definition of the term ''leather'' is a provision that would allow use of the term without qualification for leather with a finish if the thickness of the finish is 0.15 mm or less. According to LIA, a ''finish comprising a pigmented polyurethane, acrylic resin, or other polymer-based paint protects the grain surface of most types of leather.''[33] LIA further explains that the thickness of the finish depends upon the desired aesthetics and intended use of the leather. The comment describes the differences in performance and quality of material with various thicknesses of coatings, cites the British Standards Institution as support for LIA's position, and states that the threshold is commonly understood by most leather producers.[34] However, the record developed during this review contains no information regarding whether, or to what extent, consumers expect that coatings have been applied to products labeled as ''leather'' without qualification. Without such information, it is difficult to determine whether adoption of the proposed definition would result in consumer deception or confusion. Therefore, the Commission is not adopting the provision proposed by LIA. For similar reasons, the Commission is not adding LIA's proposed definitions of ''coated leather'' and ''laminated leather'' to the Guides, nor are those terms being added as examples of appropriate disclosures in Section 24.2(e) of the Guides (dealing with misrepresentations that a product is wholly of a particular composition) as recommended by LIA.

LIA also recommends that the Commission add a definition of the term ''leatherette'' to refer to material made of paper, cloth, or synthetic material and finished to simulate the appearance of leather.[35] Further, LIA asks that the Commission add the term ''leatherette (not leather)'' to Section 24.2(a) of the Guides, which provides examples of terms that may be used to describe non-leather material with the appearance of leather. LIA claims that the definition and disclosure are needed because the term ''leatherette'' is misleading and potentially deceptive to consumers.[36] LIA provides no evidence concerning consumer understanding of the term ''leatherette.'' It should be noted that when the word ''leather'' is included within the name or description of a non-leather material or product in a manner that indicates that the material or product is made of leather or contains leather, there is a strong possibility that use of the word may cause consumer deception. Section 24.2(d) of the Guides states that a word, term, depiction, or device should not be used if it misrepresents, directly or by implication, that an industry product is made in whole or in part from animal skin or hide, or that material in an industry product is leather or other material. Although the Commission agrees with LIA that the term ''leatherette'' may be deceptive, the suggested change is not being made because the Guides in their current form address non-leather material with the appearance of leather. There is no need for the specific definition endorsed by LIA. The type of material that LIA seeks to define as ''leatherette'' is not leather, so Section 24.2(a) provides guidance for content disclosure. Further, it should be noted that the list of examples of appropriate disclosure contained in Section 24.2(a) is not an exhaustive list, so there is no need to add additional terms.

LIA's next suggestion is that the Guides more specifically define the term ''bonded leather.''[37] In support of its suggestion, LIA says that it has analyzed material that it claims is erroneously labeled as bonded leather because the material is 80 percent synthetic material with an insubstantial coating of leather fibers on the underside.[38] LIA argues that this material is not bonded leather because the leather fibers are not bonded to each other to form an independent, continuous layer, but are merely glued to the underside of an entirely different, synthetic product. LIA asserts that leather fibers in this material offer no utility or aesthetic value, and that manufacturers would likely include minor amounts of leather fibers to give the appearance of leather when inspected from the underside, thereby deceiving purchasers. To address these concerns, LIA suggests a definition of bonded leather that states that the product is made by forming leather fragments and fibers into a single homogenous sheet or roll with the aid of adhesives, resins, or similar bonding agents.[39]

[27] FDRA at 1-2.

[28] LIA at 3-4 and 7-21.

[29] SCI at 1.

[30] DRI at 1.

[31] *Id.* at 7.

[32] LIA at 3 and 12.

[33] *Id.* at 10.

[34] *Id.* at 10–12.

[35] *Id.* at 4, 12, and 13.

[36] *Id.* at 12.

[37] *Id.* at 4 and 13–15.

[38] *Id.* at 14.

[39] *Id.* at 15. In its comment, LIA cites the definition used by the International Union of Leather Technologists and Chemists Societies (''IULTCS'') to describe ''reconstituted leather.'' IULTCS's definition is ''Made by forming leather fragments and fibres into sheet material with the aid of adhesives, resins, etc.'' LIA asks that the Commission further refine the IULTCS definition by adopting LIA's proposal.

With regard to LIA's proposed definition of bonded leather, DRI states that consumers have not been harmed or deceived in the absence of this definition because ''the Guides already require disclosure of the percentage of leather and non-leather substances found in bonded leather used in consumer products.''[40] DRI maintains that LIA's proposed definition would drive up costs to bonded leather manufacturers and businesses without any benefit to consumers, would be confusing both to businesses and consumers, and would have significant anti-competitive impacts on the bonded leather goods industry and marketplace. DRI asks that the FTC retain the Guides and their current labeling disclosure requirements.

The current Guides do not set a minimum leather fiber content for bonded leather material. Instead, Section 24.2(f) of the Guides states that if a term such as ''bonded leather'' is used, either a disclosure that the material is not leather or a disclosure of the percentage of leather fibers and the percentage of non-leather substances contained in the material should be made. An example of a proper disclosure provided in the Guides is ''Bonded Leather Containing 60% Leather Fibers and 40% Non-leather Substances.'' Such a disclosure effectively prevents deception which could be caused by the term ''bonded leather.'' Use of the term ''bonded leather'' without a truthful content disclosure is not in compliance with the Guides, regardless of the percentage of leather fiber content in the material so described. If a product is labeled in compliance with Section 24.2(f), consumers are made aware of the true composition of the product and are not deceived.

The Guides' provision relating to bonded leather and similar material focuses on disclosure of the percentage of leather fibers and non-leather substances contained in the material, rather than on the method used to place leather fibers into the material as urged by LIA. There is insufficient information in the record to justify a distinction based upon the method by which leather fibers are placed into the material. Truthful content information, as outlined in the Guides, gives consumers the facts they need to make an informed decision regarding bonded leather and similar materials. For these reasons, the Commission is not adopting LIA's proposed definition of ''bonded leather.''

[40] DRI at 2.

The last of LIA's suggested definitions is for the word ''chamois.''[41] SCI also requests a ''chamois'' definition.[42] The LIA and SCI comments refer to an FTC advisory opinion issued in 1964 that addressed the use of the word ''chamois,'' stating that it was deceptive to use the word ''chamois'' for a product not made from (a) the skin of the Alpine antelope or (b) sheepskin fleshers which have been oil-tanned after removal of the grain layer.[43] The comments also discuss in detail the need for a definition, as well as the history and properties of chamois,[44] but do not provide specific evidence regarding current consumer understanding of the term ''chamois.'' The most common use of chamois as described in these comments is for drying polished surfaces, glass, and car bodywork. Such drying products are outside of the scope of these Guides. There may be instances in which chamois is used in industry products covered by the Guides, but, as discussed above, there is no need to more specifically define different types of leather because the Guides apply to all types of leather. There are already provisions in the Guides to address misrepresentations and deceptive omissions. Under Section 24.1 of the current Guides, it is unfair or deceptive to misrepresent any material aspect of an industry product. As discussed above, Section 24.2(a) provides guidance about disclosures to be made for synthetic products with the appearance of leather. Also, under Section 24.2(b) of the Guides, a disclosure should be made of the type of leather in a product that is made of leather which has been processed to simulate the appearance of a different kind of leather. The requested definition has not been added to the Guides.

In summary, the Commission has decided that it will not add the suggested definitions to the Guides. However, the Commission would encourage industry efforts to inform consumers of the meaning of many of the proposed definitions, provided that the definitions are not misleading to consumers.

[41] LIA at 4, 15, and 21.

[42] SCI at 1.

[43] FTC Advisory Opinion No. 1, 66 F.T.C. 1593 (1964). A portion of this opinion relating to proper use of the term ''chamois'' was published in the Code of Federal Regulations (''C.F.R.'') until 1989, when the Commission deleted Part 15 of Title 16 of the C.F.R. that contained the text of advisory opinions issued from November 1965 until June 1974. At the time that the provisions were deleted, the Commission noted that it was not required to publish the materials in the C.F.R. and that more complete versions of the materials were available elsewhere. The Commission concluded that there was little, if any, public benefit to justify the costs of publication. 50 Fed. Reg. 26187 (June 22, 1989).

[44] LIA at 15-21; SCI at 1-5.

2. Scope of the Guides

LIA suggests that the scope of the Guides be enlarged to include automotive and furniture upholstery products, stating that these products ''represent a significant portion of the leather industry, and the clear majority of finished leather produced in the United States.''[45] LIA argues that enlarging the Guides to cover these products would reduce potential deception and confusion regarding these products.[46] In addressing LIA's suggestion, the Commission notes that when the Leather Guides were adopted in 1996, it considered expansion of the Guides to cover additional products and decided that the record developed during that review did not warrant expansion of the Guides. As in the earlier review, the current record leaves unanswered questions regarding the extent of misrepresentations in other industries, consumer interpretation of the appearance of leather for products in other industries, and any special considerations for other industries. For these reasons, the Commission is not enlarging the scope of the Guides in the manner suggested by LIA. However, all members of the leather and imitation leather products industries can obtain useful guidance from the Guides. The Guides are interpretive of laws enforced by the Commission, which may take action against companies engaged in deception regardless of whether they fall within the scope of the Guides.

FDRA asks that the Guides be abandoned as they relate to footwear, arguing that there is no consumer preference for leather in the current footwear market and that consumer choice is instead based upon functionality and value.[47] FDRA reasons that ''the Guides are based on the assumption that consumers believe all parts of shoes with an 'appearance' of leather, are made of leather, regardless of what the distributor says or does not say in labeling or advertising about leather content.''[48] FDRA argues that ''appearance'' is not defined, and that

> the Guides' emphasis on the assumed preference for leather is so great that the effect is that any shoe which does not disclose its contents ''appears'' to be leather. In essence, the Guides convert silence about shoe content into a claim of leather content and then require disclosure

[45] *Id.* at 7.

[46] *Id.*

[47] FDRA at 1-2.

[48] *Id.* at 2.

to cure the ''misrepresentation'' created only by the Guides themselves.

Id. FDRA urges the Commission to reconsider this approach, which it claims is flawed.

In its comment, FDRA touts the enormous strides made in the development of synthetic materials, which it claims have replaced leather in many facets of footwear construction.[49] Further, the association states that synthetic materials, which in some instances are more expensive than leather, have been developed to be light in weight and provide strength and durability which is superior to leather. In describing today's footwear styles, FDRA explains that such products ''are typically made from a variety of materials fitted together with leather and man-made overlays, interspersed with light, breathable textile materials, combined to create the comfort, fit, and 'breathability' preferred by consumers.''[50] Additionally, FDRA states that low priced synthetic shoes are widely accepted by consumers because they have many of the same comfort and performance characteristics as leather footwear at a fraction of the price.[51]

The basic premise of the Guides is the Commission's long-standing position that when a product has the appearance of leather, its appearance makes an implied representation that the product is made of leather. Clearly, a deceptive omission can arise from the physical appearance of a product, and the Guides' disclosure provisions are designed to correct such an omission. Despite FDRA's claims to the contrary, a product does not ''appear'' to be leather solely because of the absence of a content disclosure for the product. A synthetic product must first appear to be leather before the Guides' disclosure provisions would become applicable to the product. Thus, the Guides' disclosure provisions are limited to situations where consumers are likely to be misled as to a product's composition.

While FDRA cites statistics regarding the percentages of leather and non-leather footwear for the U.S. footwear market and the types of footwear sold in the market,[52] it does not provide evidence regarding consumer expectations regarding footwear with the appearance of leather. Whether or not there have been tremendous advances in synthetic materials, the record does not support a reversal of the Commission's long-standing position related to synthetic material with the appearance of leather.

FDRA asks that, if the Guides remain applicable to footwear, the Commission make clear that the look or mere appearance of the shoe does not constitute a representation that the shoe is leather, either in whole or in part, and to make the Guides applicable only to misrepresentations of leather content.[53] As discussed above, the implied representation made by the appearance of leather is a fundamental premise of the Guides. FDRA's suggested changes would thwart the primary goals of the Guides. Therefore, the Commission is not making the changes suggested by FDRA.

IV. Conclusion

Based upon the review discussed above, the Commission concludes that there is a continuing need for the Leather Guides, which are beneficial to consumers and industry members, and has decided to retain the Guides in their current form.

List of Subjects in 16 CFR Part 24

Advertising, Belts, Distribution, Footwear, Imitation leather products, Labeling, Ladies' handbags, Leather and leather products industry, Luggage and related products, Shoes, Trade practices, Waist belts.

Authority: 15 U.S.C. 41-58.

By direction of the Commission.

Donald S. Clark

Secretary

[FR Doc. E8–13656 Filed 6–17–08: 8:45 am]

BILLING CODE 6750–01–S

[49] *Id.*

[50] *Id.* at 1.

[51] *Id.* at 2. FDRA claims that, because of the low price, consumers have no expectation that these items are made of leather. However, as discussed above, FDRA indicates that synthetic materials are more expensive than leather in some instances. Therefore, consumers cannot rely upon price to determine the true composition of a product.

[52] *Id.* at 1.

[53] *Id.* at 2.

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 291

[Docket ID: MMS–2008–PMI–0024]

RIN 1010–AD17

Open and Nondiscriminatory Movement of Oil and Gas as Required by the Outer Continental Shelf Lands Act

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Final rule.

SUMMARY: The Minerals Management Service (MMS) is promulgating new regulations that establish a process for a shipper transporting oil or gas production from Federal leases on the Outer Continental Shelf (OCS) to follow if it believes it has been denied open and nondiscriminatory access to pipelines on the OCS. The rule provides MMS with tools to ensure that pipeline companies provide open and nondiscriminatory access to their pipelines.

EFFECTIVE DATE: August 18, 2008.

FOR FURTHER INFORMATION CONTACT: Scott Ellis, Policy and Appeals Division, at (303) 231–3652, FAX: (303) 233–2225, or e-mail at *Scott.Ellis@mms.gov*. The principal authors of this rule are Alex Alvarado and Robert Mense of Offshore Minerals Management (OMM); and Scott Ellis of Policy and Management Improvement (PMI), MMS, Interior.

SUPPLEMENTARY INFORMATION:

I. Background

Section 5(e) of the Outer Continental Shelf Lands Act (OCSLA), 43 U.S.C. 1334(e), provides that ''[r]ights-of-way through the submerged lands of the outer Continental Shelf, whether or not such lands are included in a mineral lease maintained or issued pursuant to this subchapter, may be granted by the Secretary for pipeline purposes for the transportation of oil, natural gas, sulphur, or other minerals or under such regulations and upon such conditions as may be prescribed by the Secretary. * * * upon the express condition that oil or gas pipelines shall transport or purchase, without discrimination, oil or natural gas produced from submerged lands or outer Continental Shelf lands. * * *'' 43 U.S.C. 1334(e).

Section 5(f) of the OCSLA mandates that every permit, license, easement, or right-of-way granted to a pipeline for transportation of oil or gas on or across the OCS must require that the pipeline ''provide open and nondiscriminatory access to both owner and nonowner shippers.'' 43 U.S.C. 1334(f).

The Federal Energy Regulatory Commission (FERC), exercising authority it claimed under the OCSLA, issued regulations requiring companies providing natural gas transportation service to periodically file information with FERC concerning their pricing and service structures. *See* Order No. 639, FERC Stats. & Regs. (CCH) ¶ 31,097 at 31,514 (April 10, 2000); Order No. 639–A, FERC Stats. & Regs. (CCH) ¶ 31,103 (July 26, 2000). FERC believed that the resulting transparency would enhance

competitive and open access to gas transportation. *Id.* Several of the subject companies sought judicial relief from the orders, alleging that FERC did not have authority under OCSLA to issue the regulations.

On October 10, 2003, the U.S. Court of Appeals for the District of Columbia Circuit, in *Williams Cos.* v. *FERC,* 345 F.3d 910 (DC Cir. 2003), found that sections 5(e) and (f) of the OCSLA, 43 U.S.C. 1334(e) and (f), grant FERC only limited authority to enforce open access rules on the OCS. The court found that enforcement of the requirement to provide open and nondiscriminatory access ''would be at the hands of the obligee of the conditions, the Secretary of the Interior (or possibly other persons that the conditions might specify).'' *Id.* at 913–914.

Specifically, the Court of Appeals concluded that FERC's role under 43 U.S.C. 1334(e) is essentially limited to what are commonly known as ''ratable take'' orders and capacity expansion orders. According to the court's decision, FERC's authority does not include the regulatory oversight described in FERC Orders 639 and 639–A. As a result, the FERC regulations issued under 18 CFR part 330 are *ultra vires*, and therefore not enforceable. MMS believes the court's decision means that the OCSLA provides the Secretary of the Interior the authority to issue and enforce rules to assure open and nondiscriminatory access to pipelines. 43 U.S.C. 1334(e) and (f)(1)(A).

To determine whether a need exists for regulations to assure open and nondiscriminatory access, MMS issued an Advance Notice of Proposed Rulemaking (ANPRM). *See* 69 FR 19137 (April 12, 2004). Subsequently, MMS held public meetings in Houston, Washington, DC, and New Orleans to hear oral comments. MMS received written comments from 17 respondents. After considering all comments and making some minor changes necessitated by the Energy Policy Act of 2005 (EPAct, Pub. L. 109–58, 119 Stat. 594), MMS proceeded by issuing a Proposed Rule in the **Federal Register**. *See* 72 FR 17047 (April 6, 2007).

The Proposed Rule addressed many of the comments in response to the ANPRM and requested further discussion and comments on several topics. MMS received written comments to the Proposed Rule from a total of 13 industry respondents. In addition, MMS received comments from FERC, but those comments were of a technical nature (citation corrections) and did not address the substantive regulations of the Proposed Rule. As with the ANPRM, the Proposed Rule commenters generally fell into two groups—shippers/producers (4) and pipelines/service providers (9). While these commenter groups generally submitted opposing views, the support of the proposed informal complaint resolution process was nearly unanimous (one commenter indicating the process appeared lawful and another stating the process was consistent with other OMM leasing actions). Specific topics regarding the issues raised in the Proposed Rule comments are addressed below in the applicable sections of this final rulemaking.

II. Comments on the Proposed Rule

The MMS received comments on the Proposed Rule from four producers/shippers and nine pipelines/service providers. These comments are analyzed and discussed below:

A. General Comments

1. The formal complaint process, proposed at 30 CFR 291.104–291.115, conflicts with OCSLA ''citizen suit'' adjudication process.

Public Comments: Two pipeline commenters objected to any form of formal complaint process. One pipeline commenter proposed that MMS reconsider the formal administrative complaint process as unnecessary due to the existing option of taking the issue to Federal court, and because Congress did not mandate an administrative process. The other pipeline commenter argues that MMS's formal complaint process exceeds statutory authority and conflicts with the Congressionally-conferred adjudication process, the ''citizen suit'' provisions of OCSLA.

MMS Response: Concerning the comments that MMS must completely reject the formal administrative process, MMS disagrees with the commenters' position regarding OCSLA authority. The OCSLA specifically grants the Secretary of the Interior the authority to ''prescribe such rules and regulations as may be necessary to carry out the provisions of [the OCSLA].'' *43 U.S.C. 1334(a).* Nothing in section 1349 or section 1350 limits that rulemaking authority. Nor is there anything in section 1334(e) or (f) that exempts those provisions from the general grant of rulemaking authority.

The two pipeline commenters interpret OCSLA in such a narrow manner that when open and nondiscriminatory pipeline access disputes occur that are associated with OCSLA section 5 permits, licenses, easements, rights-of-way, or other grants of authority, the only administrative enforcement that the Secretary could employ is (maybe) informal dispute resolution. The commenters base their interpretation on the premise that Congress failed to grant the Secretary the authority to create, by regulation, a formal administrative process to resolve pipeline access disputes. Instead, when a pipeline access dispute occurs, commenters believe that the dispute may only be resolved by the judiciary. That result would appear to contradict *Williams* where the DC Circuit held that ''[w]ithout some explicit provision to the contrary (as exists for quantification of the ratable take duty), Congress presumably intended that enforcement would be at the hands of the obligee of the conditions, the Secretary of the Interior (or possibly other persons that the conditions might specify).'' *Williams,* 345 F.3d at 913–14. MMS believes that the best way to ensure open and nondiscriminatory access to pipelines on the OCS is through a formal administrative process in conjunction with an informal Hotline and alternative dispute resolution (ADR) processes. Otherwise, MMS's attempts at ''enforcement'' of open access conditions would be more difficult whenever the parties eschewed the informal means of resolution. Consequently, MMS believes that the commenters' interpretation would circumvent the entire executive process. The commenters would have disputes over pipeline access effectively removed from the administrative process, making them subject solely to the judicial process. The MMS believes that neither section 5 nor section 23 (citizen suit provision) of OCSLA may be interpreted so narrowly. Again, MMS rejects the recommendations to eliminate all formal open and nondiscriminatory access dispute resolution procedures.

2. MMS royalty-in-kind (RIK) conflict of interest.

Public Comments: One pipeline commenter questions whether MMS, as a shipper of RIK production, can fairly decide other shipper's appeals alleging violations of the open and nondiscriminatory access provisions of OCSLA. The commenter believes that an inherent conflict of interest prevents MMS from objectively deciding open access complaints because MMS's incentives are the same as shippers that submit complaints. The commenter also believes that MMS's decisions would not only be subject to potential conflicts of interest where MMS is a shipper, but for all complaints. The commenter does not believe that the complaint process equates to MMS's appeal process for MRM orders because Congress has not mandated that an administrative process be established for open and

nondiscriminatory access complaints as it has for royalty disputes.

MMS Response: The MMS previously explained in the Proposed Rule that appellants' allegations of lack of due process or of conflict of interest under the parallel MRM appeal process have never been upheld. *See, e.g., Santa Fe Pacific Railroad Co.,* 90 IBLA 200, 220 (1986); *Davis Exploration,* 112 IBLA 254, 260 (1989); *Transco Exploration Co. & TXP Operating Co.,* 110 IBLA 282, 311–12 (1989); *W&T Offshore, Inc.,* 148 IBLA 323, 355–59 (1999). The RIK division operates within the MRM program of MMS and separately from PMI. Consequently, any complaints peripheral to RIK activities are similar to appeals of orders issued by MRM and decided by PMI. In both situations, MMS programs have an interest in the outcome of the appeal or complaint, but other parties' interests are further protected by Interior Board of Land Appeals (IBLA) review, and the availability of judicial review of those IBLA decisions.

With both royalty appeals and open access complaints, PMI has no underlying operational responsibility. Rather, MRM is responsible for issuing royalty-related orders and for managing the RIK program, while OMM issues pipeline rights-of-way. PMI functions as an independent program that assists in the Director's oversight of MMS's operating programs. PMI helps to fulfill the Director's responsibility by issuing final MMS appeal and complaint decisions under the authority that the MMS Director has delegated to PMI.

Under section 5(a) of OCSLA, Congress granted the Secretary broad authority to administer OCSLA, including the power to ''prescribe such rules and regulations as may be necessary to carry out'' its provisions. In addition, the Circuit Court in *Williams* found that enforcement of the obligation to provide open and nondiscriminatory access ''would be at the hands of the obligee of the conditions, the Secretary of the Interior (or possibly other persons that the conditions might specify).'' *Williams,* 345 F.3d at 913–14. The pipeline right-of-way conditions currently include the regulations in 30 CFR part 250, subpart J. *See* 30 CFR 250.1010. The new regulations in Part 291 serve to complement the subpart J regulations and to encompass a broader range of grants of authority as part of MMS's overall administrative duties under OCSLA, as modified by the EPAct.

Under these rules at §§ 291.112 through 291.115, parties may avail themselves of the same kind of administrative review as lessees/operators experience under current MRM appeals. Because the process in this rulemaking is similar to the appeals process which has been upheld repeatedly by the IBLA, the MMS believes that the complaint process will properly protect parties' rights.

B. 30 CFR Part 291—Open and Nondiscriminatory Access to Oil and Gas Pipelines Under the Outer Continental Shelf Lands Act

1. 30 CFR 291.101. What definitions apply to this part?

a. Undefined Terms

Public Comments: One shipper commenter proposes that MMS provide guidance on behavior that constitutes discrimination. Another shipper commenter recommends that MMS clarify that denial of open access is not confined to physical access and that MMS adopt FERC-based ''reasonableness'' and ''similarly situated'' standards.

MMS Response: MMS prefers to approach disputes over pipeline access by using a broad ''reasonableness'' standard that provides more flexibility rather than numerous rigid parameters that have only limited application. To assist in these kinds of concerns, however, MMS envisioned that shippers using the Hotline would inquire as to whether a particular situation or behavior may constitute a violation of pipeline access requirements and whether those circumstances may support further investigation. The MMS refrained from specifically adopting FERC-based discrimination standards because the mandates and authorizing statutes for FERC and MMS (Interior) differ. While MMS recognizes that both the FERC ''reasonableness'' and ''similarly situated'' standards may be useful in resolving pipeline access disputes at issue under MMS's purview, the application of those standards may necessarily differ from FERC's processes under its differing statutory authorities. Thus, MMS continues to decline to adopt specific standards clarifying what constitutes discriminatory behavior or whether denial of open access has occurred.

b. Definitions of ''OCSLA Pipeline'' and ''Transportation''

Public Comments: One pipeline commenter cautioned against MMS adopting a prescriptive approach to gathering systems, while another proposes that MMS explicitly state whether ''contract carriage'' may meet pipeline access requirements. One shipper commenter believes that the ''transportation'' definition is overly broad, and recommends that MMS exempt producers' lateral or small diameter feeder lines that do not ship others' production. Another shipper commenter indicated support for exempting deep water port facilities from these rules and for limiting the rules to encompass only those facilities that transport and not to those that produce. However, that same commenter proposed that MMS affirmatively request FERC to exempt feeder lines from application of these rules under section 5(f)(2) of OCSLA, that MMS specifically exempt FERC's ''in connection with'' gathering lines, and that MMS exempt ''lease'' facilities and lines since the rights enjoyed under the lease and granted under section 8 of OCSLA, are exclusive as opposed to the non-exclusive rights obtained under other grants of authority under section 5 of OCSLA.

MMS Response: Lateral, feeder, and lease pipelines and associated facilities that do not transport oil and gas do not require a specific exemption from these rules. The plain language of section 5(e) and (f) of OCSLA clearly states that open and nondiscriminatory access requirements apply only to pipelines that transport oil and gas. Section 5(e) addresses only transportation of oil and gas on right-of-way pipelines. If the function of laterals, feeders and gathering lines is for production purposes prior to transportation, these rules do not apply to those facilities. *See* 72 FR at 17049. However, simply because MMS, FERC, or some other entity defines a pipeline or associated facility as a lateral, a feeder, a gathering line, or otherwise production-related does not mean that such a pipeline or associated facility is used to transport oil and gas within the meaning of OCSLA. MMS does not believe that exempting FERC ''in connection with'' gathering lines is necessary. FERC has determined that ''in connection with'' pipelines fall within its jurisdiction under the Natural Gas Act (NGA), 15 U.S.C. 717–717z. Therefore, by the definition in § 291.101, FERC pipelines include ''in connection with'' pipelines. By FERC's definitions, gathering pipelines do not fall under NGA jurisdiction unless FERC determines that they are ''in connection with'' jurisdictional interstate pipelines. 15 U.S.C. 717(b). Consequently, MMS presumes that FERC will adequately address any discriminatory behavior for any pipeline access dispute that may arise for an ''in connection with'' gathering line since pipeline companies are prohibited by law from such discrimination. *Id.* at 717c(b).

MMS declines to implement the proposal to affirmatively request a blanket exemption from FERC for ''lateral'' or ''feeder lines,'' because such a request is outside the scope of this rulemaking. Although MMS views these pipelines as potentially being subject to the open and nondiscriminatory pipeline access rules, MMS elected to accept FERC's oversight on an undue discrimination basis in lieu of applying these rules to transporters' gas pipelines and associated facilities under FERC's NGA jurisdiction, and to transporters' oil pipelines and associated facilities under Department of Energy Organization Act, 49 U.S.C. 60502 (transferring jurisdiction for duties under the Interstate Commerce Act (ICA), 42 U.S.C. 7172(a) and (b)) jurisdiction. MMS believes that requiring oil and gas transporters to comply with MMS's open and nondiscrimination rules under OCSLA in addition to complying with FERC's undue discrimination standards for interstate transport under either NGA or ICA is both duplicative and unnecessary.

MMS also declines to implement the suggestion to explicitly note that ''contract carriage'' may meet the open and nondiscriminatory pipeline access requirements because MMS believes that such a broad declaration would not serve to clarify the scope or function of these rules. A suggestion that contract carriage may satisfy the open and nondiscriminatory pipeline access requirements and may create a ''safe harbor'' would not further MMS's stated objective of analyzing each case based on its factual merits. Whether a particular pipeline or related facility may be subject to the open and nondiscriminatory pipeline access rules is fact-driven, and MMS declines to categorically address every meaning and context of each transportation-related term used in the oil and gas industry and implicated in this rulemaking. Rather, MMS reaffirms its prior position that production-related pipelines and associated facilities are not subject to the open and nondiscriminatory pipeline access rules.

c. Definition of ''Serve''

The following comments respond to MMS's specific question in the Proposed Rule of whether MMS should consider other methods of delivery assurance other than personal delivery, U.S. mail, or private delivery service, *e.g.*, electronic transmission, to satisfy parties' complaint and answer notification requirements:

Public Comments: MMS received four comments on this specific question. One pipeline commenter supported the Proposed Rule as written, while one shipper commenter indicated that typical methods (not including electronic transmission) were sufficient means of notification. One pipeline commenter suggested that MMS should consider allowing electronic transmission in addition to the typical methods, and one pipeline commenter proposed allowing electronic transmission as a form of acceptable notification.

MMS Response: MMS believes that the typical forms of service notification provided for in the Proposed Rule are sufficient for the purposes of these rules. The commenters' limited interest in supporting electronic transmission as well as the low volume of complaints anticipated, suggest that the rule as proposed is adequate. Once a rule is finalized, MMS's practice is to systematically revisit its regulations to determine if circumstances indicate a change is necessary or desirable.

2. 30 CFR 291.102. May I call the MMS Hotline to informally resolve an allegation that open and nondiscriminatory access was denied?

Public Comments: One pipeline commenter observed that the informal complaint resolution process appeared lawful, and another recommended that the Hotline be available to all market participants as a resource to obtain informal advice and guidance as is FERC's Enforcement Hotline.

MMS Response: The MMS purpose for establishing the Hotline under this section is to receive allegations of denial of open and nondiscriminatory access, and to allow shippers and transporters to request ADR in § 291.103. MMS initially requested that the discussion in the ANPRM concern the usefulness of a Hotline to informally attempt to resolve shippers' and service providers' concerns regarding perceived instances of open and nondiscriminatory access violations. Based on the ANPRM responses to MMS's request, shippers and service providers generally endorsed the concept of a Hotline as an informal mechanism for dispute identification and possible resolution.

MMS's purpose for establishing a Hotline is to informally resolve concerns of shippers of possible pipeline access violations, not to offer all market participants a resource to obtain informational advice. The MMS encourages any communication that may assist in averting problems related to open and nondiscriminatory access to pipelines. Users of the Hotline will be informed that information or informational advice about such access violations provided through the Hotline is not binding on MMS or the Department of the Interior (Department).

MMS expects that certain calls into the Hotline will not be made by shippers calling about pipeline access violations and such calls will need to be redirected. Regardless, MMS does not intend to strictly control incoming Hotline calls in an effort to avoid either calls from non-shippers or errant inquiries.

3. 30 CFR 291.103. May I use alternative dispute resolution to informally resolve an allegation that open and nondiscriminatory access was denied?

Public Comments: A shipper commenter indicated that the allocation of costs for an MMS-provided facilitator in ADR was not well defined and suggested that the costs be equally divided between the parties in the dispute.

MMS Response: MMS proposed to require participants in an ADR process to pay their respective shares of all costs and fees associated with any contracted or Departmental ADR provider. MMS is not considered a party for the purposes of this section. *See infra*, 30 CFR 291.103(b). By specifying that allocation of costs be the parties' respective shares, MMS intends that the costs for MMS facilitation be equally shared unless the parties agree to some other division.

4. 30 CFR 291.104. Who may file a complaint?

a. The following comments respond to MMS's specific question of whether MMS's proposed treatment of OCSLA pipelines over which FERC exercises its Natural Gas Act or Interstate Commerce Act jurisdiction is adequate:

Public Comments: MMS received ten comments on this specific question. One shipper commenter believes that deferring to FERC does not create any inconsistencies with other agencies' actions. Another shipper commenter concurs in MMS's deference to FERC's jurisdiction, but stated that MMS must clarify that ''in connection with'' pipelines are exempt from these rules. Seven pipeline commenters supported MMS's deference to FERC jurisdiction for NGA and ICA pipelines and one pipeline commenter believes MMS's deference to FERC cannot be legally sustained.

MMS Response: MMS addresses the recommendation to clarify the status of ''in connection with'' pipelines in its response above to the definitions' comments under § 291.101. The reason for the commenter's belief that MMS's deference to FERC cannot be legally sustained is based on the *Williams* court's finding that FERC has an extremely limited role under OCSLA.

However, the decision to defer to FERC to ensure open and nondiscriminatory access to OCS pipelines is made pursuant to MMS's authority under OCSLA not FERC's authority. MMS recognizes that FERC possesses a parallel authority to prevent undue discrimination access to OCS pipelines subject to the NGA and ICA. MMS believes that its authority under OCSLA and FERC's parallel authorities to prevent undue discrimination access to pipelines subject to NGA and ICA essentially duplicate each other and permit MMS to exercise discretion not to duplicate FERC compliance efforts. MMS believes FERC's anti-discriminatory compliance oversight under the NGA and ICA will ensure open and nondiscriminatory access to pipelines under the OCSLA for those pipelines subject to the NGA and ICA

b. The following comments also relate to complaint filing under § 291.104:

Public Comments: One shipper commenter recommended that MMS allow interested non-parties to intervene in filed complaints, while another shipper commenter proposed that any interested party be allowed to intervene as the commenter believes is contemplated by 5 U.S.C. 555(b) of the Administrative Procedure Act (APA) and in a manner similar to FERC's Rules of Practice and Procedure at 18 CFR 385.206 and 385.214. The commenter believes that where its interests may be affected by precedents established by adjudication of complaints under this rule, then the rule should provide for interested party intervention.

MMS Response: As explained above in subsection A, General Comments, regarding MMS as a shipper of RIK production and the perceived conflict of interest, MMS believes that its administrative form of dispute resolution (the so-called paper hearing) is very successful. It is important to avoid any modification of that process that would lead to a more extensive and more complicated formal complaint process. There has been no evidence presented to indicate that a more extensive complaint process is necessary. MMS does not agree that intervention by right would serve the interest of efficient complaint resolution. However, the rule permits a potentially affected person to submit a brief in the proceeding setting forth the submitter's interest in the matter, recommendations, and reasons for such recommendations. It would be within MMS's discretion whether to address the brief formally and to include the submitter as a party to the proceeding.

5. 30 CFR 291.105. What must a complaint contain?

a. The following comments respond to MMS's specific question of whether MMS should use a formal complaint resolution method other than that proposed:

Public Comments: MMS received seven comments on this specific question. One shipper commenter did not provide a formal dispute alternative to MMS's proposal, but indicated that it preferred the light-handed resolution approach using the MMS Hotline and ADR. Six pipeline commenters expressed general support for the proposed formal dispute resolution process, but two of them qualified their support. The two qualifications to MMS's formal resolution procedure are: (1) that MMS remain flexible where circumstances suggest a need for additional or different procedures; and (2) that MMS avoid ratemaking or cost-based examinations.

MMS Response: In regard to the flexibility of MMS's dispute resolution procedures, MMS does not believe that additional flexibility is needed beyond the Hotline, ADR, and formal complaint resolution procedures. After the public meetings following the issuance of the ANPRM, MMS concluded that the industry has been able to resolve all but a very few of the types of complaints which the Proposed Rule would address. Thus, MMS believes that the three proposed means of dispute resolution are adequate for the anticipated need. Concerning the suggestion to avoid ratemaking, MMS does not include rate setting as a possible remedy in these rules, although cost-based examinations may provide the basis for open access determinations.

b. The following comments also relate to complaint elements under § 291.105:

Public Comments: One shipper commenter proposed allowing discovery consistent with the Federal Rules of Civil Procedure (FRCP, similar to the process that FERC employs) or that MMS allow the sharing of its discovery and that it issue protective orders as a means of ensuring the confidentiality of information. Also, where genuine issues of material fact exist, the commenter proposed that MMS provide for evidentiary hearings. Another shipper commenter proposed that MMS first establish the informal mechanisms before the formal procedures are put into place. One pipeline commenter suggested that MMS not cause any unnecessary discovery burdens. Another pipeline commenter expressed support for the complaint process particularly with respect to the case-by-case basis rather than by prescriptive regulation. Finally, a pipeline commenter suggested that MMS consider issuing a policy statement of its understanding of what the commenter characterizes as the pro-competitive form of regulation called for under OCSLA versus the pervasive command and control common-carrier regulation found in the NGA, ICA and MLA.

MMS Response: The MMS carefully considered whether it should adopt a formal complaint procedure similar to that of FERC. MMS determined that it would adopt as a model the appeal process for royalty disputes at 30 CFR Part 290, subpart B, because of the number of disputes anticipated (based on FERC's prior experience), the costs, and the labor involved. MMS believes that this process is more cost-effective and less intrusive, and thus lessens the chilling effect that a more extensive formal process would have on prospective complainants. MMS concluded that adopting a FERC-type of formal process that included discovery, evidentiary hearings, protective orders, etc., would hamper MMS's efforts to encourage resolution of these issues.

With respect to the comment about initiating the informal process before establishing formal processes, MMS previously addressed the need to issue the informal and formal dispute resolution processes concurrently. MMS believes that without the potential of some consequences, there is no reason for a pipeline owner to participate in a voluntary or an administrative process. MMS does not want prospective complainants to be forced into court as the sole means of resolving open access disputes.

MMS declines to implement the suggestion that MMS issue a policy statement expressing its understanding that OCSLA may be characterized as a pro-competitive form of regulation rather than the pervasive command and control form of common carrier regulation found in the NGA, ICA and MLA. This particular policy statement supports the commenter's position that MMS refrain from adopting any formal complaint resolution procedures. MMS declined to adopt that suggestion for the reasons explained above, that an informal process, absent a formal process, would be insufficient to secure compliance. The new Part 291 represents MMS's policy regarding its mandate to ensure open and nondiscriminatory access to OCS pipelines.

6. 30 CFR 291.106. How do I file a complaint?

The following comments respond to MMS's specific question of whether

MMS should impose a time limit on the filing of complaints:

Public Comments: MMS received eight comments on this specific question. The commenters all provided suggested time limits for complaint filing. The suggested time limits were 60–90 days (1 respondent), 90 days (1 respondent), 6 months (1 respondent), 1 year (1 respondent), and 2 years (4 respondents with two mentioning ICA complaint limitations standards). The suggestions varied between both shipper and pipeline commenters. Most of the comments suggested that the time period begin from the time of the alleged denial, alleged discrimination, or cause of action. However, one commenter suggested the time period commence from the time the complainant knew or should have known of the violation. Another commenter believes that an additional time limit should be created and imposed on those seeking informal complaint resolution.

MMS Response: The MMS agrees with the reasoning of the majority of the commenters responding to this question. The commenters were primarily concerned with the availability of relevant documentary evidence before it becomes stale or unavailable and with the need to provide certainty and ensure finality of transactions for activities undertaken on the OCS. The commenters also expressed concern: (1) That parties should not be indefinitely exposed to potential claims and uncertainties arising from past actions; (2) that limitations should be imposed out of a sense of fairness and administrative efficiency; and (3) that a potential exists for shippers to use a complaint threat as leverage against pipeline companies or otherwise achieve an unfair advantage. The MMS believes that a 2-year limitation period from the alleged denial for initiating a formal complaint is appropriate and addresses the commenters' concerns, and has adopted this recommendation in the final rule.

7. 30 CFR 291.107. How do I answer a complaint?

a. The following comments respond to MMS's specific question of whether an answer in response to a complaint should include specific information other than that required by the Proposed Rule:

Public Comments: MMS received five comments on this specific question. Four of the commenters indicated support for the rule as proposed. One pipeline commenter suggested that answers should include specific information in addition to that required if the additional information would expedite resolution of the dispute.

MMS Response: MMS agrees that any information that may expedite the resolution process should be required under this rule and MMS sought comments on what other information might be needed in the Proposed Rule. Had the commenters identified such information, MMS would have considered including it as part of this regulation. However, due to the absence of suggestions on this matter from commenters, no further information requirements have been adopted. MMS has the authority to require submittal of additional information in the course of resolving open and nondiscriminatory pipeline access disputes whenever it determines that the additional information is necessary to resolve the dispute. *See infra* 30 CFR 291.110.

b. The following comments also relate to submitting answers in response to complaints under § 291.107:

Public Comments: One shipper commenter recommends streamlining the complaint process by shortening the time to answer a complaint by 30 days from the proposed 60 days. The commenter indicates that a 30-day response period is consistent with FERC's complaint procedures allowing only 20 days to respond (30 days for confidential treatment) and with the FRCP, which also requires answers to be filed within 20 days of the service of complaint.

MMS Response: The MMS declines to implement the recommendation to shorten the required response time to answer complaints. The MMS believes that the 60-day period is necessary to prepare an answer that is sufficiently researched and documented.

8. 30 CFR 291.108. How do I pay the processing fee?

a. The following comments respond to MMS's specific questions of whether the amount of processing fee is fair; whether the payment by electronic funds transfer is feasible; and what form of identification should be used to submit fees to MMS:

Public Comments: MMS received three comments on these specific questions. A pipeline commenter expressed support for the rule as proposed. However, two shipper commenters expressed opposing views. One shipper commenter proposed eliminating the complaint filing fee altogether, while the other shipper commenter suggested imposing an additional fee of $15,000 per complaint in order to discourage frivolous filings.

MMS Response: The commenter proposing that the filing fee be eliminated argues that the fee is not justified under the Independent Offices Appropriation Act. MMS does not agree with the commenter's rationale and opts to retain the filing fee as proposed. As stated in the Proposed Rule, the party seeking compliance under this rule is not the regulated entity. However, MMS believes that there is no question that the complaining party receives a ''special benefit'' from the services performed by MMS in processing the formal complaint. This ''special benefit'' standard triggers mandated cost-recovery compliance. Since publication of the Proposed Rule, MMS re-estimated the total actual costs to process a formal complaint to be $12,627 (the cost for government personnel was reduced from $80/hour to $74/hour), but the reasons stated in the cost recovery analysis in the preamble to the Proposed Rule neither support increasing the filing fee above the proposed $7,500, nor would they support a $15,000 supplemental fee. MMS believes the $7,500 filing fee is both reasonable and protects against frivolous filings.

In the Proposed Rule, MMS provided alternative means of processing fee payment in addition to electronic funds transfer. However, the acceptance of checks and other alternative payment means was subject to MMS's sole discretion. MMS received no comments about the alternative payment proposal, and MMS received no comments on the specific question regarding the feasibility of electronic funds transfer. Upon further review, MMS has determined that it will prohibit any alternative means of payment in this section. Payment by check and other means for complaint processing costs is inefficient and creates unnecessary administrative burdens.

b. The following comments respond to MMS's specific questions of whether the proposed processing fee will materially affect the filing of complaints, and whether the value of using the complaint process to complainants, transporters, and others is fairly presented:

Public Comments: MMS received three comments on these specific questions. All three commenters responding to these questions indicated that the impact of the processing fee appears immaterial since cost is not an impediment for OCS shippers. Although related to MMS's specific question below, a pipeline commenter included in its response a proposal to eliminate the regulation providing for fee waivers and reductions.

MMS Response: The comment regarding elimination of the fee waiver and reduction regulation is addressed

below in response to comments on § 291.109.

9. 30 CFR 291.109. Can I ask for a fee waiver or a reduced processing fee?

The following comments respond to MMS's specific question of whether processing fee waiver and reduction provisions should be retained:

Public Comments: In addition to the response from the prior question, MMS received three other comments on this specific question. One commenter deferred to MMS on this question, and three commenters recommended eliminating this section as inappropriate and unnecessary.

MMS Response: MMS declines to eliminate this section as unnecessary. The proposal to reduce or waive filing fees was included in the Proposed Rule to avoid undue hardship on small independent oil and gas producers/shippers and thus impede their access to the complaint process. The commenters point out that entities who engage in producing, shipping or other oil and gas business activities on the OCS (those entities that have a basis to claim denial of pipeline access) are large sophisticated entities for whom a $7,500 filing fee would not prove to be an impediment. However, MMS declines to exclude the ability to respond to circumstances that would warrant granting of relief.

10. 30 CFR 291.110. Who may MMS require to produce information?

a. The following comments respond to MMS's specific question of whether MMS should obtain information from persons who are not parties to a complaint:

Public Comments: MMS received five comments on this specific question. Three pipeline commenters indicated support for MMS gathering information from non-parties, but all three qualified their support. One commenter cautioned that confidentiality should be maintained for outside information providers. Another commenter believes that the need to subpoena information is best left on a case-by-case basis, and the third commenter suggested possibly adding a threshold measure of proof before accepting a complaint. One pipeline and one shipper commenter recommended not allowing non-party information because it could not be validated or disputed without due diligence by all parties.

MMS Response: Regardless of the source, MMS believes it is necessary to treat all submitted information under part 291 as confidential to the extent allowed by law. The need to collect information from non-parties will not become routine and will only occur when there is additional information that MMS believes is necessary to make a decision on whether open access or nondiscriminatory access was denied. MMS believes that requiring certain non-parties to provide information upon request is less burdensome than requiring the routine submittal of information from all transporters and service providers. Also, MMS does not believe that a threshold level of proof is necessary before a complaint can be filed. The regulation at § 291.105 requires that the allegations include all documents that support the facts in your complaint including, but not limited to, contracts and any affidavits that may be necessary to support particular factual allegations. As with MMS appeals, unsupported assertions will not initiate complaint fact-finding efforts by MMS and will not move the complaint forward. However, MMS agrees that non-party information must be made available to the parties in dispute to afford them the opportunity to challenge that information. To the extent that the information would not be made available under 30 CFR 291.111, it is likely that MMS would not rely on it in resolving a complaint. Under MMS's appeals process, whenever MMS obtains supplemental information to process an appeal, that information, if it is not confidential, is provided to the other parties with an opportunity for the parties to supplement their pleadings. MMS conducts this information exchange in the absence of any formal procedure or regulatory provision. Similarly, MMS intends to follow that information exchange practice for non-party information obtained by MMS in resolving open and nondiscriminatory pipeline access complaints. In other words, MMS's long-standing practice in resolving royalty disputes is to send any relevant information it obtains to all parties. MMS would continue this practice in actions filed under this part.

b. The following comments also relate to reporting information under § 291.110:

i. Routine information reporting.

Public Comments: Eight commenters submitted comments on the general subject of information reporting requirements. A cross-section of six commenters supported the Proposed Rule's absence of routine reporting requirements, but one other commenter believes that no authority under OCSLA exists to require routine reporting. A shipper commenter suggested that a reporting scheme was essential because shippers do not have access to pipeline companies' rates and terms of service. The commenter's extensive reporting proposal recommended including the following: Oil and gas production handling services, public reporting, rate and material economic terms, quarterly updates, and penalties for inaccurate reporting. However, the proposal exempted NGA and ICA pipelines from the reporting requirements. As an alternative to required reporting, the commenter suggested that MMS publish all of its RIK terms of service.

MMS Response: The routine submittal of information by service providers and pipeline companies that are not involved in complaint proceedings is not ''essential'' to MMS's mandate of assuring open and nondiscriminatory pipeline access on the OCS. MMS believes that it can satisfy its mandate by utilizing the information requirements specified in Part 291. Further, entities responding to this Proposed Rule did not provide any of the specifics of the number and type of instances of violations of the open and nondiscriminatory access requirements to support requiring a more vigorous information collection. Thus, as stated in the preamble to the Proposed Rule, MMS does not believe that there is sufficient reason to require the routine submittal of information.

MMS believes that publishing the terms of service for all its RIK transportation contracts would serve little or no purpose. When negotiating with service providers on the OCS (and elsewhere), MMS is uniquely positioned for those negotiations. To the extent that no other shipper may be able to duplicate that position, other shippers must view MMS's negotiation results in that context. Whether that perception may be helpful to other shippers is a matter of conjecture. Thus, MMS declines to make the terms of service information available. However, the rates that MMS pays on NGA and ICA-regulated pipelines are already available to the public.

ii. Challenging information requests.

Public Comments: One of the six pipeline commenters identified above as a supporter of MMS's information collection proposal, suggested allowing parties to challenge requests for information on the grounds that the information sought is irrelevant, privileged, commercially sensitive, or overly burdensome to produce (to assist in satisfying due process requirements). The commenter specifically suggested that MMS add the following provisions: ''(1) The MMS may only request information from parties to a complaint proceeding; (2) parties that are requested to produce additional information may object to the request; and (3) in ruling on objections to requests for the production of information, the MMS will balance the

need for the information to resolve the then-pending dispute against the burden on production and the commercial risk of disclosure of proprietary, commercially sensitive or privileged information.''

MMS Response: The MMS also declines to adopt the suggested amendments allowing parties to object to information requests. First, MMS believes that limiting information collection only to parties inhibits its ability to assure the open and nondiscriminatory access to OCS pipelines. As stated above, MMS will require information from non-parties only when MMS believes it is necessary. Second, the rule does not preclude any party from objecting to an MMS request for information. Because the rule does not specifically address such objections, it would be at MMS's discretion whether to consider and respond to such an objection. Third, allowing a formal process of objections, denials, and appeals, would needlessly add another layer to the process of determining whether the requirement to provide open and nondiscriminatory access has been denied. Because any concerns the submitter may have regarding keeping such information confidential are addressed at section 291.111, MMS does not consider it necessary to add any additional protections. Therefore, MMS declines to institute a FERC-type dispute resolution process by allowing for information challenges because they would needlessly complicate MMS's formal complaint adjudication process.

11. 30 CFR 291.111. How do I request that MMS treat information I provide as confidential?

Public Comments: Two commenters submitted proposals that broadly relate to submittal of information and confidentiality in § 291.111. Both commenters proposed timely public access to complaints, answers, and decisions. They suggested that MMS publish all complaint proceedings on its Web site or in the **Federal Register**.

MMS Response: As with its current appeals process, MMS intends to transmit its complaint decisions to the Gower Federal Service for publication. For subsequent adjudication before IBLA and the courts, results are published through their respective reporter services for external dissemination. Also, as with the appeals process, MMS responds to information requests pursuant to the requirements of the Freedom of Information Act (FOIA), 5 U.S.C. 552.

12. 30 CFR 291.113. What actions may MMS take to remedy denial of open and nondiscriminatory access?

Public Comments: Four commenters addressed the issue of remedies in § 291.113. Two pipeline commenters recommended changes to the 60-day grace period prior to imposition of civil penalties. One commenter suggested allowing a reasonable period not less than 60 days after a decision, and the other commenter proposed that the period be revised to 10 days after diligent construction of needed facilities, but no earlier than 60 days. A shipper commenter proposed including monetary/equitable relief to make complainant whole for its losses. The commenter also suggested that MMS include expedited relief where the complainant can demonstrate imminent irreparable injury similar to FERC's provisions at 18 CFR 385.206(h). One pipeline commenter simply posed the question of what remedies will apply to a determination of excess transportation rates.

MMS Response: If the appropriate remedy to provide open and nondiscriminatory pipeline access includes the construction of facilities such as an interconnecting pipeline, MMS agrees that in such a case, 60 days may not be adequate to comply with the MMS order. Thus, a grantee or transporter has a period of 10 days after the conclusion of diligent construction of needed facilities or 60 days after receipt of the MMS order, whichever is later, to comply and provide open and nondiscriminatory access to its OCS pipelines.

Concerning equitable relief for denial of access, MMS believes that such relief is not authorized under OCSLA. The purpose of this rule is to assure open and nondiscriminatory access to OCS pipelines, not to make whole the injured party of such actions. That is an appropriate role for the courts. MMS believes the penalty provisions authorized under OCSLA provide an appropriate response to any violation of and deterrent against acts denying open and nondiscriminatory access to pipelines on the OCS. MMS also declines to include provisions for expedited relief. MMS is not aware of any instances of ''irreparable'' injury incurred by shippers that would require the need for expedited relief. Section 291.113 describes the available actions MMS may take to remedy instances of denial of access. Further, the same remedial provisions apply if the access denial is the result of excessive transportation rates.

13. 30 CFR 291.115. How do I exhaust administrative remedies?

The following comments respond to MMS's specific question of whether MMS should automatically stay each decision pending an appeal to IBLA:

Public Comments: MMS received five comments on this specific question. Two pipeline commenters support the rule as written. However, three shipper commenters oppose providing for an automatic stay to decisions on complaints. One urged that the question of a stay should be determined on a case-by-case basis. Another suggested that the automatic issuance of a stay defeats the fair and reasonable process. The third shipper commenter proposed that decisions be effective on issuance and subject to a stay only if granted by IBLA. This commenter believes its proposal is consistent with the regulations governing other OCS operations and with 30 CFR 290.7.

MMS Response: The MMS declines to adopt the suggestions to eliminate automatic stays of decisions. We decline to eliminate the automatic stay because in the vast majority of cases, the appellee would not be injured by a stay. This is because we believe that the decisions will primarily deal with whether pipeline pricing should be adjusted. If the Director rules for the pipeline, status quo would be maintained and the stay question would not be an issue. On the other hand, if the Director ordered a pipeline to adjust its rates, the effective date of the rate adjustment would be established by the Director's decision. In the event the decision would be reviewed by the IBLA, any affirmation of the rate adjustment would be retroactive to the effective date established by the Director's decision. In such a case, the retroactive lowering of the pipeline's rates would put the parties in the same place they would have been on the day the Director's decision was issued. Thus, we believe that it would be a waste of time and money to require a party to file a petition requesting the IBLA to stay the decision, for the parties to brief the issue, and for the IBLA to have to issue a decision on such a petition.

However, in what we believe to be the unlikely instance where the proceedings before the Director would show that a pipeline's denial of open or non-discriminatory access would likely cause dire and irreversible consequences to a producer, the rule provides for a safeguard. It states that either the MMS Director or the Assistant Secretary can make the decision effective upon issuance. 30 CFR 291.115(b).

III. Procedural Matters

1. Regulatory Planning and Review (Executive Order 12866)

This is not a significant rule as determined by the Office of Management and Budget and is not subject to review under Executive Order 12866.

a. This rule will not have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. From the inception of Order 639, FERC received only a few formal complaints and approximately ten informal hotline complaints regarding open and nondiscriminatory access. MMS expects to receive approximately five formal complaints and fifty calls to the MMS Hotline in the first year, and fewer in subsequent years. MMS bases this estimate on the number of OCSLA open and nondiscriminatory complaints FERC received, comments MMS received at the public workshops, and in response to the Advance Notice of Proposed Rulemaking and Proposed Rule. MMS conducted an economic analysis for a five-year period to estimate the net benefits from implementing this rule. Projected costs and benefits from the proposed complaint program are incremental from a baseline which MMS established to represent the current state of shipper and pipeline transactions on the OCS.

MMS decisions favorable to complainants would increase revenue received by shippers/producers, and royalty payments would also increase. The analysis shows that over that five-year period, the total gross baseline benefits to shippers/producers and the public would be within the range of $4.4 million to $27 million, with a most likely estimate of $13 million.

These benefits would be offset by the cost of compliance with the rule, *e.g.*, ADR, complaint filings, litigation, etc., and a decrease in tariff revenue paid to pipeline companies. The total of these costs is almost equal to the baseline benefits. Net benefits to shippers/producers and the public could range from $0.12 million to $0.60 million, with a most likely estimate of $0.24 million.

The rule will not create an adverse effect upon the ability of the United States offshore oil and gas industry to compete in the world marketplace, nor will the rule adversely affect investment or employment factors locally. As noted during the public meetings held by MMS, it appears that the industry has been able to resolve all but a very few of the types of complaints the rule addresses through the normal course of finding, developing and marketing resources on the OCS. Because of this history, MMS concludes that the economic effects of the rule will not be significant. In disputed cases, intervention by MMS could result in the shifting of costs and revenue among the parties. Business transactions could be altered in a way that ensures shippers can move production. The economy could benefit if additional reserves are recovered and sold. Regardless, MMS concludes that aggregate direct effects on the economy for the rule would not exceed the $100 million threshold in any year.

b. This final rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. The rule does not change the relationships of the OCS oil and gas leasing program with other agencies. These relationships are usually encompassed in agreements and memoranda of understanding that would not change with this rule. By deferring to FERC when FERC has retained and exercised jurisdiction, MMS has structured the rule to ensure that it would not create any inconsistencies with FERC's actions.

c. This rule does not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights and obligations of their recipients. The rule simply includes requirements for the filing and processing of complaints concerning open and nondiscriminatory access on the OCS.

d. This rule does not raise novel legal or policy issues. The rule merely sets out the rules for filing complaints, investigating, and adjudicating matters related to the requirements for pipeline companies to offer open and nondiscriminatory transportation of OCS production.

2. Regulatory Flexibility Act (RFA)

MMS certifies that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). While the rule may affect some small entities, the economic effects of the rule are not expected to be significant.

The regulated community for this proposal consists of companies specializing in leasing, developing, and operating offshore oil and gas properties, and providing pipeline services. The companies that this rule will affect can be divided into two types: (1) Companies using the services of pipeline transportation and (2) companies providing pipeline transportation. Almost all producers that ship production on or across the OCS are represented by the Small Business Administration's North American Industry Classification System (NAICS) code 211111 (crude petroleum and natural gas extraction). For this NAICS code, a small company is one with fewer than 500 employees. Within this group, approximately 90 of 130 are small companies. Those small companies providing pipeline transportation are represented primarily by NAICS codes 486110 (crude petroleum pipelines) (For this NAICS code, a small company is one with fewer than 1,500 employees) and 486210 (natural gas transmission pipelines) (For this NAICS code, a small company is one with gross annual receipts of $5 million or less). Within this second group, approximately 180 of 220 are small companies. In total, 270 of 350 companies affected by this rule, or approximately 77%, are small entities. Therefore, MMS concludes this rule will affect a substantial number of small entities.

This rule will not have a significant economic effect on these small entities. This rule is unlikely to impose a net cost on any small company shipping production, because the option to file a complaint is a discretionary act and a company is unlikely to file a complaint unless it perceives the benefits will exceed the cost. In the event a small pipeline company is found to be in violation of the open and non-discriminatory access provisions of OCSLA, the violation would presumably be resolved by some adjustment of the business relationship between the parties to the dispute. In these cases, the complaining producers would benefit financially, and the public could benefit from the production of these reserves. On the other hand, pipeline companies would be obliged to accept less profitable business arrangements.

If the fraction of small to large companies providing pipeline services is applied to the number of complaints expected in the first year, MMS estimates 4–5 cases would be processed that could affect the degree of profitability of the 180 pipeline service providers fitting the small company criteria. MMS estimates there would be fewer cases in subsequent years, dropping to an estimated 1 case 5 years after the effective date of this rule, in the most likely scenario. So, it can be concluded that the MMS pipeline anti-discrimination program will not have a significant economic impact on a

substantial number of small pipeline companies.

Your comments are important. The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness boards were established to receive comments from small businesses about Federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MMS, call toll-free 1–888–REG–FAIR (1–888–734–3247). You may comment to the Small Business Administration without fear of retaliation. Disciplinary action for retaliation by an MMS employee may include suspension or termination from employment with the Department of the Interior.

3. Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under SBREFA (5 U.S.C. 804(2)). The rule does not change significantly the cost of transporting oil or gas through pipelines on the OCS. Indeed, MMS expects the rule to decrease transportation costs overall. Based on economic analysis:

a. This rule will not have an annual effect on the economy of $100 million or more. As indicated in MMS's analysis, the economic impact to industry will be minimal. The rule will have a minor economic effect on the offshore oil and gas industries.

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

c. This rule will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises.

4. Paperwork Reduction Act of 1995 (PRA)

This rulemaking contains information collection requirements, and MMS submitted an information collection package to the Office of Management and Budget (OMB) for review and approval under section 3507(d) of the PRA. The title of the collection of information is ''30 CFR Part 291, Open and Nondiscriminatory Access to Oil and Gas Pipelines.'' The OMB approved the information collection for this rule and assigned OMB Control Number 1010–0172 (exp. date June 30, 2011) for 254 hours and $37,500 in nonhour burden costs. The PRA provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves the collection of information and assigns a control number, you are not required to respond.

There are approximately 220 potential respondents. The frequency of reporting and recordkeeping is generally on occasion. Responses are required to obtain or retain benefits. The information collection does not include questions of a sensitive nature. The MMS will protect information considered proprietary and will not disclose documents exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552) and its implementing regulations (43 CFR part 2).

The rule implements complaint procedures to address allegations that a shipper has been denied open and nondiscriminatory access to a pipeline as sections 5(e) and (f) of the OCSLA require. The MMS intends to use the information collected to determine whether the shipper has been denied open and nondiscriminatory access. The complaint information will be provided to the alleged offending party. Informal resolution is provided as an option.

Shippers submitting a complaint are asked to identify the alleged action or inaction, explain how the action violates 43 U.S.C. 1334(e) or (f) and how the action affects their business interests, state the relief or remedy requested, and provide supporting documentation.

The MMS estimates that the total annual reporting and recordkeeping ''hour'' burden for the rule is 254 hours. (See the table below for a breakdown of requirements and hour burdens.) There was one change (−1 hour burden) in the information collection requirements from the Proposed Rule to the Final Rule. The MMS determined that electronic payment of the fee is the most efficient method and therefore eliminated alternative payment methods such as checks.

Citation 30 CFR 291	Reporting & recordkeeping requirement	Hour burden	Average No. annual responses	Annual burden hours
105, 106, 108, 109, 111	Submit complaint (with fee) to MMS and affected parties. Request confidential treatment and respond to MMS decision.	50	5	250
106(b), 109	Request waiver or reduction of fee	1	4	4
104(b), 107, 111	Submit response to a complaint. Request confidential treatment and respond to [MMS] decision.	Information required after an investigation is opened against a specific entity is exempt under the PRA (5 CFR 1320.4)		0
110	Submit required information for MMS to make a decision.			
114, 115(a)	Submit appeal on MMS final decision			
Total burden			9	254

The rule (§§ 291.106(b) and 108) also states that shippers pay a nonrefundable fee of $7,500 when filing a complaint with MMS. The fee is required to recover the Federal Government's processing costs. Therefore, MMS estimates that the annual non-hour cost burden for this rulemaking is $37,500, based on five complaints per year.

Section 291.103 of the rule provides for alternative dispute resolution to informally resolve an allegation that access was denied. The request has the appearance of information collection, but because there is no structure required for the request process, a burden hour is not assigned.

In the Proposed Rule, MMS asked for responses to several questions about the regulatory requirements and complaint process being proposed. Although MMS

received comments on the regulatory requirements and on the fee, we did not receive any comments on the actual hour burdens. Some of the relevant comments are discussed below with more detail provided in Section II.B. of the Preamble.

Some commenters wanted to see a more detailed, formal discovery and reporting process, similar to what FERC employs; however, MMS determined that it would proceed to mirror MMS's appeals process for royalty disputes because of the small number of anticipated disputes (five) and because of cost and labor efficiencies. In the Proposed Rule, MMS also sought recommendations about any specific information that it should require that would expedite the dispute resolution process. The commenters did not offer any suggestions about specific information requirements; therefore, no further information requirements were made.

With regard to the processing fee, MMS received opposing comments. Some commenters wanted to eliminate the fee, while another suggested a much higher fee to avoid frivolous filings. Another commenter supported the rule as proposed. Based on the cost recovery analysis of the Proposed Rule, MMS believes the stated fee is both reasonable and protects against frivolous filings. Three commenters also recommended eliminating the provision for fee waivers or reduction, saying that the fee is immaterial for OCS shippers. The MMS believes this provision helps small businesses avoid undue hardships that could impede their access to the complaint process.

One commenter proposed allowing parties to object to information requests, while another suggested that a routine reporting scheme was essential. The MMS believes that limiting information collection only to parties inhibits its ability to assure the open and nondiscriminatory access to OCS pipelines. The MMS also emphasized that the need to collect information from nonparties will only occur when MMS believes it is necessary. The ability to obtain needed information is justified in lieu of requiring the routine submission of information from all transporters and service providers, which would increase the reporting burden.

The public may comment, at any time, on any aspect of the reporting and cost burden in this rule. You may submit your comments directly to the Department of the Interior, Minerals Management Service, Attn: Information Collection Clearance Officer, Policy & Appeals Division, Mail Stop 4230, 1849 C Street, NW., Washington, DC 20240.

5. Federalism (Executive Order 13132)

Under the criteria in Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. This action does not limit the policymaking discretion of any State. It does not change the roles of Federal, State, or local governments. A Federalism Assessment is not required.

6. Takings (Executive Order 12630)

Under the criteria in Executive Order 12630, this rule does not have significant takings implications. A takings implication assessment is not required.

7. Civil Justice Reform (Executive Order 12988)

This rule complies with the requirements of Executive Order 12988. Specifically, this rule:

(a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

8. Unfunded Mandates Reform Act of 1995 (UMRA)

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

9. National Environmental Policy Act of 1969 (NEPA)

This rule does not constitute a major Federal action, under 42 U.S.C. 4332(c), significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 is not required. The MMS has analyzed this Proposed Rule under the criteria of the National Environmental Policy Act and the policies of the Department of the Interior set forth in 516 Departmental Manual 15. This Proposed Rule meets the requirements of 516 Departmental Manual 2 (Appendix 1.10) for a Departmental ''Categorical Exclusion'' in that this Proposed Rule is ''of an administrative, financial, legal, technical, or procedural nature and whose environmental effects are too broad, speculative, or conjectural to lend themselves to meaningful analysis. * * *'' This Proposed Rule also meets the criteria set forth in 516 Departmental Manual 15.4(C)(1) for a MMS ''Categorical Exclusion'' in that its impacts are limited to administration, economic or technological effects. Further, the MMS has analyzed this Proposed Rule to determine if it meets any of the extraordinary circumstances that would require an environmental assessment or an environmental impact statement as set forth in 516 Departmental Manual 2.3, and Appendix 2. The MMS concluded that this rule does not meet any of the criteria for extraordinary circumstances set forth in 516 Departmental Manual 2 (Appendix 2).

10. Effects on the Nation's Energy Supply (Executive Order 13211)

This rule is not a significant energy action under the definition in Executive Order 13211. A Statement of Energy Effects is not required.

11. Consultation and Coordination With Indian Tribal Governments (Executive Order 13175)

Under the criteria in Executive Order 13175, we have evaluated this rule and determined that it has no potential effects on federally-recognized Indian tribes.

12. Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), we have evaluated potential effects on federally-recognized Indian tribes. This rule does not apply to Indian tribes or trust assets.

13. Data Quality Act

In developing this rule we did not conduct or use a study, experiment, or survey requiring peer review under the Data Quality Act (Pub. L. 106–554).

List of Subjects in 30 CFR Part 291

Administrative practice and procedures, Alternative dispute resolution, Complaints, Continental shelf, Government contracts, Hotline, Natural gas, Oil, Penalties, Petroleum, Pipelines, Public lands—mineral resources, Public lands—rights-of-way, Remedies, Reporting requirements, and Transportation.

Dated: May 2, 2008.

C. Stephen Allred,

Assistant Secretary—Land and Minerals Management.

■ For the reasons set out in the preamble, MMS is adding to title 30 of

the Code of Federal Regulations a new Part 291 as follows:

Title 30—Mineral Resources

Subchapter C—Appeals and Complaints

PART 291—OPEN AND NONDISCRIMINATORY ACCESS TO OIL AND GAS PIPELINES UNDER THE OUTER CONTINENTAL SHELF LANDS ACT

Sec.
291.1 What is MMS's authority to collect information?
291.100 What is the purpose of this part?
291.101 What definitions apply to this part?
291.102 May I call the MMS Hotline to informally resolve an allegation that open and nondiscriminatory access was denied?
291.103 May I use alternative dispute resolution to informally resolve an allegation that open and nondiscriminatory access was denied?
291.104 Who may file a complaint or a third-party brief?
291.105 What must a complaint contain?
291.106 How do I file a complaint?
291.107 How do I answer a complaint?
291.108 How do I pay the processing fee?
291.109 Can I ask for a fee waiver or a reduced processing fee?
291.110 Who may MMS require to produce information?
291.111 How does MMS treat the confidential information that I provide?
291.112 What process will MMS follow in rendering a decision on whether a grantee or transporter has provided open and nondiscriminatory access?
291.113 What actions may MMS take to remedy denial of open and nondiscriminatory access?
291.114 How do I appeal to the IBLA?
291.115 How do I exhaust administrative remedies?

Authority: 43 U.S.C. 1334, 31 U.S.C. 9701, section 342 of the Energy Policy Act of 2005.

§ 291.1 What is MMS's authority to collect information?

(a) The Office of Management and Budget (OMB) has approved the information collection requirements in this part under 44 U.S.C. 3501 *et seq.*, and assigned OMB Control Number 1010–0172.

(b) 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.

(c) We use the information collected to determine whether or not the shipper has been denied open and nondiscriminatory access to Outer Continental Shelf (OCS) pipelines as sections of 5(e) and (f) of the OCS Lands Act (OCSLA) require.

(d) Respondents are companies that ship or transport oil and gas production across the OCS. Responses are required to obtain or retain benefits. We will protect information considered proprietary under applicable law.

(e) Send comments regarding any aspect of the collection of information under this part, including suggestions for reducing the burden, to the Information Collection Clearance Officer, Minerals Management Service, Mail Stop 4230, 1849 C Street, NW., Washington, DC 20240.

§ 291.100 What is the purpose of this part?

This part:

(a) Explains the procedures for filing a complaint with the Director, Minerals Management Service (MMS) alleging that a grantee or transporter has denied a shipper of production from the OCS open and nondiscriminatory access to a pipeline;

(b) Explains the procedures MMS will employ to determine whether violations of the requirements of the OCSLA have occurred, and to remedy any violations; and

(c) Provides for alternative informal means of resolving pipeline access disputes through either Hotline-assisted procedures or alternative dispute resolution (ADR).

§ 291.101 What definitions apply to this part?

As used in this part:

Accessory means a platform, a major subsea manifold, or similar subsea structure attached to a right-of-way (ROW) pipeline to support pump stations, compressors, manifolds, etc. The site used for an accessory is part of the pipeline ROW grant.

Appurtenance means equipment, device, apparatus, or other object attached to a horizontal component or riser. Examples include anodes, valves, flanges, fittings, umbilicals, subsea manifolds, templates, pipeline end modules (PLEMs), pipeline end terminals (PLETs), anode sleds, other sleds, and jumpers (other than jumpers connecting subsea wells to manifolds).

FERC pipeline means any pipeline within the jurisdiction of the Federal Energy Regulatory Commission (FERC) under the Natural Gas Act, 15 U.S.C. 717–717z, or the Interstate Commerce Act, 42 U.S.C. 7172(a) and (b).

Grantee means any person to whom MMS has issued an oil or gas pipeline permit, license, easement, right-of-way, or other grant of authority for transportation on or across the OCS under 30 CFR part 250, subpart J or 43 U.S.C. 1337(p), and any person who has an assignment of a permit, license, easement, right-of-way or other grant of authority, or who has an assignment of any rights subject to any of those grants of authority under 30 CFR part 250, subpart J or 43 U.S.C. 1337(p).

IBLA means the Interior Board of Land Appeals.

OCSLA pipeline means any oil or gas pipeline for which MMS has issued a permit, license, easement, right-of-way, or other grant of authority.

Outer Continental Shelf means all submerged lands lying seaward and outside of the area of lands beneath navigable waters as defined in section 2 of the Submerged Lands Act (43 U.S.C. 1301) and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

Party means any person who files a complaint, any person who files an answer, and MMS.

Person means an individual, corporation, government entity, partnership, association (including a trust or limited liability company), consortium, or joint venture (when established as a separate entity).

Pipeline is the piping, risers, accessories and appurtenances installed for transportation of oil and gas.

Serve means personally delivering a document to a person, or sending a document by U.S. mail or private delivery services that provide proof of delivery (such as return receipt requested) to a person.

Shipper means a person who contracts or wants to contract with a grantee or transporter to transport oil or gas through the grantee's or transporter's pipeline.

Transportation means, for purposes of this part only, the movement of oil or gas through an OCSLA pipeline.

Transporter means, for purposes of this part only, any person who owns or operates an OCSLA oil or gas pipeline.

§ 291.102 May I call the MMS Hotline to informally resolve an allegation that open and nondiscriminatory access was denied?

Before filing a complaint under § 291.106, you may attempt to informally resolve an allegation concerning open and nondiscriminatory access by calling the toll-free MMS Hotline at 1–888–232–1713.

(a) MMS Hotline staff will informally seek information needed to resolve the dispute. MMS Hotline staff will attempt to resolve disputes without litigation or other formal proceedings. The Hotline staff will not attempt to resolve matters that are before MMS or FERC in docketed proceedings.

(b) MMS Hotline staff may provide information to you and give informal oral advice. The advice given is not binding on MMS, the Department of the Interior (DOI), or any other person.

(c) To the extent permitted by law, the MMS Hotline staff will treat all information it obtains as non-public and confidential.

(d) You may call the MMS Hotline anonymously.

(e) If you contact the MMS Hotline, you may file a complaint under this part if discussions assisted by MMS Hotline staff are unsuccessful at resolving the matter.

(f) You may terminate use of the MMS Hotline procedure at any time.

§ 291.103 May I use alternative dispute resolution to informally resolve an allegation that open and nondiscriminatory access was denied?

You may ask to use ADR either before or after you file a complaint. To make a request, call the MMS at 1–888–232–1713 or write to us at the following address: Associate Director, Policy and Management Improvement, Minerals Management Service, 1849 C Street, NW., Mail Stop 4230, Washington, DC 20240–0001.

(a) You may request that ADR be administered by:

(1) A contracted ADR provider agreed to by all parties;

(2) The Department's Office of Collaborative Action and Dispute Resolution (CADR); or

(3) MMS staff trained in ADR and certified by the CADR.

(b) Each party must pay its respective share of all costs and fees associated with any contracted or Departmental ADR provider. For purposes of this section, MMS is not a party in an ADR proceeding.

§ 291.104 Who may file a complaint or a third-party brief?

(a) You may file a complaint under this subpart if you are a shipper and you believe that you have been denied open and nondiscriminatory access to an OCSLA pipeline that is not a FERC pipeline.

(b) Any person that believes its interests may be affected by precedents established by adjudication of complaints under this rule may submit a brief to MMS. The brief must be served following the procedure set out in 30 CFR 291.107. After considering the brief, it is within MMS's discretion as to whether MMS may:

(1) Address the brief in its decision;

(2) Not address the brief in its decision; or

(3) Include the submitter of the brief in the proceeding as a party.

§ 291.105 What must a complaint contain?

For purposes of this subpart, a complaint means a comprehensive written brief stating the legal and factual basis for the allegation that a shipper was denied open and nondiscriminatory access, together with supporting material. A complaint must:

(a) Clearly identify the action or inaction which is alleged to violate 43 U.S.C. 1334(e) or (f)(1)(A);

(b) Explain how the action or inaction violates 43 U.S.C. 1334(e) or (f)(1)(A);

(c) Explain how the action or inaction affects your interests, including practical, operational, or other non-financial impacts;

(d) Estimate any financial impact or burden;

(e) State the specific relief or remedy requested; and

(f) Include all documents that support the facts in your complaint including, but not limited to, contracts and any affidavits that may be necessary to support particular factual allegations.

§ 291.106 How do I file a complaint?

To file a complaint under this part, you must:

(a) File your complaint with the Director, Minerals Management Service at the following address: Director, Minerals Management Service, Attention: Policy and Management Improvement, 1849 C Street, NW., Mail Stop 4230, Washington, DC 20240–0001; and

(b) Include a nonrefundable processing fee of $7,500 under § 291.108(a) or a request for reduction or waiver of the fee under § 291.109(a); and

(c) Serve your complaint on all persons named in the complaint. If you make a claim under § 291.111 for confidentiality, serve the redacted copy and proposed form of a protective agreement on all persons named in the complaint.

(d) Complaints shall not be filed later than two (2) years from the time of the alleged access denial. If the complaint is filed later than two (2) years from the time of the alleged access denial, the MMS Director will not consider the complaint and the case will be closed.

§ 291.107 How do I answer a complaint?

(a) If you have been served a complaint under § 291.106, you must file an answer within 60 days of receiving the complaint. If you miss this deadline, MMS may disregard your answer. We consider your answer to be filed when the MMS Director receives it at the following address: Director, Minerals Management Service, Attention: Policy and Management Improvement, 1849 C Street, NW., Mail Stop 4230, Washington, DC 20240–0001.

(b) For purposes of this paragraph, an answer means a comprehensive written brief stating the legal and factual basis refuting the allegations in the complaint, together with supporting material. You must:

(1) Attach to your answer a copy of the complaint or reference the assigned MMS docket number (you may obtain the docket number by calling the Policy and Management Improvement Office at (202) 208–2622);

(2) Explain in your answer why the action or inaction alleged in the complaint does not violate 43 U.S.C. 1334(e) or (f)(1)(A);

(3) Include with your answer all documents in your possession or that you can otherwise obtain that support the facts in your answer including, but not limited to, contracts and any affidavits that may be necessary to support particular factual allegations; and

(4) Provide a copy of your answer to all parties named in the complaint including the complainant. If you make a claim under § 291.111 for confidentiality, serve the redacted copy and proposed form of a protective agreement to all parties named in the complaint, including the complainant.

§ 291.108 How do I pay the processing fee?

(a) You must pay the processing fee electronically through *Pay.Gov*. The *Pay.Gov* Web site may be accessed through links on the MMS Offshore Web site at: *http://www.mms.gov/offshore/homepage* (on drop-down topic list) or directly through *Pay.Gov* at: *https://www.pay.gov/paygov/*.

(b) You must include with the payment:

(1) Your taxpayer identification number;

(2) Your payor identification number, if applicable; and

(3) The complaint caption, or any other applicable identification of the complaint you are filing.

§ 291.109 Can I ask for a fee waiver or a reduced processing fee?

(a) MMS may grant a fee waiver or fee reduction in extraordinary circumstances. You may request a waiver or reduction of your fee by:

(1) Sending a written request to the MMS Policy and Management Improvement Office when you file your complaint; and

(2) Demonstrating in your request that you are unable to pay the fee or that payment of the full fee would impose an undue hardship upon you.

(b) The MMS Policy and Management Improvement Office will send you a written decision granting or denying your request for a fee waiver or a fee reduction.

(1) If we grant your request for a fee reduction, you must pay the reduced processing fee within 30 days of the date you receive our decision.

(2) If we deny your request, you must pay the entire processing fee within 30 days of the date you receive the decision.

(3) MMS's decision granting or denying a fee waiver or reduction is final for the Department.

§ 291.110 Who may MMS require to produce information?

(a) MMS may require any lessee, operator of a lease or unit, shipper, grantee, or transporter to provide information that MMS believes is necessary to make a decision on whether open access or nondiscriminatory access was denied.

(b) If you are a party and fail to provide information MMS requires under paragraph (a) of this section, MMS may:

(1) Assess civil penalties under 30 CFR part 250, subpart N;

(2) Dismiss your complaint or consider your answer incomplete; or

(3) Presume the required information is adverse to you on the factual issues to which the information is relevant.

(c) If you are not a party to a complaint and fail to provide information MMS requires under paragraph (a) of this section, MMS may assess civil penalties under 30 CFR part 250, subpart N.

§ 291.111 How does MMS treat the confidential information I provide?

(a) Any person who provides documents under this part in response to a request by MMS to inform a decision on whether open access or nondiscriminatory access was denied may claim that some or all of the information contained in a particular document is confidential. If you claim confidential treatment, then when you provide the document to MMS you must:

(1) Provide a complete unredacted copy of the document and indicate on that copy that you are making a request for confidential treatment for some or all of the information in the document.

(2) Provide a statement specifying the specific statutory justification for nondisclosure of the information for which you claim confidential treatment. General claims of confidentiality are not sufficient. You must furnish sufficient information for MMS to make an informed decision on the request for confidential treatment.

(3) Provide a second copy of the document from which you have redacted the information for which you wish to claim confidential treatment. If you do not submit a second copy of the document with the confidential information redacted, MMS may assume that there is no objection to public disclosure of the document in its entirety.

(b) In making data and information you submit available to the public, MMS will not disclose documents exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552) and will follow the procedures set forth in the implementing regulations at 43 CFR Part 2 to give submitters an opportunity to object to disclosure.

(c) MMS retains the right to make the determination with regard to any claim of confidentiality. MMS will notify you of its decision to deny a claim, in whole or in part, and, to the extent permitted by law, will give you an opportunity to respond at least 10 days before its public disclosure.

§ 291.112 What process will MMS follow in rendering a decision on whether a grantee or transporter has provided open and nondiscriminatory access?

MMS will begin processing a complaint upon receipt of a processing fee or granting a waiver of the fee. The MMS Director will review the complaint, answer, and other information, and will serve all parties with a written decision that:

(a) Makes findings of fact and conclusions of law; and

(b) Renders a decision determining whether the complainant has been denied open and nondiscriminatory access.

§ 291.113 What actions may MMS take to remedy denial of open and nondiscriminatory access?

If the MMS Director's decision under § 291.112 determines that the grantee or transporter has not provided open access or nondiscriminatory access, then the decision will describe the actions MMS will take to require the grantee or transporter to remedy the denial of open access or nondiscriminatory access. The remedies MMS would require must be consistent with MMS's statutory authority, regulations, and any limits thereon due to Congressional delegations to other agencies. Actions MMS may take include, but are not limited to:

(a) Ordering grantees and transporters to provide open and nondiscriminatory access to the complainant;

(b) Assessing civil penalties of up to $10,000 per day under 30 CFR part 250, subpart N, for failure to comply with an MMS order to provide open access or nondiscriminatory access. Penalties will begin to accrue 60 days after the grantee or transporter receives the order to provide open and nondiscriminatory access if it has not provided such access by that time. However, if MMS determines that requiring the construction of facilities would be an appropriate remedy under the OCSLA, penalties will begin to accrue 10 days after conclusion of diligent construction of needed facilities or 60 days after the grantee or transporter receives the order to provide open and nondiscriminatory access, whichever is later, if it has not provided such access by that time;

(c) Requesting the Attorney General to institute a civil action in the appropriate United States District Court under 43 U.S.C. 1350(a) for a temporary restraining order, injunction, or other appropriate remedy to enforce the open and nondiscriminatory access requirements of 43 U.S.C. 1334(e) and (f)(1)(A); or

(d) Initiating a proceeding to forfeit the right-of-way grant under 43 U.S.C. 1334(e).

§ 291.114 How do I appeal to the IBLA?

Any party, except as provided in § 291.115(b), adversely affected by a decision of the MMS Director under this part may appeal to the Interior Board of Land Appeals (IBLA) under the procedures in 43 CFR part 4, subpart E.

§ 291.115 How do I exhaust administrative remedies?

(a) If the MMS Director issues a decision under this part but does not expressly make the decision effective upon issuance, you must appeal the decision to the IBLA under 43 CFR part 4 to exhaust administrative remedies. Such decision will not be effective during the time in which a person adversely affected by the MMS Director's decision may file a notice of appeal with the IBLA, and the timely filing of a notice of appeal will suspend the effect of the decision pending the decision on appeal.

(b) This section does not apply if a decision was made effective by:

(1) The MMS Director; or

(2) The Assistant Secretary for Land and Minerals Management.

[FR Doc. E8–13654 Filed 6–17–08; 8:45 am]

BILLING CODE 4310–MR–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[EPA–HQ–OAR–2008–0231; FRL–8582–6]

RIN 2060–AP18

Protection of Stratospheric Ozone: Revision of Refrigerant Recovery Only Equipment Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action on motor vehicle refrigerant recovery only equipment standards. Under Clean Air Act Section 609, motor vehicle air-conditioning (MVAC) refrigerant handling equipment must be certified by the Administrator or an independent organization approved by the Administrator and, at a minimum, must be as stringent as the standards of the Society of Automotive Engineers (SAE) in effect as of the date of the enactment of the Clean Air Act Amendments of 1990. In 1997, EPA promulgated regulations that required the use of SAE Standard J1732, HFC–134a Refrigerant Recovery Equipment for Mobile Air Conditioning Systems for certification of MVAC refrigerant handling equipment. SAE has replaced Standard J1732 with J2810, HFC–134a Refrigerant Recovery Equipment for Mobile Air Conditioning Systems. EPA is updating its reference to the new SAE standard for MVAC refrigerant recovery equipment used for MVAC servicing and MVAC disposal. This action reflects a change in industry standard practice.

DATES: This rule is effective on September 16, 2008 without further notice, unless EPA receives adverse comment by July 18, 2008. If we receive adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that some or all of the amendments included in this direct final rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No EPA–HQ–OAR–2008–0231, by one of the following methods:

- *http://www.regulations.gov*: Follow the on-line instructions for submitting comments.
- *E-mail: a-and-r-Docket@epa.gov*.
- *Fax:* 202–566–1741.
- *Mail:* Environmental Protection Agency, Mailcode 6102T, EPA Docket Center (EPA/DC), 1200 Pennsylvania Avenue, NW., Washington, DC 20460.
- *Hand Delivery:* Public Reading Room, Room B102, EPA West Building, 1301 Constitution Avenue, 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–OAR–2008–0231. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

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

FOR FURTHER INFORMATION CONTACT: Karen Thundiyil, Stratospheric Protection Division, Office of Atmospheric Programs (MC 6205J), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 343–9464; fax number (202) 343–2363; e-mail address: *thundiyil.karen@epa.gov*.

SUPPLEMENTARY INFORMATION: EPA is publishing this rule without a prior proposed rule because we view this as a noncontroversial action and anticipate no adverse comment given this action is primarily administrative in nature. However, in the ''Proposed Rules'' section of today's **Federal Register**, we are publishing a separate document that will serve as the proposed rule to update EPA's reference to an obsolete SAE standard, if adverse comments are received on this direct final rule. The direct final rule will be effective on September 16, 2008 without further notice unless we receive adverse comments by July 18, 2008 or by August 4, 2008 if a hearing is requested. If we receive adverse comment, we will publish a timely notice in the **Federal Register** informing the public that the rule, or particular provisions of the rule, will not take effect. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. We will address public comments in any subsequent final rule based on the proposed rule. For further information about commenting on this rule, see the **ADDRESSES** section of this document.

Existing regulations covering specifications for motor vehicle air conditioning (MVAC) refrigerant recovery only equipment, reference Society of Automotive Engineers (SAE) standards that have become outdated since the SAE issued new updated standards that replaces these outdated standards. This action will update existing regulations to reference newly updated SAE standards. This regulatory action is primarily administrative with no significant policy issues.

Section 609 of the Clean Air Act as amended (the Act), requires that EPA regulations be at least as stringent as SAE J1990 standard. J1990 describes refrigerant handling equipment for CFC–12 refrigerant. Since the enactment of the 1990 Amendments to the Act and more specifically section 609, the MVAC sector has transitioned from CFC–12, an ozone depleting substance, to HFC–134a, a non-ozone depleting substance. Now HFC–134a is the

predominant refrigerant used in MVACs in the United States and globally. At the beginning of the MVAC transition from CFC–12 to HFC–134a, more than 13 years ago, SAE developed standard J1732 for HFC–134a refrigerant recovery only equipment. J1732 described standards for HFC–134a refrigerant recovery only machines. EPA adopted J1732 within its regulatory framework at 40 CFR Part 82 subpart B. Now, SAE has updated the standard on HFC–134a refrigerant recovery only equipment replacing J1732 with J2810. This action updates EPA's reference to SAE's new HFC–134a refrigerant handling equipment standards (J1732 in Appendix D to Subpart B of Part 82 in the Code of Federal Regulation).

I. Background

A. Statutory Authority

Title VI of the Act is designed to protect the stratospheric ozone layer. Section 609 of the Act requires the Administrator to promulgate regulations establishing standards and requirements regarding the servicing of MVACs. The Act requires that the Administrator establish standards for using MVAC refrigerant handling equipment that shall be at least as stringent as the applicable standards of SAE in effect as of the date of enactment (November 15, 1990). These regulations are at 40 CFR part 82 subpart B.

B. EPA Section 609 Equipment Certification Program

EPA requires that any person repairing or servicing MVACs shall certify to EPA that such person has acquired approved refrigerant handling equipment. An independent standards testing organization, approved by EPA, certifies equipment as meeting the MVAC refrigerant handling equipment standards. At this time, Intertek/ETL and Underwriters Laboratories Inc. (UL) have been approved by EPA to certify MVAC refrigerant handling equipment.

C. SAE Industry Standards

EPA refers to the SAE J standards for technical specifications related to MVAC servicing issues. SAE's standards are developed through international participation and cooperation of MVAC experts from motor vehicle manufacturers, MVAC suppliers, chemical manufacturers, refrigerant handling equipment manufacturers and other interested industry stakeholders. SAE standards are internationally recognized, adopted and referenced by all major motor vehicle manufacturers and their suppliers. SAE periodically updates their standards to reflect changes in industry best practices and/or technology improvements.

II. New Industry Practice and Updated SAE Standard

Test results from the SAE Improved Mobile Air Conditioning Cooperative Research Project, an MVAC industry sponsored research project, indicated that refrigerant handling equipment did not recover refrigerant from MVAC systems as well as was previously assumed (Docket No. EPA–HQ–OAR–0231–0001). As much as 30% of refrigerant remained in an MVAC system when J1732 recovery equipment indicated all refrigerant had been recovered. In light of poor recovery performance, SAE revised their standards to include performance standards that ensure an improved standard of refrigerant recovery. SAE replaced standard J1732 with standard J2810 in October 2007. J2810 encompasses all of J1732 and adds performance standards to improve equipment refrigerant recovery performance. Specifically, J2810 requires 95% refrigerant recovery in 30 minutes or less without prior engine operation or external heating at 21 °C to 24 °C ambient temperature.

With this action, EPA is updating its reference to the SAE standards at § 82.36. SAE J1732 will be superseded by J2810. In § 82.36 Approved refrigerant recycling equipment, EPA is updating the reference from J1732 to J2810, for recovery only equipment. By updating our reference to SAE's new standard J2810, the Agency avoids confusion on the part of the refrigerant handling equipment manufacturer, service technician, automobile dismantling operator or A/C service shop owner who would otherwise face a federal requirement that referenced an obsolete standard that conflicts with the new industry standard practice established with J2810.

As with all recovery only equipment, under J2810, it is not acceptable that the refrigerant removed from a MVAC system with this equipment be directly returned to a MVAC system.

While this action updates EPA's reference to SAE's new J2810 standard, it does not require users of recovery equipment to immediately replace previously certified MVAC recovery only equipment with new J2810 equipment. Rather, all new MVAC refrigerant handling equipment manufactured or imported after October 31, 2008 must be certified to J2810. Equipment manufactured after October 31, 2008 that is certified to J1732 will not meet regulatory requirements specified in this rule. See Section III below for a discussion on existing inventory of equipment certified to J1732.

For purposes of clarity and consistency, EPA is also amending § 82.158 Standards for recycling and recovery equipment of subpart F. Subpart F establishes safe handling for the servicing of stationary and MVAC-like appliances as well as safe disposal for stationary, MVACs and MVAC-like appliances. There is a MVAC reference with regards to safe disposal that will also be amended via this action. Unlike the rest of subpart F, § 82.158(l) contains an outdated reference in Appendix A of subpart B. All other subpart F references to subpart B refrigerant equipment standards cross-reference § 82.36(a), which includes MVAC equipment standards for all MVAC refrigerants. (See § 82.158(a) and § 82.158(f).) § 82.158(l) references Appendix A in subpart B which describes CFC–12 refrigerant recovery only. Consistent with the rest of subpart F, equipment standards must address not only CFC–12 but also its replacements, therefore EPA is amending § 82.158(l) to match § 82.158(a) and § 82.158(f).

III. Effective Date

MVAC recovery only equipment manufactured or imported after October 31, 2008 must be certified by an EPA-approved independent standards testing organization to meet the specifications of Appendix D of 40 Code of Federal Regulations, Part 82, Subpart B. As explained above, Appendix D will now require that such equipment be certified under SAE's updated standard J2810. EPA expects that this date provides sufficient time for production facilities and distributors to transition to the new SAE standards and sell most if not all of their inventory of J1732 equipment, since SAE released the new J2810 standard in October 2007. EPA will allow sales of J1732 equipment stock manufactured before October 31, 2008. Although certification of new equipment under SAE standard J2810 becomes effective for equipment manufactured or imported after October 31, 2008, EPA suggests that equipment manufacturers transition to the new equipment standard as soon as feasible.

IV. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

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

B. Paperwork Reduction Act

This action does not impose any new information collection burden. The recordkeeping and reporting requirements included in this action are already included in an existing information collection burden. This action does not make any changes that would affect burden. However, the Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the existing regulations, 40 CFR part 82, under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2060–0247. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

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

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

After considering the economic impacts of today's rule on small entities, we certify that this action will not have a significant economic impact on a substantial number of small entities. The requirements of today's rule do not require an immediate replacement of existing equipment with equipment certified to the new SAE standard. Rather, MVAC service shop owners will purchase equipment certified to the new SAE standard to replace existing refrigerant handling equipment as it approaches the end of its life.

D. Unfunded Mandates Reform Act

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

EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. Today's rule does not affect State, local, or tribal governments. The impact of this rule on the private sector will be less than $100 million per year. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA. EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. These changes being made by this action are to update EPA's reference to the new SAE standards.

E. Executive Order 13132: Federalism

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

This action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This changes being made by this action are to update EPA's reference to the new SAE standards. Thus, Executive Order 13132 does not apply to this rule.

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

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This final rule does not have tribal implications, as specified in Executive Order 13175. It does not significantly or uniquely affect the communities of Indian tribal governments, because this regulation applies directly to facilities that use these substances and not to governmental entities. Thus, Executive Order 13175 does not apply to this rule.

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

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

EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This rule is not subject to Executive Order 13045 because it is based on technology performance and not on health or safety risks.

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

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

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law No. 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This rulemaking explicitly references technical standards; EPA references SAE Standard J2810 which is the revised version of SAE Standard J1732. These standards can be obtained from *http://www.sae.org/technical/standards/*.

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

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

EPA has determined that this direct final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. This action updates a regulatory reference to an obsolete standard to avoid confusion on the part of refrigerant handling equipment manufacturers, service technicians, automobile dismantling operators, and A/C service shop owners.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A Major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective September 16, 2008.

List of Subjects in 40 CFR Part 82

Environmental protection, Motor vehicle air-conditioning, Recovery equipment, Reporting and certification requirements, Stratospheric ozone layer.

Dated: June 12, 2008.

Stephen L. Johnson,

Administrator.

■ For the reasons set out in the preamble, 40 CFR part 82 is amended as follows:

PART 82—PROTECTION OF STRATOSPHERIC OZONE

■ 1. The authority citation for part 82 continues to read as follows:

Authority: 42 U.S.C. 7414, 7601, 7671–7671q.

Subpart B—Servicing of Motor Vehicle Air Conditioners

■ 2. Section 82.36 is amended by revising the section heading and paragraph (a)(5) to read as follows:

§ 82.36 Approved refrigerant handling equipment.

(a) * * *

(5) Effective October 31, 2008, equipment that recovers but does not recycle HFC–134a refrigerant must meet the standards set forth in Appendix D of this subpart based upon J2810—HFC–134a (R–134a) Recovery Equipment Mobile Air-Conditioning Systems.

* * * * *

Subpart B—Servicing of Motor Vehicle Air Conditioners

■ 3. Appendix D to Subpart B is revised to read as follows:

Appendix D to Subpart B of Part 82—SAE J2810 Standard for Recovery Only Equipment for HFC–134a Refrigerant

Foreword

This Appendix establishes the specific minimum equipment requirements for the recovery of HFC–134a that has been directly removed from, motor vehicle air-conditioning systems.

1. Scope

The purpose of this SAE Standard is to provide minimum performance and operating feature requirements for the recovery of HFC–134a (R–134a) refrigerant to be returned to a refrigerant reclamation facility that will process it to the appropriate ARI 700 Standard or allow for recycling of the recovered refrigerant to SAE J2788 specifications by using SAE J2788-certified equipment. It is not acceptable that the refrigerant removed from a mobile air-conditioning (A/C) system with this equipment be directly returned to a mobile A/C system.

This information applies to equipment used to service automobiles, light trucks, and other vehicles with similar HFC–134a (R–134a) A/C systems.

1.1 Improved refrigerant recovery equipment is required to ensure adequate refrigerant recovery to reduce emissions and provide for accurate recharging of mobile air conditioning systems. Therefore, 12 months following the publication date of this standard, it supersedes SAE J1732.

2. References

2.1 Applicable Publications

The following publications form a part of the specification to the extent specified herein. Unless otherwise indicated, the latest revision of SAE publications shall apply.

2.1.1 SAE Publications

Available from SAE, 400 Commonwealth Drive, Warrendale, PA 15096–0001, Tel: 877–606–7323 (inside USA and Canada) or 724–776–4970 (outside USA), *http://www.sae.org.*

SAE J639 Safety Standards for Motor Vehicle Refrigerant Vapor Compressions Systems.

SAE J1739 Potential Failure Mode and Effects Analysis in Design (Design FMEA) and Potential Failure Mode and Effects Analysis in Manufacturing and Assembly Processes (Process FMEA) and Effects Analysis for Machinery (Machinery FMEA).

SAE J1771 Criteria for Refrigerant Identification Equipment for Use with Mobile Air-Conditioning Systems.

SAE J2196 Service Hose for Automotive Air Conditioning.

SAE J2296 Retest of Refrigerant Container.

SAE J2788 HFC–134a (R–134a) Recovery/Recycling Equipment and Recovery/Recycling/Recharging for Mobile Air-Conditioning Systems.

2.1.2 ARI Publication

Available from Air-Conditioning and Refrigeration Institute, 4100 North Fairfax Drive, Suite 200, Arlington, VA 22203, Tel: 703–524–8800, *http://www.ari.org.*

ARI 700 Specifications for Fluorocarbon Refrigerants.

2.1.3 CGA Publication

Available from Compressed Gas Association, 4221 Walney Road, 5th Floor, Chantilly, VA 20151–2923, Tel: 703–788–2700, *http://www.cganet.com.*

CGA S–1.1 Pressure Relief Device Standard Part 1—Cylinders for Compressed Gases.

2.1.4 DOT Specification

Available from the Superintendent of Documents, U.S. Government Printing Office, Mail Stop: SSOP, Washington, DC 20402–9320.

CFR 49, Section 173.304 Shippers—General Requirements for Shipments and Packagings.

2.1.5 UL Publication

Available from Underwriters Laboratories Inc., 333 Pfingsten Road, Northbrook, IL 60062–2096, Tel: 847–272–8800, *http://www.ul.com.*

UL 1769 Cylinder Valves.

3. Specifications and General Description

3.1 The equipment must be able to recover (extract) HFC–134a (R–134a) refrigerant from a mobile A/C system per the test procedure of sections 7 and 8.

3.2 The equipment shall be suitable for use in an automotive service garage environment as defined in 6.8.

3.3 Equipment Certification

The equipment shall be certified by an EPA-listed laboratory to meet this standard. SAE J2810.

3.4 Label Requirements

The equipment shall have a label with bold type, minimum 3 mm high, saying ''Design Certified by (certifying agent, EPA listed laboratory) to meet SAE J2810 for use only with HFC–134a (R–134a). If it is to be re-used in an A/C system, the refrigerant recovered with this equipment must be processed to the appropriate ARI 700 specifications or to specifications by using equipment certified to perform to SAE J2788.''

3.5 SAE J1739

Potential Failure Mode and Effects Analysis in Design (Design FMEA), Potential Failure Mode and Effects Analysis in Manufacturing and Assembly Processes (Process FMEA), and Potential Failure Mode and Effects Analysis for Machinery (Machinery FMEA) shall be applied to the design and development of service equipment.

4. Safety Requirements

4.1 The equipment must comply with applicable federal, state, and local requirements on equipment related to the handling of HFC–134a (R–134a) material. Safety precautions or notices, labels, related to the safe operation of the equipment shall also be prominently displayed on the equipment and should state ''CAUTION—SHOULD BE OPERATED ONLY BY CERTIFIED PERSONNEL.'' The safety identification shall be located on the front near the controls.

4.2 The equipment must comply with applicable safety standards for the electrical and mechanical systems.

5. Operating Instructions

5.1 The equipment manufacturer must provide operating instructions that include information required by SAE J639, necessary maintenance procedures, and source information for replacement parts and repair.

5.1.1 The instruction manual shall include the following information on the lubricant removed. Only new lubricant, as identified by the system manufacturer, should be replaced in the mobile A/C system. Removed lubricant from the system and/or the equipment shall be disposed of in accordance with the applicable federal, state, and local procedures and regulations.

5.2 The equipment must prominently display the manufacturer's name, address, the type of refrigerant it is designed to extract (R–134a), a service telephone number, and any items that require maintenance or replacement that affect the proper operation of the equipment. Operation manuals must cover information for complete maintenance of the equipment to assure proper operation.

5.3 The equipment manufacturer shall provide a warning in the instruction manual regarding the possibility of refrigerant contamination from hydrocarbons, leak sealants and refrigerants other than R–134a in the mobile A/C system being serviced.

5.4 Recovery equipment having refrigerant identification equipment shall meet the requirements of SAE J1771.

5.5 Recovery equipment not having refrigerant identification capability shall have instructions warning the technician that failure to verify that the system contains only R–134a potentially exposes him or her to danger from flammable refrigerants and health hazards from toxic refrigerants. The instructions also shall alert to possible contamination problems to the recovery equipment from sealants and refrigerants other than R–134a, and to the fact that a refrigerant other than R–134a would require special handling by someone with specific expertise and equipment.

6. Function Description

6.1 The equipment must be capable of continuous operation in ambient temperatures of 10 °C (50 °F) to 49 °C (120 °F). Continuous is defined as completing recovery operation with no more than a brief reset between servicing vehicles, and shall not include time delays for allowing a system to outgas (which shall be part of the recovery period provided by this standard).

6.1.1 The equipment shall demonstrate ability to recovery a minimum of 95.0% of the refrigerant from the test vehicle in 30.0 minutes or less, without prior engine operation (for previous eight hours minimum), external heating or use of any device (such as shields, reflectors, special lights, etc.), which could heat components of the system. The recovery procedure shall be based on a test at 21 °C to 24 °C (70 °F to 75 °F) ambient temperature. The test system for qualifying shall be a 1.4 kg (3.0 lbs) capacity orifice tube/accumulator system in a 2005–07 Chevrolet Suburban with front and rear A/C or the test option described in section 9.

6.1.2 The equipment shall demonstrate ability to recover a minimum of 85% of the refrigerant from the test vehicle or system of 6.1.1. in 30.0 minutes or less, at an ambient temperature of 10 °C to 13 °C (50 °F to 55 °F), subject to the same restrictions regarding engine operation and external heating.

6.1.3 During recovery operation, the equipment shall provide overfill protection so that the liquid fill of the storage container does not exceed 80% of the tank's rated volume at 21 °C (70 °F). This will ensure that the container meets Department of Transportation (DOT) Standard, CFR Title 49, section 173.304 and the American Society of Mechanical Engineers.

6.1.4 Portable refillable tanks or containers used in conjunction with this equipment must be labeled ''HFC–134a (R–134a) and meet applicable Department of Transportation (DOT) or Underwriters Laboratories (UL) Standards, and incorporate fittings per SAE J2197.

6.1.5 The cylinder valves shall comply with the standard for cylinder valves UL 1769.

6.1.6 The pressure relief device shall comply with the Pressure Relief Device Standard Part 1—Cylinders for Compressed Gasses CGA Pamphlet S–1.1.

6.1.7 The tank assembly shall be marked to indicate the first retest date, which shall be five years from the date of manufacture. The marking shall indicate that retest must be performed every subsequent five years. SAE J2296 provides an inspection procedure. The marking shall be in letters at least 6 mm (0.25 in) high. If ASME tanks, as defined in UL–1963, are used, they are exempt from the retest requirements.

6.2 If the marketer permits use of a refillable refrigerant tank, a method must be provided (including any necessary fittings) for transfer to a system that ensures proper handling (recycling or other, environmentally-legal disposal).

Restricting the equipment to use of non-refillable tanks eliminates compliance with this provision.

6.3 Prior to testing under this standard, the equipment must be preconditioned with a minimum of 13.6 kg of the standard contaminated HFC–134a (R–134a) at an ambient of 21 °C before starting the test cycle. Sample amounts are not to exceed 1.13 kg with sample amounts to be repeated every 5 min. The test fixture shown in Figure 1 shall be operated at 21 °C. Contaminated HFC–

134a (R–134a) samples shall be processed at ambient temperatures of 10 °C and 49 °C (50 °F to 120 °F), without the equipment shutting down due to any safety devices employed in this equipment.

6.3.1 Contaminated HFC–134a (R–134a) sample shall be standard contaminated HFC–134a (R–134a) refrigerant, 13.6 kg sample size, consisting of liquid HFC–134a (R–134a) with 1300 ppm (by weight) moisture at 21 °C (70 °F) and 45 000 ppm (by weight) of oil (polyalkylene glycol oil with 46–160 cst viscosity at 40 °C) and 1000 ppm by weight of noncondensable gases (air).

6.3.2 Portable refillable containers used in conjunction with this equipment must meet applicable DOT Standards. The color of the container must be blue with a yellow top to indicate the container holds used HFC–134a (R–134a) refrigerant. The container must be permanently marked on the outside surface in black print at least 20 mm high, ''CONTAMINATED HFC–134a (R–134a)—DO NOT USE, MUST BE REPROCESSED.''

Figure 1—Test Fixture

6.3.3 The portable refillable container shall have a 1/2 in ACME thread.

6.4 Additional Storage Tank Requirements.

6.4.1 The cylinder valve shall comply with UL 1769.

6.4.2 The pressure relief device shall comply with CGA Pamphlet S–1.1.

6.5 All flexible hoses must meet SAE J2196 for service hoses.

6.6 Service hoses must have shutoff devices located at the connection points to the system being serviced to minimize introduction of noncondensable gases into the recovery equipment during connection and the release of the refrigerant during disconnection.

6.7 The equipment must be able to separate the lubricant from recovered refrigerant and accurately indicate the amount removed from the simulated automotive system during processing in 20 mL (0.7 fl oz) units.

6.7.1 The purpose of indicating the amount of lubricant removed is to ensure that a proper amount of new lubricant is returned to the mobile A/C system for compressor lubrication, if the system is to be charged with equipment meeting SAE J2788.

6.7.2 Refrigerant dissolved in this lubricant must be accounted for to prevent lubricant overcharge of the mobile A/C system.

6.8 The equipment must be capable of continuous operation in ambient temperatures of 10 °C to 49 °C (50 °F to120 °F) and comply with 6.1 to 6.4 of this standard.

6.9 For test validation, the equipment is to be operated according to the manufacturer's instructions.

7. Test Procedure A at 21 °C to 24 °C (70 °F to 75 °F).

The test vehicle (2005–2007 Chevrolet Suburban with rear A/C system—1.4 kg/ 3.0 lb) or laboratory fixture per section 10.5 of SAE J2788, shall be prepared as for SAE J2788, section 10.3, following Steps 1, 2, 3, 4, and then the following:

7.1 Using a machine certified to SAE J2788 and with the machine on a platform scale with accuracy to within plus/minus 3.0 grams at the weight of the machine, charge the system to the vehicle manufacturer's recommended amount of refrigerant (1.4 kg–3.0 lb). The actual charge amount per the reading on the platform scale shall be used as the basis for the recovery efficiency of the recovery-only machine being tested to this standard. Run the engine (or operate test fixture with electric motor) for up to 15 minutes at up to 2000 rpm to circulate oil and refrigerant. The system then must rest for eight hours.

7.2 Place the recovery machine on the platform scale and record the weight with the hoses draped over the machine. Ambient temperature shall be within the range of 21 °C to 24 °C (70 °F to 75 °F) for this test, which shall be performed without the immediately prior engine operation permitted by SAE J2788, Section 10.3, Step No.1. The only permitted engine operation is as specified in 7.1.

7.3 Start the timer. Connect the service hoses to the system of the test vehicle and perform the recovery per the equipment manufacturer's instructions. The vehicle system's service valve cores must remain in the fittings for this procedure.

7.4 When recovery is completed, including from the service hoses if that is part of the recommended procedure, disconnect the hoses and drape over the machine. Stop the timer. The elapsed time shall be no more than 30 minutes.

7.5 Remove the oil reservoir, empty and reinstall. The platform scale shall indicate that a minimum of 95.0% of the refrigerant has been recovered, based on the charge amount indicated by the platform scale. If the machine has recovered the minimum of 95.0% within the 30.0 minutes, the next test shall be performed. If it fails this test, the marketer of the equipment must document changes to the equipment to upgrade performance before a retest is allowed. If it passes, the laboratory can proceed to Test Procedure B–10 °C to 13 °C (50 °F to 55 °F).

8. Test Procedure B at 10 °C to 13 °C (50 °F to 55 °F).

The test vehicle (2005–2007 Chevrolet Suburban front/rear A/C system (1.4 kg/3.0 lb) or test fixture per section 10.5 of SAE J2788, shall be prepared as per 7.0 and 7.1 of this standard, and then the following:

8.1 Place the recovery machine on the platform scale and record the weight with the hoses draped over the machine.

Ambient temperature at this time shall be no higher than 10 °C to13 °C (50 °F to 55 °F).

8.2 Start the timer. Connect the service hoses to the system of the test vehicle and perform the recovery per the equipment manufacturer's instructions. This also shall be performed without the immediately prior engine operation permitted by SAE J2788, section 10.4, Step No. 1. The vehicle system's service valve cores must remain in the fittings for this procedure.

8.3 When recovery is completed, including from the service hoses if that is part of the recommended procedure, disconnect the hoses and drape over the machine. Stop the timer. The elapsed time shall be no more than 30 minutes.

8.4 Remove the oil reservoir, empty and reinstall. The platform scale shall indicate that a minimum of 85.0% of the refrigerant has been recovered, based on the charge amount indicated by the platform scale. If the machine has recovered the minimum of 85.0% within the 30 minutes, it has passed the test procedure and if it meets all other requirements of this standard, it is certified.

9. Test Option

As in SAE J2788, Section 10.5, as an alternative to a 2005–2007 Chevrolet Suburban with rear A/C (1.4 kg–3.0 lb) system, a laboratory test fixture may be used to certify to SAE J2810 the fixture must be composed entirely of all the original equipment parts of a single model year for the 1.4 kg (3.0 lb) capacity system. All parts must be those OE-specified for one model year system and no parts may be eliminated or bypassed from the chosen system or reproduced from a non-OE source. No parts may be added and/or relocated from the OE position in the 2005–07 Suburban. No parts may be modified in any way that could affect system performance for testing under this standard, except adding refrigerant line bends and/or loops to make the system more compact. Reducing the total length of the lines, however, is not permitted.

The fixture systems for this standard shall not be powered by an electric motor during recovery, although a motor can be used, run at a speed not to exceed 2000 rpm, as part of the preparatory process, including installation of the charge.

Subpart F—Recycling and Emissions Reduction

■ 4. Section 82.158 is amended by revising paragraph (l) to read as follows:

§ 82.158 Standards for recycling and recovery equipment.

* * * * *

(l) Equipment used to evacuate refrigerant from MVACs and MVAC-like appliances before they are disposed of must be certified in accordance with § 82.36(a).

* * * * *

[FR Doc. E8–13749 Filed 6–17–08; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Part 1002

[STB Ex Parte No. 542 (Sub-No. 15)]

Regulations Governing Fees for Services Performed in Connection With Licensing and Related Services—2008 Update

AGENCY: Surface Transportation Board, DOT.

ACTION: Final rules.

SUMMARY: The Board adopts its 2008 User Fee Update and revises its fee

schedule to reflect increased costs associated with the January 2008 Government salary increases and the Board's overhead costs, and to reflect changes in Government fringe benefits.

DATES: *Effective Date:* These rules are effective on June 18, 2008.

FOR FURTHER INFORMATION CONTACT: David T. Groves, (202) 245–0327, or Anne Quinlan, (202) 245–0309. [TDD for the hearing impaired: 1–800–877–8339.]

SUPPLEMENTARY INFORMATION: The Board's regulations at 49 CFR 1002.3 provide for annual updates of the Board's user fee schedule. Fees are revised based on the cost study formula set forth at 49 CFR 1002.3(d). The fee increases adopted here, which reflect increased costs, result from the mechanical application of the update formula in 49 CFR 1002.3(d). No new fees are being proposed in this proceeding. Therefore, the Board finds that notice and comment are unnecessary for this proceeding. *See Regulations Governing Fees For Services—1990 Update,* 7 I.C.C.2d 3 (1990); *Regulations Governing Fees For Services—1991 Update,* 8 I.C.C.2d 13 (1991); and *Regulations Governing Fees For Services—1993 Update,* 9 I.C.C.2d 855 (1993).

The Board concludes that the fee changes adopted here will not have a significant economic impact on a substantial number of small entities because the Board's regulations provide for waiver of filing fees for those entities that can make the required showing of financial hardship.

Additional information is contained in the Board's decision. To obtain a free copy of the full decision, visit the Board's Web site at *http://www.stb.dot.gov* or call the Board's Information Officer at (202) 245–0245. [Assistance for the hearing impaired is available through Federal Information Relay Services (FIRS): (800) 877–8339.]

List of Subjects in 49 CFR Part 1002

Administrative practice and procedure, Common carriers, and Freedom of information.

Decided: June 11, 2008.

By the Board, Chairman Nottingham, Vice Chairman Mulvey and Commissioner Buttrey.

Anne K. Quinlan,

Acting Secretary.

■ For the reasons set forth in the preamble, title 49, chapter X, part 1002, of the Code of Federal Regulations is amended as follows:

PART 1002—FEES

■ 1. The authority citation for part 1002 continues to read as follows:

Authority: 5 U.S.C. 552(a)(4)(A) and 553; 31 U.S.C. 9701 and 49 U.S.C. 721(a).

■ 2. Section 1002.1 is amended by revising paragraphs (a) through (e); paragraph (f)(1); and the table in paragraph (g)(6) to read as follows:

§ 1002.1 Fees for record search, review, copying, certification, and related services.

* * * * *

(a) Certificate of the secretary, $17.00.

(b) Service involved in examination of tariffs or schedules for preparation of certified copies of tariffs or schedules or extracts therefrom at the rate of $38.00 per hour.

(c) Service involved in checking records to be certified to determine authenticity, including clerical work, etc., identical thereto, at the rate of $26.00 per hour.

(d) Photocopies of tariffs, reports, and other public documents, at the rate of $1.30 per letter or legal size exposure. A minimum charge of $6.50 will be made for this service.

(e) Fees for courier services to transport agency records to provide on-site access to agency records stored off-site will be set at the rates set forth in the Board's agreement with its courier service provider. Rate information is available on the Board's Web site (*http://www.stb.dot.gov*) or can be obtained from the Board's Information Officer, Room 1200, Surface Transportation Board, Washington, DC 20423–0001.

(f) * * *

(1) A fee of $66.00 per hour for professional staff time will be charged when it is required to fulfill a request for ADP data.

* * * * *

(g) * * *

(6) * * *

Grade	Rate
GS–1	$11.19
GS–2	12.18
GS–3	13.73
GS–4	15.41
GS–5	17.24
GS–6	19.22
GS–7	21.36
GS–8	23.65
GS–9	26.13
GS–10	28.77
GS–11	31.61
GS–12	37.89
GS–13	45.05
GS–14	53.24
GS–15 and over	62.62

* * * * *

■ 3. In § 1002.2, paragraph (f) is revised as follows:

§ 1002.2 Filing fees.

(a) * * *

(f) *Schedule of filing fees.*

Type of proceeding	Fee
PART I: Non-Rail Applications or Proceedings to Enter Upon a Particular Financial Transaction or Joint Arrangement:	
(1) An application for the pooling or division of traffic	$4,400.
(2)(i) An application involving the purchase, lease, consolidation, merger, or acquisition of control of a motor carrier of passengers under 49 U.S.C. 14303.	$2,000.
(ii) A petition for exemption under 49 U.S.C. 13541 (other than a rulemaking) filed by a non-rail carrier not otherwise covered.	$3,200.
(iii) A petition to revoke an exemption filed under 49 U.S.C. 13541(d)	$2,600.
(3) An application for approval of a non-rail rate association agreement. 49 U.S.C. 13703	$27,700.
(4) An application for approval of an amendment to a non-rail rate association agreement:	
(i) Significant amendment	$4,600.
(ii) Minor amendment	$100.
(5) An application for temporary authority to operate a motor carrier of passengers. 49 U.S.C. 14303(i)	$500.
(6) A notice of exemption for transaction within a motor passenger corporate family that does not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with motor passenger carriers outside the corporate family.	$1,700.
(7)–(10) [Reserved]	
PART II: Rail Licensing Proceedings other than Abandonment or Discontinuance Proceedings:	
(11)(i) An application for a certificate authorizing the extension, acquisition, or operation of lines of railroad. 49 U.S.C. 10901.	$7,300.
(ii) Notice of exemption under 49 CFR 1150.31–1150.35	$1,800.

Type of proceeding	Fee
(iii) Petition for exemption under 49 U.S.C. 10502	$12,600.
(12)(i) An application involving the construction of a rail line	$74,900.
(ii) A notice of exemption involving construction of a rail line under 49 CFR 1150.36	$1,800.
(iii) A petition for exemption under 49 U.S.C. 10502 involving construction of a rail line	$74,900.
(iv) A request for determination of a dispute involving a rail construction that crosses the line of another carrier under 49 U.S.C. 10902(d).	$200.
(13) A Feeder Line Development Program application filed under 49 U.S.C. 10907(b)(1)(A)(i) or 10907(b)(1)(A)(ii)	$2,600.
(14)(i) An application of a class II or class III carrier to acquire an extended or additional rail line under 49 U.S.C. 10902.	$6,200.
(ii) Notice of exemption under 49 CFR 1150.41–1150.45	$1,800.
(iii) Petition for exemption under 49 U.S.C. 10502 relating to an exemption from the provisions of 49 U.S.C. 10902.	$6,600.
(15) A notice of a modified certificate of public convenience and necessity under 49 CFR 1150.21–1150.24	$1,700.
(16)–(20) [Reserved].	
PART III: Rail Abandonment or Discontinuance of Transportation Services Proceedings:	
(21)(i) An application for authority to abandon all or a portion of a line of railroad or discontinue operation thereof filed by a railroad (except applications filed by Consolidated Rail Corporation pursuant to the Northeast Rail Service Act [Subtitle E of Title XI of Pub. L. 97–35], bankrupt railroads, or exempt abandonments).	$22,200.
(ii) Notice of an exempt abandonment or discontinuance under 49 CFR 1152.50	$3,700.
(iii) A petition for exemption under 49 U.S.C. 10502	$6,300.
(22) An application for authority to abandon all or a portion of a line of a railroad or operation thereof filed by Consolidated Rail Corporation pursuant to Northeast Rail Service Act.	$450.
(23) Abandonments filed by bankrupt railroads	$1,900.
(24) A request for waiver of filing requirements for abandonment application proceedings	$1,800.
(25) An offer of financial assistance under 49 U.S.C. 10904 relating to the purchase of or subsidy for a rail line proposed for abandonment.	$1,500.
(26) A request to set terms and conditions for the sale of or subsidy for a rail line proposed to be abandoned	$22,700.
(27)(i) A request for a trail use condition in an abandonment proceeding under 16 U.S.C. 1247(d)	$200.
(ii) A request to extend the period to negotiate a trail use agreement	$450.
(28)–(35) [Reserved].	
PART IV: Rail Applications to Enter Upon a Particular Financial Transaction or Joint Arrangement:	
(36) An application for use of terminal facilities or other applications under 49 U.S.C. 11102	$19,000.
(37) An application for the pooling or division of traffic. 49 U.S.C. 11322	$10,200.
(38) An application for two or more carriers to consolidate or merge their properties or franchises (or a part thereof) into one corporation for ownership, management, and operation of the properties previously in separate ownership. 49 U.S.C. 11324:	
(i) Major transaction	$1,496,900.
(ii) Significant transaction	$299,400.
(iii) Minor transaction	$7,500.
(iv) Notice of an exempt transaction under 49 CFR 1180.2(d)	$1,700.
(v) Responsive application	$7,500.
(vi) Petition for exemption under 49 U.S.C. 10502	$9,400.
(vii) A request for waiver or clarification of regulations filed in a major financial proceeding as defined at 49 CFR 1180.2(a).	$5,500.
(39) An application of a non-carrier to acquire control of two or more carriers through ownership of stock or otherwise. 49 U.S.C. 11324:	
(i) Major transaction	$1,496,900.
(ii) Significant transaction	$299,400.
(iii) Minor transaction	$7,500.
(iv) A notice of an exempt transaction under 49 CFR 1180.2(d)	$1,300.
(v) Responsive application	$7,500.
(vi) Petition for exemption under 49 U.S.C. 10502	$9,400.
(vii) A request for waiver or clarification of regulations filed in a major financial proceeding as defined at 49 CFR 1180.2(a).	$5,500.
(40) An application to acquire trackage rights over, joint ownership in, or joint use of any railroad lines owned and operated by any other carrier and terminals incidental thereto. 49 U.S.C. 11324:	
(i) Major transaction	$1,496,900.
(ii) Significant transaction	$299,400.
(iii) Minor transaction	$7,500.
(iv) Notice of an exempt transaction under 49 CFR 1180.2(d)	$1,200.
(v) Responsive application	$7,500.
(vi) Petition for exemption under 49 U.S.C. 10502	$9,400.
(vii) A request for waiver or clarification of regulations filed in a major financial proceeding as defined at 49 CFR 1180.2(a).	$5,500.
(41) An application of a carrier or carriers to purchase, lease, or contract to operate the properties of another, or to acquire control of another by purchase of stock or otherwise. 49 U.S.C. 11324:	
(i) Major transaction	$1,496,900.
(ii) Significant transaction	$299,400.
(iii) Minor transaction	$7,500.
(iv) Notice of an exempt transaction under 49 CFR 1180.2(d)	$1,400.
(v) Responsive application	$7,500.
(vi) Petition for exemption under 49 U.S.C. 10502	$6,600.
(vii) A request for waiver or clarification of regulations filed in a major financial proceeding as defined at 49 CFR 1180.2(a).	$5,500.

Type of proceeding	Fee
(42) Notice of a joint project involving relocation of a rail line under 49 CFR 1180.2(d)(5)	$2,400.
(43) An application for approval of a rail rate association agreement. 49 U.S.C. 10706	$70,100.
(44) An application for approval of an amendment to a rail rate association agreement. 49 U.S.C. 10706:	
(i) Significant amendment	$13,000.
(ii) Minor amendment	$100.
(45) An application for authority to hold a position as officer or director under 49 U.S.C. 11328	$750.
(46) A petition for exemption under 49 U.S.C. 10502 (other than a rulemaking) filed by rail carrier not otherwise covered.	$8,000.
(47) National Railroad Passenger Corporation (Amtrak) conveyance proceeding under 45 U.S.C. 562	$200.
(48) National Railroad Passenger Corporation (Amtrak) compensation proceeding under Section 402(a) of the Rail Passenger Service Act.	$200.
(49)–(55) [Reserved].	
PART V: Formal Proceedings:	
(56) A formal complaint alleging unlawful rates or practices of carriers:	
(i) A formal complaint filed under the coal rate guidelines (Stand-Alone Cost Methodology) alleging unlawful rates and/or practices of rail carriers under 49 U.S.C. 10704(c)(1).	$350.
(ii) A formal complaint involving rail maximum rates filed under the Simplified-SAC methodology	$350.
(iii) A formal complaint involving rail maximum rates filed under the Three Benchmark methodology	$150.
(iv) All other formal complaints (except competitive access complaints)	$20,700.
(v) Competitive access complaints	$150.
(vi) A request for an order compelling a rail carrier to establish a common carrier rate	$200.
(57) A complaint seeking or a petition requesting institution of an investigation seeking the prescription or division of joint rates or charges. 49 U.S.C. 10705 ..	$8,900.
(58) A petition for declaratory order:	
(i) A petition for declaratory order involving a dispute over an existing rate or practice which is comparable to a complaint proceeding.	$1,000.
(ii) All other petitions for declaratory order	$1,400.
(59) An application for shipper antitrust immunity. 49 U.S.C. 10706(a)(5)(A)	$7,000.
(60) Labor arbitration proceedings	$200.
(61)(i) An appeal of a Surface Transportation Board decision on the merits or petition to revoke an exemption pursuant to 49 U.S.C. 10502(d).	$200.
(ii) An appeal of a Surface Transportation Board decision on procedural matters except discovery rulings	$350.
(62) Motor carrier undercharge proceedings	$200.
(63)(i) Expedited relief for service inadequacies: A request for expedited relief under 49 U.S.C. 11123 and 49 CFR part 1146 for service emergency.	$200.
(ii) Expedited relief for service inadequacies: A request for temporary relief under 49 U.S.C. 10705 and 11102, and 49 CFR part 1147 for service inadequacies.	$200.
(64) A request for waiver or clarification of regulations except one filed in an abandonment or discontinuance proceeding, or in a major financial proceeding as defined at 49 CFR 1180.2(a).	$600.
(65)–(75) [Reserved].	
PART VI: Informal Proceedings:	
(76) An application for authority to establish released value rates or ratings for motor carriers and freight forwarders of household goods under 49 U.S.C. 14706.	$1,200.
(77) An application for special permission for short notice or the waiver of other tariff publishing requirements	$100.
(78) The filing of tariffs, including supplements, or contract summaries	$1 per page. ($24 minimum charge.)
(79) Special docket applications from rail and water carriers:	
(i) Applications involving $25,000 or less	$75.
(ii) Applications involving over $25,000	$150.
(80) Informal complaint about rail rate applications	$600.
(81) Tariff reconciliation petitions from motor common carriers:	
(i) Petitions involving $25,000 or less	$75.
(ii) Petitions involving over $25,000	$150.
(82) Request for a determination of the applicability or reasonableness of motor carrier rates under 49 U.S.C. 13710(a)(2) and (3).	$200.
(83) Filing of documents for recordation. 49 U.S.C. 11301 and 49 CFR 1177.3(c).	$41 per document.
(84) Informal opinions about rate applications (all modes)	$250.
(85) A railroad accounting interpretation	$1,100.
(86)(i) A request for an informal opinion not otherwise covered	$1,400.
(ii) A proposal to use on a voting trust agreement pursuant to 49 CFR 1013 and 49 CFR 1180.4(b)(4)(iv) in connection with a major control proceeding as defined at 49 CFR 1180.2(a).	$5,700.
(iii) A request for an informal opinion on a voting trust agreement pursuant to 49 CFR 1013.3(a) not otherwise covered.	$500.
(87) Arbitration of Certain Disputes Subject to the Statutory Jurisdiction of the Surface Transportation Board under 49 CFR 1108:	
(i) Complaint	$75.
(ii) Answer (per defendant), Unless Declining to Submit to Any Arbitration	$75.
(iii) Third Party Complaint	$75.
(iv) Third Party Answer (per defendant), Unless Declining to Submit to Any Arbitration	$75.
(v) Appeals of Arbitration Decisions or Petitions to Modify or Vacate an Arbitration Award	$150.
(88) Basic fee for STB adjudicatory services not otherwise covered	$200.
(89)–(95) [Reserved].	
PART VII: Services:	
(96) Messenger delivery of decision to a railroad carrier's Washington, DC, agent	$32 per delivery.

Type of proceeding	Fee
(97) Request for service or pleading list for proceedings	$24 per list.
(98) Processing the paperwork related to a request for the Carload Waybill Sample to be used in a Surface Transportation Board or State proceeding that:	
(i) Does not require a **Federal Register** notice:	
(a) Set cost portion	$150.
(b) Sliding cost portion	$47 per party.
(ii) Does require a **Federal Register** notice:	
(a) Set cost portion	$400.
(b) Sliding cost portion	$47 per party.
(99)(i) Application fee for the Surface Transportation Board's Practitioners' Exam	$150.
(ii) Practitioners' Exam Information Package	$25.
(100) Carload Waybill Sample data:	
(i) Requests for Public Use File for all years prior to the most current year Carload Waybill Sample data available, provided on CD–R.	$250 per year.
(ii) Specialized programming for Waybill requests to the Board	$104 per hour.

* * * * *

[FR Doc. E8–13554 Filed 6–17–08; 8:45 am]

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Proposed Rules

Federal Register
Vol. 73, No. 118
Wednesday, June 18, 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 JUSTICE

Executive Office for Immigration Review

8 CFR Part 1003

[EOIR Docket No. 159P; AG Order No. 2976–2008]

RIN 1125–AA58

Board of Immigration Appeals: Affirmance Without Opinion, Referral for Panel Review, and Publication of Decisions as Precedents

AGENCY: Executive Office for Immigration Review, Justice.

ACTION: Proposed rule with request for comments.

SUMMARY: This proposed rule would amend the Department of Justice (Department) regulations regarding the administrative review procedures of the Board of Immigration Appeals (Board) in three ways. First, this rule provides greater flexibility for the Board to decide, in the exercise of its discretion, whether to issue an affirmance without opinion (AWO) or any other type of decision. This rule clarifies that the criteria the Board uses in deciding to invoke its AWO authority are solely for its own internal guidance, and that the Board's decision depends on the Board's judgment regarding its resources and is not reviewable. The revision related to AWO is needed to address divergent precedent in the United States Courts of Appeals regarding the reviewability of the Board's decision to issue an AWO. Finally, this revision clarifies that when the Board issues an AWO or a short decision adopting some or all of the immigration judge's decision, the decision is generally based on issues and claims of errors raised on appeal and is not to be construed as waiving a party's obligation to raise issues and exhaust claims of error before the Board. Second, this rule expands the authority to refer cases for three-member panel review for a small class of particularly complex cases involving complex or unusual issues of law or fact. Third, this rule amends the regulations relating to precedent decisions of the Board by authorizing publication of decisions either by a majority of the panel members or by a majority of permanent Board members and clarifying the relevant considerations for designation of precedents. These revisions implement, in part, the Memorandum for Immigration Judges and Members of the Board of Immigration Appeals issued by the Attorney General on August 9, 2006.

DATES: *Comment date:* Comments may be submitted not later than August 18, 2008.

ADDRESSES: You may submit comments, identified by EOIR Docket No. 159P, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* John Blum, Acting General Counsel, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2600, Falls Church, Virginia 22041. To ensure proper handling, please reference EOIR Docket No. 159P on your correspondence. This mailing address may also be used for paper, disk, or CD–ROM submissions.
- *Hand Delivery/Courier:* John Blum, Acting General Counsel, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2600, Falls Church, Virginia 22041; telephone (703) 305–0470 (not a toll-free call).

FOR FURTHER INFORMATION CONTACT: John Blum, Acting General Counsel, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2600, Falls Church, Virginia 22041; telephone (703) 305–0470 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

I. Public Participation

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of this rule. Comments that will provide the most assistance to the Department of Justice will reference a specific portion of the rule, explain the reason for any recommended change, and include data, information, or authority supporting the recommended change.

All submissions received must include the agency name and EOIR Docket No. 159P.

Posting of Public Comments: Please 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 must also locate all the personal identifying information you do not want posted online in the first paragraph of your comment and identify 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 must also prominently identify 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 may not be posted on *http://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 Further Information Contact'' paragraph.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.* Submitted comments may also be inspected at the Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2600, Falls Church, Virginia 22041. To make an appointment, please contact the Executive Office for Immigration Review at (703) 305–0470 (not a toll free call).

II. The Attorney General's Review

On January 9, 2006, Attorney General Alberto Gonzales directed a comprehensive review of the Immigration Courts and the Board. This review was undertaken in response to concerns about the quality of decisions being issued by the immigration judges and the Board and about reports of intemperate behavior by some immigration judges.

At that time, the Deputy Attorney General and the Associate Attorney General assembled a review team, which over the course of several months conducted hundreds of interviews, administered an online survey, and analyzed thousands of documents to assess the Executive Office for Immigration Review (EOIR) adjudicative process. With regard to the Board's appellate process, the review team received much commentary about the streamlining and Board reform regulations, specifically the *Procedural Reforms To Improve Case Management Rule,* 67 FR 54878 (August 26, 2002) (''Board reform rule''). This rule provided for improved case management procedures and expanded the number of cases that could be referred to a single Board member for review. This new case management system was intended to reduce delays in the appellate review process, reduce the backlog of pending cases, and allow Board members to focus more attention on cases presenting novel or significant issues.

Critics of the procedural reforms rule speculated that the revised procedures allowed Board members insufficient time to review cases thoroughly and made it more difficult for the Board to publish adequate numbers of precedential decisions. Supporters observed that the reforms brought much-needed efficiency to the appellate process, which allowed the Board to eliminate a large backlog of cases and to adjudicate cases in a timely manner.

On August 9, 2006, Attorney General Gonzales announced that the review was complete, and he directed that a series of measures be taken to improve adjudications by the immigration judges and the Board. EOIR is implementing most of those initiatives through administrative and management actions, although several of the initiatives require changes to the existing regulations. This rule is one of several new regulatory actions resulting from this senior level review, and implements three initiatives relating to the Board.

The Department considered the Board's current and predicted caseload, its resources, and the need to adjudicate cases thoroughly and in a timely manner and concluded that the basic principles set forth in the Board reform rule were still necessary to prevent future backlogs and delays in adjudication. Accordingly, the Department is not reopening or seeking public comment on the existing final regulations that were adopted in 2002.

However, the Department has concluded that three specific adjustments to the Board reform rule are appropriate, and it is with respect to these three changes that we seek public comments. The proposed rule, accordingly, would revise the regulations governing the Board to (1) encourage the increased use of one-member written opinions to address poor or intemperate immigration judge decisions, instead of issuing affirmances without opinion, (2) allow for the use of three-member written opinions to provide greater legal analysis in a small class of particularly complex cases, and (3) authorize three-member panels, by majority vote, to designate their decisions as precedent decisions. The Department has already published a separate rule increasing the number of Board members in order to carry out the Board's expanded responsibilities. 71 FR 70855 (Dec. 7, 2006).

III. Affirmance Without Opinion

A. Mandatory and Discretionary Affirmances Without Opinion

Historically, with a few exceptions not mentioned here, the Board adjudicated all of its cases in panels of three Board members. Those three-member panels generally issued full written decisions explaining the order in each case. However, as the Board's caseload began to grow dramatically over the years, changes were necessary to help the Board manage its docket.

In 1999, a regulatory amendment authorized the Board to affirm the decision of an immigration judge without issuing a separate written opinion. *See Board of Immigration Appeals; Streamlining,* 64 FR 56135 (Oct. 18, 1999). This kind of order is called an affirmance without opinion (AWO), and the decision contains only two sentences prescribed by regulation, without any additional language or explanation about the reasons for the affirmance. *See* 8 CFR 1003.1(e)(4)(ii). The Board implemented the AWO process successfully, although the process was initially utilized only in certain categories of cases pending before the Board, and all other cases were still referred to a three-member panel for decision. Despite the use of this new procedural device, however, the Board's backlog of pending cases continued to grow and the average period of time that cases remained pending on appeal to the Board lengthened considerably.

More than five years ago, Attorney General John Ashcroft published the Board reform rule. *See* 67 FR 54878 (Aug. 26, 2002). That rule retained the basic AWO process as introduced in 1999, but expanded the use of affirmances without opinion by providing for the Board to issue an AWO in any case when certain regulatory criteria are met. *Compare* 8 CFR 3.1(a)(7)(ii) (2000) (providing that a single Board member ''may'' affirm without opinion) *with* 8 CFR 1003.1(e)(4)(i) (2006) (providing that, in certain circumstances, a single Board member ''shall'' affirm without opinion).[1] Under the current regulations, a single Board member will affirm an immigration judge's decision without opinion when he or she is satisfied that the immigration judge's decision reached the correct result, that any errors were harmless or nonmaterial, and that the issues on appeal are either (1) squarely controlled by precedent and do not require an application of precedent to a novel factual scenario, or (2) are not so substantial as to warrant the issuance of a written opinion in the case. *See* 8 CFR 1003.1(e)(4)(i). When a single Board member is satisfied that the regulatory criteria are met and issues an AWO, the order will state that ''[t]he Board affirms, without opinion, the result of the decision below. The decision below is, therefore, the final agency determination.'' 8 CFR 1003.1(e)(4)(ii).

When the Board member determines that an AWO is not warranted in a case, the current regulation provides that most such cases will be resolved by an opinion issued by a single Board member rather than referred to a panel of three Board members. A single Board member may issue a decision that affirms, modifies, or remands an immigration judge's decision, and may provide any explanation or address any issue he or she deems appropriate. The majority of single member decisions, in fact, are not AWOs, but are fuller orders addressing the issues raised on appeal. In fact, in fiscal year 2007, only 10% of

[1] In 2003, the Attorney General redesignated the previous regulations in 8 CFR part 3, relating to EOIR, as 8 CFR part 1003 in connection with the abolition of the former Immigration and Naturalization Service and the transfer of its responsibilities to the Department of Homeland Security (DHS). Under the Homeland Security Act, EOIR (including the Board and the immigration judges) remains under the authority of the Attorney General. *See* 6 U.S.C. 521; 8 U.S.C. 1103(g).

the Board's decisions were issued as AWOs.

In addition to restructuring the decisional process, the Board reform rule set specific time limits for the disposition of appeals after the record on appeal is completed and the case is ready for adjudication. *See* 8 CFR 1003.1(e)(8). With rare exceptions, a Board member must adjudicate a case within 90 days of completion of the record. If the case is referred to a three-member panel, the case must be adjudicated within 180 days of referral.

With the Board reform rule, the Department provided the Board with powerful tools to address a burgeoning number of appeals and a growing backlog of cases. When he announced the Board's restructuring in February 2002, Attorney General Ashcroft cited the size of the Board's backlog and the substantial delays in reaching final decisions as the basis for the reform. At that time, 56,000 cases were pending before the Board. More than 10,000 of those cases had been pending for more than three years and another 34,000 had been pending for more than one year. Presently, approximately 27,000 cases are pending at the Board—more than a 50% decrease—even though the number of cases being filed with the Board has remained very high, with 40,000 new cases received during FY2006. Except for cases on regulatory hold, *see* 8 CFR 1003.1(e)(8)(ii), virtually none of the 27,000 current cases has been pending for more than three years. The vast majority of the pending cases were filed in FY2007 or 2008; only 10 percent were filed in FY2006. In short, the Board has essentially eliminated the backlog of pending appeals and reduced the time for processing appeals and motions in compliance with the regulatory time frames governing the completion of cases.[2]

Although individuals have challenged the Board reform rule on due process and administrative law grounds, the federal courts have consistently affirmed the Attorney General's authority to adopt the rule. *See Blanco de Belbruno* v. *Ashcroft,* 362 F.3d 272 (4th Cir. 2004); *Zhang* v. *United States Dep't of Justice,* 362 F.3d 155 (2d Cir. 2004); *Yuk* v. *Ashcroft,* 355 F.3d 1222 (10th Cir. 2004); *Dia* v. *Ashcroft,* 353 F.3d 228, 238–45 (3d Cir. 2003) (en banc); *Denko* v. *INS*, 351 F.3d 717, 724–32 (6th Cir. 2003); *Falcon Carriche* v. *Ashcroft,* 350 F.3d 845 (9th Cir. 2003); *Georgis* v. *Ashcroft,* 328 F.3d 962 (7th Cir. 2003); *Mendoza* v. *U.S. Att'y Gen.,* 327 F.3d 1283 (11th Cir. 2003); *Soadjede* v. *Ashcroft,* 324 F.3d 830 (5th Cir. 2003); *Albathani* v. *INS,* 318 F.3d 365 (1st Cir. 2003); *Capital Area Immigrants' Rights Coalition* v. *U.S. Dep't of Justice,* 264 F. Supp. 2d 14 (D.D.C. 2003).

The success of the reform regulation rests on both the ability of the Board to adjudicate the majority of cases by single-member review and the ability of the Board to affirm the decision of an immigration judge without issuing a full opinion. *See Guyadin* v. *Gonzales,* 449 F.3d 465, 469 (2d Cir. 2006) (highlighting the importance of the streamlining regulations to address a ''crushing backlog''). The number of decisions issued by a single Board member has remained relatively constant since the effective date of the reform regulation. In contrast, the rate of AWOs has been decreasing. In fiscal year 2003, approximately 36% of the Board's decisions were AWOs. That number declined to approximately 32% in fiscal year 2004, 20% in fiscal year 2005, and 15% in fiscal year 2006. The AWO rate for fiscal year 2007 is only 10%.

Despite the success of the Board's reform rule in addressing delays in decision times and in managing a very heavy caseload, some courts of appeals have levied pointed criticism in some cases where the immigration judge's conduct was intemperate or abusive, raising the concern that such conduct was not adequately addressed by the Board's decisions, particularly in cases where the Board issued an AWO. *See, e.g., Fiadjoe* v. *U.S. Att'y Gen.,* 411 F.3d 135 (3d Cir. 2005); *Cham* v. *U.S. Att'y Gen.*, 445 F.3d 683, 693–94 (3d Cir. 2006); *Huang* v. *Gonzales,* 453 F.3d 142 (2d Cir. 2006). Some courts of appeals have also criticized the quality of the immigration judge and Board decisions. *See Benslimane* v. *Gonzales,* 430 F.3d 828 (7th Cir. 2005), and cases cited therein. The criticism has been limited to a relatively small number of cases and a minority of circuit courts. Moreover, the overall rate at which the federal courts have overturned Board decisions on judicial review has remained fairly constant, averaging only 10 to 12 percent. It should also be borne in mind that only the aliens are able to petition for review in the circuit courts. DHS may not appeal adverse Board decisions to the courts of appeals; thus, the courts never see the thousands of cases in which the aliens are granted relief or protection from removal. Nevertheless, the Attorney General has concluded that some adjustments to the Board's streamlining practices are now appropriate to improve the quality of the Board's review of complex or problematic cases while retaining the fundamentals of streamlining.

Attorney General Gonzales directed the Board to increase the use of single-member written opinions to address immigration judge decisions that are poor in quality and cases in which the immigration judge's conduct during the hearing was intemperate or abusive. This rule meets that objective by providing the Board with greater flexibility to issue decisions that respond to the concerns expressed by the federal circuit courts.

Under this rule, single Board members will have discretion to decide whether to issue an AWO or to issue a written opinion with an explanation of the reasons for the decision. The existing regulations already provide that a single Board member is not required to issue an AWO when there is a substantial factual or legal issue in the case warranting the issuance of a written opinion, but this rule recognizes that Board members may choose to issue either an AWO or a written opinion, as a matter of discretion, in cases where the regulatory criteria in 8 CFR 1003.1(a)(4)(i) are met.

In determining whether to exercise its discretion to issue an AWO or a single-member opinion, the Board may consider available resources to balance the need to complete cases efficiently while evaluating whether there is a need to provide further guidance to the immigration judge, the parties, and the federal courts through a written decision addressing the issues in a case. The Board is best positioned to assess its resources and the importance of various competing demands, because the Board sees the full expanse of issues presented in the more than 40,000 cases filed each year from decisions of the immigration judges and of DHS service centers or other adjudicating officers in those cases subject to review by the Board. The Board is thus able to see recurring problems or issues arising in the decisions under review.

The Board may consider exercising its discretion to issue a written order in those cases in which the immigration judge's decision would otherwise meet the criteria for AWO, but the immigration judge exhibited inappropriate conduct at the hearing or made intemperate comments in the oral decision. Likewise, the Board may consider issuing single-member opinions in those cases in which the

[2] The regulatory time frames relate to the period beginning when the record is complete and the case is ready for adjudication. At present, the principal cause of delay in the Board's adjudications relates to the time required for preparation of transcripts of the immigration judge proceedings and other steps needed to complete the record. EOIR is already working to reduce those delays in response to another Attorney General directive.

infirmities in the decision under review are not prejudicial, but are of such a nature and extent that the Board may find it appropriate to address the basis for the decision. Examples include where the immigration judge reaches the correct result but does not provide a complete analysis, the immigration judge's analysis includes some immaterial or technical error, or the immigration judge fails to include citations to applicable precedent or regulations. While the result may be correct and the errors harmless, the Board member may consider that, in these kinds of cases, further explanation is warranted.

B. Reviewability

With the greater level of flexibility afforded by this rule, the Board is better situated to address the concern expressed by some courts that AWOs allow room for confusion in the record about the basis for the Board's decision, and thus, the jurisdiction of the federal circuit courts. *See generally Lanza* v. *Ashcroft*, 389 F.3d 917 (9th Cir. 2004). The Department acknowledges the high volume of cases now pending before the courts of appeals and sees this rule as a means of addressing some of the courts' concerns and of promoting greater uniformity in the way the courts review administrative decisions.

Existing regulations establish that when the Board issues an AWO, the decision of the immigration judge becomes the ''final agency determination.'' 8 CFR 1003.1(e)(4)(ii). Although the immigration judge's decision becomes the ''final agency determination,'' the Board remains the final agency decision maker exercising the authority delegated by the Attorney General. It is the Board's AWO that triggers the time period for seeking review in a circuit court. When an alien petitions for review following the Board's issuance of an AWO, the courts review the merits of the immigration judge's decision.

Some circuits, however, have concluded that, in addition to reviewing the merits of the underlying immigration judge's decision, the court may also review the Board's decision to issue an AWO, as opposed to another type of order. Other circuits have reached the opposite conclusion. This inconsistency threatens the goal of the Board's procedural reforms: securing finality in immigration cases as efficiently as possible.

The Eighth and Tenth Circuits have concluded that the Board's decision to issue an AWO is not reviewable. *See Ngure* v. *Ashcroft*, 367 F.3d 975, 981–88 (8th Cir. 2004); *Tsegay* v. *Ashcroft*, 386 F.3d 1347, 1355–58 (10th Cir. 2004). In particular, the Tenth Circuit found it lacked jurisdiction to review the Board's procedural decision to issue an AWO, as opposed to a single-member decision with an opinion or a three-member decision. The court noted that when the Board affirms an immigration judge's decision without opinion, the immigration judge's decision becomes the final agency decision. The Tenth Circuit concluded that because the Immigration and Nationality Act vests jurisdiction in the courts of appeals to review a ''final order of removal,'' the court was without jurisdiction to review the Board's AWO decision because an AWO is not in the nature of a final agency decision. *Id.* at 1353. The Tenth Circuit also concluded that because the decision to issue an AWO is committed to the Board's discretion, the Administrative Procedure Act did not confer jurisdiction on the circuit courts to review the Board's decision to issue an AWO. *Id.* at 1355.

The Fourth Circuit has reached a conclusion similar in effect to the decisions of the Eighth and Tenth Circuits. The Fourth Circuit held that even if the Board's decision to issue an AWO is erroneous, the court simply reviews the merits of the underlying decision of the immigration judge. *See Blanco de Belbruno* v. *Ashcroft*, 362 F.3d 272, 281 (4th Cir. 2004) (analyzing the similar AWO provision previously found at 8 CFR 3.1(a)(7)). In sum, the Fourth, Eighth, and Tenth Circuits do not review the Board's decision to issue an AWO, but simply review the merits of the underlying decision, as prescribed by the language in the Board's AWO order.

In contrast, the Third Circuit has concluded that the Board's decision to issue an AWO is reviewable, separate and apart from the question of whether the underlying merits decision is supported. *See Smriko* v. *Ashcroft*, 387 F.3d 279, 290–95 (3d Cir. 2004). The First Circuit also regards as reviewable the Board's determination of whether the AWO criteria exist in a particular case. *See Haoud* v. *Ashcroft*, 350 F.3d 201 (1st Cir. 2003). A divided panel of the Ninth Circuit reached the same conclusion in *Chen* v. *Ashcroft*, 378 F.3d 1081, 1088 (9th Cir. 2004). The court in Chen concluded that, unless the underlying issue in a case rests on a discretionary determination, it has jurisdiction to review whether the use of an AWO was appropriate. Such review causes the court to examine the propriety of the Board's decision to apply its AWO authority and summarily affirm the immigration judge's decision. This approach results in a superfluous and unnecessary layer of review about an issue—the Board's decision to affirm without opinion rather than affirm with an opinion—that does not resolve the dispositive issue, namely whether the underlying decision of the immigration judge withstands review.

The Sixth and Seventh Circuits have not squarely decided the reviewability issue. However, both circuits have suggested that, although the Board's decision to issue an AWO may be separately reviewable, the review of the decision to AWO often will merge with the review of the underlying decision of the immigration judge. *See Denko* v. *INS*, 351 F.3d 717, 731–32 (6th Cir. 2003); *Georgis* v. *Ashcroft*, 328 F.3d 962, 966–67 & n.4 (7th Cir. 2003). Where those decisions essentially merge, the Seventh Circuit has stated that ''it makes no practical difference whether the BIA properly or improperly streamlined review.'' *Georgis* v. *Aschcroft, supra* at 967; *see also Hamdan* v. *Gonzales*, 425 F.3d 1051 (7th Cir. 2005).

The inconsistency in the circuit courts has prompted the Department to propose a revision to the regulatory language. The rule clarifies that the decision to issue an AWO is discretionary and is based on an internal agency directive created for the purpose of efficient case management that does not create any substantive or procedural rights. The Board reform rule was successful in creating procedures that increased efficiency and promoted finality in immigration cases without sacrificing fairness. The additional layer of review in some circuits is not consistent with the reform rule's goal of promoting efficiency and finality in the immigration system. The efficient and fair adjudication of immigration appeals remains a priority of the Department. This revision to the AWO regulation in no way reflects a diminished commitment to timely and fair adjudications at the administrative level. In light of the strict regulatory time frames governing the adjudication of appeals and the Board's decreasing use of AWOs, the Department expects that the Board will continue to manage its docket efficiently following this revision to the AWO procedure.

C. Scope of Board's Dispositions on Appeal

Finally, this rule clarifies that, when the Board chooses to issue an AWO or a short order adopting all or part of the immigration judge's decision, that decision is based not only on the nature of the case and whether it fits the criteria for AWO, but also on the nature of the issues and claims of error

properly raised on appeal. The Board's decision to issue an AWO or short order affirming the immigration judge's decision should not be construed as waiving a party's obligation to exhaust issues and claims before the Board. While it is true that the Board has the discretion to consider issues not raised on appeal, this does not excuse a party from filing a Notice of Appeal and supporting brief that are sufficiently precise in identifying any claims, errors, and other issues in the immigration judge's decision with which the party disagrees. Further, it is not enough for a party to raise an issue on appeal in passing. Rather, the party must spell out, in a meaningful way, its arguments and claims of error in the Notice of Appeal or supporting brief. In addition, the regulation clarifies that the Board need not specifically address every issue raised on appeal, but is presumed to have considered all properly raised issues on appeal in reaching its decision, even if that decision is an AWO or short order that does not specifically discuss every issue the parties may have raised on appeal. *See, e.g., Toussaint* v. *Attorney General*, 455 F.3d 409 (3d Cir. 2006), *citing Zubeda* v. *Ashcroft*, 333 F.3d 463 (3d Cir. 2003); *Mansour* v. *INS*, 230 F.3d 902 (7th Cir. 2000).

For purposes of complying with the mandate to exhaust administrative remedies as of right under section 242(d)(1) of the Act, 8 U.S.C. 1252(d)(1), claims of error raised in the Notice of Appeal or the brief shall be deemed the matters presented to the Board for review and thereby exhausted. Exhaustion of administrative remedies is an indispensable component of administrative decision making and judicial review of an agency's decisions. *See McCarthy* v. *Madigan*, 503 U.S. 140 (1992) (superseded by statute). Litigants fail to exhaust their claims at their own peril, in that they waive matters that might have been corrected by the agency. Courts that ignore this rule usurp the agency's role and function by setting aside an agency decision on grounds that were not raised to and disposed of by the agency. *See Unemployment Compensation Comm'n of Alaska* v. *Aragon*, 329 U.S. 143, 155 (1946).

In the Immigration and Nationality Act, Congress has dictated that the Attorney General shall, in the first instance, resolve a controversy before judicial intervention, *see* 8 U.S.C. 1252(d)(1), and the Attorney General by regulation has delegated that function to the Board. The federal courts have consistently held that they do not sit as administrative agencies. Failure to raise an issue on appeal to the Board constitutes failure to exhaust administrative remedies or preserve the issue for appeal, and deprives the courts of appeal of jurisdiction to consider the issue. *See Rivera-Zurita* v. *INS*, 946 F.2d 118 (10th Cir. 1991); *Ravindran* v. *INS*, 976 F.2d 754 (1st Cir. 1992); *Farrokhi* v. *INS*, 900 F.2d 697 (4th Cir. 1990); *Martinez-Zelaya* v. *INS*, 841 F.2d 294 (9th Cir. 1988); *Campos-Guardado* v. *INS*, 809 F.2d 285 (5th Cir. 1987); *Cisternas-Estay* v. *INS*, 531 F.2d 155 (3d Cir. 1976). The courts have concluded that when the agency resolves the matter first, the legal and factual issues have been sufficiently developed to aid the court in reviewing a person's claim and the agency's findings and conclusions regarding such claim. *See Madigan*, 503 U.S. at 145–46.

Recently, two courts of appeal have concluded otherwise when the Board's decision has been an AWO or a short order affirming the immigration judge's decision. In *Abebe* v. *Gonzales*, 432 F.3d 1037 (9th Cir. 2005), the Court of Appeals for the Ninth Circuit held that when the Board adopts or affirms the decision of an immigration judge without further opinion, and the Board does not explicitly state in its decision that it is declining to consider any arguments not raised on appeal, then the Board's adoption of the immigration judge's decision, which discusses all issues litigated below, is enough to satisfy the exhaustion requirement. Likewise, in *Pasha* v. *Gonzales*, 433 F.3d 530 (7th Cir. 2005), the Court of Appeals for the Seventh Circuit held that when the Board summarily affirms the immigration judge's decision below, the Board waives failure to exhaust, especially where the Board fails to specify that it was confining its review to the questions raised on appeal and deemed all others waived.

Under the rule of law created by *Abebe* and *Pasha*, aliens can circumvent the appellate process set up by the Attorney General, which is designed specifically to review and correct any errors raised on appeal. Without a Notice of Appeal or brief that points out specific errors the parties believe the immigration judge made, the Board might choose to issue an AWO or short order affirming the immigration judge. The alien can then go to the courts of appeals and raise and fully brief arguments never made to the Board.

This rule reaffirms the historical practice of the Board with respect to exhaustion requirements. The Board has repeatedly stated that it need not address issues that are not raised. *See, e.g., Matter of Cervantes-Gonzales*, 22 I&N Dec. 560, 561 n.1 (BIA 1999) (noting that ''[a]s the respondent does not raise this issue on appeal, we decline to address it''); *Matter of Gutierrez*, 19 I&N Dec. 562, 565 n.3 (BIA 1988) (stating that ''[a]s the Service does not directly raise this issue on appeal, we shall not address it'').

When the Board invokes its AWO authority or issues a short decision adopting the immigration judge's decision, there is no cause to depart from the foregoing exhaustion principles. Adopting the immigration judge's decision or designating the immigration judge's decision as the final agency determination under the AWO regulation is the final act of the Board that triggers the alien's opportunity to seek judicial review, but it occurs only after the alien has set the issues to be determined by the Board. It is those issues that the Board takes into account in determining what type of decision to issue.

This rule would make clear, however, that the Board may address an issue that was not raised on appeal *sua sponte* when the Board in its discretion concludes that the issue warrants attention. *See generally* 8 CFR 1003.1(c) (authorizing the Board to certify a case to itself). *See also Ghassan* v. *INS*, 972 F.2d 631, 635 (5th Cir. 1992) (noting that the Board may consider an issue that has not been appealed by either party). The Board will continue to review the record and address any errors that it finds, in its discretion, could result in a miscarriage of justice.

IV. Three-Member Panel Decisions

Under the current regulations, a single Board member ''may only'' refer a case to a three-member panel if the case fits one or more of the enumerated criteria set out in 8 CFR 1003.1(e)(6)(i)–(vi). These circumstances are circumscribed and include the following: (1) The need to settle inconsistencies among the rulings of different immigration judges, (2) the need to establish a precedent construing the meaning of laws, regulations, or procedures, (3) the need to review a decision by an immigration judge or DHS that is not in conformity with the law, (4) the need to resolve a case or controversy of major national import, (5) the need to review a clearly erroneous factual determination by an immigration judge, or (6) the need to reverse the decision of an immigration judge or DHS. *Id.* The streamlining provisions anticipated that a single Board member would decide a substantial majority of the cases either through an AWO or through a short order.

While the streamlining provisions allowed the Board to resolve its backlog,

the Attorney General has determined that the Board is in a better position to devote more resources to improving its review of complex or problematic cases. This regulation expands the criteria for three-member decisions by allowing a Board member, in the exercise of discretion, to refer a case to a three-member panel when the case presents a complex, novel, or unusual legal or factual issue. The Attorney General anticipates that three-member review of complex or problematic cases may enhance the review and analysis of the issues presented, and may provide more authoritative guidance.

This provision will also permit the panels to publish more cases as precedent decisions because the Board members will have greater discretion to refer cases to a three-member panel, and will therefore have more cases to consider for publication. Under the Board's current practice, opinions issued by a single Board member are not considered for publication as a precedent decision. Cases involving unusual or complex legal or factual issues are often the type of case that the Board would consider for publication of a precedent decision.

In exercising its discretion to refer a case to a three-member panel under this provision, the Board may consider available resources and the best use of those resources while fulfilling its many responsibilities such as providing a full and fair review in each individual case, offering guidance to immigration judges and the federal courts of appeals when they are faced with recurring issues, promoting national uniformity in the interpretation of the immigration laws, and the need for issuing published precedential decisions. The Board will be able to determine the need for enhanced review and analysis, and the need to issue guidance, in evaluating which cases to refer for three-member review.

V. Publication of Precedent Decisions

A. The Importance of Precedent Decisions

Another criticism that emerged during the Attorney General's review was that the promulgation of the Board reform rule made it more difficult for the Board to publish adequate numbers of precedential decisions. In fact, one of Attorney General Ashcroft's goals in adopting the Board reform rule in 2002 was to promote the cohesiveness and collegiality of the Board's decision-making process and to facilitate the publication of more precedent decisions with greater uniformity. *See* 67 FR at 54894.[3]

Initially, after publication of the Board reform rule, the Board reduced the number of precedent decisions published. Instead, the Board concentrated its efforts and resources on implementing the many changes mandated by the rule, the most pressing of which was to address the backlog of cases and to create case management practices that would allow the Board to complete appeals in a timely fashion. As noted earlier, the Board has been successful in these endeavors, while adjusting to a smaller number of Board members. Now that the backlog has been brought under control and case management practices are firmly in place, the Board has been able to turn its attention to increasing the number of published decisions. In fiscal year 2006 the Board published more precedents (25) than in any other year since fiscal year 2000, and surpassed that number in fiscal year 2007, publishing 40 decisions.

At a time when the Board has been issuing some 44,000 decisions annually, the Attorney General has concluded that publishing a greater number of precedent decisions is required to resolve more of the important and recurring legal issues, factual settings, procedural questions, and matters of discretion facing the Board and the immigration judges. Given that there are approximately 220 immigration judges around the country who are adjudicating 350,000 cases annually, there is an important need not only to provide clear guidance but also to promote a degree of national uniformity and consistency in the disposition of these cases. Without published precedent decisions, immigration judges may continue to interpret the law in inconsistent ways, requiring duplicative litigation and appeals by the parties, which in turn raises the specter of possible inconsistencies in the Board's dispositions. At the least, in the absence of published precedent decisions addressing the interpretation of a particular statutory or regulatory provision, there is no clear assurance to the parties and the federal courts that the Board and the immigration judges are resolving issues consistently through unpublished decisions in a series of different cases.

The number of Board decisions published as precedents also has important implications for judicial review. The courts of appeals have been issuing hundreds of precedent decisions each year in reviewing cases decided by the Board, and a substantial number of the court decisions are interpreting the immigration laws and regulations. As a result, the courts of appeals, in many cases, have found themselves faced with the need to resolve key interpretive or procedural issues without the benefit of any precedential guidance from the Board on those issues.

In some cases, the courts of appeals have proceeded to announce their own interpretations, which then may become binding with respect to other immigration cases arising within that circuit.[4] This effect has been particularly evident in the Ninth Circuit, which hears slightly less than half of all of the immigration cases being appealed from the Board each year; thus, a precedent decision from the Ninth Circuit affects a very large number of other pending immigration cases. In any of the circuits, though, the result all too often is that the interpretation of the immigration laws has become fragmented, with the interpretation of legal or procedural issues often varying substantially depending solely on the circuit in which each case arises. Such results frustrate the goal of national uniformity and consistency in the immigration process.

In other cases, particularly in recent years, some courts of appeals instead have remanded pending cases back to the Board, allowing the Board to issue a precedent decision on the issues raised in the case, rather than having the court of appeals announce its own legal interpretation as a matter of first impression. These remand orders provide an opportunity for the Board to

[3] The Attorney General discussed at some length the importance of the Board's role in providing precedential guidance regarding the interpretation of the immigration laws. *See* 67 FR at 54880 (''This precedent setting function recognizes that novel issues arise each and every time that the Act, or the regulations, change; complex issues arise because of the interrelationship of multiple provisions of law; and repetitive issues arise before different immigration judges because of the national nature of the immigration process. All of the participants in the immigration adjudication process deserve concise and useful guidance on how these novel, complex, and repetitive issues are best resolved * * *. Both the three-member panel and the en banc Board should be used to develop concise interpretive guidance on the meaning of the Act and regulations. Thus, the Department expects the Board to be able to provide more precedential guidance to the immigration judges, the Service, attorneys and accredited representatives, and respondents.'').

[4] *See, e.g.*, *Maharaj* v. *Gonzales,* 450 F.3d 961, 971–76 (9th Cir. 2006) (en banc) (noting that the Board had not issued a precedent decision interpreting the asylum regulation dealing with firm resettlement, 8 CFR 208.15, since it had been adopted 16 years earlier; court of appeals then surveyed judicial interpretations from various court of appeals decisions and announced its own interpretation of the regulatory language).

resolve the legal issues in each such case before the court adopts its own interpretations.

In *Yuanliang Liu* v. *U.S. Dept. of Justice,* 455 F.3d 106 (2d Cir. 2006), the Second Circuit remanded a case to the Board with instructions to develop precedential standards and procedures for the immigration judges to follow in deciding whether an alien has knowingly filed a frivolous asylum application. Section 208(d)(6) of the INA provides that, if the Attorney General determines that an alien has knowingly made a frivolous asylum application after receiving notice of the statutory penalties for doing so, the alien shall be permanently ineligible for any benefits under the INA. Despite the significance of such a powerful sanction, the court of appeals found that the existing regulatory provision in 8 CFR 1208.20 leaves important substantive and procedural questions unresolved, and noted that the Board has not issued a precedent decision relating to section 208(d)(6) since it took effect over nine years ago. However, rather than undertaking to establish its own legal standards as a matter of first impression, the court remanded the case to the Board to provide precedential guidance on the issues arising under this provision. The Second Circuit's explanation of its reasons for doing so are relevant in a broader sense, as they set forth in a concise fashion many of the reasons why the Board itself may be considering the publication of precedent decisions, including the need for national uniformity, the absence of prior precedents, the existence of a statutory ambiguity, the volume of cases raising the same or similar issues, the importance of the issues, and the need for clearer standards to avoid ad hoc decision making. *Liu,* 455 F.3d at 116–17. In response to the remand, the Board recently issued a precedent decision addressing the interpretive issues with respect to frivolous asylum applications, *Matter of Y–L–*, 24 I&N Dec. 151 (BIA 2007).[5]

Three other recent developments also emphasize the importance of precedential guidance from the Board. First, in *Gonzales* v. *Thomas,* 547 U.S. 183 (2006), the Supreme Court reversed a decision by the Ninth Circuit that had interpreted the asylum laws to mean that a person's membership in a nuclear family constitutes a ''particular social group'' for purposes of evaluating claims of persecution. The Supreme Court reversed, noting that such determinations should be made in the first instance by the Board rather than the federal courts. With respect to such issues arising under the immigration laws, *Thomas* emphasizes the importance of the Board's role to provide interpretive guidance. *Cf. Ucelo-Gomez* v. *Gonzales,* 464 F.3d 163, 172 (2d Cir. 2006) (''Our mandate serves the convenience of the BIA as well as this Court, and promotes the purposes of the INA. *Thomas* requires that we (in effect) certify this question. There is a press of cases raising similar questions in this Court, in the BIA, and before immigration judges; and the common project of deciding asylum cases promptly will be advanced by prompt guidance.''); *Jian Hui Shao* v. *BIA,* 465 F.3d 497, 502 (2d Cir. 2006) (noting the foreign policy considerations relating to Chinese coercive population control asylum cases and the large number of affected aliens and stating: ''We believe, in light of these concerns, that it would be unsound for each of the several Courts of Appeals to elaborate a potentially non-uniform body of law; only a precedential decision by the BIA—or the Supreme Court of the United States—can ensure the uniformity that seems to us especially desirable in cases such as these.''); *Matter of J–H–S–*, 24 I&N Dec. 196 (BIA 2007) (responding to *Shao* v. *BIA, supra*).

Second, the Ninth Circuit has recently concluded that interpretations of the provisions of the INA announced in unpublished decisions of the Board are not entitled to judicial deference under the standards of *Chevron U.S.A., Inc.* v. *Natural Resources Defense Council, Inc.,* 467 U.S. 837 (1984). *See Garcia-Quintero* v. *Gonzales,* 455 F.3d 1006, 1012–14 (9th Cir. 2006). The court of appeals determined that, in light of the Supreme Court's more recent decision in *United States* v. *Mead Corp.,* 533 U.S. 218, 226–27 (2001), only published precedent decisions of the Board are entitled to *Chevron* deference. More recently, the Second Circuit also concluded that it will follow a similar approach with respect to unpublished BIA decisions. *Rotimi* v. *Gonzales,* 473 F.3d 55 (2d Cir. 2007). Given the disproportionate share of immigration cases arising in the Ninth Circuit and the Second Circuit, we recognize the importance of the issuance of precedent decisions in order to promote national uniformity and obtain *Chevron* deference for the Board's interpretive decisions.

Third, the Supreme Court has made clear that an administrative agency is free to adopt a new interpretation of an ambiguous statutory provision, even though a federal court may have already issued a decision adopting a different interpretation of that same statute. *See National Cable & Telecomm. Ass'n* v. *Brand X Internet Services,* 545 U.S. 967 (2005). ''A court's prior judicial construction of a statute trumps an agency construction otherwise entitled to *Chevron* deference only if the prior court decision holds that its construction follows from the unambiguous terms of the statute and thus leaves no room for agency discretion.'' *Id.* at 982. *Brand X Internet* makes clear that—unless the court finds the statutory provision unambiguous under *Chevron* step one—the administrative agency is free to adopt a contrary interpretation, as long as it does so with proper foundation and explanation, and the courts are thereafter required to defer to the agency's new interpretation if it is sustainable under *Chevron* step two.[6]

[5] In addition, in response to a remand order from the Second Circuit, the Board issued a comprehensive decision in *Matter of Wang,* 23 I&N Dec. 924 (BIA 2006), which addressed and resolved a number of different interpretive issues relating to the Chinese Student Protection Act and the relevance of Congress's subsequent enactment of a new process for adjustment of status under section 245(i) of the INA. As another example, in response to the Second Circuit's directive in *Shi Liang Lin* v. *U.S. Dep't of Justice,* 416 F.3d 184, 192 (2d Cir. 2005), the Board issued a precedent decision providing an interpretation of the asylum laws relating to coercive population control practices. *Matter of S–L–L–,* 24 I&N Dec. 1 (BIA 2006), *rev'd, Shi Liang Lin* v. *U.S. Dept. of Justice,* 494 F.3d 296 (2d Cir. 2007) (en banc). In another case, in response to a remand order from the court of appeals in *Ucelo-Gomez* v. *Gonzales,* 464 F.3d 163 (2d Cir. 2006), the Board issued a precedent decision concluding that the category of ''affluent Guatemalans'' does not qualify as a ''particular social group'' for purposes of claims of persecution under the asylum laws. *Matter of A–M–E– & J–G–U–,* 24 I&N Dec. 69 (BIA 2007), *aff'd sub nom. Ucelo-Gomez* v. *Mukasey,* 509 F.3d 70 (2d Cir. 2007). *See also Velazquez-Herrera* v. *Gonzales,* 466 F.3d 781, 783 (9th Cir. 2006) (''We decline to reach the question whether either of these two definitions (or any other definition) is a permissible construction of 8 U.S.C. 1227(a)(2)(E)(i) . * * * Given that the Board has twice touched upon the issue of child abuse without authoritatively defining the term, and that the Board's two definitions are not consistent with each other, we think it prudent to allow the BIA in the first instance to settle upon a definition of child abuse in a precedential opinion.''); *Mirzoyan* v. *Gonzales,* 457 F.3d 217 (2d Cir. 2006) (remanding to the Board to define standards with respect to economic persecution); *Matter of T–Z–,* 24 I&N Dec. 163 (BIA 2007) (establishing standards for determining whether nonphysical harm, including economic sanctions, rises to the level of persecution).

[6] As the Supreme Court explained, 545 U.S. at 982–83 (citations omitted):

Chevron established a ''presumption that Congress, when it left ambiguity in a statute meant for implementation by an agency, understood that the ambiguity would be resolved, first and foremost, by the agency, and desired the agency (rather than the courts) to possess whatever degree of discretion the ambiguity allows.'' Yet allowing a judicial precedent to foreclose an agency from interpreting

The Supreme Court also noted that leaving the agency free to reinterpret statutory provisions, notwithstanding prior judicial precedents to the contrary, reflects the proper interpretive authority vested by Congress in the agency with respect to ambiguous statutory provisions. *See id.* at 983–84 (''In all other respects, the court's prior ruling remains binding law (for example, as to agency interpretations to which *Chevron* is inapplicable). The [court's] precedent has not been 'reversed' by the agency, any more than a federal court's interpretation of a State's law can be said to have been 'reversed' by a state court that adopts a conflicting (yet authoritative) interpretation of state law.'') *Cf. Jian Hui Shao,* 465 F.3d at 502 (''Accordingly, any effort expended by us interpreting the statute would be for nought should the BIA subsequently reach a different, yet reasonable, interpretation of this ambiguous provision.'').

The Supreme Court's decision in *Brand X* Internet offers an important opportunity for the Attorney General and the Board to be able to reclaim *Chevron* deference with respect to the interpretation of ambiguous statutory provisions in the immigration laws, notwithstanding contrary judicial interpretations, as long as the agency interpretation is within the scope of *Chevron* step two deference. Implementation of the interpretive authority recognized under *Brand X Internet* is undertaken through formal agency processes—*i.e.*, by rulemaking or by a precedent decision by the Board or the Attorney General.

As a recent example, in *Matter of Torres-Garcia,* 23 I&N Dec. 866 (BIA 2006), the Board issued a precedent decision interpreting the provisions of section 212(a)(9)(C)(ii) of the Immigration and Nationality Act (INA) and 8 CFR 212.2, as they relate to an alien seeking to establish admissibility in conjunction with an application for adjustment of status under section 245(i) of the INA. The Board's precedent decision explained at length why the Board disagreed with a prior decision of the Ninth Circuit that interpreted these same provisions to reach an opposite result. *See Perez-Gonzalez* v. *Ashcroft,* 379 F.3d 783 (9th Cir. 2004), *recon. denied,* 403 F.3d 1116 (9th Cir. 2005); *Torres-Garcia,* 23 I&N Dec. at 873–76. The Ninth Circuit has recognized that its prior decision in *Perez-Gonzalez* is no longer good law, because the court is required, under *Brand X Internet,* to defer to the Board's decision in *Torres-Garcia* that adopted a different, reasonable interpretation of the provisions at issue. *See Gonzales* v. *DHS,* 508 F.3d 1227 (9th Cir. 2007) (''under *Chevron* and *Brand X* we are required to defer to *In re Torres-Garcia's* interpretation of the statutory scheme, regardless of whether the agency once adhered to a different interpretation. * * * [W]e hold today that we are bound by the BIA's interpretation of the applicable statutes in *In re Torres-Garcia,* even though that interpretation differs from our prior interpretation in *Perez-Gonzalez.*'').

B. Changes to the Current Regulations

Under the current regulations, the Board's decisions are published as precedents upon a majority vote of the permanent Board members. While that process ensures that precedent decisions are fully considered by the members of the Board, it also means that the Board's panels are not able to designate their decisions as precedential unless a majority of the Board members agree.

At a time when the Board had only 5 members (which was the case until 1995), it made sense to require that a majority of Board members would be needed to designate any decision as a precedent. At that time, the three members of each panel constituted a majority of the Board members, and thus the members of a panel would have been able, on their own authority, to publish unanimous decisions of that panel as precedents. In fact, when the Board had only 5 members, the Board often published as many as 50 or 60 precedent decisions annually, at a time when the Board had a much smaller caseload and there were far fewer immigration judges whose decisions were being reviewed.

To facilitate the publication of precedent decisions, the Attorney General has decided to revise the Board's processes to allow three-member panels to publish precedent opinions if a majority of the permanent Board members of a panel votes to publish a decision. This rule also proposes to codify the Attorney General's authority to direct the Board to publish a decision as a precedent.[7]

The Department acknowledges that most of the more than 40,000 decisions issued by the Board each year do not articulate a new rule of law or procedure, and indeed even a substantial number of the cases that are referred to a three-member panel under the specific standards of 8 CFR 1003.1(e)(6) may not merit publication as a precedent. However, in cases where a majority of the Board members issuing a panel decision conclude that a case involves one or more issues that the Board has not previously resolved in a precedent decision,[8] and that publishing a precedent would be appropriate, in the exercise of discretion, this rule facilitates the publication of Board decisions in order to provide authoritative guidance to the aliens and their representatives, the immigration judges, the administrative agencies, and the federal courts.

This rule encourages publication of opinions which meet certain criteria, such as whether: (1) The case involves a substantial issue of first impression; (2) the case involves a legal, factual, or procedural issue that can be expected to arise frequently in immigration cases; (3) the case announces, modifies, or clarifies a rule of law; (4) the case resolves a conflict in decisions by immigration judges or the federal courts; (5) there is a need to achieve or maintain national uniformity of interpretation under the immigration laws and regulations with respect to the issues presented in the case, or to restore such uniformity of interpretation

an ambiguous statute, as the Court of Appeals assumed it could, would allow a court's interpretation to override an agency's. *Chevron's* premise is that it is for agencies, not courts, to fill statutory gaps. The better rule is to hold judicial interpretations contained in precedents to the same demanding *Chevron* step one standard that applies if the court is reviewing the agency's construction on a blank slate: Only a judicial precedent holding that the statute unambiguously forecloses the agency's interpretation, and therefore contains no gap for the agency to fill, displaces a conflicting agency construction. A contrary rule would produce anomalous results. It would mean that whether an agency's interpretation of an ambiguous statute is entitled to *Chevron* deference would turn on the order in which the interpretations issue: If the court's construction came first, its construction would prevail, whereas if the agency's came first, the agency's construction would command *Chevron* deference. Yet whether Congress has delegated to an agency the authority to interpret a statute does not depend on the order in which the judicial and administrative constructions occur. The Court of Appeals' rule, moreover, would ''lead to the ossification of large portions of our statutory law,'' by precluding agencies from revising unwise judicial constructions of ambiguous statutes. Neither *Chevron* nor the doctrine of stare decisis requires these haphazard results.

[7] Though the authority has not previously been codified in the regulations, the Attorney General in the past has directed the Board to publish a previously issued unpublished decision as a precedent to govern all similar cases. *See Matter of Toboso-Alfonso*, 20 I&N Dec. 819 (BIA 1990; A.G. 1994). This rule provides specific authority for the Attorney General to direct that previously issued Board decisions be published to serve as precedents. The rule also provides that the Attorney General may redelegate that authority to other Department officials, which may include the Deputy Attorney General or the Associate Attorney General.

[8] Note that a precedent decision need not address every issue in a case. Just as the courts of appeals do at times, the Board may choose to publish a precedent decision dealing with one or two key issues in the case, and then resolve the remaining issues in an unpublished decision if those issues do not merit discussion in a precedent decision.

pursuant to interpretive authority recognized by the Supreme Court in *Brand X Internet*; or (6) the case warrants publication in light of other factors that give it general public interest.[9]

The Board members will apply these standards on a case-by-case basis, in the exercise of their discretion, in determining which decisions to designate as precedents. Also, either of the parties may file a motion with the Board suggesting the appropriateness of designating a previously unpublished decision as a precedent. In addition, in view of the increasing importance of precedent decisions in the judicial review process, the Department recognizes that the Civil Division's Office of Immigration Litigation may suggest to EOIR the appropriateness of designating a decision as a precedent.

Although under this proposed rule a panel of three Board members may publish a precedent decision, the underlying purpose of the rule is to encourage the Board to provide clear and consistent guidance to the immigration judges, the parties in removal proceedings, and the federal courts. In that regard, the rule provides that the Board Chairman or the Board en banc may set a policy that all decisions selected for publication by a panel will be circulated to all the Board members for a period of time prior to issuance. Such an opportunity for prior consideration is appropriate, because a published panel decision represents the precedential opinion of the Board and is binding on all panels. As provided in the existing regulations, 8 CFR 1003.1(a)(5), a case may be referred to the Board for en banc consideration and decision by vote of a majority of permanent Board members or by direction of the Chairman, and en banc review may be necessary to ensure that the decision reflects the views of a majority of the Board or if a potential exists for inconsistent decisions among the panels. In order not to delay the process, the Chairman or the Board en banc may establish appropriate time limits for the Board members to consider a panel's precedent decision prior to publication.

Finally, although the regulations are being revised to facilitate publication, the parties should keep in mind that, while the immigration bar often looks to the Board to publish cases covering certain issues of law or circumstance, the Board may only address novel or important issues of law in the context of cases as they appear before it. The Board favors publication where both parties have submitted briefs clearly addressing the issues presented by the case and, conversely, prefers not to publish where the parties have not adequately briefed the issues. Therefore, parties should be prepared to fully develop the issues in well-presented briefs in order to facilitate the Board's publication of precedent decisions. However, in some cases the Board may choose to issue a new briefing schedule to facilitate participation by amicus curiae in order to address the issues in a case presenting important, unresolved issues.

VI. Regulatory Requirements

A. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (RFA), the Attorney General certifies that this rule will not have a significant economic impact on a substantial number of small businesses or small governmental entities. This rule is related to agency organization and management of cases pending before the immigration judges and the Board of Immigration Appeals. Accordingly, the preparation of a Regulatory Flexibility Analysis is not required.

B. 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 million 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.

C. 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 Act of 1996, 5 U.S.C. 804. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

D. Executive Order 12866 (Regulatory Planning and Review)

The Department considers this rule to be a ''significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and Review, and accordingly it has been submitted to the Office and Management and Budget for review.

E. Executive Order 13132 (Federalism)

This rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, this rule does not have sufficient federalism implications to warrant preparation of a federalism summary impact statement.

F. Executive Order 12988 (Civil Justice Reform)

This rule has been prepared in accordance with the standards in sections 3(a) and 3(b)(2) of Executive Order 12988.

G. Paperwork Reduction Act

This rule does not create any information collection requirements.

List of Subjects in 8 CFR Part 1003

Administrative practice and procedure, Aliens, Immigration, Legal services, Organization and functions (Government agencies).

Accordingly, for the reasons stated in the preamble, chapter V of title 8 of the Code of Federal Regulations is proposed to be amended as follows:

PART 1003—EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

1. The authority citation for part 1003 continues to read as follows:

Authority: 5 U.S.C. 301; 6 U.S.C. 521; 8 U.S.C. 1101, 1103, 1154, 1155, 1158, 1182, 1226, 1229, 1229a, 1229b, 1229c, 1231, 1254a, 1255, 1324d, 1330, 1361, 1362; 28 U.S.C. 509, 510, 1746; sec. 2 Reorg. Plan No. 2 of 1950; 3 CFR, 1949–1953 Comp., p. 1002; section 203 of Pub. L. 105–100, 111 Stat. 2196–200; sections 1506 and 1510 of Pub. L. 106–386, 114 Stat. 1527–29, 1531–32; section 1505 of Pub. L. 106–554, 114 Stat. 2763A–326 to –328.

2. Section 1003.1 is amended by:

a. revising paragraph (e)(4)(i);

b. adding paragraph (e)(4)(iii);

[9] Although the Board ordinarily does not entertain interlocutory appeals, the Board on very rare occasions does rule on the merits of interlocutory appeals where it is deemed necessary to address important jurisdictional questions regarding the administration of the immigration laws, or to correct recurring problems in the handling of cases by the immigration judges. *See, e.g.*, *Matter of Guevara*, 20 I&N Dec. 238 (BIA 1990, 1991); *Matter of Dobere*, 20 I&N Dec. 188 (BIA 1990). These standards for interlocutory appeals are appropriately narrow, in order to avoid piecemeal review of the myriad of questions that may arise in the course of removal proceedings, but they do suggest that the very rare cases that the Board concludes are appropriate for interlocutory review may also be considered for publication as precedents.

c. revising paragraph (e)(6) introductory text;

d. amending paragraph (e)(6)(v) by removing ''or'';

e. amending paragraph (e)(6)(vi) by removing the period and adding in its place ''; or'';

f. adding paragraph (e)(6)(vii);

g. adding paragraph (e)(9); and by

h. revising paragraph (g).

The additions and revisions read as follows:

§ 1003.1 Organization, jurisdiction, and powers of the Board of Immigration Appeals.

* * * * *

(e) * * *

(4) *Affirmance without opinion.* (i) The Board member to whom a case is assigned may, in that member's discretion, affirm the decision of the DHS immigration officer or the immigration judge, without opinion, if the Board member determines that the result reached in the decision under review was correct with respect to the issues raised by either party on appeal; that any errors in the decision under review raised by either party on appeal were harmless or nonmaterial; and that

(A) The issues on appeal are squarely controlled by existing Board or federal court precedent and do not involve the application of precedent to a novel factual situation; or

(B) The factual and legal issues raised by either party on appeal are not so substantial that the case warrants the issuance of a written opinion in the case.

* * * * *

(iii) A decision by the Board under this paragraph (e)(4), or under paragraphs (e)(5) or (e)(6) of this section, carries the presumption that the Board properly and thoroughly considered all issues, arguments, claims, and record evidence raised or presented by the parties, whether or not specifically mentioned in the decision. In addition, a decision by the Board under this paragraph (e)(4), or under paragraphs (e)(5) or (e)(6), is based on issues and claims of error raised on appeal by the parties and is not to be construed as waiving a party's obligation to exhaust administrative remedies by raising in a meaningful manner all issues and claims of error in the first instance on appeal to the Board. In any decision under paragraphs (e)(5) or (e)(6) of this section, the Board may, on its own motion and in the exercise of discretion, rule on any issue not raised by the parties in its decision.

* * * * *

(6) *Panel decisions.* Cases may be assigned for review by a three-member panel if the case presents one of these circumstances:

* * * * *

(vii) The need to resolve a complex, novel, or unusual issue of law or fact.

* * * * *

(9) The provisions of paragraphs (e)(4)(i), (e)(5), and (e)(6) of this section are intended to reflect an internal agency directive for the purpose of efficient management and disposition of cases pending before the Board, and do not, and shall not be interpreted to, create any substantive or procedural rights enforceable before any immigration judge or the Board, or any court.

* * * * *

(g) *Decisions as precedents.*—(1) *In general.* Except as Board decisions may be modified or overruled by the Board or the Attorney General, decisions of the Board and decisions of the Attorney General shall be binding on all officers and employees of the Department of Homeland Security or immigration judges in the administration of the immigration laws of the United States.

(2) *Precedent decisions.* Selected decisions designated by the Board, decisions of the Attorney General, and decisions of the Secretary of Homeland Security as provided in paragraph (i) of this section shall serve as precedents in all proceedings involving the same issue or issues.

(3) *Designation of precedents.* By majority vote of the permanent Board members, by majority vote of the permanent Board members assigned to a three-member panel, or as directed by the Attorney General or his designee, selected decisions of the Board issued by a three-member panel or by the Board en banc may be designated to serve as precedents in all proceedings involving the same issue or issues. Under procedures established by the Chairman or the Board en banc, a panel shall provide notice to the Board en banc before publishing a precedent decision, in order to allow the Board to determine whether to consider the case en banc as provided in paragraph (a)(5) of this section. In determining whether to publish a precedent decision, the Board may take into account relevant considerations, in the exercise of discretion, including among other matters:

(i) Whether the case involves a substantial issue of first impression;

(ii) Whether the case involves a legal, factual, procedural, or discretionary issue that can be expected to arise frequently in immigration cases;

(iii) Whether the decision announces a new rule of law, or modifies or clarifies a rule of law or prior precedent;

(iv) Whether the case involves a conflict in decisions by immigration judges, the Board, or the federal courts;

(v) Whether there is a need to achieve, maintain, or restore national uniformity of interpretation of issues under the immigration laws or regulations; and

(vi) Whether the case warrants publication in light of other factors that give it general public interest.

* * * * *

Dated: June 5, 2008.

Michael B. Mukasey,

Attorney General.

[FR Doc. E8–13435 Filed 6–17–08; 8:45 am]

BILLING CODE 4410–30–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0640; Directorate Identifier 2008–NM–070–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747–400, 747–400D, and 747–400F 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, 747–400D, and 747–400F series airplanes. This proposed AD would require installing an extension tube to the existing pump discharge port of the scavenge pump on the outboard side of the center fuel tank in the main fuel tank #2. This AD results from fuel system reviews conducted by the manufacturer. We are issuing this AD to prevent a fire or explosion in the fuel tank and consequent loss of the airplane.

DATES: We must receive comments on this proposed AD by August 4, 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: Sulmo Mariano, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6501; 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–2008–0640; Directorate Identifier 2008–NM–070–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

The FAA has examined the underlying safety issues involved in fuel tank explosions on several large transport airplanes, including the adequacy of existing regulations, the service history of airplanes subject to those regulations, and existing maintenance practices for fuel tank systems. As a result of those findings, we issued a regulation titled ''Transport Airplane Fuel Tank System Design Review, Flammability Reduction and Maintenance and Inspection Requirements'' (66 FR 23086, May 7, 2001). In addition to new airworthiness standards for transport airplanes and new maintenance requirements, this rule included Special Federal Aviation Regulation No. 88 (''SFAR 88,'' Amendment 21–78, and subsequent Amendments 21–82 and 21–83).

Among other actions, SFAR 88 requires certain type design (*i.e.*, type certificate (TC) and supplemental type certificate (STC)) holders to substantiate that their fuel tank systems can prevent ignition sources in the fuel tanks. This requirement applies to type design holders for large turbine-powered transport airplanes and for subsequent modifications to those airplanes. It requires them to perform design reviews and to develop design changes and maintenance procedures if their designs do not meet the new fuel tank safety standards. As explained in the preamble to the rule, we intended to adopt airworthiness directives to mandate any changes found necessary to address unsafe conditions identified as a result of these reviews.

In evaluating these design reviews, we have established four criteria intended to define the unsafe conditions associated with fuel tank systems that require corrective actions. The percentage of operating time during which fuel tanks are exposed to flammable conditions is one of these criteria. The other three criteria address the failure types under evaluation: single failures, single failures in combination with a latent condition(s), and in-service failure experience. For all four criteria, the evaluations included consideration of previous actions taken that may mitigate the need for further action.

We have determined that the actions identified in this AD are necessary to reduce the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

As a result of the SFAR 88 design review activity, Boeing has found that certain single failure modes within the electric scavenge pump could cause heating and sparking, which could create a potential ignition source inside the main fuel tank #2. This condition, if not corrected, could result in a fire or explosion in the main fuel tank #2 and consequent loss of the airplane.

Relevant Service Information

We have reviewed Boeing Special Attention Service Bulletin 747–28–2260, dated March 13, 2008. The service bulletin describes procedures for installing an extension tube to the existing pump discharge port of the scavenge pump on the outboard side of the center fuel tank in the main fuel tank #2.

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(se) same type design(s). This proposed AD would require accomplishing the actions specified in the service information described previously.

Costs of Compliance

We estimate that this proposed AD would affect 31 airplanes of U.S. registry. We also estimate that it would take about 16 work-hours per product to comply with this proposed AD. The average labor rate is $80 per work-hour. Required parts would cost about $900 per product. Based on these figures, we estimate the cost of this proposed AD to the U.S. operators to be $67,580 fleet cost, or $2,180 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–2008–0640; Directorate Identifier 2008–NM–070–AD.

Comments Due Date

(a) We must receive comments by August 4, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Boeing Model 747–400, 747–400D, and 747–400F series airplanes, certificated in any category; as identified in Boeing Special Attention Service Bulletin 747–28–2260, dated March 13, 2008.

Unsafe Condition

(d) This AD results from fuel system reviews conducted by the manufacturer. We are issuing this AD to prevent a fire or explosion in the fuel tank and consequent loss of the airplane.

Compliance

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

Installation

(f) Within 60 months after the effective date of this AD, install an extension tube to the existing pump discharge port of the scavenge pump on the outboard side of the center fuel tank in the main fuel tank #2, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 747–28–2260, dated March 13, 2008.

Alternative Methods of Compliance (AMOCs)

(g)(1) The Manager, Seattle Aircraft Certification Office (SACO), FAA, ATTN: Sulmo Mariano, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, SACO, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6501; 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 6, 2008.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–13714 Filed 6–17–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–100464–08]

RIN 1545–BH50

Accrual Rules for Defined Benefit Plans

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations providing guidance on the application of the accrual rule for defined benefit plans under section 411(b)(1)(B) of the Internal Revenue Code (Code) in cases where plan benefits are determined on the basis of the greatest of two or more separate formulas. These regulations would affect sponsors, administrators, participants, and beneficiaries of defined benefit plans. This document also provides a notice of a public hearing on these proposed regulations.

DATES: Written or electronic comments must be received by September 16, 2008. Outlines of topics to be discussed at the public hearing scheduled for October 15, 2008, at 10 a.m. must be received by September 24, 2008.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG 100464–08), room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG 100464–08), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC, or sent electronically via the Federal eRulemaking Portal at *http://www.regulations.gov* (IRS REG–100464–08). The public hearing will be held in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Lauson C. Green or Linda S. F. Marshall at (202) 622–6090; concerning submissions of comments, the hearing, and/or being placed on the building access list to attend the hearing, Richard A. Hurst at *Richard.A.Hurst@irscounsel.treas.gov* or at (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed Income Tax Regulations (26 CFR part 1) under section 411(b) of the Code.[1]

Section 401(a)(7) provides that a trust is not a qualified trust under section 401 unless the plan of which such trust is a part satisfies the requirements of section 411 (relating to minimum vesting standards).

Section 411(a) requires a qualified plan to provide that an employee's right to the normal retirement benefit is nonforfeitable upon attainment of normal retirement age and that an employee's right to his or her accrued benefit is nonforfeitable upon completion of the specified number of years of service under one of the vesting schedules set forth in section 411(a)(2). Section 411(a)(7)(A)(i) defines a participant's accrued benefit under a defined benefit plan as the employee's accrued benefit determined under the plan, expressed in the form of an annual benefit commencing at normal retirement age, subject to an exception

[1] Section 204(b) of the Employee Retirement Income Security Act of 1974, Public Law 93–406 (88 Stat. 829), as amended (ERISA), sets forth rules that are parallel to those in section 411(b) of the Code. Under section 101 of Reorganization Plan No. 4 of 1978 (43 FR 47713), the Secretary of the Treasury has interpretive jurisdiction over the subject matter addressed in these proposed regulations for purposes of ERISA, as well as the Code. Thus, these proposed Treasury regulations issued under section 411(b)(1)(B) of the Code would apply as well for purposes of section 204(b)(1)(B) of ERISA.

in section 411(c)(3) under which the accrued benefit is the actuarial equivalent of the annual benefit commencing at normal retirement age in the case of a plan that does not express the accrued benefit as an annual benefit commencing at normal retirement age.

Section 411(a) also requires that a defined benefit plan satisfy the requirements of section 411(b)(1). Section 411(b)(1) provides that a defined benefit plan must satisfy one of the three accrual rules of section 411(b)(1)(A), (B), and (C) with respect to benefits accruing under the plan. The three accrual rules are the 3 percent method of section 411(b)(1)(A), the 133⅓ percent rule of section 411(b)(1)(B), and the fractional rule of section 411(b)(1)(C).

Section 411(b)(1)(A) provides that a defined benefit plan satisfies the requirements of the 3 percent method if, under the plan, the accrued benefit payable upon the participant's separation from service is not less than (A) 3 percent of the normal retirement benefit to which the participant would be entitled if the participant commenced participation at the earliest possible entry age under the plan and served continuously until the earlier of age 65 or the normal retirement age under the plan, multiplied by (B) the number of years (not in excess of 33⅓ years) of his or her participation in the plan. Section 411(b)(1)(A) provides that, in the case of a plan providing retirement benefits based on compensation during any period, the normal retirement benefit to which a participant would be entitled is determined as if the participant continued to earn annually the average rate of compensation during consecutive years of service, not in excess of 10, for which his or her compensation was highest. Section 411(b)(1)(A) also provides that Social Security benefits and all other relevant factors used to compute benefits are treated as remaining constant as of the current plan year for all years after the current year.

Section 411(b)(1)(B) provides that a defined benefit plan satisfies the requirements of the 133⅓ percent rule for a particular plan year if, under the plan, the accrued benefit payable at the normal retirement age is equal to the normal retirement benefit, and the annual rate at which any individual who is or could be a participant can accrue the retirement benefits payable at normal retirement age under the plan for any later plan year is not more than 133⅓ percent of the annual rate at which the individual can accrue benefits for any plan year beginning on or after such particular plan year and before such later plan year.

For purposes of applying the 133⅓ percent rule, section 411(b)(1)(B)(i) provides that any amendment to the plan which is in effect for the current year is treated as in effect for all other plan years. Section 411(b)(1)(B)(ii) provides that any change in an accrual rate which does not apply to any individual who is or could be a participant in the current plan year is disregarded. Section 411(b)(1)(B)(iii) provides that the fact that benefits under the plan may be payable to certain participants before normal retirement age is disregarded. Section 411(b)(1)(B)(iv) provides that Social Security benefits and all other relevant factors used to compute benefits are treated as remaining constant as of the current plan year for all years after the current year.

Section 411(b)(1)(C) provides that a defined benefit plan satisfies the fractional rule if the accrued benefit to which any participant is entitled upon his or her separation from service is not less than a fraction of the annual benefit commencing at normal retirement age to which the participant would be entitled under the plan as in effect on the date of separation if the participant continued to earn annually until normal retirement age the same rate of compensation upon which the normal retirement benefit would be computed under the plan, determined as if the participant had attained normal retirement age on the date on which any such determination is made (but taking into account no more than 10 years of service immediately preceding separation from service). This fraction, which cannot exceed 1, has a numerator that is the total number of the participant's years of participation in the plan (as of the date of separation from service) and a denominator that is the total number of years the participant would have participated in the plan if the participant separated from service at normal retirement age. Section 411(b)(1)(C) also provides that Social Security benefits and all other relevant factors used to compute benefits are treated as remaining constant as of the current plan year for all years after the current year.

Section 1.411(a)–7(a)(1) of the Income Tax Regulations provides that, for purposes of section 411 and the regulations under section 411, the accrued benefit of a participant under a defined benefit plan is either (A) the accrued benefit determined under the plan if the plan provides for an accrued benefit in the form of an annual benefit commencing at normal retirement age, or (B) an annual benefit commencing at normal retirement age which is the actuarial equivalent (determined under section 411(c)(3) and § 1.411(c)–1)) of the accrued benefit under the plan if the plan does not provide for an accrued benefit in the form of an annual benefit commencing at normal retirement age.

Section 1.411(b)–1(a)(1) provides that a defined benefit plan is not a qualified plan unless the method provided by the plan for determining accrued benefits satisfies at least one of the alternative methods in § 1.411(b)–1(b) for determining accrued benefits with respect to all active participants under the plan. The three alternative methods are the 3 percent method, the 133⅓ percent rule, and the fractional rule. A defined benefit plan may provide that accrued benefits for participants are determined under more than one plan formula. Section 1.411(b)–1(a)(1) provides that, in such a case, the accrued benefits under all such formulas must be aggregated in order to determine whether or not the accrued benefits under the plan for participants satisfy one of these methods. Under § 1.411(b)–1(a)(1), a plan may satisfy different methods with respect to different classifications of employees, or separately satisfy one method with respect to the accrued benefits for each such classification, provided that such classifications are not so structured as to evade the accrued benefit requirements of section 411(b) and § 1.411(b)–1.

Section 1.411(b)–1(b)(2)(i) provides that a defined benefit plan satisfies the 133⅓ percent rule for a particular plan year if (A) under the plan the accrued benefit payable at the normal retirement age (determined under the plan) is equal to the normal retirement benefit (determined under the plan), and (B) the annual rate at which any individual who is or could be a participant can accrue the retirement benefits payable at normal retirement age under the plan for any later plan year cannot be more than 133⅓ percent of the annual rate at which the participant can accrue benefits for any plan year beginning on or after such particular plan year and before such later plan year.

Section 1.411(b)–1(b)(2)(ii)(A) through (D) sets forth a series of rules that correspond to the rules of section 411(b)(1)(B)(i) through (iv). For example, § 1.411(b)–1(b)(2)(ii)(A) sets forth a special plan amendment rule for purposes of satisfying the 133⅓ percent rule that corresponds to section 411(b)(1)(B)(i). Under that rule, any amendment to a plan that is in effect for the current year is treated as if it were in effect for all other plan years.

Section 1.411(b)–1(b)(2)(ii)(E) provides that a plan is not treated as failing to satisfy the requirements of § 1.411(b)–1(b)(2) for a plan year merely because no benefits under the plan accrue to a participant who continues service with the employer after the participant has attained normal retirement age.[2] Section 1.411(b)–1(b)(2)(ii)(F) provides that a plan does not satisfy the requirements of § 1.411(b)–1(b)(2) if the base for the computation of retirement benefits changes solely by reason of an increase in the number of years of participation.

Rev. Rul. 2008–7 (2008–7 IRB 419), see § 601.601(d)(2)(ii)(*b*), describes the application of the accrual rules of section 411(b)(1)(A) through (C) and the regulations under section 411(b)(1)(A) through (C) to a defined benefit plan that was amended to change the plan's benefit formula from a traditional formula based on highest average compensation to a new lump sum-based benefit formula. Under the terms of the plan described in the revenue ruling, for an employee who was employed on the day before the change, a hypothetical account was established equal to the actuarial present value of the employee's accrued benefit as of that date, and that account was also to be credited with subsequent pay credits and interest credits. Under transition rules set forth in the plan, the accrued benefit of certain participants is the greater of the accrued benefit provided by the hypothetical account balance at the age 65 normal retirement age and the accrued benefit determined under the traditional formula as in effect on the day before the change, but taking into account post-amendment compensation and service for a limited number of years.

Revenue Ruling 2008–7 describes how the accrued benefits of different participant groups satisfy, or fail to satisfy, the accrual rules under section 411(b)(1)(A) through (C), taking into account the requirement in § 1.411(b)–1(a)(1) that a plan that determines a participant's accrued benefits under more than one formula must aggregate the accrued benefits under all of those formulas in order to determine whether or not the accrued benefits under the plan satisfy one of the alternative methods under section 411(b)(1)(A) through (C). However, Revenue Ruling 2008–7 explains that, in the case of a plan amendment that replaces the benefit formula under the plan for all periods after the amendment, pursuant to section 411(b)(1)(B)(i) and § 1.411(b)–1(b)(2)(ii)(A), the rule that would otherwise require aggregation of the multiple formulas does not apply. Under section 411(b)(1)(B)(i) and § 1.411(b)–1(b)(2)(ii)(A), any amendment to the plan which is in effect for the current plan year is treated as if it were in effect for all other plan years (including past and future plan years).

Revenue Ruling 2008–7 illustrates the application of this rule with respect to participants who only accrue benefits under the new formula (who in the ruling are referred to as participants who are not ''grandfathered''). For these participants, the plan amendment completely ceases accruals under a traditional pension benefit formula that provides an annuity at normal retirement age based on service and average pay and, for all periods after the amendment, provides for the greater of the section 411(d)(6) protected benefit under the pre-amendment formula and the benefit under a new post-amendment lump sum-based benefit formula. In such a case, as stated in Revenue Ruling 2008–7, the section 411(d)(6) protected benefit under the pre-amendment formula is not aggregated with the post-amendment formula, but rather is entirely disregarded, for purposes of applying the 133⅓ percent rule because the new formula is treated under section 411(b)(1)(B)(i) and § 1.411(b)–1(b)(2)(ii)(A) as having been in effect for all plan years. This analysis was reflected in *Register* v. *PNC Fin. Servs. Group, Inc.,* 477 F.3d 56 (3d Cir. 2007).

In addition to satisfying the requirements of section 411(b)(1)(B), a defined benefit plan must also satisfy the age discrimination rules of section 411(b)(1)(H), taking into account section 411(b)(5), as added to the Code by the Pension Protection Act of 2006, Pub. L. 109–280 (120 Stat. 780) (PPA '06). In the case of a conversion of a plan to a statutory hybrid plan pursuant to an amendment that is adopted after June 29, 2005 (a ''post-PPA conversion plan''), the conversion amendment must satisfy the rule of section 411(b)(5)(B)(iii) that prohibits wearaway of benefits upon conversion. In the case of a plan converted to a statutory hybrid plan pursuant to an amendment that is adopted on or before June 29, 2005 (a ''pre-PPA conversion plan''), as provided in Notice 2007–6, the IRS will not consider and will not issue determination letters with respect to whether such a pre-PPA conversion plan satisfies the requirements of section 411(b)(1)(H) (as in effect prior to the addition of section 411(b)(5) by PPA '06), including the effect of any wearaway. Thus, although wearaway upon conversion is expressly prohibited with respect to post-PPA conversion plans pursuant to section 411(b)(5), the IRS will not address and will not issue determination letters with respect to whether a conversion that results in wearaway with respect to a pre-PPA conversion plan violates the age discrimination rules of section 411(b)(1)(H). See § 601.601(d)(2)(ii)(*b*).

Revenue Ruling 2008–7 provides a different analysis as to whether a plan with wearaway fails to satisfy the accrual rules of section 411(b)(1)(B) when the pre-amendment formula continues in place after the amendment for a group of participants. In such a case, where an amendment has gone into effect but continues the prior formula for some period of time with respect to one or more participants, the application of the rule in section 411(b)(1)(B)(i) and § 1.411(b)–1(b)(2)(ii)(A) does not result in a disregard of the prior plan formula (which remains in effect after the amendment). Instead, the 133⅓ percent rule must be applied with respect to those participants based on the combined effect of the two ongoing formulas.[3]

Revenue Ruling 2008–7 provides relief from disqualification under the Internal Revenue Code (under the authority of section 7805(b)) for a limited class of plans under which a group of employees specified under the plan receives a benefit equal to the greatest of the benefits provided under two or more formulas (an applicable ''greater-of'' benefit), provided that each such formula standing alone would satisfy an accrual rule of section 411(b)(1)(A), (B), or (C) for the years involved. Under the relief set forth in Rev. Rul. 2008–7, for plan years beginning before January 1, 2009, the IRS will not treat a plan eligible for the relief as failing to satisfy the accrual rules of section 411(b)(1)(A), (B), and (C) solely because the plan provides an applicable ''greater-of'' benefit, where the separate formulas, standing alone, would satisfy an accrual rule of section 411(b)(1)(A), (B), and (C).

[2] However, section 411(b)(1)(H), which was added to the Code after the issuance of § 1.411(b)–1, generally requires the continued accrual of benefits after attainment of normal retirement age.

[3] Two federal courts have taken a position contrary to this interpretation of section 411(b)(1)(B)(i) and § 1.411(b)–1(b)(2)(ii)(A) as set forth in Revenue Ruling 2008–7. See *Tomlinson* v. *El Paso Corp.,* 2008 WL 762456 (D. Colo. Mar. 19, 2008); *Wheeler* v. *Pension Value Plan for Employees of Boeing Corp.,* 2007 WL 2608875 (S.D. Ill. Sept. 6, 2007).

Explanation of Provisions

The fact pattern described in Revenue Ruling 2008–7 has occurred in a number of situations over the past few years. Employers sponsoring these plans have suggested that their plans should satisfy the accrual rules of section 411(b)(1)(A), (B), and (C), contending that any technical violation of the accrual rules is directly because the participant has higher frontloaded accruals under one formula when compared to the other formula that will ultimately provide the larger benefit under the plan. While the relief under section 7805(b) that is provided under Revenue Ruling 2008–7 addresses the situation for past years, the relief does not apply for the parallel accrual rules of section 204(b)(1)(A), (B) and (C) of ERISA and only applies to plan years beginning before January 1, 2009.

The proposed regulations would provide a limited exception to the existing requirement under § 1.411(b)–1(a)(1) to aggregate the accrued benefits under all formulas in order to determine whether or not the accrued benefits under the plan for participants satisfy one of the alternative methods under section 411(b)(1)(A) through (C). Under this limited exception, certain plans that determine a participant's benefits as the greatest of the benefits determined under two or more separate formulas would be permitted to demonstrate satisfaction of the 133⅓ percent rule of section 411(b)(1)(B) by demonstrating that each separate formula satisfies the 133⅓ percent rule of section 411(b)(1)(B).[4]

A plan would be eligible for this exception only if each of the separate formulas uses a different basis for determining benefits. For example, a plan would be eligible for this special rule if it provides a benefit equal to the greater of the benefits under two formulas, one of which determines benefits on the basis of highest average compensation and the other of which determines benefits on the basis of career average compensation. As another example, a traditional defined benefit plan which determined benefits based on highest average compensation that is amended to add a cash balance formula (as in the facts of Rev. Rul. 2008–7) would be eligible for this exception where, in order to provide a better transition for longer service active participants, the plan provides that a group of participants is entitled to the greater of the benefit provided by the hypothetical account balance and the benefit determined under the continuing traditional formula. In each of the above two examples, each separate formula under the plan uses a different basis for determining benefits and, therefore, both of those plans would be eligible to utilize this exception. Accordingly, both plans would be permitted to demonstrate satisfaction of the 133⅓ percent rule of section 411(b)(1)(B) by demonstrating that each separate formula under the plan satisfies the 133⅓ percent rule of section 411(b)(1)(B).

The utility of this exception can be seen from the following example of a plan that provides a benefit equal to the greater of two formulas. One formula provides a benefit of 1 percent of average compensation for the 3 consecutive years of service with the highest such average multiplied by the number of years of service at normal retirement age (not in excess of 25 years of service), and the other formula provides a benefit that is the accumulation of 1.5 percent of compensation for each year of service. Under the existing final regulations, the 133⅓ percent rule of section 411(b)(1)(B) is applied by reference to the annual rate of accrual for each year from the year of the test through normal retirement age. If the participant's accrued benefit currently is determined using the 1 percent formula (because the high-3 average compensation is significantly higher than the effective career average compensation that is used under the 1.5 percent formula), but the participant's normal retirement benefit will ultimately be determined using the 1.5 percent formula if service continues to normal retirement age (because the 25-year service cap will apply to the 1 percent formula, but not the 1.5 percent formula), then the annual rate of accrual will have to be determined for testing purposes on a consistent basis for each year, either using each year's compensation or high-3 average compensation. Thus, in order to test the plan under the 133⅓ percent rule, the existing final regulations would require that either the accruals under the 1 percent formula be expressed in terms of a single year's pay or the accruals under the 1.5 percent formula be expressed in terms of high-3 average compensation. In either case, the annual rates of accrual would differ from the stated rates under the plan formulas. In addition, the annual rates of accrual for the accumulation formula when those rates are expressed in terms of high-3 average compensation could be negative in some cases. In contrast, using the exception set forth in the proposed regulation would enable the plan to be tested using the annual rates of accrual expressed in the plan formulas.

The proposed regulations would also provide an extension of this exception in the case of a plan that provides benefits based on the greatest of three or more benefit formulas. In such a case, the plan would be eligible for a modified version of the formula-by-formula testing under the proposed regulations. Under this modification, the accrued benefits determined under all benefit formulas that have the same basis are first aggregated and then those aggregated formulas are treated as a single formula for purposes of applying the separate testing rule under the proposed regulations.

Eligibility for separate testing under the proposed regulations would be constrained by an anti-abuse rule. The proposed regulations would provide that a plan is not eligible for separate testing if the Commissioner determines that the plan's use of separate formulas with different bases is structured to evade the general requirement to aggregate formulas under § 1.411(b)–1(a)(1) (for example, if the differences between the bases of the separate formulas are minor).

Proposed Effective/Applicability Date

These regulations are proposed to be effective for plan years beginning on or after January 1, 2009.

Special Analyses

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

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written (a signed original and eight (8)

[4] These proposed regulations would only apply for purposes of the 133⅓ percent rule of section 411(b)(1)(B) (and the parallel rule of section 204(b)(1)(B) of ERISA). Neither Rev. Rul. 2008–7 nor these proposed regulations are relevant to (and thus they do not affect) the application of the age discrimination rules of section 411(b)(1)(H) (or the parallel age discrimination rules of section 204(b)(1)(H) of ERISA).

copies) or electronic comments that are submitted timely to the IRS. The IRS and the Treasury Department specifically request comments on the clarity of the proposed regulations and how they may be made easier to understand. All comments will be available for public inspection and copying.

Under these proposed regulations, a plan eligible for the separate testing option would not violate the accrual rules merely because the plan provides higher frontloaded accruals under one formula when compared to the other formula that will ultimately provide the larger benefit under the plan. Some commentators have suggested a broader rule that would modify the regulations to provide that a plan does not violate the accrual rules where the plan provides a pattern of accruals that affords higher benefits in earlier years (that is, benefit accruals are frontloaded) relative to a pattern of accruals that satisfies the accrual rules. The 3 percent method of section 411(b)(1)(A) and the fractional rule of section 411(b)(1)(C) automatically achieve this result because they are cumulative tests that test on the basis of the total accrued benefit compared to the projected normal retirement benefit. By contrast, the 133⅓ percent rule is based on a comparison of the ''annual rate at which any individual who is or could be a participant can accrue the retirement benefits payable at normal retirement age'' for a later plan year with the annual rate for an earlier plan year. The existing final regulations include an example (§ 1.411(b)–1(b)(2)(iii), *Example (3)*) that demonstrates how a plan fails the 133⅓ percent rule where it provides accruals in earlier years that are frontloaded relative to accruals that apply in later years. The proposed regulations do not include a provision under the 133⅓ percent rule that recognizes prior frontloading of benefits. However, commentators who would suggest such a provision under the 133⅓ percent rule should describe how that provision would fit within the statutory language of section 411(b)(1)(B), including the application of section 411(b)(1)(B)(i) (which requires that an amendment to the plan that is in effect for the current year be treated as in effect for all other plan years).

A public hearing has been scheduled for October 15, 2008, beginning at 10 a.m. in the Auditorium, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit written or electronic comments by September 16, 2008, and an outline of topics to be discussed and the amount of time to be devoted to each topic (a signed original and eight (8) copies) by September 24, 2008. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal authors of these regulations are Lauson C. Green and Linda S. F. Marshall, Office of Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities). However, other personnel from the IRS and the Treasury Department participated in the development of these regulations.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

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

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

Par. 2. Section 1.411(b)–1 is amended by adding new paragraph (b)(2)(ii)(G) to read as follows:

§ 1.411(b)–1 Accrued benefit requirements.

* * * * *

(b) * * *

(2) * * *

(ii) * * *

(G) *Special rule for multiple formulas—(1) In general.* Notwithstanding paragraph (a)(1) of this section, a plan that determines a participant's accrued benefit as the greatest of the benefits determined under two or more separate formulas is permitted, to the extent provided under this paragraph (b)(2)(ii)(G), to demonstrate satisfaction of section 411(b)(1)(B) and this paragraph (b) by demonstrating that each separate formula satisfies the requirements of section 411(b)(1)(B) and this paragraph (b).

(*2*) *Separate bases requirement.* A plan is eligible for separate testing under this paragraph (b)(2)(ii)(G) if each of the separate formulas uses a different basis for determining benefits. For example, a plan is eligible for this special rule if it provides an accrued benefit equal to the greater of the benefits under two formulas, one of which determines accrued benefits on the basis of highest average compensation and the other of which determines accrued benefits on the basis of career average compensation. As another example, a defined benefit plan that bases benefits on highest average compensation and that is amended to add a statutory hybrid benefit formula (as defined in § 1.411(a)(13)–1(d)(3)) that provides for pay credits to be made based on each year's compensation is eligible for this separate testing exception if the plan provides that one or more participants are entitled to the greater of the benefit determined under the statutory hybrid benefit formula and the benefit determined under the original formula.

(*3*) *Plans with three or more formulas.* If a plan determines a participant's benefits as the greatest of the benefits determined under three or more separate formulas, but two or more of the formulas use the same basis for determining benefits, then the plan may nonetheless apply paragraphs (b)(2)(ii)(G)(*1*) and (*2*) of this section by aggregating all benefit formulas that have the same basis and treating those aggregated formulas as a single formula for purposes of paragraphs (b)(2)(ii)(G)(*1*) and (*2*) of this section.

(*4*) *Anti-abuse rule.* A plan is not eligible for separate testing under this paragraph (b)(2)(ii)(G) if the Commissioner determines that the plan's use of separate formulas with different bases is structured to evade the requirement to aggregate formulas under paragraph (a)(1) of this section (for example, if the differences between the bases of the separate formulas are minor).

(5) *Effective/applicability date.* This paragraph (b)(2)(ii)(G) is applicable for

plan years beginning on or after January 1, 2009.

Steven T. Miller,

Acting Deputy Commissioner for Services and Enforcement.

[FR Doc. E8–13788 Filed 6–17–08; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–101258–08]

RIN 1545–BH66

Guidance Under Sections 642 and 643 (Income Ordering Rules)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed amendments providing guidance under Internal Revenue Code (Code) section 642(c) with regard to the Federal tax consequences of an ordering provision in a trust, a will, or a provision of local law that attempts to determine the tax character of the amounts paid to a charitable beneficiary of the trust or estate. The proposed regulations also make conforming amendments to the regulations under section 643(a)(5). The proposed regulations affect estates, charitable lead trusts (CLTs) and other trusts making payments or permanently setting aside amounts for a charitable purpose. This document also provides notice of a public hearing on these proposed regulations.

DATES: Written or electronic comments must be received by September 16, 2008. Outlines of topics to be discussed at the public hearing scheduled for October 8, 2008, at 10 a.m., must be received by September 18, 2008.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–101258–08), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG–101258–08), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC; or sent electronically via the Federal eRulemaking Portal at *http://www.regulations.gov* (IRS REG–101258–08). The public hearing will be held in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Vishal Amin, at (202) 622–3060; concerning submissions of comments, the hearing, and/or to be placed on the building access list to attend the hearing, Richard Hurst, at (202) 622–2949 (TDD telephone) (not toll-free numbers) or e-mail at *Richard.A.Hurst@irscounsel.treas.gov.*

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to 26 CFR part 1 under section 642 of the Code. Section 642 was added to the Code under the Internal Revenue Code of 1954 (68A Stat. 215). Section 642(c) of the Code provides that an estate or trust (other than a trust meeting the specifications of subpart B) shall be allowed a deduction in computing its taxable income any amount of the gross income, without limitation, which pursuant to the terms of the governing instrument is, during the taxable year, paid for a purpose specified in section 170(c) (determined without regard to section 170(c)(2)(A)).

The regulations under § 1.642(c)–3 provide guidance concerning adjustments and other special rules for computing the charitable contributions deduction. The regulations under § 1.643(a)–5 provide guidance concerning rules for computing the amount of tax-exempt income included in distributable net income. These proposed regulations clarify the existing regulations under §§ 1.642(c)–3(b) and 1.643(a)–5(b). Section 1.642(c)–3(b)(2) provides that, in determining whether an amount of income paid to a charitable beneficiary includes particular items of income not included in gross income (for example, tax exempt income), provisions in the governing instrument will control if they specifically provide as to the source out of which amounts are to be paid to the charitable beneficiary. In the absence of specific provisions in the governing instrument or in local law, the amount of income distributed to each charitable beneficiary is deemed to consist of the same proportion of each class of the items of income of the estate or trust as the total of each class bears to the total of all classes.

Section 1.643(a)–5(b) provides rules for reducing the amount of tax-exempt interest includable in distributable net income when tax-exempt interest is deemed to be included in income paid, permanently set aside, or to be used for the purposes specified in section 642(c). As similarly provided in § 1.642(c)–3(b), § 1.643(a)–5(b) provides ''[i]f the governing instrument specifically provides as to the source out of which amounts are paid, permanently set aside, or to be used for such charitable purposes, the specific provisions control. In the absence of specific provisions in the governing instrument, an amount to which section 642(c) applies is deemed to consist of the same proportion of each class of the items of income of the estate or trust as the total of each class bears to the total of all classes.''

The IRS and the Treasury Department believe that the current regulations under §§ 1.642(c)–3(b) and 1.643(a)–5(b) require that such a specific provision in a governing instrument or in local law that identifies the source(s) of the amounts to be paid, permanently set aside or used for a purpose specified in section 642(c) must have economic effect independent of income tax consequences in order for the specific provision in the governing instrument or in local law to be respected for Federal tax purposes. This belief is based on the structure and provisions of Subchapter J as a whole, as well as on an analysis of the existing regulations with their interrelated cross-references. Section 1.642(c)–3(b) and § 1.643(a)–5(b) refer to examples in §§ 1.662(b)–2 and 1.662(c)–4 to illustrate the rules of §§ 1.642(c)–3(b) and 1.643(a)–5(b). Section 1.662(b)–2 provides that, in determining the character of amounts distributed to a beneficiary when a charitable contribution is made, ''* * * the principles contained in §§ 1.652(b)–1 and 1.662(b)–1 generally apply.'' Section 1.652(b)–1 provides that ''[i]n determining the gross income of a beneficiary, the amounts includible under § 1.652(a)–1 have the same character in the hands of the beneficiary as in the hands of the trust.'' Section 1.652(b)–2(a) elaborates on the general principle in § 1.652(b)–1 by providing that the amount distributed to a beneficiary and includible in gross income under § 1.652(a)–1 generally consists of the same proportion of each class of items included in the trust's distributable net income (DNI) as the total of each such class bears to the total DNI. These principles are repeated in § 1.662(b)–1. In addition, § 1.652(b)–2(b) defines the exception to this rule by providing that ''[t]he terms of the trust are considered specifically to allocate different classes of income to different beneficiaries only to the extent that the allocation is required in the trust instrument, and only to the extent that it has economic effect independent of

the income tax consequences of the allocation.''

Section 1.681(a)–2(b)(2) provides guidance on the method of allocating gross income to unrelated business income that is not deductible under section 642(c). This regulation provides that ''[u]nless the facts clearly indicate to the contrary * * *'' the payment to charity consists of the same ratio of unrelated business income as the ratio of unrelated business income to all of the trust's taxable income. Examples given in this regulation confirm that a specific allocation of income items will be recognized when such specific allocation has economic effect independent of its tax consequences, such as when the amount of the charitable distribution will be dependent upon the amount of the class of income.

Explanation of Provisions

The IRS and the Treasury Department believe that the chain of references discussed above requires that a specific provision of the governing instrument or a provision under local law has economic effect independent of income tax consequences in order to be respected for Federal income tax purposes, and that this principle applies throughout Subchapter J. To make this concept clearer and easier to understand, the proposed regulations amend the regulations under section 642(c) to add the principle of economic effect directly into the language of the regulation itself, rather than being incorporated by reference to other regulation provisions. Thus, the proposed regulation will amend the regulations under section 642(c) to confirm that a provision in a governing instrument or in local law that specifically provides as to the source out of which amounts are to be paid, permanently set aside or used for a purpose specified in section 642(c) must have economic effect independent of income tax consequences in order to be respected for Federal tax purposes. If such provision does not have economic effect independent of income tax consequences, income distributed for a purpose specified in section 642(c) will consist of the same proportion of each class of the items of income as the total of each class bears to the total of all classes. See § 1.642(c)–3(b)(2).

As an example, CLTs pay an annuity or unitrust amount to a charity for a determinable period, measured by a term of years or by reference to the life of one or more individuals. See section 170(f)(2)(B). At the end of the term, the remainder passes to one or more non-charitable beneficiaries. CLTs may earn various types of income (such as ordinary income, capital gains, unrelated business tax income and tax-exempt income) in any given taxable year. Some trust instruments attempt to source the payments to charity so as to maximize the tax benefits to the trust and beneficiaries. For example, the governing documents might include a provision directing that the charity's annuity or unitrust payment be made first out of ordinary income and capital gains in order to minimize the trust's tax liability. Thus, the trust attempts to retain the unrelated business taxable income and tax-exempt income (for which no section 642(c) deduction may be claimed or for which the deduction is limited by section 681). Such a provision in the governing instrument does not have economic effect independent of the income tax consequences, because the amount paid to the charitable beneficiary is not dependent upon the type of income it is allocated. Rather, such amount is the same regardless of the source of the income. An annuity payment is a fixed amount from year to year, and a unitrust amount is based upon a predetermined percentage of the trust's value. Thus, the amount of each type of income the trust earns is irrelevant to the amount the charity is entitled to receive.

Accordingly, a provision under local law or in the governing instrument of a CLT that provides that the payment to charity (eligible for a deduction under section 642(c)) is deemed to consist of particular classes of income, determined on a non-pro rata basis, will not be respected because such a provision does not have economic effect independent of income tax consequences. Instead, such a payment to a charity will consist of the same proportion of each class of the items of income of the trust as the total of each class bears to the total of all classes. See § 1.642(c)–3(b)(2). This proposed amendment to the regulation serves only to confirm the economic effect requirement of the current regulations.

The proposed regulations also similarly clarify the corresponding language in § 1.643(a)–5(b).

Finally, the proposed regulations remove § 1.642(c)–3(b)(4) because the provisions of section 116 were repealed by the Tax Reform Act of 1986 (Pub. L. 99–514).

Proposed Effective/Applicability Date

The regulations, as proposed, apply to trusts and estates for taxable years beginning after the date final regulations are published in the **Federal Register**.

Special Analyses

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

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. The IRS and the Treasury Department also request comments on the clarity of the proposed rules and how they can be made easier to understand. All comments will be available for public inspection and copying.

A public hearing has been scheduled for October 8, 2008, at 10 a.m. in the auditorium of the Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit electronic or written comments by September 16, 2008, and an outline of the topics to be discussed and the time to be devoted to each topic (signed original and eight (8) copies) by September 16, 2008. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of

the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of these proposed regulations is Vishal R. Amin, Office of the Chief Counsel (Passthroughs and Special Industries).

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

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

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

Par. 2. Section 1.642(c)–3 is amended by:

1. Revising the paragraph heading of paragraph (b) and add a heading to paragraph (b)(1).
2. Revising paragraph (b)(2).
3. Adding a heading to paragraph (b)(3).
4. Removing paragraph (b)(4).

The revisions and additions read as follows:

§ 1.642(c)–3 Adjustments and other special rules for determining unlimited charitable contributions deduction.

* * * * *

(b) *Determination of amounts deductible under section 642(c) and the character of such amounts*—(1) *Reduction of charitable contributions deduction by amounts not included in gross income.* * * *

(2) *Determination of the character of an amount deductible under section 642(c).* In determining whether the amounts of income so paid, permanently set aside, or used for a purpose specified in section 642(c)(1), (2), or (3) include particular items of income of an estate or trust, whether or not included in gross income, a provision in the governing instrument or in local law that specifically provides the source out of which amounts are to be paid, permanently set aside, or used for such a purpose controls for Federal tax purposes to the extent such provision has economic effect independent of income tax consequences. See § 1.652(b)–2(b). In the absence of such specific provisions in the governing instrument or in local law, the amount to which section 642(c) applies is deemed to consist of the same proportion of each class of the items of income of the estate or trust as the total of each class bears to the total of all classes. See § 1.643(a)–5(b) for the method of determining the allocable portion of exempt income and foreign income. This paragraph (b)(2) is illustrated by the following example:

Example. A charitable lead annuity trust has the calendar year as its taxable year, and is to pay an annuity of $10,000 annually to an organization described in section 170(c). A provision in the trust governing instrument provides that the $10,000 annuity should be deemed to come first from ordinary income, second from short-term capital gain, third from fifty percent of the unrelated business taxable income, fourth from long-term capital gain, fifth from the balance of unrelated business taxable income, sixth from tax-exempt income, and seventh from principal. This provision in the governing instrument does not have economic effect independent of tax consequences because the amount to be paid to charity is not dependent upon the type of income from which it is to be paid. Accordingly, the amount to which section 642(c) applies is deemed to consist of the same proportion of each class of the items of income of the trust as the total of each class bears to the total of all classes.

(3) *Other examples.* * * *

* * * * *

Par. 3. Section 1.643(a)–5 is amended by revising the text of paragraph (b) to read as follows:

§ 1.643(a)–5 Tax-exempt interest.

* * * * *

(b) If the estate or trust is allowed a charitable contributions deduction under section 642(c), the amounts specified in paragraph (a) of this section and § 1.643(a)–6 are reduced by the portion deemed to be included in income paid, permanently set aside, or to be used for the purposes specified in section 642(c). If the governing instrument or local law specifically provides as to the source out of which amounts are paid, permanently set aside, or to be used for such charitable purposes, the specific provision controls for Federal tax purposes to the extent such provision has economic effect independent of income tax consequences. See § 1.652(b)–2(b). In the absence of specific provisions in the governing instrument, an amount to which section 642(c) applies is deemed to consist of the same proportion of each class of the items of income of the estate or trust as the total of each class bears to the total of all classes. For illustrations showing the determination of the character of an amount deductible under section 642(c), see *Examples 1* and *2* of § 1.662(b)–2 and § 1.662(c)–4(e).

Linda E. Stiff,

Deputy Commissioner for Services and Enforcement.

[FR Doc. E8–13611 Filed 6–17–08; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 1

[Docket No.: PTO–P–2008–0023]

RIN 0651–AC28

Fiscal Year 2009 Changes to Patent Cooperation Treaty Transmittal and Search Fees

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: The United States Patent and Trademark Office (Office) is proposing to revise the rules of practice to adjust the transmittal and search fees for international applications filed under the Patent Cooperation Treaty (PCT). The Office is proposing to adjust the PCT transmittal and search fees to recover the estimated average cost to the Office of processing PCT international applications and preparing international search reports and written opinions for PCT international applications.

DATES: Written comments must be received on or before August 18, 2008. No public hearing will be held.

ADDRESSES: Comments should be sent by electronic mail message over the Internet addressed to *AC28.comments@uspto.gov.* Comments may also be submitted by mail addressed to: Mail Stop Comments—Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313–1450, or by facsimile to (571) 273–0459, marked to the attention of Boris Milef, Office of the Deputy Commissioner for Patent Examination Policy. Although comments may be submitted by mail or facsimile, the Office prefers to receive comments via the Internet.

Comments may also be sent by electronic mail message over the Internet via the Federal eRulemaking Portal. See the Federal eRulemaking Portal Web site (*http://www.regulations.gov*) for additional instructions on providing comments via the Federal eRulemaking Portal.

The comments will be available for public inspection at the Office of the Commissioner for Patents, located in

Madison East, Tenth Floor, 600 Dulany Street, Alexandria, Virginia, and will be available through anonymous file transfer protocol (ftp) via the Internet (*http://www.uspto.gov*). Because comments will be made available for public inspection, information that the submitter does not desire to make public, such as an address or phone number, should not be included in the comments.

FOR FURTHER INFORMATION CONTACT: Boris Milef, Legal Examiner, Office of PCT Legal Administration, Office of the Deputy Commissioner for Patent Examination Policy, by telephone at (571) 272–3288; or by mail addressed to: Box Comments Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313–1450.

SUPPLEMENTARY INFORMATION: The PCT enables United States applicants to file one application (an international or PCT application) in a standardized format in English in a Receiving Office (either the United States Patent and Trademark Office or the International Bureau of the World Intellectual Property Organization (WIPO)) and have that application acknowledged as a regular national or regional filing by PCT member countries. *See* Manual of Patent Examining Procedure (MPEP) § 1801 (8th ed. 2001) (Rev. 6, Sept. 2007). The primary benefit of the PCT system is the ability to delay the expense of submitting papers and fees to the PCT national offices. *See* MPEP 1893.

The Office acts as a Receiving Office (RO) for United States residents and nationals. *See* 35 U.S.C. 361(a), 37 CFR 1.412(a), and MPEP 1801. An RO functions as the filing and formalities review organization for international applications. *See* MPEP 1801. The Office, in its capacity as a PCT Receiving Office, received over 50,000 international applications in each of fiscal years 2006 and 2007. The Office also acts as an International Searching Authority (ISA). *See* 35 U.S.C. 362(a), 37 CFR 1.413(a), and MPEP 1840. The primary functions of an ISA are to establish: (1) International search reports, and (2) written opinions of the ISA. *See* MPEP 1840.

The transmittal and search fees for an international application are provided for in 35 U.S.C. 376. *See* 35 U.S.C. 376 (the Office ''may also charge'' a ''transmittal fee,'' ''search fee,'' ''supplemental search fee,'' and ''any additional fees'' (35 U.S.C. 376(a)), and the ''amounts of [these] fees * * * shall be prescribed by the Director'' (35 U.S.C. 376(b)). In addition, 35 U.S.C. 41(d) provides that fee amounts set by the Office ''recover the estimated average cost to the Office of such processing, services, or materials.'' *See* 35 U.S.C. 41(d). The Office has no basis for maintaining the PCT transmittal, search, and supplemental search fees at amounts less than that necessary to recover the estimated average cost to the Office of performing these functions for PCT international applications. Therefore, the Office is proposing to adjust the PCT transmittal fee and search fees to recover the estimated average cost to the Office of processing PCT international applications and preparing international search reports and written opinions for PCT international applications. The Office's cost analysis for these activities reveals that the average cost of the initial processing of PCT international applications is slightly over $415.00 and the average cost of search and preparation of ISA search reports or written opinions for international applications and for a supplemental search is slightly over $2,225.00 for each invention.

Discussion of Specific Rules

Title 37 of the Code of Federal Regulations, part 1, is proposed to be amended as follows:

Section 1.445: Section 1.445(a)(1) is proposed to be amended to change the transmittal fee from $300.00 to $415.00. Section 1.445(a)(2) is proposed to be amended to change the search fee from $1,800.00 to $2,225.00. Section 1.445(a)(3) is proposed to be amended to change the supplemental search fee from $1,800.00 to $2,225.00.

Rule Making Considerations

A. Initial Regulatory Flexibility Analysis

1. *Description of the reasons that action by the agency is being considered:* The Office is proposing to revise the rules of practice to adjust the transmittal and search fees for international applications filed under the PCT. The Office is proposing to adjust the PCT transmittal and search fees to recover the estimated average cost to the Office of processing PCT international applications and preparing international search reports and written opinions for PCT international applications.

2. *Succinct statement of the objectives of, and legal basis for, the proposed rules:* The Office is proposing to adjust the PCT transmittal and search fees to recover the estimated average cost to the Office of processing PCT international applications and preparing international search reports and written opinions for PCT international applications. The changes proposed in this notice are authorized by 35 U.S.C. 41(d) and 376.

3. *Description and estimate of the number of affected small entities:* The Small Business Administration (SBA) small business size standards applicable to most analyses conducted to comply with the Regulatory Flexibility Act are set forth in 13 CFR 121.201. These regulations generally define small businesses as those with fewer than a maximum number of employees or less than a specified level of annual receipts for the entity's industrial sector or North American Industry Classification System code. The Office, however, has formally adopted an alternate size standard as the size standard for the purpose of conducting an analysis or making a certification under the Regulatory Flexibility Act for patent-related regulations. *See Business Size Standard for Purposes of United States Patent and Trademark Office Regulatory Flexibility Analysis for Patent-Related Regulations*, 71 FR 67109 (Nov. 20, 2006), 1313 *Off. Gaz. Pat. Office* 60 (Dec. 12, 2006). This alternate small business size standard is the previously established size standard that identifies the criteria entities must meet to be entitled to pay reduced patent fees. *See* 13 CFR 121.802. If patent applicants identify themselves on the patent application as qualifying for reduced patent fees, the Office captures this data in the Patent Application Location and Monitoring (PALM) database system, which tracks information on each patent application submitted to the Office.

Unlike the SBA small business size standards set forth in 13 CFR 121.201, this size standard is not industry-specific. Specifically, the Office's definition of small business concern for Regulatory Flexibility Act purposes is a business or other concern that: (1) Meets the SBA's definition of a ''business concern or concern'' set forth in 13 CFR 121.105; and (2) meets the size standards set forth in 13 CFR 121.802 for the purpose of paying reduced patent fees, namely an entity: (a) Whose number of employees, including affiliates, does not exceed 500 persons; and (b) which has not assigned, granted, conveyed, or licensed (and is under no obligation to do so) any rights in the invention to any person who made it and could not be classified as an independent inventor, or to any concern which would not qualify as a non-profit organization or a small business concern under this definition. *See Business Size Standard for Purposes of United States Patent and Trademark Office Regulatory Flexibility Analysis for Patent-Related Regulations*, 71 FR at 67112, 1313 *Off. Gaz. Pat. Office* at 63.

The changes in this proposed rule will apply to any small entity who files a PCT international application in the United States Receiving Office and who requests a search by the United States International Searching Authority. The Office received between 52,000 and 53,000 PCT international applications in each of fiscal years 2006 and 2007. There is no provision in 35 U.S.C. 376 (or elsewhere) for a small entity reduction for the transmittal or search fees for an international application. Thus, PCT applicants do not indicate and the Office does not record whether a PCT application is by a small entity or a non-small entity. The Office's PALM and Revenue Accounting and Management (RAM) systems indicate that 12,043 of the PCT international applications in fiscal year 2006 claim priority to a prior application (nonprovisional or provisional) that has small entity status, and that 2,559 of the PCT international applications in fiscal year 2006 do not claim priority to any prior nonprovisional application or provisional application. The Office's PALM and RAM systems indicate that 12,716 of the PCT international applications in fiscal year 2007 claim priority to a prior application (nonprovisional or provisional) that has small entity status, and that 4,016 of the PCT international applications in fiscal year 2007 do not claim priority to any prior nonprovisional application or provisional application.

4. *Description of the projected reporting, recordkeeping and other compliance requirements of the proposed rules, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record:* This notice does not propose any reporting, recordkeeping and other compliance requirements. This notice proposes only to adjust the PCT transmittal and search fees. As discussed previously, there is no provision in 35 U.S.C. 376 (or elsewhere) for a small entity reduction for the search fees for an international application. The following table (Table 1) indicates the PCT international stage fee, the number of payments of the fee received by the Office in fiscal year 2007 (number of entities who paid the applicable fee in fiscal year 2007), the current fee amount, the proposed fee amount, and the net amount of the fee adjustment.

TABLE 1

Fee	Fiscal year 2007 payments	Current fee amount	Proposed fee amount	Fee adjustment
Transmittal Fee	$54,335	$300.00	$415.00	$115.00
Search Fee	30,965	1,800.00	2,225.00	425.00
Supplemental Search Fee	941	1,800.00	2,225.00	425.00

The PCT international search fee and supplemental search fee were adjusted from $1,000.00 to $1,800.00 in November of 2007. *See April 2007 Revision of Patent Cooperation Treaty Procedures*, 72 FR 51559 (Sept. 10, 2007), 1323 *Off. Gaz. Pat. Office* 26 (Oct. 2, 2007) (final rule). Thus, the change to the search and supplemental search fee proposed in this notice is a $425.00 increase over the current search fee and supplemental search fee set in November of 2007, and a $1,225.00 increase over the search fee and supplemental search fee that was in effect prior to November of 2007.

The PCT does not preclude United States applicants from filing patent applications directly in the patent offices of those countries which are Contracting States of the PCT (with or without previously having filed a regular national application under 35 U.S.C. 111(a) or 111(b) in the United States) and taking advantage of the priority rights and other advantages provided under the Paris Convention and the World Trade Organization (WTO) administered Agreement on Trade-Related Aspects of Intellectual Property (TRIPs Agreement). *See* MPEP 1801. That is, the PCT is not the exclusive mechanism for seeking patent protection in foreign countries, but is instead simply an optional alternative route available to United States patent applicants for seeking patent protection in those countries that are Contracting States of the PCT. *See id.*

In addition, an applicant filing an international application under the PCT in the United States Receiving Office (the United States Patent and Trademark Office) is not required to use the United States Patent and Trademark Office as the International Searching Authority. The European Patent Office (except for applications containing business method claims) or the Korean Intellectual Property Office may be selected as the International Searching Authority for international applications filed in the United States Receiving Office. The applicable search fee if the European Patent Office is selected as the International Searching Authority European is currently $2,496.00 (set by the European Patent Office), and the applicable search fee if the Korean Intellectual Property Office is selected as the International Searching Authority is currently $244.00 (set by the Korean Intellectual Property Office).

5. *Description of any significant alternatives to the proposed rules which accomplish the stated objectives of applicable statutes and which minimize any significant economic impact of the proposed rules on small entities:* The alternative of not adjusting the PCT transmittal and search fees would have a lesser economic impact on small entities, but would not accomplish the stated objectives of applicable statutes. *See* 35 U.S.C. 41(d) (requires that fees set by the Office recover the estimated average cost to the Office of the processing, services, or materials).

6. *Identification, to the extent practicable, of all relevant Federal rules which may duplicate, overlap or conflict with the proposed rules:* The Office is the sole agency of the United States Government responsible for administering the provisions of title 35, United States Code, pertaining to examination and granting patents. Therefore, no other federal, state, or local entity shares jurisdiction over the examination and granting of patents.

The Office previously proposed changes to adjust the patent fees set by statute to reflect fluctuations in the Consumer Price Index (CPI). *See Revision of Patent Fees for Fiscal Year 2009*, 73 FR 31655 (June 3, 2008) (proposed rule). The changes proposed in that rule making do not duplicate, overlap, or conflict with the changes proposed in this notice.

Other countries, however, have their own patent laws, and an entity desiring a patent in a particular country must make an application for patent in that country, in accordance with the applicable law. Although the potential for overlap exists internationally, this cannot be avoided except by treaty (such as the Paris Convention for the Protection of Industrial Property, or the PCT). Nevertheless, the Office believes

that there are no other duplicative or overlapping rules.

B. *Executive Order 13132 (Federalism):* This rule making does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 13132 (Aug. 4, 1999).

C. *Executive Order 12866 (Regulatory Planning and Review):* This rule making has been determined to be significant for purposes of Executive Order 12866 (Sept. 30, 1993), as amended by Executive Order 13258 (Feb. 26, 2002) and Executive Order 13422 (Jan. 18, 2007).

D. *Executive Order 13175 (Tribal Consultation):* This rule making will not: (1) Have substantial direct effects on one or more Indian tribes; (2) impose substantial direct compliance costs on Indian tribal governments; or (3) preempt tribal law. Therefore, a tribal summary impact statement is not required under Executive Order 13175 (Nov. 6, 2000).

E. *Executive Order 13211 (Energy Effects):* This rule making is not a significant energy action under Executive Order 13211 because this rule making is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects is not required under Executive Order 13211 (May 18, 2001).

F. *Executive Order 12988 (Civil Justice Reform):* This rule making meets applicable standards to minimize litigation, eliminate ambiguity, and reduce burden as set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 (Feb. 5, 1996).

G. *Executive Order 13045 (Protection of Children):* This rule making is not an economically significant rule and does not concern an environmental risk to health or safety that may disproportionately affect children under Executive Order 13045 (Apr, 21, 1997).

H. *Executive Order 12630 (Taking of Private Property):* This rule making will not effect a taking of private property or otherwise have taking implications under Executive Order 12630 (Mar. 15, 1988).

I. *Congressional Review Act:* Under the Congressional Review Act provisions of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*), prior to issuing any final rule, the United States Patent and Trademark Office will submit a report containing the final rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the Government Accountability Office. The changes proposed in this notice are not expected to result in an annual effect on the economy of 100 million dollars or more, a major increase in costs or prices, or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets. Therefore, this rule making is not likely to result in a ''major rule'' as defined in 5 U.S.C. 804(2).

J. *Unfunded Mandates Reform Act of 1995:* The changes proposed in this notice do not involve a Federal intergovernmental mandate that will result in the expenditure by State, local, and tribal governments, in the aggregate, of 100 million dollars (as adjusted) or more in any one year, or a Federal private sector mandate that will result in the expenditure by the private sector of 100 million dollars (as adjusted) or more in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995. *See* 2 U.S.C. 1501 *et seq.*

K. *National Environmental Policy Act:* This rule making will not have any effect on the quality of environment and is thus categorically excluded from review under the National Environmental Policy Act of 1969. *See* 42 U.S.C. 4321 *et seq.*

L. *National Technology Transfer and Advancement Act:* The requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) are inapplicable because this rule making does not contain provisions which involve the use of technical standards.

M. *Paperwork Reduction Act:* The changes proposed in this notice involve information collection requirements which are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The collection of information involved in this notice has been reviewed and approved by OMB under OMB control number 0651–0021. The Office is not resubmitting an information collection package to OMB for its review and approval because the changes proposed in this notice concern revised fees for existing information collection requirements associated with the information collection under OMB control number 0651–0021. The Office will submit fee revision changes to the inventory of the information collection under OMB control number 0651–0021 if the changes proposed in this notice are adopted.

Comments are invited on: (1) Whether the collection of information is necessary for proper performance of the functions of the agency; (2) the accuracy of the agency's estimate of the burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information to respondents.

Interested persons are requested to send comments regarding these information collections, including suggestions for reducing this burden, to: (1) The Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10202, 725 17th Street, NW., Washington, DC 20503, Attention: Desk Officer for the Patent and Trademark Office; and (2) Robert A. Clarke, Director, Office of Patent Legal Administration, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313–1450.

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

List of Subjects in 37 CFR Part 1

Administrative practice and procedure, Courts, Freedom of Information, Inventions and patents, Reporting and record keeping requirements, Small Businesses.

Accordingly, the Office proposes to amend 37 CFR part 1 as follows:

PART 1—RULES OF PRACTICE IN PATENT CASES

1. The authority citation for 37 CFR part 1 continues to read as follows:

Authority: 35 U.S.C. 2(b)(2).

2. Subpart C of 37 CFR part 1 is amended immediately before the undesignated center heading ''General Information'' to include the following authority citation:

Authority: Sections 1.401 through 1.499 also issued under 35 U.S.C. 351 through 376.

3. Section 1.445 is amended by revising paragraphs (a)(1), (a)(2) and (a)(3) to read as follows:

§ 1.445 International application filing, processing and search fees.

(a) * * *

(1) A transmittal fee (see 35 U.S.C. 361(d) and PCT Rule 14)	$415.00
(2) A search fee (see 35 U.S.C. 361(d) and PCT Rule 16)	2,225.00
(3) A supplemental search fee when required, per additional invention	$,225.00

* * * * *

Dated: June 12, 2008.

Jon W. Dudas,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. E8–13730 Filed 6–17–08; 8:45 am]

BILLING CODE 3510–16–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[EPA–HQ–OAR–2008–0231; FRL–8582–7]

RIN 2060–AP18

Protection of Stratospheric Ozone: Revision of Refrigerant Recovery Only Equipment Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to update motor vehicle refrigerant recovery only equipment standards. Under Clean Air Act Section 609, motor vehicle air-conditioning (MVAC) refrigerant handling equipment must be certified by the Administrator or an independent organization approved by the Administrator and, at a minimum, must be as stringent as the standards of the Society of Automotive Engineers (SAE) in effect as of the date of the enactment of the Clean Air Act Amendments of 1990. In 1997, EPA promulgated regulations that required the use of SAE Standard J1732, HFC–134a Recycling Equipment for Mobile Air Conditioning Systems for certification of MVAC refrigerant handling equipment. SAE has replaced Standard J1732 with J2810, HFC–134a Refrigerant Recovery Equipment for Mobile Air Conditioning Systems. EPA is updating its reference to the new SAE standard for MVAC refrigerant recovery equipment used for MVAC servicing and MVAC disposal. This action reflects a change in industry standard practice.

DATES: Written comments must be received by July 18, 2008. If anyone contacts us requesting a public hearing by June 30, 2008, the hearing will be held on July 3, 2008. If a public hearing is requested, the record for this action will remain open until August 4, 2008 to accommodate submittal of information related to the public hearing. For additional information on the public hearing, see the **SUPPLEMENTARY INFORMATION** section of this document.

ADDRESSES: Submit your comments, identified by Docket ID No EPA–HQ–OAR–2008–0231, by mail to Environmental Protection Agency, Mailcode 6102T, EPA Docket Center (EPA/DC), 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Comments may also be submitted electronically or through hand delivery/courier by following the detailed instructions in the **ADDRESSES** section of the direct final rule located in the rules section of this **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Karen Thundiyil, Stratospheric Protection Division, Office of Atmospheric Programs (MC 6205J), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 343–9464; fax number (202) 343–2363; e-mail address: *thundiyil.karen@epa.gov.*

SUPPLEMENTARY INFORMATION: In the ''Rules and Regulations'' section of this **Federal Register**, we are updating the existing motor vehicle refrigerant recovery only equipment standards, as a direct final rule without a prior proposed rule. If we receive no adverse comment, we will not take further action on this proposed rule. If a public hearing is held, it will be at EPA Headquarters in Washington, DC.

I. Why Is EPA Issuing This Proposed Rule?

This document proposes to take action on motor vehicle air-conditioning refrigerant recovery only equipment standards. We have published a direct final rule updating EPA's motor vehicle refrigerant recovery only equipment standards in the ''Rules and Regulations'' section of this **Federal Register** because we view this as a noncontroversial action and anticipate no adverse comment. We have explained our reasons for this action in the preamble to the direct final rule and are not repeating those here.

If we receive no adverse comment, we will not take further action on this proposed rule. If we receive adverse comment, we will withdraw the direct final rule and it will not take effect. We would address all public comments in any subsequent final rule based on this proposed rule. We do not intend to institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information, please see the information provided in the **ADDRESSES** section of this document.

II. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

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

B. Paperwork Reduction Act

This action does not impose any new information collection burden. The recordkeeping and reporting requirements included in this action are already included in an existing information collection burden. This action does not make any changes that would affect burden. However, the Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the existing regulations, 40 CFR part 82, under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. and has assigned OMB control number 2060–0247. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

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

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

After considering the economic impacts of this proposed rule on small entities, we certify that this action will not have a significant economic impact

on a substantial number of small entities. The requirements of this proposed rule do not require an immediate replacement of existing equipment with equipment certified to the new SAE standard. Rather, MVAC service shop owners will purchase equipment certified to the new SAE standard to replace existing refrigerant handling equipment as it approaches the end of its life. We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

D. Unfunded Mandates Reform Act

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

EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. This proposed rule does not affect State, local, or tribal governments. The impact of this proposed rule on the private sector will be less than $100 million per year. Thus, this proposed rule is not subject to the requirements of sections 202 and 205 of the UMRA. EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. This regulation does not apply to governmental entities.

E. Executive Order 13132: Federalism

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

This action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This proposed rule applies directly to facilities that use these substances and not to governmental entities. Thus, Executive Order 13132 does not apply to this proposed rule.

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

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This proposed rule does not have tribal implications, as specified in Executive Order 13175. It does not significantly or uniquely affect the communities of Indian tribal governments, because this regulation applies directly to facilities that use these substances and not to governmental entities. Thus, Executive Order 13175 does not apply to this proposed rule.

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

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

EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This proposed rule is not subject to Executive Order 13045 because it is based on technology performance and not on health or safety risks.

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

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

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law No. 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This rulemaking explicitly references technical standards; EPA proposes to use SAE Standard J2810 which is the

revised version of SAE Standard J1732. These standards can be obtained from *http://www.sae.org/technical/standards/.*

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

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

EPA has determined that this proposed rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. This action updates a regulatory reference to an obsolete standard to avoid confusion on the part of refrigerant handling equipment manufacturers, service technicians, automobile dismantling operators, and A/C service shop owners.

List of Subjects in 40 CFR Part 82

Environmental protection, Motor vehicle air-conditioning, Recover/recycle equipment, Recover/recycle/recharge equipment, Reporting and certification requirements, Stratospheric ozone layer.

Dated: June 12, 2008.

Stephen L. Johnson,

Administrator.

[FR Doc. E8–13754 Filed 6–17–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2002–0043; FRL–8130–3]

Pesticide Tolerance Nomenclature Changes; Proposed Technical Amendments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; Technical Amendments.

SUMMARY: This document proposes minor technical revisions to terminology of certain commodity terms listed under 40 CFR part 180, subpart A and subpart C. EPA is proposing this action to eventually establish a uniform listing of commodity terms.

DATES: Comments must be received on or before August 18, 2008.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2002–0043, by one of the following methods:

- *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Building), 2777 S. Crystal Drive, Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket telephone number is (703) 305–5805.

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2002–0043. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line 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 regulations.gov or e-mail. The Federal regulations.gov website 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 regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the 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 docket index available in regulations.gov. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov web site to view the docket index or access available documents. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Building), 2777 S. Crystal Drive, 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 telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Stephen Schaible, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308-9362; fax number: (703) 305-6920; e-mail address: *schiable.stephen@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111), e.g., agricultural workers; greenhouse, nursery, and floriculture workers; farmers.
- Animal production (NAICS code 112), e.g., cattle ranchers and farmers, dairy cattle farmers, livestock farmers.
- Food manufacturer (NAICS code 311), e.g., agricultural workers; farmers; greenhouse, nursery, and floriculture workers; ranchers; pesticide applicators.
- Pesticide manufacturer (NAICS code 32532), e.g., agricultural workers; commercial applicators; farmers;

greenhouse, nursery, and floriculture workers; residential users.

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions in [insert appropriate cite to either another unit in the preamble or a section in a rule]. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Docket.* EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2002–0043. 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 Building), 2777 S. Crystal Drive 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 telephone number is (703) 305–5805.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading,**Federal Register** date, and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Background

A. What Action is the Agency Taking?

EPA's Office of Pesticide Programs (OPP) has developed a commodity vocabulary data base entitled ''Food and Feed Commodity Vocabulary.'' The data base was developed to consolidate all the major OPP commodity vocabularies into one standardized vocabulary. As a result, all future pesticide tolerances issued under 40 CFR part 180 will use the ''preferred commodity term'' as listed in the aforementioned data base. Previously, seven documents in a series of documents revising the terminology of commodity terms currently in tolerances in 40 CFR part 180 have been published. Final Rules, revising pesticide tolerance nomenclature, were published in the **Federal Register** on June 19, 2002 (67 FR 41802) (FRL–6835–2); June 21, 2002 (67 FR 42392) (FRL–7180–1); July 1, 2003 (68 FR 39428) (FRL–7308–9) and (68 FR 39435)(FRL–7316–9); December 13, 2006 (71 FR 74802) (FRL–8064–3); and September 18, 2007 (72 FR 53134)(FRL–8126–5); corrected on October 31, 2007 (72 FR 61535)(FRL–8151–4).

This document proposes changes to certain commodity terminology in 40 CFR part 180. EPA is proposing to make the following format changes to the terminology of the commodity terms in 40 CFR part 180 to the extent the terminology is not already in this format:

1. The first letter of the commodity term is capitalized. All other letters, including the first letter of proper names, are changed to lower case.

2. Commodity terms are listed in the singular, although there are the following exceptions: leaves, roots, tops, greens, hulls, vines, fractions, shoots, and byproducts.

3. Commodity terms are amended so that generic terms precede modifying terms. Example - Aspirated grain fractions would be replaced with Grain, aspirated fractions.

4. Abbreviated terms would be replaced with the appropriate commodity terms. Example - Cattle, mbyp would be replaced with Cattle, meat byproducts.

5. Crop group terms would be revised to standardize with the ''Food and Feed Vocabulary''. Examples are:

- Vegetable, leafy greens, except Brassica, group 4 would be replaced with Vegetable, leafy, except brassica, group 4.
- Legume vegetables, succulent or dried (except soybean) would be replaced with Vegetable, legume, group 6, except soybean.
- Vegetable, legume, edible podded, subgroup would be replaced with Vegetable, legume, edible podded, subgroup 6A.

B. Additional Changes

In addition to format changes to the commodity terms, this document also proposes many revisions to the commodity terms in 40 CFR part 180, subpart C. These proposed revisions, if adopted, would replace certain commodity terms that are no longer used by EPA with the appropriate matching term in the ''Food and Feed Vocabulary.'' For example:

1. Carrot would be replaced with Carrot, roots.

2. Cotton, oil and Peanut oil would be replaced with Cotton, refined oil and Peanut, refined oil.

3. Cacao and Cacao bean would be replaced with Cacao bean, bean.

4. Coffee and Coffee, bean would be replaced with Coffee, bean, green.

5. Coffee, postharvest would be replaced with Coffee, bean, roasted bean, postharvest.

6. Citron would be replaced with Citron, citrus.

7. Corn, field, grain, flour would be replaced with Corn, field, flour.

8. Date would be replaced with Date, dried fruit.

9. Grass, fodder would be replaced with Grass, straw.

10. Guar bean would be replaced with Guar, seed.

11. Hop would be replaced with Hop, dried cones.

12. Millet, fodder would be replaced with Millet, straw. Milo, grain; Milo, fodder; and Milo, forage would be replaced with Sorghum, grain, grain; Sorghum, grain, stover; and Sorghum, grain, forage.

13. Mulberry, Indian would be replaced with Noni.

14. Oat milling fractions (except flour) and Oat, milled fractions (except flour) would be replaced with Oat, groats/rolled oats.

15. Pea, vines would be replaced with Pea, field, vines.

16. Peavine, hay would be replaced with Pea, field, hay.

17. Prickly pear cactus, fruit and Prickly pear cactus, pads would be replaced with Cactus, fruit and Cactus, pads.

18. Red beet roots and Red beet tops would be replaced with Beet, garden, roots and Beet, garden tops.

19. Soybean, aspirated grain fractions would be replaced with Grain, aspirated fractions.

20. Wheat, grain, milled byproducts and Wheat, milled feed fractions would be replaced with Wheat, milled byproducts.

In certain instances, more than one replacement commodity term exists in the ''Food and Feed Vocabulary for the older commodity terms in 40 CFR part 180, subpart C. For example, the preferred commodity terms for Grass are Grass, forage and Grass, hay. Certain revisions included in this document were made by choosing a replacement commodity term from the ''Food and Feed Vocabulary'' based on the old commodity term and existing tolerances for related food or feed commodities. These changes are specific to the amended sections and paragraphs in 40 CFR part 180, supbart C. For example:

In § 180.154(a) and § 180.169(a)(1) the commodity term Alfalfa would be replaced with Alfalfa, forage. Alfalfa, forage and Alfalfa, hay are preferred commodity terms for Alfalfa. Alfalfa, forage was chosen to replace Alfalfa since tolerances are established for Alfalfa, hay.

In § 180.121(e) Beet (with or without tops) would be replaced with Beet, garden roots. Beet, garden, roots and Beet, garden, tops are the preferred commodity terms for Beet (with or without tops). Beet, garden roots was chosen since a tolerance is established for Beet, garden, tops. In § 180.408(a) Beet, garden would be replaced with Beet, garden, roots. A tolerance is established for Beet, garden, tops.

In § 180.154(a) Birdsfoot trefoil would be replaced with Trefoil, forage. Trefoil, forage and Trefoil, hay are the preferred commodity terms for Birdsfoot trefoil. Trefoil forage was chosen since a tolerance is established for Trefoil, hay.

In § 180.154(a) and § 180.169(a)(1) Clover would be replaced with Clover, forage. Clover, forage and Clover, hay are preferred commodity terms for Clover. Clover, forage was chosen since tolerances are established for Clover, hay.

In § 180.121(a), § 180.204(a) and § 180.288(a), the commodity term Corn, forage would be replaced with Corn, field, forage. Corn, field, forage and Corn, sweet, forage are the preferred commodity terms for Corn, forage. Since there are no tolerances for sweet corn; Corn, field, forage was chosen to replace Corn, forage. In § 180.412(a) the commodity term Corn, field, forage was chosen to replace Corn, forage since a tolerance is established for Corn, sweet, forage.

In § 180.111(a)(1) and § 180.169(a)(1) the commodity term Grass would be replaced with Grass, forage. The preferred terms for Grass are Grass, forage and Grass, hay. Grass, forage was chosen since tolerances are established for Grass, hay.

In § 180.121(e) Rutabagas (with or without tops) would be replaced with Rutabaga, roots. Rutabaga, roots and Rutabaga, tops are the preferred terms for Rutabagas (with or without tops). Rutabaga, roots was chosen since a tolerance is established for Rutabaga tops.

In § 180.342(a)(2) Turnip would be replaced with Turnip, roots. The preferred terms for Turnip are Turnip, roots and Turnip, greens. Turnip, roots was chosen since tolerances are established for Turnip, greens. In § 180.121(e) Turnip (with or without tops) would be replaced with Turnip, roots since a tolerance is established for Turnip, greens.

This document also proposes to delete certain terms that are not needed to identify the tolerance commodities. Examples:

1. The term Peanut, meat (hulls removed) would be changed to Peanut.

2. The term Banana, pulp (no peel) would be changed to Banana, pulp.

3. The commodity term Peach (includes nectarines) would be changed to Peach; the ''Food and Feed Vocabulary'' uses the term Peach to include peach and nectarines.

4. The terms Horseradish, roots and Potato, tuber would be changed to Horseradish and Potato.

5. The terms Garlic, bulb and Garlic (bulb) would be changed to Garlic.

6. The terms Plum (fresh) and Pineapple, fresh would be changed to Plum and Pineapple.

III. Statutory and Executive Order Reviews

This document proposes technical amendments to the Code of Federal Regulations which have no substantive impact on the underlying regulations, and does not otherwise impose or amend any requirements. As such, the Office of Management and Budget (OMB) has determined that a technical amendment is not a ''significant regulatory action'' subject to review by OMB under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this proposed rule has been exempted from review under Executive Order 12866 due to its lack of significance, this proposed rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This proposed rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental organizations. After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This action proposes technical amendments to the Code of Federal Regulations which have no substantive impact on the underyling regulations. These technical amendments will not have any negative economic impact on any entities, including small entities. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that

have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This proposed rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of the FFDCA. For these same reasons, the Agency has determined that this proposed rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This proposed rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this proposed rule.

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pest, Reporting and recordkeeping requirements.

Dated: June 4, 2008.

Debra Edwards,

Director, Office of Pesticide Programs.

Therefore, 40 CFR chapter I, part 180 is proposed to be amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a, and 371.

2. Section 180.1 is amended by revising the table to paragraph (g) to read as follows:

§ 180.1 Definitions and interpretations.

* * * * *

(g) * * *

A	B
Alfalfa	*Medicago sativa L. Subsp. sativa*, (alfalfa, lucerne); *Onobrychis viciifolia Scop.* (sainfoin, holy clover, esparcet); and *Lotus corniculatus L.* (trefoil); and varieties and/or hybrids of these.
Banana	Banana, plantain.
Bean	*Cicer arietinum* (chickpea, garbanzo bean); *Lupinus* spp. (including sweet lupine, white sweet lupine, white lupine, and grain lupine). *Phaseolus* spp. (including kidney bean, lima bean, mung bean, navy bean, pinto bean, snap bean, and waxbean; *Vicia faba* (broad bean, fava bean); *Vigna* spp. (including asparagus bean, blackeyed pea and cowpea).
Bean, dry	All beans above in dry form only.
Bean, succulent	All beans above in succulent form only.
Blackberry	*Rubus eubatus* (including bingleberry, black satin berry, boysenberry Cherokee blackberry, Chesterberry, Cheyenne blackberry, coryberry, darrowberry, dewberry, Dirksen thornless berry, Himalayaberry, hullberry, Lavacaberry, lowberry, Lucretiaberry, mammoth blackberry, marionberry, nectarberry, olallieberry, Oregon evergreen berry, phenomenalberry, rangerberry, ravenberry, rossberry, Shawnee blackberry, and varieties and/or hybrids of these).
Broccoli	Broccoli, chinese broccoli (gia lon, white flowering broccoli).
Cabbage	Cabbage, Chinese cabbage (tight-heading varieties only).
Caneberry	*Rubus* spp. (including blackberry); *Rubus caesius* (youngberry); *Rubus loganbaccus* (loganberry); *Rubus idaeus* (red and black raspberry); cultivars, varieties, and/or hybrids of these.
Celery	Celery, Florence fennel (sweet anise, sweet fennel, finochio) (fresh leaves and stalks only).
Cherry	Cherry, sweet, and cherry, tart.
Endive	Endive, escarole.
Fruit, citrus	Grapefruit, lemon, lime, orange, tangelo, tangerine, citrus citron, kumquat, and hybrids of these.

A	B
Garlic	Garlic, great headed; garlic, and serpent garlic.
Lettuce	Lettuce, head; and lettuce, leaf
Lettuce, head	Lettuce, head; crisphead varieties only
Lettuce, leaf	Lettuce, leaf; cos (romaine), butterhead varieties
Marjoram	*Origanum* spp. (includes sweet or annual marjoram, wild marjoram or oregano, and pot marjoram).
Melon	Muskmelon, including hybrids and/or varieties of *Cucumis melo* (including true cantaloupe, cantaloupe, casaba, Santa Claus melon, crenshaw melon, honeydew melon, honey balls, Persian melon, golden pershaw melon, mango melon, pineapple melon, snake melon); and watermelon, including hybrids and/or varieties of (*Citrullus* spp.).
Muskmelon	*Cucumis melo* (includes true cantaloupe, cantaloupe, casaba, Santa Claus melon, crenshaw melon, honeydew melon, honey balls, Persian melon, golden pershaw melon, mango melon, pineapple melon, snake melon, and other varieties and/or hybrids of these.)
Onion	Bulb onion; green onion; and garlic.
Onion, bulb	Bulb onion; garlic; great headed garlic; serpent garlic; Chinese onion; pearl onion; potato onion; and shallot, bulb.
Onion, green	Green onion; lady's leek; leek; wild leek; Beltsville bunching onion; fresh onion; tree onion, tops; Welsh onion; and shallot, fresh leaves.
Peach	Peach, nectarine
Pea	*Cajanus cajan* (includes pigeon pea); *Cicer* spp. (includes chickpea and garbanzo bean); *Lens culinaris* (lentil); *Pisum* spp. (includes dwarf pea, garden pea, green pea, English pea, field pea, and edible pod pea). [Note: A variety of pesticide tolerances have been previously established for pea and/or bean. Chickpea/garbanzo bean is now classified in both the bean and the pea categories. For garbanzo bean/chickpea only, the highest established pea or bean tolerance will apply to pesticide residues found in this commodity.]
Pea, dry	All peas in dry form only.
Pea, succulent	All peas in succulent form only.
Pepper	All varieties of pepper including pimento and bell, hot, and sweet pepper.
Radish, oriental, roots	*Raphanus sativus* var. *longipinnatus* (roots and tops), including Chinese or Japanese radish (both white and red), winter radish, daikon, lobok, lo pak, and other cultivars and/or hybrids of these.
Radish, oriental, tops)	*Raphanus sativus* var. *longipinnatus* (roots and tops), including Chinese or Japanese radish (both white and red), winter radish, daikon, lobok, lo pak, and other cultivars and/or hybrids of these.
Rapeseed	*Brassica napus*, *B. campestris*, and *Crambe abyssinica* (oilseed-producing varieties only which include canola and crambe.)
Raspberry	*Rubus* spp. (including bababerry; black raspberry; blackcap; caneberry; framboise; frambueso; himbeere; keriberry; mayberry; red raspberry; thimbleberry; tulameen; yellow raspberry; and cultivars, varieties, and/or hybrids of these).
Sorghum, grain, grain	*Sorghum* spp. [sorghum, grain, sudangrass (seed crop), and hybrids of these grown for its seed].
Sorghum, forage, stover	*Sorghum* spp. [sorghum, forage; sorghum, stover; sudangrass, and hybrids of these grown for forage and/or stover.
Squash	Pumpkin, summer squash, and winter squash.
Sugar apple	*Annona squamosa L.* (sugar apple, sweetsop, anon), and its hybrid *A. squamosa L. x A. cherimoya M.* (atemoya). Also *A. reticulata L.* (true custard apple).

A	B
Squash, summer	Fruits of the gourd (*Cucurbitaceae*) family that are consumed when immature, 100% of the fruit is edible either cooked or raw, once picked it cannot be stored, has a soft rind which is easily penetrated, and if seeds were harvested they would not germinate; e.g., *Cucurbita pepo* (i.e., crookneck squash, straightneck squash, scallop squash, and vegetable marrow); *Lagenaria* spp. (i.e., spaghetti squash, hyotan, cucuzza); *Luffa* spp. (i.e., hechima, Chinese okra); *Momordica* spp. (i.e., bitter melon, balsam pear, balsam apple, Chinese cucumber); *Sechium edule* (chayote); and other cultivars and/or hybrids of these.
Sweet potato	Sweet potato, yam.
Tangerine	Tangerine (mandarin or mandarin orange); tangelo, tangor, and other hybrids of tangerine with other citrus.
Tomato	Tomato, tomatillo.
Turnip tops or turnip greens	Broccoli raab (raab, raab salad), hanover salad, turnip tops (turnip greens).
Wheat	Wheat, triticale.

* * * * *

§ 180.368 [Amended]

3. Section 180.368 is amended by removing from the table in pararaph (a)(1) the entry for ''Milo, grain.''

§ 180.412 [Amended]

4. Section 180.412 is amended by removing from the table in pararaph (a) the entry for ''Potato, granules.''

PART 180—[AMENDED]

5. Part 180 is amended as follows:

In Section	In paragraph	Remove the term	Add in its place the term
180.106	(a)(1) table	Grass crops (other than Bermuda grass)	Grass, forage, except bermudagrass
180.111	(a)(1) table	Date	Date, dried fruit
180.111	(a)(1) table	Grass	Grass, forage
180.111	(a)(1) table	Hop	Hop, dried cones
180.111	(a)(1) table	Lupine, seed	Lupin, seed
180.111	(a)(1) table	Peavine, hay	Pea, field, hay
180.111	(a)(1) table	Shallots	Shallot, bulb
180.117	table	Bean, castor	Castorbean, seed
180.121	(a) table	Corn, forage	Corn, field, forage
180.121	(a) table	Hop	Hop, dried cones
180.121	(a) table	Soybean	Soybean, seed
180.121	(e) table	Beet (with or without tops)	Beet, garden, roots
180.121	(e) table	Rutabagas (with or without tops)	Rutabaga, roots
180.121	(e) table	Turnip (with or without tops)	Turnip, roots
180.122	(a) table	Sorghum	Sorghum, grain, grain
180.129	table	Citron	Citron, citrus
180.153	(a)(1) table	Potato, sweet	Sweet potato, roots
180.153	(a)(1) table	Sheep, meat (fat basis)	Sheep, meat
180.153	(a)(1) table	Sheep, meat byproducts (fat basis)	Sheep, meat byproducts
180.154	(a) table	Alfalfa	Alfalfa, forage
180.154	(a) table	Birdfoot trefoil	Trefoil, forage

In Section	In paragraph	Remove the term	Add in its place the term
180.154	(a) table	Clover	Clover, forage
180.169	(a)(1) table	Alfalfa	Alfalfa, forage
180.169	(a)(1) table	Clover	Clover, forage
180.169	(a)(1) table	Grass	Grass, forage
180.169	(a)(1) table	Pea (with pods)	Pea, edible podded
180.169	(a)(1) table	Prickly pear cactus, fruit	Cactus, fruit
180.169	(a)(1) table	Prickly pear cactus, pads	Cactus, pad
180.169	(c) table	Dill, fresh	Dillweed, fresh leaves
180.173	(a) table	Cattle, meat (fat basis)	Cattle, meat
180.176	(a) table	Banana, pulp (no peel)	Banana, pulp
180.176	(a) table	Corn grain (except popcorn grain)	Corn, field, grain
180.176	(a) table	Rye, milled feed fraction	Rye, bran
180.176	(a) table	Wheat, milled feed fractions	Wheat, milled byproducts
180.204	(a) table	Corn, forage	Corn, field, forage
180.205	(a) table	Cacao bean	Cacao bean, bean
180.205	(a) table	Guar	Guar, seed
180.206	(a) table	Hop	Hop, dried cones
180.215	(a)(1) table	Hop	Hop, dried cones
180.227	(a)(1) table	Cotton, meal	Cottonseed, meal
180.253	(a) table	Grass, Bermuda	Bermudagrass, forage
180.253	(a) table	Pea, vines	Pea, field, vines
180.288	(a) table	Corn, forage	Corn, field, forage
180.342	(a)(2) table	Legume vegetables, succulent or dried (except soybean)	Vegetable, legume, group 6, except soybean
180.342	(a)(2) table	Peanut oil	Peanut, refined oil
180.342	(a)(2) table	Turnip	Turnip, roots
180.353	(b) table	Red beet roots	Beet, garden, roots
180.353	(b) table	Red beet tops	Beet, garden, tops
180.364	(a) table	Cacao bean	Cacao bean, bean
180.364	(a) table	Coffee, bean	Coffee, bean, green
180.364	(a) table	Date	Date, dried fruit
180.368	(a)(1) table	Millet, fodder	Millet, straw
180.368	(a)(1) table	Milo, fodder	Sorghum, grain, stover
180.368	(a)(1) table	Milo, forage	Sorghum, grain, forage
180.368	(a)(3) table	Garlic, bulb	Garlic
180.379	(a)(1) table	English walnut	Walnut
180.381	(a) table	Date	Date, dried fruit
180.399	(a)(1) table	Bean, dried, vine hay	Cowpea, hay

In Section	In paragraph	Remove the term	Add in its place the term
180.399	(c) table	Chinese mustard	Mustard greens
180.408	(a) table	Beet, garden	Beet, garden, roots
180.410	(a) table	Pineapple, fresh	Pineapple
180.411	(c)(2) table	Coffee, bean	Coffee, bean, green
180.412	(a) table	Corn fodder	Corn, field, stover
180.412	(a) table	Corn forage	Corn, field, forage
180.414	(a)(1) table	Garlic, bulb	Garlic
180.419	(a)(2) table	Oat milling fractions (except flour)	Oat, groats/rolled oats
180.420	(c) table	Hop	Hop, dried cones
180.428	(a)(1) table	Grass, fodder	Grass, straw
180.431	(a) table	Oat, milled fractions (except flour)	Oat, groats/rolled oats
180.435	(a)(1) table	Cotton, oil	Cotton, refined oil
180.436	(a)(1) table	Vegetable, leafy greens, except Brassica, group 4	Vegetable, leafy, except brassica, group 4
180.438	(a)(1) table	Corn, field, grain, flour	Corn, field, flour
180.438	(a)(2) table	Corn, field, grain, flour	Corn, field, flour
180.448	(a) table	Hop	Hop, dried cones
180.450	(a) table	Sorghum, forage, hay	Sorghum, forage
180.466	(a) table	Cotton, oil	Cotton, refined oil
180.474	(a)(1) table	Peach (includes nectarine)	Peach
180.491	(a)(1) table	Cocoa bean, bean	Cacao bean, roasted bean
180.498	(a)(2) table	Horseradish, roots	Horseradish
180.515	(a) table	Cacao	Cacao bean, bean
180.515	(a) table	Coffee	Coffee, bean, green
180.515	(a) table	Date	Date, dried fruit
180.515	(a) table	Grain, cereal, forage (excluding corn and sorghum)	Grain, cereal, forage, fodder and straw group 16, except corn and sorghum; forage
180.515	(a) table	Kava, Kava	Kava, roots
180.515	(a) table	Mulberry, Indian	Noni
180.515	(a) table	Soursop, group	Soursop
180.515	(a) table	Tea	Tea, dried
180.515	(a) table	Wasabia, roots	Wasaba, roots
180.516	(a) table	Carrot	Carrot, roots
180.516	(a) table	Peanut, meat (hulls removed)	Peanut
180.516	(a) table	Yam, true	Yam, true, tuber
180.532	(a)(1) table	Carrot	Carrot, roots
180.564	(a) table	Soybean, aspirated grain fractions	Grain, aspirated fractions
180.565	(a) table	Coffee \1\	Coffee, bean, green \1\

In Section	In paragraph	Remove the term	Add in its place the term
180.565	(a) table	Soybean, aspirated grain fractions	Grain, aspirated fractions
180.567	(a)(2) table	Potato, tuber	Potato
180.568	(a) table	Garlic (bulb)	Garlic
180.569	(a)(2) table	Plum (fresh)	Plum
180.573	(a)(1) table	Soybean, aspirated grain fraction	Grain, aspirated fractions
180.575	(a)(1) table	Coffee, postharvest	Coffee, bean, roasted bean, postharvest
180.579	(a)(1) table	Garlic, bulb	Garlic
180.582	(a)(1) table	Vegetable, legume, edible podded, subgroup	Vegetable, legume, edible podded, subgroup 6A
180.584	(a) table	Hop[1]	Hop, dried cones[1]
180.615	(d) table	Wheat, grain, milled byproducts	Wheat, milled byproducts

[FR Doc. E8–13368 Filed 6–17–08; 8:45 am]
BILLING CODE 6560–50–S

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 9 and 52

[FAR Case 2007–018; Docket 2008–0002; Sequence 1]

RIN 9000–AK98

Federal Acquisition Regulation; FAR Case 2007–018, Organizational Conflicts of Interest

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Advance notice of proposed rulemaking; Reopening of comment period.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (the Councils) are seeking information that will assist in determining whether the Federal Acquisition Regulation System's current guidance on organizational conflicts of interest (OCIs) adequately addresses the current needs of the acquisition community or whether providing standard provisions and/or clauses, or a set of such standard provisions and clauses, might be beneficial. The comment period is reopened an additional 30 days to provide additional time for interested parties to review and comment on the Advance notice of proposed rulemaking.

DATES: *Comment Date*: Interested parties should submit written comments to the FAR Secretariat at the address shown below on or before July 18, 2008 to be considered in the formulation of a proposed rule.

ADDRESSES: Submit comments identified by FAR case 2007–018 by any of the following methods:

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

Submit comments via the Federal eRulemaking portal by inputting ''FAR Case 2007–018'' under the heading ''Comment or Submission''. Select the link ''Send a Comment or Submission'' that corresponds with FAR Case 2007–018. Follow the instructions provided to complete the ''Public Comment and Submission Form''. Please include your name, company name (if any), and ''FAR Case 2007–018'' 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 FAR case 2007–018 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. Please include your name and company name (if any) inside the document.

FOR FURTHER INFORMATION CONTACT: Meredith Murphy, Procurement Analyst, at (202) 208–6925 for clarification of content. For information pertaining to status or publication schedules, contact the FAR Secretariat at (202) 501–4755. Please cite FAR case 2007–018.

SUPPLEMENTARY INFORMATION: The Councils published an Advance notice of proposed rulemaking in the **Federal Register** at 73 FR 15962, March 26, 2008. To allow additional time for interested parties to review the Advance notice of proposed rulemaking and submit comments, the comment period is reopened for an additional 30 days.

Dated: June 11, 2008.

Al Matera,

Director, Office of Acquisition Policy.

[FR Doc. E8–13724 Filed 6–17–08; 8:45 am]
BILLING CODE 6820–EP–S

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[FWS–R7–ES–2008–0004; 1111 FY07 MO–B2]

Endangered and Threatened Wildlife and Plants; 90-Day Finding on a Petition To List the Long-Tailed Duck (Clangula hyemalis) as Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 90-day petition finding.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 90-day finding on a petition to list the long-tailed duck (Clangula hyemalis) as endangered under the Endangered Species Act of 1973, as amended (Act). We find that the petition does not present substantial scientific or commercial information indicating that listing the species may be warranted.

Therefore, we will not initiate a further status review in response to this petition. We ask the public to submit to us any new information that becomes available concerning the status of the long-tailed duck or threats to it or its habitat at any time. This information will help us monitor and encourage the conservation of the species.

DATES: The finding announced in this document was made on *June 18, 2008.* You may submit new information concerning this species for our consideration at any time.

ADDRESSES: This finding is available on the Internet at http://www.regulations.gov. Supporting information we used in preparing this finding is available for public inspection, by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Anchorage Fish and Wildlife Field Office, 605 West 4th Avenue, G–61, Anchorage, AK 99501. Please submit any new information, materials, comments, or questions concerning this species or this finding to the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Greg Balogh, Endangered Species Branch Chief, Anchorage Fish and Wildlife Field Office, (see **ADDRESSES**); by telephone at 907–271–2778; or by facsimile at 907–271–2786. Persons who use a telecommunications devise for the deaf (TTD) may call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the Act (16 U.S.C. 1531 *et seq.*) requires that we make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information to indicate that the petitioned action may be warranted. We are to base this finding on information provided in the petition, supporting information submitted with the petition, and information otherwise available in our files at the time we make the determination. To the maximum extent practicable, we are to make this finding within 90 days of our receipt of the petition, and publish our notice of this finding promptly in the **Federal Register**.

Our standard for substantial information within the Code of Federal Regulations (CFR) with regard to a 90-day petition finding is ''that amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted'' (50 CFR 424.14(b)). If we find that substantial information was presented, we are required to promptly commence a review of the status of the species.

In making this finding, we based our decision on information provided by the petitioner and otherwise available in our files at the time of the petition review, and we evaluated this information in accordance with 50 CFR 424.14(b). Our process for making a 90-day finding under section 4(b)(3)(A) of the Act and 50 CFR 424.14(b) of our regulations is limited to a determination of whether the information in the petition meets the ''substantial information'' threshold.

Petition

On February 10, 2000, we received an undated petition from Nancy Hillstrand, Homer, Alaska, to list the long-tailed duck as endangered and to designate critical habitat in southcentral and southeastern Alaska, including Kodiak and the Aleutians, the Yukon-Delta National Wildlife Refuge, and the National Petroleum Reserve. The petition itemizes threats to the species based on personal observations. The petition references, but does not provide supporting data on, multiple threats to the long-tailed duck and other species of the Tribe Mergini. As the petition does not specify the particular population to be listed as endangered, the Service assumed the petitioned action was to list the species as endangered throughout its entire range. On March 10, 2000, the Service informed the petitioner that funds available for listing activities were fully allocated to higher-priority actions associated with statutory requirements and active litigation, and that we would address the petition as funding became available. We also concluded in our March 10, 2000, letter that emergency listing of the long-tailed duck was not indicated. Responding to the petition was further delayed due to the high priority of responding to court orders and settlement agreements regarding other species, until funding recently became available to respond to the petition. This finding fulfills the Service's obligation under 16 U.S.C. 1533(b)(3)(A) and its implementing regulations at 50 CFR 424.14(b).

Biology and Distribution

The long-tailed duck (*Clangula hyemalis*) (Order Anseriformes, Family Anatidae) is a small to medium-sized sea duck, with a long tail, steep forehead, flattened crown, small stout bill, and strongly contrasting plumages of white, black, and brown. It is most similar to the harlequin duck (*Histrionicus histrionicus*) and Steller's eider (*Polysticta stelleri*). Adults weigh roughly 750 to 1,000 grams (1.7 to 2.2 pounds) and measure roughly 38 to 53 centimeters (15 to 21 inches) in length. Average male body mass and size is greater than that of the female.

The long-tailed duck is Holarctic in distribution, breeding in tundra and taiga regions around the globe as far north as 80 degrees north latitude. With a worldwide population of more than seven million birds, this species may be the most abundant Arctic sea duck. The following information regarding the description and natural history of the long-tailed duck has been condensed from Robertson and Savard (2002) and Wilbor (1999). Specific references are cited for data of particular relevance to this finding.

In North America, the long-tailed duck breeds from the northern coast of Alaska east across Canada to Ellesmere and Baffin Islands and northern Labrador south to southern and central Alaska, northwestern British Columbia, eastern and southcentral Ontario, and Hudson and James Bays (Robertson and Savard 2002, p. 3). This species winters on both coasts of North America and on the Great Lakes. In western North America, it winters throughout the Aleutian Islands and Kodiak Island and along coastal southern Alaska, the entire British Columbia coast, the Puget Sound, and coastal Washington State south to northern Oregon (Robertson and Savard 2002, p. 3). It is rare along the Oregon and California coasts and present throughout all western provinces and States east to Colorado and Utah and south to Gulf of California, Mexico. On the east coast of North America, it winters from southern Labrador, Newfoundland, St. Lawrence estuary, Gulf of St. Lawrence, Prince Edward Island, Nova Scotia, Gulf of Maine, and along the New England coast and Chesapeake Bay south to Cape Hatteras, North Carolina. It is common south to the north shore of the Gulf of Mexico and Atlantic Coast to Florida and rare as far south as Bermuda. Inland, it winters on all five Great Lakes. Small numbers are scattered throughout many water bodies in eastern North America. It remains in northern areas as long as open water is available.

In the Palearctic, the breeding range of the long-tailed duck is circumpolar, including all of coastal Greenland (except the far north), Iceland, northern Scandinavia, the north coast of continental arctic Russia to the Chukotska Peninsula, and most offshore islands. It winters in southwest Greenland and throughout most of Iceland. Large numbers winter in the

Baltic Sea and Finland, and in the North Sea and coastal Norway. In the Pacific, the species winters along eastern and southern Kamchatka Peninsula, along Commander Island, Bering Strait, and northern Anadyr Gulf.

Long-tailed ducks breed over a vast range and at low densities, making comprehensive surveys of their abundance difficult. They are even more difficult to monitor in winter due to their offshore distribution. Although incomplete survey coverage reduces reliability of population size and trend estimates, current population estimates suggest they are the most abundant Arctic sea duck. The North American population may number up to two million birds (USFWS 2001, p. 45). Approximately 200,000 birds breed in Alaska; the remainder breeds in Canada (USFWS 2003, p. 50). Miyabayashi and Mundkur (1999, p. 118) estimate 500,000 to 1,000,000 birds breed and winter in eastern Asia. Nearly 150,000 birds breed in Iceland and Greenland (Wetlands International 2002, p. 97), and an estimated 4,600,000 breed in western Siberia and northern Europe (Scott and Rose 1996, p. 208). The size of the pre-breeding population (birds less than 3 years old) is unknown.

Although the Icelandic breeding population experienced a marked decline in the early 20th century, the breeding populations in Iceland and Greenland are now thought to be stable (Wetlands International 2002, p. 97). Scott and Rose (1996, p. 208) indicated that post-breeding numbers on the tundra of western and central Siberia and breeding populations in northern Europe were stable between 1972 and 1989. In contrast, several surveys suggest declining long-tailed duck populations in some parts of Alaska and Canada. The North American Waterfowl Breeding Population Survey indicated an average annual decline of 5.3 percent from 1973 to 1997 (USFWS 2001, p. 45), and Conant and Groves (2005, p. 5) report a 29-year downward trend for long-tailed ducks in Alaska and the Yukon Territory. Larned, *et al.* (2005, p. 7) reported an insignificant decline in long-tailed duck numbers on the Arctic Coastal Plain in Alaska, and Mallek, *et al.* (2006, p. 4) reported a significant downward 20-year trend for the same area. However, existing breeding population surveys must be interpreted with caution. Both Conant and Groves (2005, p. 9) and Larned, *et al.* (2005, p. 7) suggest that survey timing relative to spring arrival (whether early or late) may account for the lower abundances detected in recent years. The North American Waterfowl Breeding Population Survey does not include major breeding grounds in Canada and Alaska, its transect lines are not located systematically throughout all habitat strata, and it is unlikely that birds are evenly distributed in the sampled area. Such incomplete survey coverage represents an obstacle to providing reliable population and trend estimates for species like the long-tailed duck that occur over vast regions at low densities (USFWS 2001, p. 45). In contrast to suggested population declines in northern Alaska, the Yukon-Kuskokwim Delta Coastal Zone Survey indicated significantly increasing populations for long-tailed ducks since 1988 (Platte and Stehn 2005, p. 6).

Long-tailed ducks have the most complex molt of any waterfowl species, with three different plumages (basic, supplemental, and alternate) during the year; plumage is changing almost continuously. In winter and spring, male plumage is mainly white with a black ear patch, black collar around the breast, completely dark wings, and dark central tail feathers; the male has a short dark bill with a pink subterminal band. In early spring and early summer, males appear mostly dark, with a pale gray facial patch. By mid-summer, males have gray flanks and buff on their wings. The pattern of plumage change in the female is similar to that of the male, lighter in winter and darker in summer, but lacks the sharp contrast of dark and white, thus appearing darker than the male in winter plumage. Females also do not possess long central tail feathers. Juveniles resemble females but are duller, and the white areas are less distinct than in adult plumages. There are no recognized subspecies or geographic variations.

Long-tailed ducks nest in small clusters in subarctic and arctic wetlands on lake islands and by ponds in open tundra and taiga, rarely to tree line; offshore islands with freshwater ponds and tundra-like vegetation are also used. Nests are usually in upland habitat, concealed in vegetation, and close to fresh water with emergent vegetation (*Arctophila* spp. or *Carex* spp.) for cover, and open deep water for feeding. Nest site selection may be influenced by predation pressure from foxes (*Vulpes* spp. and *Alopex* spp.), gulls (*Larus* spp.), ravens (*Corvus corax*), and jaegers (*Stercorarius* spp.). Long-tailed ducks avoid nesting on ponds where herring gulls (*Larus argentatus*), Pacific loons (*Gavia pacifica*), and common eiders (*Somateria mollissima*) nest (Robertson and Savard 2002, pp. 5, 12–13).

While male long-tailed ducks defend a territory, females are not territorial at any stage. Although information on the mating system is scarce, site fidelity of males and females to breeding grounds suggests long-term monogamy. Data from Hudson Bay (Alison 1975, pp. 10, 43) indicate that females show a strong tendency to return to their previous nest area and suggest some level of subadult female philopatry to natal breeding areas as well.

A diurnal feeder, the long-tailed duck dives for food and has a highly variable diet of animal prey, focusing on locally abundant food items. Diving to depths greater than 60 meters (196.8 feet), it is probably the deepest diver among waterfowl (Robertson and Savard 2002, p. 6). On breeding grounds, its diet consists mainly of larval and adult aquatic insects, crustaceans, fish roe, and vegetable matter. On marine wintering grounds, epibenthic crustaceans, amphipods, mysids, isopods, bivalves, gastropods, fish, and fish eggs are important in the diet; amphipods, fish, mollusks, and oligochaete worms make up the diet on freshwater wintering grounds (Robertson and Savard 2002, p. 7).

Nest sites, selected by the female, are generally close to water on islands in freshwater ponds, on mainland tundra, in marshy habitat, in scrubland (*Salix* spp. and *Betula* spp.), and in dry uplands. Alison (1975, p. 43) documented nest reuse for three successful females. Between six and eight smooth, pale gray to olive buff eggs are laid between late June and late July, depending on location and weather, particularly snow melt. Hatching occurs after 24–29 days of incubation (by the female only), between early July and early August. Ducklings are precocial, and leave the nest 1–2 days after hatching, feeding on material that surfaces when the female dives. The female will lead broods to new ponds when food resources become depleted in the occupied pond. Hens and broods tend to use lakes without fish and may use 10–20 different ponds during the pre-fledging period. Young birds fledge 35–40 days after hatching. Re-nesting following nest failure is not documented in this species and is unlikely at high latitudes.

Mean annual survival rate of adult females in Alaska is estimated to be 75 percent (+8 Standard Error (SE)) (Robertson and Savard 2002, p. 15). In Iceland, mean annual survival of banded adults is 72 percent (Robertson and Savard 2002, p. 15). Although little information is available, first breeding is thought to begin at age 2 years, but first attempts to breed are likely unsuccessful. Periodic non-breeding may occur, although it is poorly documented. Long-tailed ducks are thought to be long-lived; band recovery

data include a male at least 15 years old recovered alive and a male at least 18 years old that had been harvested.

Very little data are available on percent of eggs that eventually result in fledged young, fledging success of hatched young, or mean number of young fledged per nest attempt. Nest success ranges from 41.3 percent in western Alaska to 58.9 percent in northern Manitoba (Robertson and Savard 2002, p. 14). Duckling success in western Alaska is reported to average 9 percent (Robertson and Savard 2002, p. 14). In North America during years with warmer arctic temperatures, more immature birds are harvested, suggesting that temperatures influence reproductive success. In northern Sweden, the proportion of females that reared at least one brood to fledging was higher in years with abundant small rodents (*Lemmus* spp. and *Microtus* spp.) (Robertson and Savard 2002, p. 15).

The long-tailed duck is a short-to-medium-distance migrant that stages in the thousands at traditional coastal locations before migrating north. Northerly movements begin in late February in western North America and late March on the east coast of North America (Robertson and Savard 2002, p. 4; Wilbor 1999, p. 16). Northward migration from the Great Lakes area begins in late February. Birds travel along the northeast Alaska coast from late May to mid-June, and move inland to nesting areas from Baffin Bay during mid-to late June. Large flocks make use of ice leads in the Arctic until breeding areas become available for nesting. Birds arrive on the breeding grounds from mid-May in southerly areas to June in arctic Alaska, Baffin Island, and Ellesmere Island (Robertson and Savard 2002, p. 4).

Post-breeding males begin molting-migration mid-June in Manitoba and late June along the north Alaska coast. Sub-adults leave Arctic Coastal Plain breeding areas by late June. Females migrate to molting sites several weeks after males in mid-to late August. Small molting populations are thought to occur throughout most of the breeding range. Major molting habitats in the Beaufort Sea occur near St. Lawrence Island and in coastal lagoons on the west and north coasts of Alaska. Other important molting sites, with concentrations numbering 30,000 to 40,000 individuals, are located between Prudhoe Bay and Demarcation Bay. A large number of birds molt along the coasts of western Baffin Bay. North American breeders may also molt in coastal eastern Russia and northwestern Greenland (Robertson and Savard 2002, p. 5).

Long-tailed ducks winter in either offshore marine habitat or inland freshwater areas. Southerly migration begins in late fall with arrival at the Pacific coast, Great Lakes, and Atlantic coast wintering areas in October. Resident populations may exist in Alaska and Hudson Bay (Robertson and Savard 2002, p. 4). Migration routes are both marine (coastal and up to 160 kilometers (km) (99.4 miles (mi)) from offshore) (Fischer, *et al.* 2002, p. 76) and overland. Few long-tailed ducks have been banded, making it difficult to determine affiliations between breeding and wintering locations. Breeding birds banded in northern Manitoba were found to winter primarily in the Great Lakes and to a lesser extent on the Atlantic Coast (Chesapeake Bay). Birds banded in Alaska have never been recovered on the Atlantic Coast (Robertson and Savard 2002, p. 5).

Although there may be two or more geographic populations of long-tailed ducks in North America that are separated by the breeding and wintering distribution, the delineation of these populations is not documented (USFWS 2001, p. 45). Traditional band recovery data are insufficient to determine the relationship between breeding, molting, migrating, and wintering groups of long-tailed ducks across their distribution.

Threats Analysis

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations at 50 CFR 424 set forth the procedures for adding species to the Federal Lists of Endangered and Threatened Wildlife and Plants. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1) of the Act: (A) The present or threatened destruction, modification, or curtailment of habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence. In making this finding, we evaluated whether threats to the long-tailed duck presented in the petition and other information available in our files at the time of the petition review reasonably indicate that listing the long-tailed duck may be warranted. Our evaluation of these threats is presented below. In the discussion below, we have evaluated the threats listed in the petition under the most appropriate listing factor.

Certain aspects of long-tailed duck ecology and demography should be considered when evaluating the species' status and threats. When compared with dabbling (Anatini) and diving (Aythyini) ducks, long-tailed ducks are considered K-selected species. Healthy populations of K-selected species are characterized by delayed sexual maturity, low annual recruitment, relatively low and variable breeding propensity, and high adult survival. Low annual productivity rates and high annual survival rates balance to ensure that individuals replace themselves with offspring that survive to recruit into the breeding population. Although factors that compromise productivity can cause populations to decline, population growth rates are most sensitive to changes in adult survival (Goudie, *et al.* 1994, p. 30). K-selected species will decline in abundance most rapidly if adults are removed from the population prior to replacing themselves (*i.e.*, if adult survival is decreased).

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

The petitioner listed, but did not discuss in detail or provide supporting biological data, the following reasons for the petition that may be addressed under Factor A: increasing oil exploration and development and associated oil spills, removal of biomass from the marine environment by fishing in the North Pacific, and ''mussel beds.'' Only the indirect, habitat-related effects to long-tailed ducks of oil spills and operational waste discharges are discussed under Factor A; direct effects to long-tailed ducks from exposure to oil and operational wastes will be discussed in Factor E. Lacking more specific information, we interpreted the term ''mussel beds'' to refer to potential competition with nearshore marine aquaculture facilities. The petitioner provided no supporting information to support these claims; therefore, we relied on information in Service files to clarify these potential threats.

No direct measures of habitat degradation are available (Robertson and Savard 2002, p. 18), nor is habitat loss (nesting, molting, or wintering) implicated as a factor influencing the Bering/Pacific or North American long-tailed duck population decline (Wilbor 1999, p. 49).

Several sources cite oil pollution as a threat to marine birds in general and long-tailed ducks in particular [in Alaska (Wilbor 1999, p. 51; USFWS 2003, p. 51); in the North Sea (International Council for the

Exploration of the Sea 2004, p. 24); in the Baltic Sea (Laine and Backer 2002, p. 2); in Britain and Ireland (Kirby, *et al.* 1993, p. 123); and globally (Robertson and Savard 2002, p. 17)]. However, most are concerned with the acute mortality phase of exposure to oil (to be discussed under Factor E), and none reported any evidence of long-term effects on long-tailed duck populations due to habitat degradation.

Franson, *et al.* (2004, p. 504) analyzed blood from long-tailed ducks collected at near-shore islands in the vicinity of Prudhoe Bay and at a reference site for trace elements to compare contaminant levels in sea ducks using the marine environment near the Prudhoe Bay oil fields. In marine ecosystems, persistent contaminants, including trace elements and organochlorines, reach their greatest concentrations in coastal regions, and, except for selenium, concentrations of metals in blood were low and were not consistently higher at one location (Franson, *et al.* 2004, pp. 504–505).

Flint, *et al.* (2003, p. 38) utilized nearshore and offshore aerial surveys, as well as ground-based studies, in both industrialized and control areas to evaluate how long-tailed ducks may be affected by industrialization. Their data demonstrated that, even when flightless, long-tailed ducks moved considerable distances. There was little evidence of displacement of individuals associated with disturbance; rather, patterns of movements were thought to be primarily influenced by weather conditions, particularly wind direction. Further, declines in duck numbers in the seismic area could not be attributed to underwater seismic activities, as similar changes in aerial survey counts and lagoon movements were observed in both the industrial and control areas (Flint, *et al.* 2003, p. 55).

The potential for competition with mussel aquaculture in the nearshore environment is limited to areas where overwintering long-tailed ducks and marine aquaculture overlap, and is anticipated to be low due to the broad diversity of the winter diet of the species (Robertson and Savard 2002, p. 7). Additionally, aquaculture sites may present an attractive foraging site for long-tailed ducks.

The removal of biomass from the marine environment through overfishing of herring and other species may reduce the availability of spawn for migrating long-tailed ducks (Robertson and Savard 2002, p. 18); however, no correlation between these indirect impacts and long-tailed duck population trends has been documented.

Increasing oil exploration and development and associated oil spills, removal of biomass from the marine environment by fishing in the North Pacific, and ''mussel beds,'' as identified by the petitioner, are all potential habitat-related threats to the long-tailed duck. However, no evidence of long-term effects on long-tailed duck populations due to habitat degradation or loss has been documented. We find that the petition does not present substantial scientific or commercial information indicating that listing the long-tailed duck as endangered may be warranted due to the present or threatened destruction, modification, or curtailment of its habitat or range.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

The petitioner asserts that subsistence harvest is increasing, and collection by museums continues despite population declines. The petitioner provided no information to support these statements; therefore, we relied on information in Service files to clarify these potential threats.

The majority of long-tailed ducks harvested during the migratory game bird season are taken on the Atlantic Coast. Alaska accounts for approximately 2 percent of the total harvest of approximately 14,500 birds (Trost and Drut 2002, p. 28), which is less than 1 percent of the world population. Wilbor (1999, p. 51) estimated the total long-tailed duck subsistence harvest in the Alaska/Pacific flyway to be 11,000 birds annually (plus 1,000 during the migratory game bird season); however, Service data (Alaska Migratory Bird Co-Management Council 2007) and Trost and Drut (2002, p. 28) reported much lower harvest levels: fewer than 5,000 (subsistence) and fewer than 500 (sport). Based on an annual take of 12,000 birds, Wilbor (1999, p. 51) estimated that about 2 percent of the total Bering/Pacific long-tailed duck population is harvested annually and concluded that the impact on the population dynamics of this segment of the population was low. Although the long-tailed duck is believed to be an important species in the eastern Russian commercial sea duck harvest (Goudie, *et al.* 1994, p. 36), no information is available on the Russian and Japanese harvests. A review of migratory game bird harvest data reported by Trost and Drut (2002, p. 28) indicates that harvest of long-tailed ducks in Alaska has remained relatively stable between 1966 and 2001, as has subsistence harvest of the species in Alaska (Wentworth and Wong 2001, p. 96). Finally, Robertson and Savard (2002, p. 18) report scientific research activities have no obvious impacts.

Accordingly, we find that the petition does not present substantial scientific or commercial information indicating that listing the long-tailed duck as endangered may be warranted due to overutilization of long-tailed ducks for commercial, recreational, scientific, or educational purposes.

C. Disease or Predation

The petition does not provide information or state that disease or predation is a threat to the species. In addition, there is no information in our files to indicate that disease or predation is a threat to the long-tailed duck.

D. Inadequacy of Existing Regulatory Mechanisms

The petitioner lists lack of protection under the Migratory Bird Treaty Act (16 U.S.C. 703–712), inadequacy of existing regulatory mechanisms, increased hunting pressure on long-tailed ducks due to bag limit reductions on dabbler and goose species, unchanged bag limits despite population declines, and legalization of the spring subsistence hunt as threats to the species. The petitioner provided no additional evidence to support these claims; therefore, we relied on information in Service files to clarify these potential threats.

The long-tailed duck is not currently listed under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), nor is it included on the International Union for the Conservation of Nature (IUCN) Red List (Threatened Animals of the World) (Wilbor 1999, p. 3). No specific State or provincial designation has been given to the long-tailed duck in the United States, Northwest Territories, Yukon Territory, Canada, or Russia (Wilbor 1999, p. 4).

The long-tailed duck is protected under the Migratory Bird Treaty Act of 1918 (MBTA) in the United States, and is covered by treaties with Canada, Russia, and Japan. Unless permitted by regulations, the MBTA provides that it is unlawful to pursue, hunt, take, capture or kill, possess, sell or purchase, or transport or export any migratory bird, part, nest, egg or product. The MBTA grants the Secretary of the Interior the authority to establish hunting seasons for any of the migratory game bird species, including the long-tailed duck, listed in the MBTA. The Fish and Wildlife Service has determined that hunting is appropriate

only for those species for which hunting is consistent with population status and long-term conservation. The Fish and Wildlife Service annually publishes migratory game bird regulations in the **Federal Register**. State and provincial game laws formulated in conjunction with the Fish and Wildlife Service and Canadian Wildlife Service establish bag limits and seasons. In Canada and Russia, long-tailed duck sport hunting is managed under hunting regulations set forth by the Canadian Wildlife Service and the Russian Ministry of Environment and Natural Resources, respectively.

Monitoring requirements of the MBTA, the fall/winter migratory game bird hunting regulations, and the spring/summer subsistence harvest regulations provide mechanisms to limit the harvest of long-tailed ducks if necessary for population regulation. We have no documented information that these mechanisms will not adequately protect long-tailed duck populations.

Accordingly, we find that the petition does not present substantial scientific or commercial information indicating that listing the long-tailed duck as endangered may be warranted due to the inadequacy of existing regulatory mechanisms.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

Threats listed by the petitioner that may be addressed under Factor E include increased oil spills due to offshore drilling and ''the climatic decadal oscillation.'' The discussion of oil-related effects under this factor will be limited to the acute, direct effects to long-tailed ducks from exposure to oil. Indirect effects of habitat degradation resulting from offshore oil development and oil spills are discussed above under Factor A. Furthermore, as the petitioner provided no additional information to support these claims, we relied on information in Service files to clarify these potential threats.

Stehn and Platte (2000, p. 1) constructed a spatial model by overlaying bird density estimates with predicted spill trajectories. Spills of various sizes were used to estimate the potential effects of an offshore spill from the proposed Liberty Project in the nearshore Beaufort Sea. Their model predicted that the average number of birds that would be exposed to oil in the event of a spill at the site was greatest for long-tailed ducks (as high as 2,062) and that the average proportion of the total long-tailed duck population in the study area that would be exposed to oil in the event of a spill at the site was between 3 percent and 9 percent, and may approach 19 percent.

The petitioner did not define the term ''Pacific Decadal Oscillation'' or identify specific concerns regarding the relationship between this mode of interdecadal climatic variation and long-tailed duck populations. Hare and Mantua (2000, p. 105) describe the Pacific Decadal Oscillation (PDO) as a long-lived El Niño (ENSO)-like pattern of Pacific climate variability that explains variations in the Pacific Basin and North American regions. The PDO is characterized by fluctuations between warm- and cold-water regimes.

No data exist evaluating the relationship between long-tailed duck productivity, survival, or population trends and large-scale climate patterns. Species like the long-tailed duck have the ability to exploit a wider range of habitats and food sources, are less sensitive to early stages of ice formation, and respond to persistent ice cover in the nearshore zone by concentrating in offshore areas (Zydelis 2001, p. 307). Zydelis and Ruskyte (2005, p. 139) found body condition and fat reserves in winter to be equivalent between long-tailed ducks feeding primarily on mollusks and those feeding on mobile, energy-rich food items such as crustaceans.

The possible effects of exposure to oil on long-tailed ducks are thought to be localized, and have not been implicated in global population declines. Additionally, no localized long-tailed duck declines have been documented. While climate patterns and oceanographic conditions are important factors influencing long-tailed duck habitat, food resources, and distribution, the relative ecological plasticity of the species in selecting winter habitat and food suggests it is less sensitive to inter-annual and inter-decadal climatic variability (Zydelis and Ruskyte 2005, p. 139) than other sea ducks. In spite of potential localized impacts resulting from oil spills, the long-tailed duck remains the most abundant arctic sea duck and continues to occupy historical breeding and wintering ranges. For these reasons, we believe the impact of these potential threats on the population dynamics of this species is negligible. Therefore, we find that the petition does not provide substantial scientific or commercial information indicating that listing the long-tailed duck as endangered may be warranted as a result of increased oil spills due to offshore drilling and ''the climatic decadal oscillation'' or any other natural or manmade factors affecting the species' continued existence.

Significant Portion of the Range

The petition does not specify a population of concern, it does not articulate that the long-tailed duck should be listed in any particular portion of its range, and it does not specify any particular portion of the species' range that it maintains is significant. Therefore, we based our threats analysis on the entire range of the species. Nearly all of the threats identified in the petition appear to be potential threats which could occur, rather than actual threats, with no documented correlation between these potential threats and impacts on long-tailed duck populations. Our threats analysis does not find substantial information to indicate that any of the five factors poses a threat to the long-tailed duck. If we were to determine in the future that the long-tailed duck is threatened or endangered in a significant portion of its range, we would add the species to the candidate list and propose its listing.

Finding

We have reviewed and evaluated the five listing factors with regard to the long-tailed duck, based on the information in the petition and available in our files. On the basis of this review and evaluation, we conclude that the petition does not present substantial scientific or commercial information to indicate that listing the long-tailed duck as endangered under the Act may be warranted.

While the petitioner did not provide detailed information on the abundance or geographic distribution of the long-tailed duck, information in Service files indicates that the long-tailed duck is currently numerous and widespread. Its breeding range has not contracted. The information provided in the petition on the potential impacts to the species caused by offshore oil exploration and development, removal of biomass due to fishing, and potential competition with nearshore marine aquaculture is inadequate to determine that these activities are destroying or modifying habitat in a manner and at a level that affects the species to such an extent that a reasonable person could conclude that listing may be warranted. Likewise, evidence in our files concerning hunting (both sport and subsistence), collecting by scientific institutions, and oil spill losses does not provide substantial information to support a conclusion that listing the species may be warranted. No data exist evaluating the relationship between long-tailed duck productivity, survival, or population trends and large-scale climate patterns such as Pacific

Decadal Oscillation. We also found the evidence in our files inadequate to corroborate the petitioner's assertion that the MBTA may not be an effective regulatory mechanism, because under the MBTA, the harvest of long-tailed ducks is regulated and monitored.

After reviewing and evaluating the petition and information available in our files, we find that the petition does not present substantial scientific or commercial information to indicate that listing the long-tailed duck as endangered may be warranted at this time. Although we will not commence a status review in response to this petition, we will continue to monitor the long-tailed duck population status and trends, potential threats, and ongoing management actions that might be important with regard to the conservation of the long-tailed duck. If you wish to provide information regarding the long-tailed duck, you may submit your information and materials to the Anchorage Fish and Wildlife Field Office (see **ADDRESSES**).

References Cited

A complete list of all references cited in this document is available, upon request, from the Anchorage Fish and Wildlife Field Office (see **ADDRESSES**).

Author

The primary author of this document is staff of the Anchorage Fish and Wildlife Field Office (see **ADDRESSES**).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*)

Dated: June 12, 2008.

Kenneth Stansell,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. E8–13840 Filed 6–17–08; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

[FWS–R9–MB–2008–0032;91200–1231–9BPP–L2]

RIN 1018–AV62

Migratory Bird Hunting; Supplemental Proposals for Migratory Game Bird Hunting Regulations for the 2008–09 Hunting Season; Notice of Meetings

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; supplemental.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), proposed in an earlier document to establish annual hunting regulations for certain migratory game birds for the 2008–09 hunting season. This supplement to the proposed rule provides the regulatory schedule, announces the Service Migratory Bird Regulations Committee and Flyway Council meetings, provides Flyway Council recommendations resulting from their March meetings, and provides regulatory alternatives for the 2008–09 duck hunting seasons.

DATES: You must submit comments on the proposed regulatory alternatives for the 2008–09 duck hunting seasons and the updated cost/benefit analysis by June 27, 2008. Following later **Federal Register** documents, you will be given an opportunity to submit comments for proposed early-season frameworks by July 31, 2008, and for proposed late-season frameworks and subsistence migratory bird seasons in Alaska by August 31, 2008. The Service Migratory Bird Regulations Committee will meet to consider and develop proposed regulations for early-season migratory bird hunting on June 25 and 26, 2008, and for late-season migratory bird hunting and the 2009 spring/summer migratory bird subsistence seasons in Alaska on July 30 and 31, 2008. All meetings will commence at approximately 8:30 a.m.

ADDRESSES: You may submit comments on the proposals by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: 1018–AV62; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 222; Arlington, VA 22203.

We will not accept e-mail or faxes. We will post all comments on *http://www.regulations.gov*. This generally means that we will post any personal information you provide us (see the Public Comments section below for more information).

The Service Migratory Bird Regulations Committee will meet in room 200 of the U.S. Fish and Wildlife Service's Arlington Square Building, 4401 N. Fairfax Dr., Arlington, VA.

FOR FURTHER INFORMATION CONTACT: Ron W. Kokel, U.S. Fish and Wildlife Service, Department of the Interior, MS MBSP–4107–ARLSQ, 1849 C Street, NW., Washington, DC 20240; (703) 358–1714.

SUPPLEMENTARY INFORMATION:

Regulations Schedule for 2008

On May 28, 2008, we published in the **Federal Register** (73 FR 30712) a proposal to amend 50 CFR part 20. The proposal provided a background and overview of the migratory bird hunting regulations process, and dealt with the establishment of seasons, limits, and other regulations for hunting migratory game birds under §§ 20.101 through 20.107, 20.109, and 20.110 of subpart K. This document is the second in a series of proposed, supplemental, and final rules for migratory game bird hunting regulations. We will publish proposed early-season frameworks in early July and late-season frameworks in early August. We will publish final regulatory frameworks for early seasons on or about August 17, 2008, and for late seasons on or about September 14, 2008.

Service Migratory Bird Regulations Committee Meetings

The Service Migratory Bird Regulations Committee will meet June 25–26, 2008, to review information on the current status of migratory shore and upland game birds and develop 2008–09 migratory game bird regulations recommendations for these species, plus regulations for migratory game birds in Alaska, Puerto Rico, and the Virgin Islands. The Committee will also develop regulations recommendations for September waterfowl seasons in designated States, special sea duck seasons in the Atlantic Flyway, and extended falconry seasons. In addition, the Committee will review and discuss preliminary information on the status of waterfowl.

At the July 30–31, 2008, meetings, the Committee will review information on the current status of waterfowl and develop 2008–09 migratory game bird regulations recommendations for regular waterfowl seasons and other species and seasons not previously discussed at the early-season meetings. In addition, the Committee will develop recommendations for the 2009 spring/summer migratory bird subsistence season in Alaska. In accordance with Departmental policy, these meetings are open to public observation. You may submit written comments to the Service on the matters discussed.

Announcement of Flyway Council Meetings

Service representatives will be present at the individual meetings of the four Flyway Councils this July. Although agendas are not yet available, these meetings usually commence at 8 a.m. on the days indicated.

Atlantic Flyway Council: July 24–25, Princeton Westin at Forrestal Village, Princeton, NJ.

Mississippi Flyway Council: July 24–25, Crown Plaza Hotel, Knoxville, TN.

Central Flyway Council: July 24–25, Holiday Inn, Overland Park, KS.

Pacific Flyway Council: July 25, Red Lion Hotel at the Park, Spokane, WA.

Review of Public Comments

This supplemental rulemaking describes Flyway Council recommended changes based on the preliminary proposals published in the May 28, 2008, **Federal Register** . We have included only those recommendations requiring either new proposals or substantial modification of the preliminary proposals and do not include recommendations that simply support or oppose preliminary proposals and provide no recommended alternatives. We will publish responses to all proposals and written comments when we develop final frameworks. In addition, this supplemental rulemaking contains the regulatory alternatives for the 2008–09 duck hunting seasons. We have included all Flyway Council recommendations received relating to the development of these alternatives.

We seek additional information and comments on the recommendations in this supplemental proposed rule. New proposals and modifications to previously described proposals are discussed below. Wherever possible, they are discussed under headings corresponding to the numbered items identified in the May 28 proposed rule. Only those categories requiring your attention or for which we received Flyway Council recommendations are discussed below.

1. Ducks

Duck harvest management categories are: (A) General Harvest Strategy; (B) Regulatory Alternatives, including specification of framework dates, season length, and bag limits; (C) Zones and Split Seasons; and (D) Special Seasons/Species Management.

A. General Harvest Strategy

Council Recommendations: The Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council recommended that regulations changes be restricted to one step per year, both when restricting as well as liberalizing hunting regulations. Both Committees further recommended not implementing the western mallard Adaptive Harvest Management (AHM) protocol.

The Central Flyway Council recommended not implementing the western mallard AHM protocol.

The Pacific Flyway Council recommended implementing the Service's proposal for a revised protocol for managing the harvest of mallards in Western North America. They further recommended inclusion of the following initial components:

(1) Regulation packages that are currently in place in the Pacific Flyway and generally described as Liberal, Moderate, Restrictive, and Closed, with associated target harvest rates of 12, 8, 4, and 0 percent, respectively;

(2) A harvest objective that corresponds to no more than 95 percent of the Maximum Sustained Yield (MSY) on the yield curve (they further note that current harvest estimates suggest that the current Pacific Flyway mallard harvest is at 80 percent of MSY);

(3) Consider use of a weighting factor within the decision matrix that would soften the knife-edge effect of optimal policies when regulation changes are warranted;

(4) No change in the duck regulation provisions for Alaska, except implementation through the western mallard AHM strategy;

(5) An optimization based only on western mallards; and

(6) Clarification of the impacts of removing Alaska from the mid-continent mallard strategy.

They also requested that the Service explore options of incorporating mallards and other waterfowl stocks derived from surveyed areas in Canada important to the Pacific Flyway (*e.g.* , Alberta, Northwest Territories) into the decision process in the future.

Service Response: As we stated in the May 28 **Federal Register** , the final Adaptive Harvest Management protocol for the 2008–09 season will be detailed in the early-season proposed rule, which will be published in mid-July.

B. Regulatory Alternatives

Council Recommendations: The Atlantic Flyway Council recommended that the current restriction of two hens in the 4-bird mallard daily bag limit be removed from the ''liberal'' package in the Atlantic Flyway to allow the harvest of 4 mallards of any sex.

The Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council and the Central Flyway Council recommended that regulatory alternatives for duck hunting seasons remain the same as those used in 2007.

Service Response: As we stated in the May 28 **Federal Register** , the final regulatory alternatives for the 2008–09 season will be detailed in the early-season proposed rule, which will be published in mid-July.

D. Special Seasons/Species Management

iii. Black Ducks

Council Recommendations: The Atlantic Flyway Council endorsed the interim international harvest strategy for black ducks, with the following modifications: (1) the original criteria of a 25 percent change in the 5-year running average from the long-term (1998–2007) breeding population (BPOP) should be changed to a 15 percent change measured by a 3-year running average, and (2) the original criteria of a 5-year running average to measure parity should be changed to a 3-year running average.

The Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council endorsed the agreement in concept and the interim approach to the harvest management of black ducks as outlined by the Black Duck International Management Group.

Service Response: For several years we have consulted with the Atlantic and Mississippi Flyway Councils, the Canadian Wildlife Service, and provincial wildlife agencies in eastern Canada concerning the development of an international harvest strategy for black ducks. In 2008, U.S. and Canadian waterfowl managers developed a draft interim harvest strategy that was designed to be employed by both countries over the next three seasons (2008–09 to 2010–11), allowing time for the development of a formal strategy based on the principles of Adaptive Harvest Management. The interim harvest strategy is prescriptive, in that it would call for no substantive changes in hunting regulations unless the black duck breeding population, averaged over the most recent 3 years, exceeds or falls below the long-term average breeding population by 15 percent or more. It would allow additional harvest opportunity (commensurate with the population increase) if the 3-year average breeding population exceeds the long-term average by 15 percent or more, and would require reduction of harvest opportunity if the 3-year average falls below the long-term average by 15 percent or more. The strategy is designed to share the black duck harvest equally between the two countries; however, recognizing incomplete control of harvest through regulations, it will allow realized harvest in either country to vary between 40 and 60 percent. We propose to adopt this

interim international black duck harvest strategy for the 2008–09, 2009–10, and 2010–11 seasons. To expedite development of a formal Adaptive Harvest Management strategy, we seek input from the Atlantic and Mississippi Flyway Councils on an appropriate long-term harvest management objective.

iv. Canvasbacks

Council Recommendations: The Atlantic Flyway Council recommended that the canvasback harvest strategy be modified to include a provision to allow a daily bag limit of 2 canvasbacks when the predicted breeding population is greater than 750,000 birds.

The Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council recommended an alternative canvasback harvest management strategy that uses threshold levels based on breeding population size in order to determine bag limits. These threshold levels would allow 2 canvasbacks per day when the population is above 800,000, 1 canvasback per day when the population is between 400,000 and 800,000, and close the season when the population drops below 400,000.

The Central Flyway Council recommended maintaining the current canvasback harvest strategy and updating harvest predictions in the current model.

The Pacific Flyway Council requested revision of the canvasback harvest strategy to include a harvest management prescription for a two-bird, full season option when the canvasback breeding population and predicted harvest will sustain the population at or above 600,000.

Service Response: We support modification of the existing canvasback strategy to allow for a 2-bird daily bag limit when the projected breeding population in the next year exceeds an established threshold level. This support is contingent on receiving Flyway Council and public input regarding the exact threshold level to be employed for the bag limit increase. Based on our recent biological assessment this threshold should fall between 600,000 and 750,000 canvasbacks projected as the next year's breeding population. If the input received fails to indicate a reasonable consensus on the appropriate value, we propose to continue using the current canvasback harvest management strategy for the 2008–2009 hunting season.

v. Pintails

Council Recommendations: The Atlantic Flyway Council recommended several modifications and considerations for the proposed pintail derived harvest strategy. They recommended we continue exploration of a derived strategy versus a prescribed strategy and consider a closure constraint. They also commented that Flyway-specific bag limits may not be needed to maintain the desired harvest distribution.

The Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council recommended continued use of the current prescribed northern pintail harvest management strategy until they can see further modeling results of emphasizing a management objective that minimizes the frequency of closed and partial seasons.

The Central Flyway Council recommended that the proposed derived pintail harvest strategy not be adopted and recommended continued use of the current prescribed strategy.

The Pacific Flyway Council recommended that the current prescribed harvest management protocol for pintail be continued in 2008.

Service Response: Based on Flyway Council comments and recommendations, we propose to continue the use of the current pintail harvest strategy for the 2008–09 season. We will continue to work with the Flyway Councils to address their concerns on a derived strategy over the next year.

vi. Scaup

Council Recommendations: The Atlantic Flyway Council recommended implementation of the proposed scaup harvest strategy in the 2008 conditional upon several modifications:

(1) A harvest management objective that achieves 95 percent of the long-term cumulative harvest when the breeding population is less than 4.0 million birds;

(2) Seasons remain open when the breeding population is at or above 2 million scaup;

(3) Agreement to use alternative methodology developed by the Atlantic Flyway Technical Section to predict scaup harvests in the Atlantic Flyway;

(4) Allow a ''hybrid'' season option for the Atlantic Flyway that allows for at least 20 days of the general duck season to have a daily bag limit of at least 2 while the remaining days would have a daily bag limit of 1;

(5) A ''restrictive'' harvest package in the Atlantic Flyway consisting of a 20-day season with a daily bag limit of 2, and a 40-day season with a daily bag limit of 1;

(6) A ''moderate'' harvest package in the Atlantic Flyway consisting of a 60-day season with a daily bag limit of 2;

(7) A ''liberal'' harvest package in the Atlantic Flyway consisting of a 60-day season with a daily bag limit of 3;

(8) Designation of the proposed strategy as ''interim'' and subject to immediate reconsideration if alternative/competing scaup population models are available that will inform management decisions; and

(9) Reconsideration of the model elements after 3 years.

The Council also urged us to expedite the exploration of alternative/competing models describing scaup population dynamics that may be used to inform a harvest management strategy.

The Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council recommended we not adopt the proposed scaup harvest strategy and urged us to delay implementation until some alternative models can be developed.

The Central Flyway Council recommended that we delay implementation of the proposed scaup harvest strategy until alternative models are developed and evaluated.

The Pacific Flyway Council supported the implementation of a scaup harvest strategy in 2008, with the following conditions:

(1) A ''shoulder'' strategy objective that corresponds to 95 percent of MSY;

(2) Revision of harvest prediction models to provide a greater capacity to predict Pacific Flyway scaup harvest; and

(3) Revision of flyway harvest allocations to recognize proportions of greater scaup in flyway harvests.

They also urged us to continue to work on alternative models to incorporate into the decision framework as soon as possible.

Service Response: We propose to adopt the scaup harvest strategy as originally proposed last year (June 8 and July 23, 2007, **Federal Register**, 72 FR 31789 and 72 FR 40194). We believe that an informed, scientifically-based decision process is far preferable to any other possible approach. Further, we have been patient in allowing additional time for review by the Flyway Councils and general public of the proposed strategy. We note that no substantive criticisms suggesting that the proposed approach is not valid have been offered. We acknowledge and support the comments received that suggest additional models based on changing

carrying capacity should be investigated and used if they can be reasonably developed and are supported by existing scaup population data. However, we note that we consider all strategies currently employed for species-specific harvest regulation to be subject to further analysis, review and improvement as new information becomes available, and we fully intend to pursue such improvements for the proposed scaup strategy as well as all of the other species-specific strategies employed by the Service. We also note that we have requested specific input from the Councils and the public regarding the specific harvest management objective that should be employed for the scaup harvest strategy. Based on input to date, we propose the harvest management objective be established as 95 percent of the expected MSY for scaup on an annual basis and we solicit further review and comment on this objective from the Flyway Councils and public.

viii. Wood Ducks

Council Recommendations: The Atlantic Flyway Council provided the following comments on the proposed wood duck harvest strategy:

(1) The Council endorses the use of the Potential Biological Removal method for calculating allowable harvest;

(2) Adult males should be the cohort to monitor;

(3) The management objective should be MSY, with the test criteria that the upper 95 percent confidence interval of the 3-year running average of both northern and region-wide adult male observed kill rates not exceed MSY based on their respective allowable kill rates;

(4) Should monitoring show impact on northern males, the harvest strategy should revert to a 2-bird daily bag limit;

(5) Bag limits should be allowed to differ between flyways; and

(6) The strategy should be adopted in 2008.

The Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council endorsed use of the Potential Biological Removal method to assess wood duck harvest potential and provided the following guidance on outstanding wood duck harvest management policy issues:

(1) Monitor adult male kill rates from the Atlantic and Mississippi Flyways combined to determine whether actual kill rates exceed allowable kill rates;

(2) Use the point of Maximum Sustained Yield (½ r_{max}), combined with a test criteria requirement that the upper 95 percent confidence interval of the observed kill rate be below the allowable kill rate, as the management objective;

(3) Allow wood duck bag limits to differ between the Atlantic and Mississippi Flyways; and

(4) Implement in the 2008–09 season.

The Central Flyway Council recommended that the Central Flyway be included in the development and implementation of the wood duck harvest strategy for the Atlantic and Mississippi Flyways.

Service Response: We support a wood duck harvest strategy based on the Potential Biological Removal method, with the management objective of 95 percent confidence that harvest will not exceed maximum sustained yield. Although we prefer a test criterion based on range-wide kill rates of adult males, we recognize the Atlantic Flyway Council's concerns about the potential impacts on northern wood ducks. We do not endorse implementing the proposed strategy until those concerns have been addressed to the satisfaction of the Atlantic, Mississippi, and Central Flyway Councils.

4. Canada Geese

A. Special Seasons

Council Recommendations: The Atlantic Flyway Council recommended allowing a 10-day experimental extension of the September Resident Canada goose season in Delaware from September 16 to September 25 consistent with September Canada goose seasons in Atlantic Population (AP) zones in the adjacent States of Pennsylvania and New Jersey and other States in the Atlantic Flyway. They requested that this experimental season be permitted for a 3-year period, at which time an analysis of direct band recoveries will be conducted to determine if the harvest of AP Canada geese exceeds 10 percent of the overall goose harvest during Delaware's 10-day extension of the early season. This extended season will not incorporate the ''expanded hunting methods'' and would be implemented in 2008.

The Pacific Flyway Council recommended allowing Wyoming to modify its current framework that allows 4 geese per season to a 4-bird possession limit.

B. Regular Seasons

Council Recommendations: The Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council recommended that the framework opening date for all species of geese for the regular goose seasons in Michigan and Wisconsin be September 16, 2008.

9. Sandhill Cranes

Council Recommendations: The Central and Pacific Flyway Councils recommended using the 2008 Rocky Mountain Population (RMP) sandhill crane harvest allocation of 1,633 birds as proposed in the allocation formula using the 3-year running average. They further recommended that a new RMP greater sandhill crane hunt area be established in Uinta County, Wyoming.

The Pacific Flyway Council recommended modifying Wyoming's RMP hunt areas by: (1) expanding the hunt area in Lincoln County to include the Hams Fork drainage, and (2) expanding Area 6 in the Bighorn Basin to include all of Park, Bighorn, Hot Springs and Washakie Counties. The Council also recommended initiating a limited hunt for Lower Colorado River sandhill cranes in Arizona, with the goal of the hunt being a limited harvest of 6 cranes in January. To limit harvest, Arizona would issue permit tags to hunters and require mandatory checking of all harvested cranes. To limit disturbance of wintering cranes, Arizona would restrict the hunt to one 3-day period. Arizona would also coordinate with the National Wildlife Refuges where cranes occur.

16. Mourning Doves

Council Recommendations: The Atlantic Flyway Council and the Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council recommended that States within the Eastern Management Unit should be offered a 70-day season and 15-bird daily bag limit for the 2008–2009 mourning dove hunting season, and the dichotomous hunting season structure should be eliminated.

18. Alaska

Council Recommendations: The Pacific Flyway Council recommended maintaining status quo in the Alaska early-season framework, except for increasing the daily bag limit for canvasbacks to 2 per day with 6 in possession, and increasing the daily bag limit for brant to 3 per day with 6 in possession.

20. Puerto Rico

Council Recommendations: The Atlantic Flyway Council recommended that Puerto Rico be permitted to adopt a 20-bird bag limit for doves in the aggregate for the next three hunting seasons, 2008–2010. Legally hunted dove species in Puerto Rico are the Zenaida dove, the white-winged dove, and the mourning dove. They also recommended that the 20-bird aggregate bag limit should include no more than

10 Zenaida doves and no more than 3 mourning doves.

Public Comments

The Department of the Interior's policy is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, we invite interested persons to submit written comments, suggestions, or recommendations regarding the proposed regulations. Before promulgation of final migratory game bird hunting regulations, we will take into consideration all comments received. Such comments, and any additional information received, may lead to final regulations that differ from these proposals.

You may submit your comments and materials concerning this proposed rule by one of the methods listed in the **ADDRESSES** section. We will not consider comments sent by e-mail or fax or to an address not listed in the **ADDRESSES** section. Finally, we will not consider hand-delivered comments that we do not receive, or mailed comments that are not postmarked, by the date specified in the **DATES** section.

We will post your entire comment—including your personal identifying information—on *http://www.regulations.gov.* If you provide personal identifying information in your comment, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so.

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on *http://www.regulations.gov,* or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Division of Migratory Bird Management, Room 4107, 4501 North Fairfax Drive, Arlington, VA 22203.

For each series of proposed rulemakings, we will establish specific comment periods. We will consider, but possibly may not respond in detail to, each comment. As in the past, we will summarize all comments received during the comment period and respond to them after the closing date in any final rules.

NEPA Consideration

NEPA considerations are covered by the programmatic document ''Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FSES 88–14),'' filed with the Environmental Protection Agency on June 9, 1988. We published Notice of Availability in the **Federal Register** on June 16, 1988 (53 FR 22582). We published our Record of Decision on August 18, 1988 (53 FR 31341). In addition, an August 1985 environmental assessment entitled ''Guidelines for Migratory Bird Hunting Regulations on Federal Indian Reservations and Ceded Lands'' is available from the address indicated under the caption **FOR FURTHER INFORMATION CONTACT**.

In a notice published in the September 8, 2005, **Federal Register** (70 FR 53376), we announced our intent to develop a new Supplemental Environmental Impact Statement for the migratory bird hunting program. Public scoping meetings were held in the spring of 2006, as detailed in a March 9, 2006, **Federal Register** (71 FR 12216). We have prepared a scoping report summarizing the scoping comments and scoping meetings.

The report is available by either writing to the address indicated under **FOR FURTHER INFORMATION CONTACT** or by viewing on our Web site at *http://www.fws.gov/migratorybirds.*

Endangered Species Act Consideration

Prior to issuance of the 2008–09 migratory game bird hunting regulations, we will comply with provisions of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531–1543; hereinafter, the Act), to ensure that hunting is not likely to jeopardize the continued existence of any species designated as endangered or threatened, or modify or destroy its critical habitat, and is consistent with conservation programs for those species. Consultations under Section 7 of this Act may cause us to change proposals in this and future supplemental rulemaking documents.

Executive Order 12866

The Office of Management and Budget has determined that this rule is significant and has reviewed this rule under Executive Order 12866. OMB bases its determination upon the following four criteria:

(a) Whether the rule will have an annual effect of $100 million or more on the economy or adversely affect an economic sector, productivity, jobs, the environment, or other units of the government.

(b) Whether the rule will create inconsistencies with other Federal agencies' actions.

(c) Whether the rule will materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients.

(d) Whether the rule raises novel legal or policy issues.

Clarity of the Rule

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

(a) Be logically organized;

(b) Use the active voice to address readers directly;

(c) Use clear language rather than jargon;

(d) Be divided into short sections and sentences; and

(e) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in the **ADDRESSES** section. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

Regulatory Flexibility Act

The regulations have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). We analyzed the economic impacts of the annual hunting regulations on small business entities in detail as part of the 1981 cost-benefit analysis discussed under Executive Order 12866. This analysis was revised annually from 1990–95. In 1995, the Service issued a Small Entity Flexibility Analysis (Analysis), which was subsequently updated in 1996, 1998, 2004, and 2008. The primary source of information about hunter expenditures for migratory game bird hunting is the National Hunting and Fishing Survey, which is conducted at 5-year intervals. The 2008 Analysis was based on the 2006 National Hunting and Fishing Survey and the U.S. Department of Commerce's County Business Patterns, from which it was estimated that migratory bird hunters would spend approximately $1.2 billion at small businesses in 2008. To make our cost/benefit analysis as complete as possible, we seek additional information and comments. You must submit comments on the analysis by June 27, 2008. Copies of the Analysis are available upon request from the address indicated under **FOR FURTHER INFORMATION CONTACT** or from our Web site at *http://www.fws.gov/migratorybirds/reports/*

reports.html or at *http://www.regulations.gov.*

Small Business Regulatory Enforcement Fairness Act

This rule is a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. For the reasons outlined above, this rule has an annual effect on the economy of $100 million or more. However, because this rule establishes hunting seasons, we do not plan to defer the effective date under the exemption contained in 5 U.S.C. 808(1).

Paperwork Reduction Act

We examined these regulations under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The various recordkeeping and reporting requirements imposed under regulations established in 50 CFR part 20, Subpart K, are utilized in the formulation of migratory game bird hunting regulations. Specifically, OMB has approved the information collection requirements of our Migratory Bird Surveys and assigned control number 1018–0023 (expires 2/28/2011). This information is used to provide a sampling frame for voluntary national surveys to improve our harvest estimates for all migratory game birds in order to better manage these populations. OMB has also approved the information collection requirements of the Alaska Subsistence Household Survey, an associated voluntary annual household survey used to determine levels of subsistence take in Alaska, and assigned control number 1018–0124 (expires 1/31/2010).

A Federal agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

Unfunded Mandates Reform Act

We have determined and certify, in compliance with the requirements of the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that this rulemaking will not impose a cost of $100 million or more in any given year on local or State government or private entities. Therefore, this rule is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

Civil Justice Reform—Executive Order 12988

The Department, in promulgating this proposed rule, has determined that this proposed rule will not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of Executive Order 12988.

Takings Implication Assessment

In accordance with Executive Order 12630, this proposed rule, authorized by the Migratory Bird Treaty Act, does not have significant takings implications and does not affect any constitutionally protected property rights. This rule will not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property. In fact, these rules allow hunters to exercise otherwise unavailable privileges and, therefore, reduce restrictions on the use of private and public property.

Energy Effects—Executive Order 13211

On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. While this proposed rule is a significant regulatory action under Executive Order 12866, it is not expected to adversely affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

Federalism Effects

Due to the migratory nature of certain species of birds, the Federal Government has been given responsibility over these species by the Migratory Bird Treaty Act. We annually prescribe frameworks from which the States make selections regarding the hunting of migratory birds, and we employ guidelines to establish special regulations on Federal Indian reservations and ceded lands. This process preserves the ability of the States and tribes to determine which seasons meet their individual needs. Any State or Indian tribe may be more restrictive than the Federal frameworks at any time. The frameworks are developed in a cooperative process with the States and the Flyway Councils. This process allows States to participate in the development of frameworks from which they will make selections, thereby having an influence on their own regulations. These rules do not have a substantial direct effect on fiscal capacity, change the roles or responsibilities of Federal or State governments, or intrude on State policy or administration. Therefore, in accordance with Executive Order 13132, these regulations do not have significant federalism effects and do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

The rules that eventually will be promulgated for the 2008–09 hunting season are authorized under 16 U.S.C. 703–712 and 16 U.S.C. 742 a–j.

Dated: June 10, 2008.

Mitchell Butler,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. E8–13737 Filed 6–17–08; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register

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Wednesday, June 18, 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

Submission for OMB Review; Comment Request

June 13, 2007.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) 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; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on 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 should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Farm Service Agency

Title: Volunteer Programs.

OMB Control Number: 0560–0232.

Summary of Collection: Section 1526 of the Food and Agriculture Act of 1981 (7 U.S.C. 2272) permits the Secretary of Agriculture to establish a program to use volunteers to perform a wide range of activities to carry out the programs of or supported by the Department of Agriculture. 5 U.S.C. 3111 grants agencies the authority to establish programs designed to provide educationally related work assignments for students in non-pay status. While serving as a Farm and Foreign Agriculture Service volunteer, each individual is subject to the same responsibilities and guidelines for conduct to which Federal employees are expected to adhere. These program(s) will provide a valuable service to the agencies while allowing the participants to receive training, supervision and work experience.

Need and Use of the Information: Applicants accepted for the Volunteer Programs will complete the ''Service Agreement and Attendance Record''. The Agency will use the recording information to respond to the Department of Agriculture and the Office of Personnel Management request for information on Agency Volunteers. Without the information, the Farm Service Agency would be unable to document service performed without compensation by persons in the program.

Description of Respondents: Individuals or households.

Number of Respondents: 60.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 30.

Farm Service Agency

Title: Transfer of Farm Records Between Counties.

OMB Control Number: 0560–0253.

Summary of Collection: Most Farm Service Agency (FSA) programs are administered on the basis of ''farm''. For program purposes, a farm is a collection of tracts of land that have the same owner and the same operator. Land with different owners may be considered to be a farm if all the land is operated by one person and additional criteria are met. A farm is typically administered in the FSA county office where the farm is physically located. A farm transfer can be initiated if the farm is being transferred back to the county where the farm is physically located, the principal dwelling on the farm operator has changed, a change has occurred in the operation of the land, or there has been a change that would cause the receiving administrative county to be more accessible. Form FSA–179, ''Transfer of Farm Record Between Counties,'' is used as the request for a farm transfer from one county to another initiated by the producer.

Need and Use of the Information: The information collected on the FSA–179 is collected only if a farm transfer is being requested and is collected in a face-to-face setting with county office personnel. The information is used by county office employees to document which farm is being transferred, what county it is being transferred to, and why it is being transferred. Without the information, county offices will be unable to determine whether the producer desires to transfer a farm.

Description of Respondents: Farms.

Number of Respondents: 25,000.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 29,175.

Ruth Brown,

Departmental Information Collection Clearance Officer.

Editorial Note: This document was received in the Office of the Federal Register on June 13, 2008.

[FR Doc. E8–13738 Filed 6–17–08; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2007–0017]

Bayer CropScience; Availability of Petition and Draft Environmental Assessment for Determination of Nonregulated Status for Cotton Genetically Engineered for Glyphosate Herbicide Tolerance

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service has received a petition from Bayer CropScience seeking a determination of nonregulated status for cotton genetically engineered for tolerance to the herbicide glyphosate derived from a transformation event designated as GHB614. The petition has been submitted in accordance with our regulations concerning the introduction of certain genetically engineered organisms and products. In accordance with those regulations, we are soliciting comments on whether this genetically engineered cotton is or could be a plant pest. We are making available for public comment the petition and draft environmental assessment for the proposed determination of nonregulated status.

DATES: We will consider all comments that we receive on or before August 18, 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–2007–0017* 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–2007–0017, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2007–0017.

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

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

FOR FURTHER INFORMATION CONTACT: Dr. Patricia Beetham, Biotechnology Regulatory Services, APHIS, 4700 River Road, Unit 147, Riverdale, MD 20737–1236; (301) 734–0664, e-mail *patricia.k.beetham@aphis.usda.gov.* To obtain copies of the petition or the draft environmental assessment, contact Ms. Cindy Eck at (301) 734–0667, e-mail *cynthia.a.eck@aphis.usda.gov.* The petition and the draft environmental assessment are also available on the Internet at *http://www.aphis.usda.gov/brs/aphisdocs/06_33201p.pdf* and *http://www.aphis.usda.gov/brs/aphisdocs/06_33201p_ea.pdf.*

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR part 340, ''Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There Is Reason to Believe Are Plant Pests,'' regulate, among other things, the introduction (importation, interstate movement, or release into the environment) of organisms and products altered or produced through genetic engineering that are plant pests or that there is reason to believe are plant pests. Such genetically engineered organisms and products are considered ''regulated articles.''

The regulations in § 340.6(a) provide that any person may submit a petition to the Animal and Plant Health Inspection Service (APHIS) seeking a determination that an article should not be regulated under 7 CFR part 340. Paragraphs (b) and (c) of § 340.6 describe the form that a petition for a determination of nonregulated status must take and the information that must be included in the petition.

On November 28, 2006, APHIS received a petition seeking a determination of nonregulated status (APHIS No. 06–332–01p) from Bayer CropScience (BCS) of Research Triangle Park, NC, for cotton (*Gossypium hirsutum*) designated as transformation event GHB614, which has been genetically engineered for tolerance to the herbicide glyphosate, stating that cotton line GHB614 does not present a plant pest risk and, therefore, should not be a regulated article under APHIS' regulations in 7 CFR part 340. BCS responded to APHIS' subsequent request for additional information and clarification on May 11, 2007. The petition is available for public review and comment.

Analysis

As described in the petition, cotton transformation event GHB614 utilizes the enzyme 5-enolpyruvylshikimate-3-phosphate synthase (EPSPS) gene isolated from a previously deregulated cotton event (Event GA21; APHIS petition number 97–099–01) and introduces two amino acid substitutions within the EPSPS gene (designated 2mEPSPS). These modifications decrease the binding affinity to glyphosate, thus producing tolerance to the herbicide. The 2mEPSPS protein allows the plant to tolerate applications of the broad spectrum herbicide glyphosate. Regulatory elements for the transgenes were obtained from *Agrobacterium tumefaciens* and were introduced into cotton cells using *Agrobacterium*-mediated transformation methodology. These regulatory sequences are not transcribed and do not encode proteins.

Transformation event GHB614 has been considered a regulated article under the regulations in 7 CFR part 340 because it contains gene sequences from a plant pathogen. GHB614 cotton has been field tested in the United States since 2002 under notifications authorized by the U.S. Department of Agriculture (USDA). APHIS has presented three alternatives in the draft environmental assessment (EA) based on its analyses of data submitted by BCS, a review of other scientific data, as well as data gathered from field tests conducted under APHIS oversight. These are the three alternatives that APHIS is considering: (1) Take no action (GHB614 remains a regulated article), (2) deregulate GHB614 in whole, or (3) deregulate GHB614 in part.

In § 403 of the Plant Protection Act (7 U.S.C. 7701 *et seq.*), ''plant pest'' is defined as any living stage of any of the following that can directly or indirectly injure, cause damage to, or cause disease in any plant or plant product: A protozoan, a nonhuman animal, a parasitic plant, a bacterium, a fungus, a virus or viroid, an infectious agent or other pathogen, or any article similar to or allied with any of the foregoing. APHIS views this definition broadly to cover direct or indirect injury, disease, or damage not just to agricultural crops, but also to other plants, for example, native species, as well as to plant parts and plant products whether natural, manufactured, or processed.

GHB614 cotton is subject to regulation by other Federal agencies. The U.S. Environmental Protection Agency (EPA) is responsible for the regulation of pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (7 U.S.C. 136 *et seq.*). FIFRA requires that all pesticides, including herbicides, be registered prior to distribution or sale, unless exempt from EPA regulation. In order to be registered as a pesticide under FIFRA, it must be demonstrated that when used with common practices, a pesticide will not cause unreasonable adverse effects in the environment. Under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended (21 U.S.C. 301 *et seq.*), pesticides added to (or contained in) raw agricultural commodities generally

are considered to be unsafe unless a tolerance or exemption from tolerance has been established. Residue tolerances for pesticides are established by EPA under the FFDCA, and the U.S. Food and Drug Administration (FDA) enforces the tolerances set by EPA. BCS submitted the appropriate regulatory package to EPA for registering the use of glyphosate herbicide on GBH614 cotton. Safe use of glyphosate has been established by the EPA through the registration of glyphosate for use on cotton and the setting of tolerances for the herbicide.

FDA's policy statement concerning regulation of products derived from new plant varieties, including those genetically engineered, was published in the **Federal Register** on May 29, 1992 (57 FR 22984–23005). Under this policy, FDA uses what is termed a consultation process to ensure that human and animal feed safety issues or other regulatory issues (e.g., labeling) are resolved prior to commercial distribution of a bioengineered food. In compliance with the FDA policy, BCS has submitted a food and feed safety and nutritional assessment summary for GHB614 cotton to the FDA. This assessment is pending. As of May 29, 2008, FDA has not announced the completion of BCS' consultation for cotton event GHB614 (see *http://www.cfsan.fda.gov/lrd/~biocon.html*).

National Environmental Policy Act

A draft EA has been prepared to provide the APHIS decisionmaker with a review and analysis of any potential environmental impacts associated with the proposed determination of nonregulated status for GHB614. The draft EA was prepared in accordance with (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

In accordance with § 340.6(d) of the regulations, we are publishing this notice to inform the public that APHIS will accept written comments regarding the petition for a determination of nonregulated status from interested or affected persons for a period of 60 days from the date of this notice. We are also soliciting written comments from interested or affected persons on the draft EA prepared to examine any potential environmental impacts of the proposed determination for the deregulation of the subject cotton event. The petition and the draft EA are available for public review, and copies of the petition and the draft EA are available as indicated under **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT** above.

After the comment period closes, APHIS will review all written comments received during the comment period and any other relevant information. All public comments received regarding the petition and draft EA will be available for public review. After reviewing and evaluating the comments on the petition and the draft EA and other data, APHIS will furnish a response to the petitioner, either approving (in whole or part) or denying the petition. APHIS will then publish a notice in the **Federal Register** announcing the regulatory status of BCS' herbicide-tolerant cotton event GHB614 and the availability of APHIS' written regulatory and environmental decision.

Authority: 7 U.S.C. 7701–7772 and 7781–7786; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 12th day of June 2008.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E8–13736 Filed 6–17–08; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2007–0070]

Interstate Movement of Municipal Solid Waste From Hawaii; Availability of an Environmental Assessment and Finding of No Significant Impact

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service has prepared a regional programmatic environmental assessment and finding of no significant impact relative to the interstate movement of municipal solid waste from Hawaii to landfills in the States of Idaho, Oregon, and Washington. The environmental assessment contains a general assessment of the potential environmental effects associated with moving garbage interstate from Hawaii to Idaho, Oregon, and Washington subject to certain pest risk mitigation measures and documents our review and analysis of the environmental impacts associated with, and alternatives to, such movements. Based on its finding of no significant impact, the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

FOR FURTHER INFORMATION CONTACT: Ms. Shannon Hamm, Acting Deputy Administrator, Policy and Program Development, APHIS, 4700 River Road Unit 20, Riverdale, MD 20737–1231; (301) 734–4957.

SUPPLEMENTARY INFORMATION:

Background

The importation and interstate movement of garbage is regulated by the Animal and Plant Health Inspection Service (APHIS) under 7 CFR 330.400 and 9 CFR 94.5 in order to protect against the introduction into and dissemination within the United States of plant and animal pests and diseases.

On March 13, 2008, we published in the **Federal Register** (73 FR 13525, Docket No. APHIS–2007–0070) a notice [1] in which we announced the availability, for public review and comment, of a regional programmatic environmental assessment relative to the interstate movement of municipal solid waste from Hawaii to landfills in the States of Idaho, Oregon, and Washington.

The environmental assessment, titled ''Regional Movement of Plastic-baled Municipal Solid Waste from Hawaii to Washington, Oregon, and Idaho'' (February 2008), considers the movement of a cumulative maximum amount of baled municipal solid waste from the State of Hawaii to any qualified landfill in Washington, Oregon, or Idaho under compliance agreements with APHIS and in accordance with the standards previously established by APHIS regarding baling, handling, spill response, and disposal.

We solicited comments on the regional programmatic environmental assessment for 30 days ending on April 14, 2008. We received three comments by that date, from the State of Idaho, a private citizen, and a law office. All of the commenters raised specific issues regarding the environmental assessment. In an attachment to the finding of no significant impact determination, we respond to each of the issues raised by the commenters.

Based on the information contained in the regional programmatic environmental assessment and following our consideration of the

[1] To view the notice and the comments we received, go to *http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS–2007–0070.*

information submitted during the comment period, we have determined that implementation of either alternative examined in the environmental assessment—i.e., the barging of municipal solid waste from Hawaii to landfills within the States of Oregon, Washington, and Idaho under compliance agreements with APHIS or taking no action (no interstate movement of municipal solid waste from Hawaii)—is not expected to result in a significant impact to the human environment, and an environmental impact statement does not need to be prepared.

The environmental assessment and finding of no significant impact have been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Done in Washington, DC, this 12th day of June 2008.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E8–13735 Filed 6–17–08; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request; Waivers Under Section 6(o) of the Food Stamp Act

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with 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 Section 6(o) of the Food Stamp Act of 1977, as amended by Section 824 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, is to establish a time limit for the receipt of food stamp benefits for certain able-bodied adults who are not working. The provision authorizes the Secretary of Agriculture, upon a State agency's request, to waive the provision for any group of individuals if the Secretary determines ''that the area in which the individuals reside has an unemployment rate of over 10 percent, or does not have a sufficient number of jobs to provide employment for the individuals.'' As required in the statute, in order to receive a waiver the State agency must submit sufficient supporting information so that the United States Department of Agriculture (USDA) can make the required determination as to the area's unemployment rate or sufficiency of available jobs. This collection of information is therefore necessary in order to obtain waivers of the food stamp time limit.

DATES: Written comments must be received on or before August 18, 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; (d) ways to minimize the burden of the collection of information on those who respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Patrick Waldron, Chief, Certification Policy Branch, Program Development Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, VA 22302. Comments may also be faxed to the attention of Mr. Waldron at (703) 305–2486. The e-mail address is: *Patrick.Waldron@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, Alexandria, Virginia, 22302, Room 812.

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 should be directed to Mr. Waldron at (703) 305–2495.

SUPPLEMENTARY INFORMATION:

Title: Waiver Guidance for Food Stamp Time Limits.

OMB Number: 0584–0479.

Expiration Date: August 31, 2008.

Type of Request: Revision of a currently approved collection.

Abstract: Section 824 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Public Law 104–193, 110 Stat. 2323 amended Section 6(o) of the Food Stamp Act of 1977 (7 U.S.C. 2015(o)) to establish a time limit for the receipt of food stamp benefits for certain able-bodied adults who are not working. The provision authorizes the Secretary of Agriculture, upon a State agency's request, to waive the provision for any group of individuals if the Secretary determines ''that the area in which the individuals reside has an unemployment rate of over 10 percent, or does not have a sufficient number of jobs to provide employment for the individuals.'' As required in the statute, in order to receive a waiver the State agency must submit sufficient supporting information so that USDA can make the required determination as to the area's unemployment rate or sufficiency of available jobs. This collection of information is therefore necessary in order to obtain waivers of the food stamp time limit. During the last three years, the Food and Nutrition Service (FNS) has received on average 48 requests for waivers from an average of 48 State agencies. We wish to note that FNS has granted a limited number of 2-year waivers and that the estimated average of 48 submissions a year is based on multiple annual submissions from some State agencies and less biannual submissions from other State agencies. Each request submitted by a State agency to exempt individuals residing in specified areas is considered by FNS to be a separate request, since the requested exemptions may be based on different criteria, are submitted at different times, and require separate analysis. Although State agencies have submitted significantly fewer multiple requests since the last time that this reporting burden was extended, in order to ensure that all areas that potentially qualify for exemptions are included in their waiver requests, State agencies are employing a more sophisticated analysis covering multiple timeframes and multi-county geographical and labor market areas, requiring more time for the preparation and evaluation of each request.

Affected Public: State and Local governments.

Estimated Number of Respondents: 48.

Estimated Number of Responses: 48.

Estimated Number of Responses per Respondent: 1.

Estimated Time per Response: 35 hours.

Estimated Total Burden: 1680 hours.

Dated: June 12, 2008.

Roberto Salazar,

Administrator, Food and Nutrition Service.

[FR Doc. E8–13739 Filed 6–17–08; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request—Evaluation of the Birth Month Breastfeeding Changes to the WIC Food Packages

AGENCY: Food and Nutrition Service (FNS), 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 this proposed information collection.

On December 6, 2007, FNS published an interim regulation in the **Federal Register**: Special Supplemental Nutrition Program for Women, Infants and Children (WIC): Revisions in the WIC Food Packages; Interim Rule [72 FR 68966]. This current notice announces FNS' intent to request from the Office of Management and Budget (OMB) approval to collect information for the evaluation of impacts of the Interim Rule on the food package choices and breastfeeding outcomes of postpartum women who participate in WIC.

DATES: Written comments must be received on or before August 18, 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 that were 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: Ted Macaluso, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, VA 22302. Comments may also be submitted via fax to the attention of Ted Macaluso at 703–305–2576 or via e-mail to *Ted.Macaluso@fns.usda.gov.*

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 Ted Macaluso at 703–305–2121.

SUPPLEMENTARY INFORMATION:

Title: Evaluation of the Birth Month Breastfeeding Changes to the WIC Food Packages.

OMB Number: Not Yet Assigned.

Expiration Date: Not Yet Determined.

Type of Request: New collection of information.

Abstract: The Special Supplemental Nutrition Program for Woman, Infants and Children (WIC), (42 U.S.C. 1786) provides low-income pregnant, breastfeeding, and postpartum women, infants, and children up to age five with nutritious supplemental foods. The program also provides nutrition education and referrals to health and social services. An Interim Rule published on December 6, 2007 (72 FR 68966) revises the WIC food packages to align them with the 2005 Dietary Guidelines for Americans and infant feeding practice guidelines of the American Academy of Pediatrics. The Interim Rule revisions largely reflect recommendations made by the Institute of Medicine (IOM) of the United States National Academies, in its 2005 report, ''WIC Food Packages: Time for a Change,'' with certain cost containment and administrative modifications found necessary by the Department to ensure cost neutrality. The Interim Rule's comment period ends on February 1, 2010.

The revised food packages for infants and women were designed to strengthen WIC's breastfeeding promotion efforts and provide additional incentives to assist mothers in making the decision to start and continue breastfeeding. Under the interim regulation, there are three infant feeding options available in the first month after birth—either (1) fully formula feeding; (2) fully breastfeeding; or (3) partially breastfeeding. Under the partial breastfeeding food package, the amount of infant formula available during the first month postpartum is limited. Thereafter, in months two through six, partially breastfed infants may only receive one half of the maximum amount of infant formula available to a fully formula fed infant. These changes are designed to promote the initiation, intensity, and duration of breastfeeding. The underlying theory is that by greatly reducing the amount of formula available for the partial breastfeeding option in the first month postpartum: (a) more mothers will initiate breastfeeding; and (b) mothers who have difficulty breastfeeding during the first month will be less likely to stop breastfeeding if formula is not so readily available. In addition, if less formula is available to partial breastfeeding mothers in months two through five postpartum, there is a greater likelihood that: (a) mothers will feed their infants relatively more breastmilk than formula each month; and (b) they will do so for longer than they would if formula were more plentiful.

These regulatory changes may have intended or unintended consequences for WIC mothers and infants. To identify potential positive impacts of the regulatory change, to address concerns about unintended consequences, and in response to recommendations from the IOM to study the effects of the rule change, FNS has funded this study to examine the effects of the changes in packages for postpartum women and infants on the initiation, intensity, and duration of breastfeeding.

To study the effects of the changes in food packages for postpartum women and infants, FNS is conducting a study in 16 Local WIC Agencies (LWAs). The study will gather data from administrative records; local WIC administrators; and WIC participants in 16 LWAs, selected as a sample with probability proportional to size; as well as officials from those States where the 16 LWAs are located. Data will be gathered prior to and after the interim regulation is implemented. The study will measure the impact of changes on food package choices and on breastfeeding initiation, intensity and duration. The study also will describe the implementation of these changes in these LWAs.

Affected Public: Respondent groups identified include: (1) WIC participants who are postpartum women with infants newborn through six months of age; (2) local WIC administrators from 16 LWAs selected as a sample with probability proportional to size; and (3) State WIC officials from, at most, 16 States (if the 16 sampled Local WIC Agencies are from different States).

Estimated Number of Respondents: The total estimated number of respondents is 2,144. This includes: 2,000 WIC participants (80% of whom will complete interviews); 16 Local WIC Agency directors; 16 Local WIC Agency outreach coordinators; 16 Local WIC

Agency senior nutrition coordinators; 32 Local WIC Agency nutritionists; and, at most, 16 State WIC directors, 16 State breastfeeding coordinators, and 16 State nutrition coordinators.

Estimated Number of Responses per Respondent: The WIC participants will be asked to participate in one survey. All other respondents (Local WIC Agency directors, Local WIC Agency outreach coordinators, Local WIC Agency senior nutrition coordinators, Local WIC Agency nutritionists, State WIC directors, State breastfeeding coordinators, and State nutrition coordinators) will respond to one telephone interview and two in-person interviews for a total of three responses each.

Estimated Total Annual Responses: 2,432.

Estimated Time per Response: 32.4 minutes (0.54 hours). The estimated time of response varies from 30 to 60 minutes depending on respondent group, as shown in the table below, with an average estimated time of three minutes for non-responders to the participant survey.

Estimated Total Annual Burden on Respondents: 78,800 minutes (1,335.20 hours). See the table below for estimated total annual burden for each type of respondent.

Respondent	Estimated # respondents	Responses annually per respondent	Total annual responses (Col. bxc)	Estimated avg. # of hours per response	Estimated total hours (Col. dxe)
Reporting Burden					
WIC Participants—completed interviews	1600	1	1,600.00	0.58450	935.2
WIC Participants—attempted interviews	400	1	400	0.1	40.0
State WIC Director	16	3	48	1	48
State Breastfeeding Coordinator	16	3	48	0.5	24
State Nutrition Coordinator	16	3	48	0.5	24
Local WIC Agency Director	16	3	48	1	48
Local WIC Breastfeeding Coordinator	16	3	48	1	48
Local WIC Agency Outreach Coordinator	16	3	48	0.5	24
Local WIC Agency Nutritionists	32	3	96	1	96
Local WIC Agency Senior Nutrition Coordinator	16	3	48	1	48
Total Reporting Burden	2,144	.....	2,432.00	.....	1,335.20

Dated: June 12, 2008.

Roberto Salazar,

Administrator, Food and Nutrition Service.

[FR Doc. E8–13742 Filed 6–17–08; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Agricultural Air Quality Task Force

AGENCY: Natural Resources Conservation Service, USDA.

ACTION: Notice of Request for Nominations for the Agricultural Air Quality Task Force.

SUMMARY: The Secretary of Agriculture intends to reestablish the Agricultural Air Quality Task Force (AAQTF) and requests nominations for qualified persons to serve as members.

DATES: Nominations must be received in writing (see **SUPPLEMENTARY INFORMATION** section) by August 4, 2008.

ADDRESSES: Send written nominations to: Michele Laur, Designated Federal Official, USDA/Natural Resources Conservation Service, Post Office Box 2890, Room 6165–South, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: Questions or comments should be directed to Michele Laur, Designated Federal Official, telephone: (202) 720–1858; fax: (202) 720–2646; or e-mail: *michele.laur@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION:

AAQTF Purpose

As required by Section 391 of the Federal Agriculture Improvement and Reform Act of 1996, the Chief of the Natural Resources Conservation Service (NRCS) shall establish a task force to review research that addresses air quality issues related to agriculture or the agriculture infrastructure. The task force will provide recommendations to the Secretary of Agriculture on the development and implementation of air quality policy and air quality research needs. The requirements of the Federal Advisory Committee Act apply to this task force.

The task force will:

1. Review research on agricultural air quality supported by Federal agencies;
2. Provide recommendations to the Secretary of Agriculture regarding air quality and its relation to agriculture, based upon sound scientific findings;
3. Work to ensure intergovernmental (Federal, State, and local) coordination in establishing policy for agricultural air quality, and to avoid duplication of efforts;
4. Assist, to the extent practical, Federal agencies in correcting erroneous data with respect to agricultural air quality; and,
5. Ensure that air quality research, related to agriculture, receives adequate peer review and considers economic feasibility.

AAQTF Membership

The task force will be made up of United States citizens and be composed of:

1. Individuals with expertise in agricultural air quality and/or agricultural production;
2. Representatives of institutions with expertise in the impacts of air quality on human health;
3. Representatives from agriculture interest groups having expertise in production agriculture;
4. Representatives from State or local agencies having expertise in agriculture and air quality; and
5. An atmospheric scientist.

Task force nominations must be in writing, and provide the appropriate background documents required by the Department of Agriculture (USDA) policy, including Form AD–755. Previous nominees and current task force members who wish to be

reappointed must completely update their nominations and provide a new background disclosure form (AD–755) to reaffirm their candidacy. Service as a task force member shall not constitute employment by, or the holding of an office of the United States for the purpose of Federal law.

A task force member shall serve for a term of 2 years. Task force members shall receive no compensation from NRCS for their service as task force members except as described below.

While away from home or regular place of business as a member of the task force, the member will be eligible for travel expenses paid by NRCS, including per diem in lieu of subsistence, at the same rate as a person employed intermittently in the Government service, under Section 5703 of Title 5, United States Code.

Additional information about AAQTF is located on the Internet at *http://www.airquality.nrcs.usda.gov/AAQTF/.*

Submitting Nominations

Nominations should be typed and include the following:

1. A brief summary of no more than two pages explaining the nominee's qualifications to serve on AAQTF;
2. Resume;
3. A completed copy of Form AD–755;
4. Any recent publications relative to air quality; and
5. Any letters of endorsement.

Nominations should be sent to Michele Laur at the address listed above and postmarked no later than August 4, 2008.

Equal Opportunity Statement

To ensure that recommendations of the task force take into account the needs of underserved and diverse communities served by USDA, membership shall include, to the extent practicable, individuals representing minorities, women, and persons with disabilities.

Signed in Washington, DC, on June 3, 2008.

Arlen L. Lancaster,

Chief, Natural Resources Conservation Service.

[FR Doc. E8–13675 Filed 6–17–08; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF COMMERCE

International Trade Administration

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, as amended by Pub. L. 106–36; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be postmarked on or before (Insert date 20 days after publication in the **Federal Register**). Address written comments to Statutory Import Programs Staff, Room 2104, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5 p.m. at the U.S. Department of Commerce in Room 2104.

Docket Number: 08–026. Applicant: Howard Hughes Medical Institute, 4000 Jones Bridge Rd., Chevy Chase, MD 20815. Instrument: Electron Microscope, Model Tecnai Spirit T12BT. Manufacturer: FEI Company, Czech Republic. Intended Use: The instrument is intended to be used to examine all or portions of vertebrate and invertebrate organisms. The instrument will be a means of examination of samples for a wide range of studies. The overall objective is to examine these structures at high resolution. Application accepted by Commissioner of Customs: May 16, 2008.

Dated: June 5, 2008.

Faye Robinson,

Director, Statutory Import Programs Staff.

[FR Doc. E8–13393 Filed 6–17–08; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Evaluation of State Coastal Management Programs and National Estuarine Research Reserves

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Office of Ocean and Coastal Resource Management, National Ocean Service, Commerce.

ACTION: Notice of Intent to Evaluate and Notice of Availability of Final Findings.

SUMMARY: The NOAA Office of Ocean and Coastal Resource Management (OCRM) announces its intent to evaluate the performance of the Hawaii Coastal Management Program, the Minnesota Coastal Management Program, the San Francisco (California) Bay Conservation and Development Commission, and the California State Coastal Conservancy.

The Coastal Zone Management Program evaluations will be conducted pursuant to section 312 of the Coastal Zone Management Act of 1972, as amended (CZMA) and regulations at 15 CFR part 923, Subpart L. The CZMA requires continuing review of the performance of states with respect to coastal program implementation. Evaluation of Coastal Management Programs requires findings concerning the extent to which a state has met the national objectives, adhered to its Coastal Management Program document approved by the Secretary of Commerce, and adhered to the terms of financial assistance awards funded under the CZMA.

Each evaluation will include a site visit, consideration of public comments, and consultations with interested Federal, state, and local agencies and members of the public. A public meeting will be held as part of the site visit. Notice is hereby given of the dates of the site visits for the listed evaluations, and the dates, local times, and locations of the public meetings during the site visits.

Dates and Times: The Hawaii Coastal Management Program evaluation site visit will be held July 25–August 4, 2008. One public meeting will be held during the week. The public meeting will be held on Wednesday, July 30, 2008, at 7 p.m. at the Hilo State Office Building, Conference Rooms A, B, and C, 75 Aupuni Street, Hilo, Hawaii.

Minnesota's Lake Superior Coastal Program evaluation site visit will be held August 4–8, 2008. One public meeting will be held during the week. The public meeting will be held on Monday, August 4, 2008, at 6 p.m. at the Lafayette Community Center, 3026 Minnesota Avenue, Duluth, Minnesota.

The joint San Francisco (California) Bay Conservation and Development Commission and the California State Coastal Conservancy evaluation site visit will be held September 22–26, 2008. One public meeting will be held during the week. The public meeting will be held on Tuesday, September 23, 2008, at 7 p.m. at the San Francisco Bay Conservation and Development Commission, McAteer-Petris Conference Room, 50 California Street, San Francisco, California.

ADDRESSES: Copies of states' most recent performance reports, as well as OCRM's evaluation notification and supplemental information request letters to the states, are available upon request from OCRM. Written comments from interested parties regarding these Programs are encouraged and will be accepted until 15 days after the public

meeting held for a Program. Please direct written comments to Kate Barba, Chief, National Policy and Evaluation Division, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, 10th Floor, N/ORM7, Silver Spring, Maryland 20910. When the evaluation is completed, OCRM will place a notice in the **Federal Register** announcing the availability of the Final Evaluation Findings.

SUPPLEMENTARY INFORMATION: Notice is hereby given of the availability of the final evaluation findings for the Ohio Coastal Management Program (CMP). Section 312 of the Coastal Zone Management Act of 1972 (CZMA), as amended, requires a continuing review of the performance of coastal states with respect to approval of CMPs.

The state of Ohio was found to be implementing and enforcing its federally approved coastal management programs addressing the national coastal management objectives identified in CZMA Section 303(2)(A)–(K), and adhering to the programmatic terms of its financial assistance awards.

A copy of these final evaluation findings may be obtained upon written request from: Kate Barba, Chief, National Policy and Evaluation Division, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, 10th Floor, N/ORM7, Silver Spring, Maryland 20910, or *Kate.Barba@noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Kate Barba, Chief, National Policy and Evaluation Division, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, 10th Floor, N/ORM7, Silver Spring, Maryland 20910, (301) 563–1182.

Federal Domestic Assistance Catalog 11.419, Coastal Zone Management Program Administration.

Dated: June 12, 2008.

David M. Kennedy,

Director, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. E8–13747 Filed 6–17–08; 8:45 am]

BILLING CODE 3510–08–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XH04

Incidental Takes of Marine Mammals During Specified Activities; Rat Population Eradication at Rat Island, AK

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

ACTION: Notice; proposed incidental take authorization; request for comments.

SUMMARY: NMFS has received an application from the U.S. Fish and Wildlife Service (USFWS) for an Incidental Harassment Authorization (IHA) to take small numbers of marine mammals, by harassment, incidental to the eradication of rat populations at Rat Island, AK. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposed IHA for these activities.

DATES: Comments and information must be received no later than July 18, 2008.

ADDRESSES: Comments on the application should be addressed to Michael Payne, Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3225. The mailbox address for providing email comments is PR1.*0648–XD79@noaa.gov*. Comments sent via e-mail, including all attachments, must not exceed a 10–megabyte file size.

A copy of the application containing a list of the references used in this document may be obtained by writing to the address specified above, telephoning the contact listed below (see **FOR FURTHER INFORMATION CONTACT**), or visiting the internet at:*http://www.nmfs.noaa.gov/pr/permits/incidental.htm*.

Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Howard Goldstein or Ken Hollingshead, NMFS, (301) 713–2289.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Authorization shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for certain subsistence uses, and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''...an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as:

> any act of pursuit, torment, or annoyance which (I) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Section 101(a)(5)(D) establishes a 45-day time limit for NMFS review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny issuance of the authorization.

Summary of Request

On February 29, 2008, NMFS received a letter from the USFWS, requesting issuance of a proposed IHA. The requested IHA would authorize the take, by harassment, of small numbers of Steller sea lions (*Eumetopias jubatus*), and Pacific harbor seals (*Phoca vitulina richardsi*), incidental to rat population eradication and bait application operations. Operations will be conducted on foot, by watercraft (boat), and by aircraft (helicopter) by a field crew.

Additional information on the eradication operations is contained in the application and Environmental Assessment (EA), which is available upon request (see **ADDRESSES**).

Restoration of natural ecosystem function on Rat Island promises to re-establish native seabirds and other native species, thus returning this wilderness island to a healthy natural community. This restoration cannot occur until the island is cleared of the invasive non-native Norway rats that now dominate the living community. Introduced non-native species are a leading cause of extinctions in island communities worldwide. Increasingly, land managers are removing introduced species to aid in the restoration of native ecosystems. Rats are responsible for 40–60% of all recorded bird and reptile extinctions worldwide. Given their widespread successful colonization on islands and the resulting impact to native species, introduced rats are identified as key species for eradication.

Most of the Aleutian Islands lying within the Alaska Maritime National Wildlife Refuge (AMNWR) provide important breeding habitat for seabirds, including many for which the Aleutians provide a substantial portion of their worldwide range. Norway rats are established on at least 10 Aleutian islands or island groups, and the diversity and numbers of breeding seabirds occurring on those islands are now conspicuously low. Rat-caused modifications to other components of the island ecosystems (e.g., other birds, plants, and invertebrates) are also evident.

The restoration of Aleutian ecosystems through introduced predator eradications has long been identified as a priority for AMNWR, and the initial efforts have been directed to removing introduced Arctic foxes. The focus now has turned to rats. The intent of the proposed operations is to facilitate the restoration of the natural island ecosystem by improving habitat quality for native species.

Proposed Rat Eradication Project Description

Rats were first introduced to Alaska over 200 years ago at Rat Island in the western Aleutian Island archipelago. Prior to this introduction, the island likely supported significant populations of breeding seabirds and other ground nesting birds which evolved in the absence of mammalian predators. Since their introduction, rats and foxes have extirpated breeding seabirds and had detrimental impacts on vegetation and intertidal life on the island. AMNWR personnel eradicated foxes on Rat Island in 1984. Working with others, the USFWS proposes to eradicate rats from the island using removal techniques based on successful island rat eradications elsewhere in the U.S. and globally.

The purpose of eradicating rats from Rat Island is to conserve, protect and enhance habitat for native wildlife species, especially nesting habitat for seabirds, and to restore the biotic integrity of the island. The overarching goal in a successful eradication is to ensure the delivery of a lethal dose of toxicant to every rodent on the island. The primary method for eradicating rats from Rat Island is delivery of compressed-grain bait pellets containing rodenticide to every rat territory on the island through aerial broadcast. The bait pellets will contain 25 ppm brodifacoum and will be applied according to Environmental Protection Agency (EPA) approved label directions.

The need for caution near the marine and freshwater environments, due to the chemical composition of the bait pellets and potential for contamination of the water column (bait pellets disintegrate and dissolve quickly in water), requires a buffer when broadcasting the rodenticide. As a result, some areas may not receive the optimal bait coverage with helicopter broadcast. In cases where it is evident or suspected that any land area on Rat Island or offshore islets did not receive full coverage, there will be supplemental systematic hand broadcast either by foot, boat, helicopter, or any combination of the above. All bait application activities will be conducted by, or under the supervision of, a Pesticide Applicator certified by the State of Alaska.

Proposed Staging and Preparation

Field crews will visit Rat Island in the summer prior to the rat eradication to install temporary infrastructure and storage sites. These will include: 1) a camp site capable of supporting 20 people for up to seven weeks; 2) three bait staging areas, where bait will be contained in up to 200 storage units at each staging area; and 3) a fuel storage site that will comply with all appropriate safety standards and regulations.

Additional material may be brought to the island at that time and staged for the fall application of bait. Helicopters will deliver most of the necessary materials to each site on the island from a vessel anchored nearby. Staging procedures in summer will be conducted using a helicopter capable of lifting a 700 kg (1,543 lbs) payload. Helicopter operations during project staging will be localized to discrete flight paths and landing sites servicing the camp, three bait staging locations, and a fuel storage site.

It is possible that some of the material needed for eradication will not be available in the summer. In this case, that material will be staged on the island during the week prior to the fall application of bait.

Proposed Bait Application

Proposed bait application operations will be conducted using two single-primary-rotor/single tail-rotor helicopters. Bait will be applied from specialized bait hoppers slung 15–20 m (49–66 ft) beneath the helicopter. Helicopter operations for the bait application will necessitate low-altitude overflights of the entire land area of Rat Island and adjacent vegetated islets. The helicopter will fly at a speed ranging from 25–50 knots (46–93 km/hr or 29–58 mph) at an average altitude of approximately 50 m (164 ft) above the ground.

To make bait available to all possible rat home ranges on the island, bait will need to be applied evenly across emergent land area, with every reasonable effort made to prevent bait spread into the marine environment. The baiting regime will follow common practice in which parallel, overlapping flight swaths are flown across the interior island area and overlapping swaths with a deflector attached to the hopper (to prevent bait spread into the marine environment) flown around the coastal perimeter. Flight swaths will be defined by the uniform distance of bait broadcast from the hopper, ranging from 50–75 m (164–246 ft). Flight swaths will be flown in a parallel pattern, with subsequent flight swaths overlapping the previous by approximately 25–50% to ensure no gaps in bait coverage.

Proposed Special Treatment of the Islet off Ayugadak Point

The islet located 1.6 km (1 mi) off Ayugadak Point is a Steller sea lion rookery, designated as Critical Habitat under the Endangered Species Act (ESA). The islet is also potential rat habitat and the thick kelp beds between the main island and this islet make rat migration to and from the islet possible. Bait will be delivered to the islet off Ayugadak Point with an adaptive alternative-baiting strategy designed to minimize disturbance of Steller sea lions from helicopters.

During the month of August, project crews will attempt to access the islet by boat, landing on a beach that is out of view of the Steller sea lion rookery. Personnel will install multiple enclosed bait stations on the islet, which will be

designed to provide easy access to the bait inside for rats while minimizing bait access by non-target species that may be present on the islet, including song sparrows. Stations will be anchored securely in place, and filled with enough bait to ensure that any rats on the island will have bait available for many weeks.

During the major bait application operation in the fall, project crews will attempt to access the islet by boat again, although the sea state during this season may make access more difficult than earlier in the season. If personnel can access the island by boat, they will check the bait stations installed earlier for signs of bait consumption or other rat activity. Bait stations will be refilled as necessary during this visit. If rats are detected or suspected, personnel may additionally hand-broadcast bait pellets on the islet according to label instructions.

If project field crews are unable to access the islet by boat at any time during fall operations it will be necessary to aerially treat the island.

Proposed Demobilization

Once eradication has been completed operational demobilization and clean-up will commence. A charter vessel will be employed to transport all crew and equipment off the island. Demobilization and clean-up will include deconstructing and removing: 1) field camp; 2) garbage and human waste; 3) staging areas; and 4) fuel. All tents, weatherports, and other field camp equipment will be disassembled, packed, and returned to the vessel by helicopter. All equipment will be removed from bait staging areas and transported off the island. The wooden storage boxes will be disassembled, bound, and transported by helicopter back to the vessel. Excess fuel will also be transported back to the vessel by helicopter.

Additional details regarding the proposed rat eradication operations can be found in the Environmental Assessment (EA): ''Restoring Wildlife Habitat on Rat Island'' USFWS 2007 (EA). The EA can also be found online at: *http://alaskamaritime.fws.gov/news.htm*

Proposed Dates, Duration, and Region of Activities

Rat Island is located in the western Aleutian Islands approximately 51° 80′ North, 178° 30′ West, approximately 1,931 km (1200 mi) west of Anchorage, Alaska. The Ayugadak Point rookery is located on an islet approximately one mile southeast of Rat Island at 51° 45.5′ North, 178deg; 24.5′ East.

Proposed Staging and Preparation at Rat Island

The summer staging and preparation activities for Rat Island are expected to take 5 days during the week of July 7–11. Helicopter support during this period is estimated to take two days. Wooden storage boxes and platform construction materials will be staged at three areas, as indicated in Figure 1 in USFWS' IHA application. Fuel and all other camp materials will be delivered to the Gunner's Cove field camp location.

All materials not available during the summer staging and preparation periods will be transported to Rat Island during the week of September 22–27, 2008. Helicopter support during this period is estimated to take two days.

Proposed Bait Application at Rat Island

Bait application will commence once staging and preparation have been accomplished as planned. The application will occur during a 45-day time period from September 28–November 11, 2008 (except on the islet off Ayugadak Point). The bait application is estimated to take approximately 35 hours total flight time; however, the implementation will likely be interrupted by typical fall weather patterns in the central Aleutians, which are notoriously unsettled. Therefore, a maximum of 45 days will be allotted to achieve the 35 hour operation window.

Proposed Demobilization at Rat Island

During the first week of August, a project crew will attempt to access the islet by boat to install bait stations containing rodenticide. The installation will take approximately four hours.

If weather and sea conditions allow the installation of bait stations in August, a project crew will attempt to access the islet by boat again during the major bait application operations in October. Sea state during this season may make access more difficult than the August attempt. If personnel can access the island by boat, they will check the bait stations installed earlier for signs of bait consumption or other rat activity and refill stations as necessary. Personnel may also hand-broadcast bait pellets on the islet if rats are detected or suspected. This work is estimated to take between four and six hours.

If project crews are not able to access the islet in August or during the Rat Island bait application in October, it will be treated by aerial broadcast. This would take place during the October 1–November 11, 2008 time frame and require approximately 15 minutes of helicopter flight time.

Proposed Bait Application at Ayugadak Point Rookery

During the first week of August, a project crew will attempt to access the islet by boat to install bait stations containing rodenticide. The installation will take approximately four hours.

If weather and sea conditions allow the installation of bait stations in August, a project crew will attempt to access the islet by boat again during the major bait application operations in October. Sea state during this season may make access more difficult than the August attempt. If personnel can access the island by boat, they will check the bait stations installed earlier for signs of bait consumption or other rat activity and refill stations as necessary. Personnel may also hand-broadcast bait pellets on the islet if rats are detected or suspected. This work is estimated to take between four and six hours.

If project crews are not able to access the islet in August or during Rat Island bait application in October, it will be treated by aerial broadcast. This would take place during the October1–November 11 time frame and require approximately 15 minutes of helicopter flight time.

Status and Distribution of Affected Species

TABLE 1. RECENT SURVEY RESULTS FOR PINNIPEDS IN THE RAT ISLAND AREA.

Species	Number	Year	Source	Comments
Harbor Seal	93 "Fairly common"	1999 2007	Small *et al.* in press Buckelew *et al.* 2007	Aerial survey Often seen in water, not seen hauled out

TABLE 1. RECENT SURVEY RESULTS FOR PINNIPEDS IN THE RAT ISLAND AREA.—Continued

Species	Number	Year	Source	Comments
Steller sea lion	45	2004	NMFS database	Aerial survey for Rat Is.(adults and juveniles)
	254	2005	NMFS database	Aerial survey for Ayugadak Point Rookery (includes 83 pups)
	present	2007	Bucklew 2007	Seen from boat offshore at Rat Is. And Ayugadak Pt.

Steller Sea Lion

Steller sea lions range along the North Pacific Rim from northern Japan to California. They are most abundant in the Gulf of Alaska and Aleutian Islands (NMFS, 2006). Two separate stocks of Steller sea lions are recognized in U.S. waters; an eastern U.S. stock that includes animals east of Cape Suckling, Alaska (144° West), and a western U.S. stock which includes animals west of Cape Suckling. The western Distinct Population Segment (DPS) of Steller sea lions has experienced a major decline of 75% over the past 20 years (Calkins et al., 1999; USFWS, 1997; NMFS, 2007). Consequently the western DPS of Steller sea lions were listed as Endangered under the ESA in 1997. The reasons for this decline are not entirely known and are currently under investigation.

Aerial survey data from 2004–2005 were used to calculate a minimum population estimate of 39,988 animals for the western U.S. waters stock. The Bering Sea/Aleutian Islands area population estimate for the same period is 20,578 (NMFS, 2006).

Steller sea lions are considered non-migratory with dispersal generally limited to juveniles and adult males. In the Aleutian Islands, Steller sea lions generally breed and give birth from late May to early July (Pitcher and Calkins, 1981), and pups remain at rookeries until about early to mid-September (Calkins et al., 1999). Non-reproductive animals congregate at haul out sites.

At Rat Island, a persistent haul-out side is known at the west end of the island near Krysi Point and a rookery is known from the islet off Ayugadak Point. Both sites were active in 2007 (Buckelew *et al.*, 2007).

Pacific Harbor Seal

In the Pacific Ocean, harbor seals occur in coastal waters and estuaries from Baja California north along the west coast of the U.S. and Canada to Alaska including the Aleutian Islands, southern Bristol Bay and the Pribilof Islands. Harbor seals living in the Aleutian Islands are part of the Gulf of Alaska stock. The Gulf of Alaska stock has experienced significant declines ranging from 50–85% over the past 30 years (NMFS, 2006). Limited information suggests some modest recovery from initial declines and the stock has not been listed under the ESA. The current statewide population estimate for Alaska harbor seals is 180,017 (NMFS, 2006).

Harbor seals are generally non-migratory with some local movements related to season, weather, and food availability (NMFS, 2006). In Alaska, harbor seals typically give birth to a single pup between May and mid-July. Pups are generally weaned within one month and separate from their mother. Harbor seals in the Gulf of Alaska undergo an annual molt which peaks between the first week in August and the first week in September (Daniel et al., 2003). Harbor seals are found in scattered locations along the shores of Rat Island and some offshore islets.

Incidental Taking Authorization Requested

The proposed rat eradication effort and associated operations may result in the taking of marine mammals by Level B incidental harassment only. As a result, the USFWS has requested an IHA for Level B harassment. An incidental take of Level B harassment occurs if an animal moves away any distance in response to the presence of field crew personnel, watercraft, and/or aircraft, or if the animal was already moving and changed direction. Animals that raise their head and look at field crew personnel and/or operated vehicle without moving are not considered disturbed. Most incidental takings would be related to harassment from the noise and visual presence/ movement of helicopter operations during the bait application period. A small number of takes could also occur as a result of human presence and boat operations during the course of the project.

The use of a rodenticide is not expected to result in any Level A harassment (i.e., injury) or death of marine mammals. Marine mammals are unlikely to ingest bait pellets of rodenticide opportunistically or accidentally. The rodenticide is retained at low levels in body tissues and numerous large exposures would have to occur in order to ingest an injurious or lethal amount. Steller sea lions and harbor seals diet does not include either bait pellets or rat carcasses that have succumbed to the rodenticide application.

Further information on the biology and distribution of these species and others in the region can be found in USFWS' application and EA, which is available upon request (see **ADDRESSES**), and the Marine Mammal Stock Assessment Reports, which are available online at *http://www.nmfs.noaa.gov/prot_res/PR2/Stock_Assessment_Program/individual_sars.html.*

Potential Impact and Effects of the Proposed Activity on the Marine Mammals

Steller Sea Lions

The response of pinnipeds, like Steller sea lions, to aircraft overflights varies from no discernable reaction to completely vacating haul outs after a single overflight (Calkins, 1979; Efroymson and Suter, 2001). Approaching aircraft generally flush animals into the water. In one case, Withrow et al. (1985 in Richardson *et al.*, 1995) reported Steller sea lions left a beach in response to a Bell 205 helicopter >1.6 km away, but the noise from a helicopter is typically directed down in a ''cone'' underneath (Richardson *et al.*, 1995) so disturbance

at such great distance is probably uncommon.

At Rat Island, known persistent haul out sites will be avoided during proposed staging operations as will any other haul out sites discovered prior to helicopter operations. In spite of these precautions, sea lions encountered unexpectedly during proposed helicopter operations could be flushed from land temporarily. An individual sea lion's exposure to peak noise from the helicopter will be limited to animals that remain ashore, and is likely to be of short duration, as the elevation and speed of the helicopter will limit the time that any single location is exposed to maximum noise.

It will be more difficult to avoid known haul sites on Rat Island with the helicopter during bait application because of the need for thorough coverage. No pups are expected on Rat Island. The impacts of disturbance to sea lions during molting (a sensitive period to disturbance, Richardson *et al.*, 1995) will be minimized by timing overflights after the peak molting period is over.

Proposed installation of bait stations on the islet off Ayugadak Point in August is likely to result in short-term displacement of some non-breeding animals from the islet. This disturbance is likely to be limited to the few-hour period when personnel are present on the island. Sea lion pups will likely be present on the islet during installation of bait stations. To prevent disturbance to the rookery, the islet will be approached slowly in a small boat, from the side of the island opposite and out of sight of the rookery. While on the islet, personnel will remain out of sight of the rookery.

In October, the bait stations on the islet will need to be replenished. Again, the approach to the island will be slow, and opposite the rookery. This may result in displacing a few non-breeding animals for a few hours when personnel are present on the islet. If it is not possible to land a skiff on the islet, the island will be baited with the helicopter as described in the EA, in the fall after the pupping and primary molting season. This is likely to result in flushing sea lions from the islet resulting in short-term displacement. However, as helicopter baiting will be a very short process (approximately 15 minutes), disturbance to Steller sea lions is likely to be very short-term.

Risks to Steller's sea lions from personnel camps on Rat Island will be minimal as camps and storage sites will be located well inland away from possible Steller sea lion haul out areas.

Overall, the effects of the operations described in the EA on Steller's sea lions will vary depending on the number of disturbance events. However, the short-term displacement from haul-outs that is likely to occur as a result of helicopter noise and personnel is not anticipated to have any effect on overall energy balance or fitness of any individual animals.

It is not likely that any Steller sea lions will suffer injury or the potential for injury as a result of the activities described in the EA. The potential disturbance associated with the project would result in Steller sea lions entering the water; which they do as part of their normal pattern of behavior, and possibly flushing of groups of animals at pinniped haul-outs. This analysis concludes that implementation of rat eradication activities as described in the EA is not likely to adversely affect individual Steller sea lions on an individual or population level.

Pacific Harbor Seals

The response of pinnipeds to proposed aircraft overflights varies from no discernable reaction to completely vacating haul outs after a single overflight (Calkins, 1979; Efroymson and Suter, 2001). Approaching aircraft generally flush animals into the water.

During proposed staging operations, project managers will plan helicopter flight lines and boat travel to minimize the potential for disturbance to harbor seal haul-outs known from existing databases and surveys conducted prior to operations. However, in spite of these precautions, seals encountered unexpectedly during helicopter operations could be flushed from land temporarily. An individual seal's exposure to peak noise from the helicopter will be limited to animals that remain ashore, and is likely to be of short duration, as the elevation and speed of the helicopter (see Description of Activities, above) will limit the time that any single location is exposed to maximum noise.

It will be more difficult to avoid known haul-out sites of Rat Island with the helicopter during proposed bait application because of the need for through coverage of the entire island. No young pups are expected on Rat Island during the fall. The impacts of disturbance to seals during molting (another sensitive period) will be minimized by timing overflights after the peak molting period is over.

The sporadic personnel presence and temporary infrastructure installations that may be necessary near seal haul-outs during both proposed staging and bait application operations may result in localized disturbances, although this is much less likely to disturb animals than helicopter overflights. The camps and staging areas themselves will be well inland and will have negligible impacts on seals hauled out on the coastline.

Overall, the short-term displacement from haul-out sites that is likely to occur as a result of helicopter noise and personnel activities is not anticipated to have any significant effect on overall energy balance or fitness of any individual animals.

It is not likely that any harbor seals will suffer injury or the potential for injury as a result of project activities. Therefore, this analysis concludes that implementation of rat eradication activities is not likely to result in significant effects to harbor seals at an individual or population level.

Variable numbers of sea lions and harbor seals typically haul out near bait application sites used for proposed eradication operations, with breeding activity occurring at one known site. Pinnipeds likely to be affected by rat eradication activity are those that are hauled out on land at or near bait application sites.

Incidental harassment may result if hauled animals move away from the field crew personnel, watercraft, and aircraft. For the purpose of estimating the potential numbers of pinnipeds taken by these proposed activities, NMFS assumes that pinnipeds that move or change the direction of their movement in response to the presence of field crew personnel are taken by Level B Harassment. Although marine mammals will not be deliberately approached by field crew personnel during proposed operations, approach may be unavoidable if pinnipeds are hauled out directly upon the bait application sites. If disturbed, hauled-out animals may move toward the water without risk of encountering significant hazards. In these circumstances, the risk of injury or death to hauled animals is very low.

The risk of marine mammal injury or mortality associated with rat eradication operations increases somewhat if disturbances occur during breeding season, as it is possible that mothers and dependent pups could become separated. If separated pairs don't reunite fairly quickly, risks of mortality to pups (through starvation) may increase. Also, adult Steller sea lions may trample sea lion pups if disturbed, which could potentially result in the injury or death of pups. However, to mitigate this risk, NMFS and USFWS proposes to include time of year restrictions to limit the presence of field crew personnel activities to months that

Steller sea lion and harbor seal dependent pups are not present at the bait application sites. Last, field crew personnel are to use great care approaching sites with pinnipeds and will leave as soon as possible to minimize effects. Because of the circumstances and the proposed IHA requirements discussed above, NMFS believes it highly unlikely that the proposed activities would result in the injury or mortality of pinnipeds.

For the purposes of estimating take in the IHA, NMFS estimates take as the total of all three categories of disturbed behavior recorded (discussed in the Proposed Monitoring and Reporting section below).

Number of Marine Mammals That May Be Affected

Rat Island

Most of the disturbance associated with the Rat Island eradication will be a result of aircraft noise. The helicopters used to apply bait to the island will make two passes across most of the island to ensure success of the project. This could result in two harassment incidents of Steller sea lions and harbor seals that are hauled out at that time. The area surrounding a known Steller sea lion haul out at Krysi Point will be avoided by all activities other than bait application. Harbor seals use many parts of Rat Island shoreline and could also be affected by boat operations and personnel movements. Thus the number of takes was estimated at 2.5 for each individual of this species.

Steller sea lions at Rat Island were counted during an aerial survey in 2004. The number of animals during that survey was increased to allow for potential population growth and then used to calculate the total take in Table 2 (below).

The composition of Steller sea lions, which haul out away from rookeries, shifts between seasons and is not well understood. Although no pups are expected at Rat Island, determining the age and sex ratio of animals using the known haul out near Krysi Point in October is difficult at best. For this reason the number is calculated as adult and sub-adult animals without reference to the sex of these animals.

Harbor seals at Rat Island were counted by an aerial survey in 1999. The number of animals recorded during that survey was increased to allow for potential population growth and then used to calculate the total take in Table 2 (below). Information regarding the demographics of harbor seals on Rat Island is not available. The number of animals recorded in the 1999 survey was used to calculate a total number of harbor seal takes.

TABLE 2. ESTIMATED NUMBER OF MARINE MAMMALS AFFECTED BY AIRCRAFT OPERATIONS ON RAT ISLAND.

M= male, F= female

Species	# of Animals	# of take events per animal	Pups	Pups	Sub-adults M F	Sub-adults M F	Adults M F	Adults M F	Total # of Takes
Steller sea lion	65	2	0	0	?	?	?	?	130
Pacific harbor seal	100	2.5	?	?	?	?	?	?	250

Ayugadak Point Rookery

Project crews will attempt to access the Ayugadak Point islet by boat in early August. Landing will be attempted on a beach that is out of view of the rookery. The topography of the islet will allow bait stations to be installed without detection by animals on the rookery. The installation of bait stations will be conducted in a manner that will not disturb animals (adults and pups) on the rookery itself. Previous surveys at the islet have sometimes encountered one or two non-breeding bulls outside of the rookery area near the landing area. These were young or old bulls unable to hold a territory at the rookery. If weather allows a visit in August, a follow-up visit will be attempted in October and could result in a similar take event. A female with a dependent pup has not been encountered outside the rookery area on the islet. However, marine mammals can be unpredictable and this remote possibility cannot be completely discounted. A survey of Steller sea lions was conducted by NMFS in 2005. This survey data was increased to allow for potential population growth and then used to calculate the number of animals anticipated to be affected by this proposed operation plan in the table below. The numbers in the table below also reflect the remote possibility of encountering a female with a dependent pup outside the rookery area.

There are no location-specific population estimates available for harbor seals on the islet off Ayugadak Point. However, the total take estimate of harbor seals in Table 2 (above) already takes proposed personnel activities, such as boat operation and bait station installation, into account. The harbor seal take estimate from Table 2 (above) includes any harbor seals also present on the islet.

TABLE 3. ESTIMATED NUMBER OF STELLER SEA LIONS AFFECTED BY BAIT STATION INSTALLATION VISITS TO THE ISLET NEAR AYUGADAK POINT, AUGUST AND OCTOBER.

Species	# of Animals	# of take events per animal	Pups	Sub-adults	Sub-adults	Adults	Adults	Total # of Takes
Steller sea lion	320	2	1	10	0	9	1	42

If project crews are not able to visit the islet off Ayugadak Point during either of the proposed planned visits in August and October, the islet would be aerially treated at the same time at Rat Island in October. The aerial broadcast

would require approximately 15 minutes of flight time, but would likely disturb all animals present at the time. Survey numbers from the NMFS survey in 2005 indicate the presence of 83 pups. By October, the pups will be of an adequate size to avoid being trampled by other animals and largely independent of their mothers. NMFS survey data was increased to allow for potential population growth and then used to calculate the number of animals affected by an aerial treatment of the islet in the table below.

TABLE 4. ESTIMATED NUMBER OF STELLER SEA LIONS AFFECTED BY POSSIBLE AERIAL BROADCAST OF THE ISLET NEAR AYUGADAK POINT, OCTOBER.

Species	# of Animals	# of take events per animal	Pups	Sub-adults	Adults	Total # of Takes
Steller sea lion	320	1	100	0	220	320

The distribution of pinnipeds hauled-out along the shorelines is not even between sites or at different times of the year. The number of marine mammals disturbed will vary by month and location, and, compared to animals hauled-out on the shoreline farther away from proposed operations, only those animals hauled-out closest to the actual proposed operation sites are likely to be disturbed by the presence of field crew personnel activities and alter their behavior or attempt to move out of the way.

As discussed earlier, the take estimates consider an animal to have been harassed if it moves away any distance in response to the presence of field crew personnel, watercraft, and/or aircraft, or if the animal is already moving and changed direction. Based on past observations and assuming a maximum level of incidental harassment of marine mammals at each site during periods of visitation, NMFS estimates that the maximum total possible numbers of individuals that will be incidentally harassed during the effective dates of the proposed IHA would be 385 Steller sea lions, and 100 Pacific harbor seals may be taken by incidental harassment as a result of this activity.

The population size of the U.S. western stock of Steller sea lions is estimated to be 44,780, with a minimum population estimate of 38,988 animals (Angliss and Outlaw, 2007). Population estimates for the U.S. Gulf of Alaska stock of Pacific harbor seals range from a minimum of 44,453 to an average of 45,975 animals (Angliss and Outlaw, 2007). The estimated total possible number of individuals that will be incidentally harassed during the proposed project is 0.009 and 0.002 percent of the respective Steller sea lion and harbor seal U.S. stock populations for these species. NMFS has determined that these are small numbers, relative to population estimates, of Steller sea lions and Pacific harbor seals.

Anticipated Impacts to Subsistence Users

In the Aleutian Islands, rural residents harvest Steller sea lions and Pacific harbor seals for subsistence purposes. The proposed rat eradication operations described in the EA should have no effect on those subsistence uses. Rat Island is uninhabited and is located more than 322 km (200 mi) from the nearest rural community of Adak, Alaska. The subsistence resources used by rural residents in the Aleutian Islands are harvested near the islands where the communities are located. Rat Island is not known to have been used for subsistence purposes since the 1800's.

Anticipated Impact of the Proposed Activity upon Marine Mammal Habitat

NMFS anticipates the proposed rat eradication operations described in the IHA application and this document will result in no impacts to the habitat of marine mammals in the Rat Island area beyond rendering the areas immediately around each of the baiting application and broadcasting sites less desirable as haul-out sites for a short time period during the length of the action. Helicopter and field crew operations will occasionally need to occur within the Steller sea lion ''no-entry zones'' established by 50 CFR 223.202. Although Level B harassment is expected to occur in some instances, these proposed activities will not result in the physical alteration of habitat or lead to any effects on the prey base of Steller's sea lions or harbor seals. The proposed rat eradication project should not result in the loss or modification of marine mammal habitat and the application of rodenticide bait is not likely to affect marine mammals during the described operations.

Proposed Mitigation

Several mitigation measures to reduce the potential for harassment from rat population eradication operations would be (or are proposed to be implemented) implemented as part of the proposed USFWS activities. The risk of injury or mortality would be avoided with the following proposed measures.

Timing

The proposed rat eradication program will include all measures possible to minimize marine mammal disturbance. This will be especially critical during periods when Steller sea lions and harbor seals are giving birth, mating, rearing young, and molting. Disturbances to females with dependent pups (in the cases of Steller sea lions and Pacific harbor seals) will be mitigated to the greatest extent practicable by avoiding visits to baiting sites with resident pinnipeds during periods of breeding, lactation, and molting. During this period, proposed rat eradication operations would be limited to sites where pinniped breeding, post-partum nursing, and molting does not occur.

The reproductive period for Steller sea lions is generally late May through early July, with a peak in the second and third weeks of June (Pitcher and Calkins, 1981; Gisiner, 1985). Pups stay on land for about two weeks, after which they spend increasing time in nearshore waters until they begin to disperse from rookeries to haul-outs with females at about 2.5 months of age (Raum-Suryan et al., 2004; Maniscalco et al., 2002, 2006). In the Aleutian Island area, most pupping is complete by the last week of June and dispersal should occur by mid-September. Molting in Steller sea lions varies by age and sex and is known to last about 45 days. Juveniles molt first, followed by adult females, bulls and pups (Daniel, 2003). The molt should be nearly

completed during the proposed planned bait application period.

Harbor seals typically give birth during May and June. Pups are usually weaned within a month and no longer need to be close to their mothers. The peak molting period occurs between August and September (Jemison and Kelly, 2001; Daniel *et al.*, 2003).

Conducting proposed bait application operations after marine mammal breeding and molting is complete reduces the potential for disturbances to these species during the sensitive periods of breeding, pup rearing, and molting. Limiting visits to the breeding, lactation, and molting sites to periods when these activities do not occur will reduce the possibility of incidental harassment and the potential for injury or mortality of dependent Steller sea lion pups and Pacific harbor seals to near zero.

Proposed Operations

Mitigation of the impacts on affected pinnipeds requires that field crew personnel are judicious in the route of approach to haul-out sites and/or rookeries, avoiding close contact with pinnipeds hauled-out on shore. In no case will marine mammals be deliberately approached by field crew personnel, and in all cases every possible measure will be taken to select a pathway of approach to baiting sites that minimizes the number of marine mammals harassed. After each visit to a given baiting site, the site will be vacated as soon as possible so that it can be re-occupied by hauled-out marine mammals that may have been disturbed by the presence of field crew personnel.

Steller sea lions have a persistent haul-out at Krysi Point at the west end of Rat Island and a rookery on the islet off Ayugadak Point. Steller sea lions are likely to haul-out at other locations on Rat Island as well. During staging operations, helicopter flight lines will avoid the rookery, the known haul-out sites discovered prior to helicopter operations. Unlike during staging, it will be more difficult to avoid known haul-out sites on Rat Island with the helicopter during bait application because of the need for thorough coverage of the island.

Disturbance from installation of bait stations on the islet off Ayugadak Point is likely to be limited to the few-hour period when field crew personnel are present on the island. To prevent disturbance to the rookery, the islet will be approached slowly in a small boat, from the side of the island opposite and out of site of the rookery. This will prevent any possibility of stampede. While on the islet, personnel will remain out of sight of the rookery and conduct the installation as quickly as possible.

If a successful installation is completed in August, the bait stations on the islet will need to be replenished in October. Again, the approach to the island will be slow, and opposite the rookery. A few non-breeding animals could be displaced during the bait station check. If it is not possible to land a skiff of the islet, the island will be baited with the helicopter as described in the EA and IHA application. The helicopter baiting will likely be completed in approximately 15 minutes and disturbance to Steller sea lions is likely to be very short term.

Harbor seals will also be avoided to the greatest extent possible during helicopter operations. During staging operations, project managers will plan helicopter flight lines and boat travel to minimize the potential for disturbance to harbor seal haul-outs known from existing databases and surveys conducted prior to the operations. Unlike during staging it will be more difficult to avoid known haul sites on Rat Island with the helicopter during bait application because of the need for thorough coverage of the entire island.

Field Crew Personnel

The Steller sea lion haul-out at Krysi Point on Rat Island will be avoided by personnel involved with this proposed project. The sporadic personnel presence and temporary infrastructure installations that may be necessary near harbor seal haul-outs during both staging and bait application operations may result in localized disturbances, although this is much less likely to disturb animals than proposed helicopter overflights. The camps and staging areas themselves will be well inland and will have negligible impacts on Steller sea lions and harbor seals hauled out on the coastline.

Proposed Monitoring and Reporting

When marine mammals are encountered during the project, personnel will record information regarding species, distribution, behavior, and number of animals. When conditions permit, information regarding sex, age (pup, sub-adult, adult) and any marked animals will also be recorded. As part of the proposed monitoring, USFWS will record the numbers of disturbed animals that flush into the water, the number that move more than 1 m (3.3 ft), but do not enter the water, and the number that become alert and move, but do not move more than 1 m. Upon completion of the project, this information will be compiled and provided to NMFS.

Aircraft and personnel activities related to the proposed project will be coordinated to reduce potential take. The staff of AMNWR and their partners will evaluate incidental take and stop any operations should the potential for incidental take be too great.

Proposed monitoring requirements in relation to USFWS rat eradication operations will include observations made by the applicant and field crew personnel associated with the action. Information recorded will include species counts (with numbers of pups), numbers of observed disturbances, and descriptions of the disturbance behaviors during the proposed rat eradication operations. Observations of unusual behaviors, numbers, or distributions of pinnipeds on Rat Island will be reported to NMFS during and after the project, so that any potential follow-up observations can be conducted by the appropriate personnel. In addition, observations of tag-bearing pinniped carcasses as well as any rare or unusual species of marine mammals will be reported to NMFS.

If at any time injury or death of any marine mammal occurs that may be a result of the proposed rat population eradication operations, USFWS will suspend baiting application and broadcasting activities and contact NMFS immediately to determine how best to proceed to ensure that another injury or death does not occur, and to ensure that the applicant remains in compliance with the MMPA.

A draft final report must be submitted to NMFS within 90 days after the conclusion of the field season. The report will include a summary of the information gathered pursuant to the monitoring requirements set forth in the IHA. A final report must be submitted to the Regional Administrator within 30 days after receiving comments from NMFS on the draft final report. If no comments are received from NMFS, the draft final report will be considered to be the final report.

ESA

For the reasons already described in this **Federal Register** Notice, NMFS has determined that the described rat population extermination operations and the accompanying IHA may have an effect on species or critical habitat protected under the ESA (specifically, the Steller sea lion). Therefore, consultation under Section 7 is required and will be concluded prior to issuance of an IHA.

National Environmental Policy Act (NEPA)

USFWS prepared an Environmental Assessment (EA) of Restoring Wildlife Habitat on Rat Island, AK, and a Finding of No Significant Impact (FONSI), which analyzed the proposed issuance of an IHA for these activities and operations. A copy of the EA and FONSI are available upon request (see **ADDRESSES**). NMFS is reviewing this EA and will either adopt it or prepare its own NEPA document before making a determination on the issuance of an IHA to the USFWS on this activity.

Conclusions

Based on the USFWS' application, as well as the analysis contained herein, NMFS has preliminarily determined that the impact of the described rat extermination at Rat Island will result, at most, in a temporary modification in behavior by small numbers of Steller sea lions and Pacific harbor seals, in the form of head alerts, movement away from personnel, watercraft and aircraft, and/or flushing from the beach. In addition, no take by injury or death is anticipated, and take by harassment will be at the lowest level practicable due to incorporation of the mitigation measures mentioned previously in this document. NMFS has further preliminarily determined that the anticipated takes will have a negligible impact on the affected species and not have an unmitigable adverse impact on subsistence uses of marine mammals.

Proposed Authorization

NMFS proposes to issue an IHA to the USFWS for the harassment of Steller sea lions and Pacific harbor seals incidental to non-native rat population extermination operations, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Dated: June 12, 2008.

Tammy C. Adams,

Acting Chief, Permits, Conservation, and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E8–13786 Filed 6–17–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

National Sea Grant Review Panel

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of public meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Sea Grant Review Panel. The meeting will have several purposes. Panel members will discuss and provide advice to the National Sea Grant College Program in fisheries extension enhancement, the November Panel Meeting in Baton Rouge and Sea Grant re-authorization.

DATES: The announced meeting is scheduled for Tuesday, July 15, 2008.

ADDRESSES: Conference Call. Public access is available at SSMC Bldg 3, Room #5836, 1315 East-West Highway, Silver Spring, MD.

FOR FURTHER INFORMATION CONTACT: Ms. Gina Barrera, National Sea Grant College Program, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Room 11875, Silver Spring, Maryland 20910, (301) 734–1077.

SUPPLEMENTARY INFORMATION: The Panel, which consists of a balanced representation from academia, industry, state government and citizens groups, was established in 1976 by Section 209 of the Sea Grant Improvement Act (Pub. L. 94–461, 33 U.S.C. 1128). The Panel advises the Secretary of Commerce and the Director of the National Sea Grant College Program with respect to operations under the Act, and such other matters as the Secretary refers to them for review and advice. The agenda for the meeting is as follows:

Tuesday, July 15, 2008—11 a.m. to 1 p.m., EST

Agenda

I. Fisheries Extension Enhancement Committee Report.

II. Update on the November Panel meeting in Baton Rouge.

III. Update on Sea Grant Re-authorization.

This meeting will be open to the public.

Dated: June 12, 2008.

Terry Bevels,

Deputy Chief Financial Officer, Office of Oceanic and Atmospheric Research.

[FR Doc. E8–13745 Filed 6–17–08; 8:45 am]

BILLING CODE 3510–KA–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN: 0648–XI34

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Council) Groundfish Allocation Committee (GAC) will hold a working meeting, which is open to the public.

DATES: The GAC meeting will be held Wednesday, July 9, 2008, from 1 p.m. until business for the day is completed. The GAC will reconvene Thursday, July 10, 2008,at 8:30 a.m. until their business is completed.

ADDRESSES: The GAC meeting will be held at the Crowne Plaza Hotel, Downtown Convention Center, Bellmont C Room, 1441 NE Second Avenue, Portland, OR 97232. telephone: (503) 241–2401.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Mr. LB Boydstun, Open Access Fishery Coordinator; telephone: (916) 844–4358.

SUPPLEMENTARY INFORMATION: The purpose of the GAC meeting is to consider draft alternatives and other material for a contemplated limited entry licensing system for West Coast open access groundfish fisheries (open access license limitation). No management actions will be decided by the GAC. The GAC's role will be development of recommendations and refinement of draft alternatives for analysis in a contemplated environmental impact statement for open access license limitation. The GAC recommendations will be provided for consideration by the Council at its September 2008 meeting in Boise, ID.

Although non-emergency issues not contained in the meeting agenda may come before the GAC for discussion, those issues may not be the subject of formal GAC action during this meeting. GAC action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under Section 305a) of the Magnuson-Stevens Fishery Conservation and Management Act,

provided the public has been notified of the GAC's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at (503) 820–2280 at least 5 days prior to the meeting date.

Dated: June 13, 2008.

Tracey L. Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E8–13695 Filed 6–17–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XI49

Pacific Fishery Management Council; Halibut Managers Workgroup (HMW)

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

ACTION: Notice of public meeting.

SUMMARY: The HMW is not a committee of the Pacific Fishery Management Council (Council), however, the Council has expressed interest in having a report from the HMW, and has offered to provide meeting space. The meeting is open to the public.

DATES: The meeting will be held Tuesday, July 8, 2008, from 9:30 a.m. to 4 p.m.

ADDRESSES: The meeting will be held at the Council Office.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, Oregon, 97220–1384.

FOR FURTHER INFORMATION CONTACT: Mr. Chuck Tracy, Salmon and Halibut Management Staff Officer, Pacific Fishery Management Council, 503–820–2280.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to allow an exchange of information and ideas among managers and industry representatives from Area 2A, primarily as they relate to the upcoming IPHC workshop on catch apportionment. The objective of the meeting will be to develop a consensus on a catch apportionment strategy that will be both fair and biologically sound, which can be presented at the IPHC workshop later in 2008.

Although nonemergency issues not contained in the meeting agendas may come before the HMW for discussion, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at 503–820–2280 at least five days prior to the meeting date.

Dated: June 13, 2008.

Tracey L. Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E8–13717 Filed 6–17–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Science Advisory Board (SAB)

AGENCY: Office of Oceanic and Atmospheric Research (OAR), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of open meeting.

SUMMARY: The Science Advisory Board (SAB) was established by a Decision Memorandum dated September 25, 1997, and is the only Federal Advisory Committee with responsibility to advise the Under Secretary of Commerce for Oceans and Atmosphere on strategies for research, education, and application of science to operations and information services. SAB activities and advice provide necessary input to ensure that National Oceanic and Atmospheric Administration (NOAA) science programs are of the highest quality and provide optimal support to resource management.

Time and Date: The meeting will be held Wednesday, July 16, 2008, from 10 a.m. to 4 p.m. and Thursday, July 17, 2008, from 8:30 a.m. to 5:30 p.m. These times and the agenda topics described below are subject to change. Please refer to the Web page *http://www.sab.noaa.gov/Meetings/meetings.html* for the most up-to-date meeting agenda.

Place: The meeting will be held both days at the Kalahari Resort, 7000 Kalahari Drive, Sandusky, Ohio 44870. Please check the SAB Web site *http://www.sab.noaa.gov* for confirmation of the venue and for directions.

Status: The meeting will be open to public participation with a 30-minute public comment period on July 17 (check Web site to confirm time). The SAB expects that public statements presented at its meetings will not be repetitive of previously submitted verbal or written statements. In general, each individual or group making a verbal presentation will be limited to a total time of five (5) minutes. Written comments should be received in the SAB Executive Director's Office by July 11, 2008 to provide sufficient time for SAB review. Written comments received by the SAB Executive Director after July 11, 2008, will be distributed to the SAB, but may not be reviewed prior to the meeting date. Seats will be available on a first-come, first-served basis.

Matters To Be Considered: The meeting will include the following topics: (1) Final Report from the Working Group to Examine Advisory Options for Improving Communications among NOAA's Partners (Partnerships WG or PWG); (2) Preliminary Draft Report from the Fire Weather Research Working Group (FWRWG); (3) National Climate Service; (4) Climate Working Group Update on Climate Services; (5) Climate Working Group Review on Research and Modeling Review; (6) Oceans and Human Health; (7) Unmanned Aircraft Systems (UAS) in NOAA; (8) NOAA Transition to the Next Administration; (9) SAB Benchmark Review Discussion; (10) SAB Strategic Planning Discussion; and (11) a series of brief presentations on NOAA activities in the Great Lakes.

FOR FURTHER INFORMATION CONTACT: Dr. Cynthia Decker, Executive Director, Science Advisory Board, NOAA, Rm. 11230, 1315 East-West Highway, Silver Spring, Maryland 20910. (Phone: 301–734–1156, Fax: 301–713–1459, E-mail: *Cynthia.Decker@noaa.gov*); or visit the NOAA SAB Web site at *http://www.sab.noaa.gov.*

Dated: June 12, 2008.

Terry Bevels,

Deputy Chief Financial Officer, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.

[FR Doc. E8–13793 Filed 6–17–08; 8:45 am]

BILLING CODE 3510–KD–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Submission for OMB Review; Comment Request

The United States Patent and Trademark Office (USPTO) 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: United States Patent and Trademark Office (USPTO).

Title: Patent Examiner Employment Application.

Form Number(s): N/A.

Agency Approval Number: 0651–0042.

Type of Request: Extension of a currently approved collection.

Burden: 3,500 hours annually.

Number of Respondents: 7,000 responses per year.

Average Hours per Response: 30 minutes. The USPTO estimates that it will take the public approximately 30 minutes (0.50) to gather and prepare the necessary information, and submit the electronic employment application.

Needs and Uses: The Patent Examiner Employment Application, as administered through the USA Staffing system provided by the Office of Personnel Management (OPM), is used by the public to apply for entry-level patent examiner positions in a user-friendly process. The USPTO uses the electronic transmission of this information to review and rate applicants on-line almost instantaneously. It is also used by the USPTO to expedite the hiring process by eliminating the time used in the mail distribution process, thereby streamlining labor and reducing costs.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by any of the following methods:

E-mail: Susan.Fawcett@uspto.gov. Include ''0651–0042 copy request'' in the subject line of the message.

Fax: 571–273–0112, marked to the attention of Susan K. Fawcett.

Mail: Susan K. Fawcett, Records Officer, Office of the Chief Information Officer, Customer Information Services Group, Public Information Services Division, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

Written comments and recommendations for the proposed information collection should be sent on or before July 18, 2008 to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, 725 17th Street, NW., Washington, DC 20503.

Dated: June 11, 2008.

Susan K. Fawcett,

Records Officer, USPTO, Office of the Chief Information Officer, Customer Information Services Group, Public Information Services Division.

[FR Doc. E8–13719 Filed 6–17–08; 8:45 am]

BILLING CODE 3510–16–P

COMMODITY FUTURES TRADING COMMISSION

Renewal of the Global Markets

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of Renewal of the Global Markets Advisory Committee.

SUMMARY: The Commodity Futures Trading Commission has determined to renew the charter of its Global Markets Advisory Committee. As required by sections 9(a)(2) and 14(a)(2)(A) of the Federal Advisory Committee Act, 5 U.S.C. app. 2, §§ 9(a)(2) and 14(a)(2)(A), and 41 CFR 101–6.1007 and 101–6.1029, the Commission has consulted with the Committee Management Secretariat of the General Services Administration. The Commission certifies that the renewal of this advisory committee is necessary and is in the public interest in connection with the performance of duties imposed on the Commission by the Commodity Exchange Act, 7 U.S.C. 1, *et seq.,* as amended. This notice is published pursuant to section 9(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. app. 2, § 9(a)(2), and 41 CFR 101–6.1015.

FOR FURTHER INFORMATION CONTACT: Martin B. White, Committee Management Officer, at 202–418–5129. Written comments should be submitted to David A. Stawick, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581.

SUPPLEMENTARY INFORMATION: The purpose of the Global Markets Advisory Committee is to provide the Commission with input on international market issues that affect the integrity and competitiveness of U.S. futures markets. The advisory committee also serves as a channel for communication between the Commission and U.S. and foreign markets, firms and end users involved in and affected by futures market globalization.

Contemporaneously with publication of this notice in the **Federal Register**, a copy of the renewal charter of the Global Markets Advisory Committee will be filed with the Commission, the Senate Committee on Agriculture, Nutrition and Forestry and the House Committee on Agriculture. A copy of the renewal charter will be furnished to the Library of Congress and to the Committee Management Secretariat and will be posted on the Commission's Web site at *http://www.cftc.gov.*

Issued in Washington, DC, on June 12, 2008, by the Commission.

David A. Stawick,

Secretary of the Commission.

[FR Doc. E8–13743 Filed 6–17–08; 8:45 am]

BILLING CODE 6351–01–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 18, 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 13, 2008.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Institute of Education Sciences

Type of Review: New.

Title: Evaluation of Moving High-Performing Teachers To Low-Performing Schools.

Frequency: Annually.

Affected Public: Individuals or household.

Reporting and Recordkeeping Hour Burden:

Responses: 80.

Burden Hours: 1,240.

Abstract: This OMB package for the Evaluation of Moving High-Performing Teachers to Low-Performing Schools requests clearance to recruit school districts to test the effect of teacher incentives designed to move high-performing teachers to targeted low-performing schools. The evaluation aims to estimate the impact of the high-performing teachers on the low-performing schools to which they transfer. The Department is also requesting clearance to collect student records data from those recruited districts and administer a data collection form to a group of 70 teachers participating in a pilot study that will be conducted for the 2008–09 school year. This request is the first of two. A future request will seek clearance to collect additional teacher and principal survey data associated with the evaluation.

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 3734. 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. E8–13731 Filed 6–17–08; 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 18, 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 13, 2008.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Office of Elementary and Secondary Education

Type of Review: Extension.

Title: Annual Report of Children in State Agency and Locally Operated Institutions for Neglected and Delinquent Children.

Frequency: Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 3,052.

Burden Hours: 4,224.

Abstract: An annual survey is conducted to collect data on (1) the number of children enrolled in educational programs of State-operated institutions for neglected or delinquent (N or D) children, community day programs for N or D children, and adult correctional institutions and (2) the October caseload of N or D children in local institutions.

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 3694. 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. E8–13732 Filed 6–17–08; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA Nos. 84.381A]

Teachers for a Competitive Tomorrow: Programs for Baccalaureate Degrees in Science, Technology, Engineering, Mathematics, or Critical Foreign Languages, with Concurrent Teacher Certification

ACTION: Correction; notice correcting the dates.

SUMMARY: We correct the *Applications Available* and *Deadline for Transmittal of Applications* dates in the notice published on June 4, 2008 (73 FR 31835–31840).

SUPPLEMENTARY INFORMATION: On June 4, 2008, we published a notice in the **Federal Register** (73 FR 31835) inviting applications for new awards for fiscal year (FY) 2008 for the Teachers for a Competitive Tomorrow: Programs for Baccalaureate Degrees in Science, Technology, Engineering, Mathematics, or Critical Foreign Languages, with Concurrent Teacher Certification. The *Deadline for Transmittal of Applications* date (as published on pages 31835 and 31837) is corrected to July 8, 2008 and the *Deadline for Intergovernmental Review* date (as published on pages 31835 and 31837) is corrected to September 8, 2008.

FOR FURTHER INFORMATION CONTACT: Brenda Shade, U.S. Department of Education, 1990 K Street, NW., room 7090, Washington, DC 20006–8526. Telephone: (202) 502–7773 or by e-mail: *Brenda.Shade@ed.gov.*

If you use a TDD, call the FRS, toll-free, at 1–800–877–8339.

Individuals with disabilities can obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: You can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF), on the Internet at the following site: *http://www.ed.gov/news/fedregister.*

To use PDF, you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Dated: June 13, 2008.

Sara Martinez Tucker,

Under Secretary of Education.

[FR Doc. 08–1366 Filed 6–13–08; 3:36 pm]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA Nos. 84.381B]

Teachers for a Competitive Tomorrow: Programs for Master's Degrees in Science, Technology, Engineering, Mathematics or Critical Foreign Language Education

ACTION: Correction; notice correcting the dates.

SUMMARY: We correct the *Applications Available* and *Deadline for Transmittal of Applications* dates in the notice published on June 4, 2008 (73 FR 31840–31845).

SUPPLEMENTARY INFORMATION: On June 4, 2008, we published a notice in the **Federal Register** (73 FR 31840) inviting applications for new awards for fiscal year (FY) 2008 for the Teachers for a Competitive Tomorrow: Programs for Master's Degrees in Science, Technology, Engineering, Mathematics or Critical Foreign Language Education. The *Deadline for Transmittal of Applications* date (as published on pages 31840 and 31842) is corrected to July 8, 2008 and the *Deadline for Intergovernmental Review* date (as published on pages 31840 and 31842) is corrected to September 8, 2008.

FOR FURTHER INFORMATION CONTACT: Brenda Shade, U.S. Department of Education, 1990 K Street, NW., room 7090, Washington, DC 20006–8526. Telephone: (202) 502–7773 or by e-mail: *Brenda.Shade@ed.gov*

If you use a TDD, call the FRS, toll-free, at 1–800–877–8339.

Individuals with disabilities can obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: You can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF), on the Internet at the following site: *http://www.ed.gov/news/fedregister.*

To use PDF, you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html*

Dated: June 13, 2008.

Sara Martinez Tucker,

Under Secretary of Education.

[FR Doc. 08–1367 Filed 6–13–08; 3:36 pm]

BILLING CODE 4000–01–P

ELECTION ASSISTANCE COMMISSION

Sunshine Act Notice

AGENCY: United States Election Assistance Commission.

ACTION: Notice of public meeting (amended).

DATE & TIME: Thursday, June 19, 2008, 1–5 p.m.

PLACE: U.S. Election Assistance Commission, 1225 New York Ave, NW., Suite 150, Washington, DC 20005, (Metro Stop: Metro Center).

AGENDA: The Commissioners will consider the following items: Commissioners will consider and vote on whether to modify Advisory Opinion 07–003–A regarding Maintenance of Effort (MOE) funding, pursuant to HAVA Section 254(a)(7). Commissioners will consider and vote on a Proposed Replacement Advisory Opinion 07–003–B Regarding Maintenance of Effort. Commissioners will consider the Adoption of EAC Draft Chapters of the Election Management Guidelines Project; Commissioners will consider a Draft Policy for Joint Partnership Task Force of EAC and State Election Officials Regarding Spending of HAVA Funds; Commissioners will consider a Draft Policy for Notice and Public Comment; Commissioners will consider a Draft Policy regarding Allocable Cost Principles for HAVA Funding. Commissioners will consider whether to update the Maryland state instructions, the Michigan state instructions and the Louisiana state instructions on the national voter registration form. Commissioners will consider Administrative Regulations. Commissioners will receive a briefing regarding a HAVA State Spending Report to Congress; Commissioners will

receive a Presentation on a Draft of EAC Guidance to States Regarding Updates to the State Plans; Commissioners will receive a Presentation on EAC Draft Chapters of the Election Management Guidelines Project. The Commission will consider other administrative matters.

This meeting will be open to the public.

PERSON TO CONTACT FOR INFORMATION: Bryan Whitener, Telephone: (202) 566–3100.

Thomas R. Wilkey,

Executive Director, U.S. Election Assistance Commission.

[FR Doc. E8–13657 Filed 6–17–08; 8:45 am]

BILLING CODE 6820–KF–M

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Paducah

AGENCY: Department of Energy (DOE).

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Paducah. The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Thursday, July 17, 2008 6 p.m.

ADDRESSES: Barkley Centre, 111 Memorial Drive, Paducah, Kentucky 42001.

FOR FURTHER INFORMATION CONTACT: Reinhard Knerr, Deputy Designated Federal Officer, Department of Energy Paducah Site Office, Post Office Box 1410, MS–103, Paducah, Kentucky 42001, (270) 441–6825.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE in the areas of environmental restoration, waste management and related activities.

Tentative Agenda

6 p.m. Call to Order, Introductions, Review of Agenda
6:30 p.m. Deputy Designated Federal Officer's Comments
7 p.m. Federal Coordinator's Comments
7:10 p.m. Liaisons' Comments
7:20 p.m. Presentations
8 p.m. Public Comments
8:15 p.m. Administrative Issues
- Motions
- Review Next Agenda

8:30 p.m. Final Comments
9 p.m. Adjourn
Breaks Taken As Appropriate

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Reinhard Knerr at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comment will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Reinhard Knerr at the address and phone number listed above. Minutes will also be available at the following Web site: *http://www.pgdpcab.org/minutes.htm.*

Issued at Washington, DC, on June 12, 2008.

Rachel Samuel,

Deputy Committee Management Officer.

[FR Doc. E8–13753 Filed 6–17–08; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP08–419–000]

SourceGas Storage LLC; Notice of Application

June 11, 2008.

Take notice that on June 6, 2008, SourceGas Storage LLC (''SourceGas''), filed in Docket No. CP08–419–000, a petition for Exemption of Temporary Acts and Operations from Certificate Requirements, pursuant to Rule 207(a)(5) of the Commission's Rules of Practice and Procedure, and section 7(c)(1)(B) of the Natural Gas Act, to perform specific temporary activity related to drill site preparation and the drilling of a stratigraphic test well located NE/4SW/4 of Section 2, Township 23 North, Range 79 West, 6th P.M., Carbon County, Wyoming to a planned well depth estimated to be approximately four thousand feet (4000[1]), all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, call (202) 502–8659 or TTY, (202) 208–3676.

Any questions regarding this application should be directed to Rebecca H. Noecker, Beatty & Wozniak, P.C., 216 Sixteenth Street, Suite 1100, Denver, Colorado 80202, at (303) 407–4499, or e-mail *rnoecker@bwenergylaw.com.*

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of

comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy regulatory Commission, 888 First Street, NE., Washington, DC 20426.

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: September 4, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–13682 Filed 6–17–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 10856–061–MI]

Upper Peninsula Power Company; Notice of Availability of Environmental Assessment

June 11, 2008.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47879), the Office of Energy Projects has reviewed Upper Peninsula Power Company's proposed shoreline management plan for the Au Train Hydroelectric Project, located on the Au Train River in Alger County, Michigan, and has prepared an Environmental Assessment (EA).

A copy of the EA is on file with the Commission and is available for public inspection. The EA may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number (P–10856) excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659.

Any comments on the EA should be filed by July 14, 2008 and should be addressed to the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Room 1–A, Washington, DC 20426. Please reference the project name and project number (P–10856) on all comments. Comments may be filed electronically via Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''eFiling'' link. For further information, contact Jon Cofrancesco at (202) 502–8951.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–13685 Filed 6–17–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER08–1084–000]

Evergreen Community Power, LLC; Supplemental Notice that Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

June 11, 2008.

This is a supplemental notice in the above-referenced proceeding of Evergreen Community Power, 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 interventions and protests with regard to the applicant's request for blanket authorization, under 18 C.F.R. Part 34, of future issuances of securities and assumptions of liability, is July 1, 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 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.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–13684 Filed 6–17–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP95–35–001]

EcoEléctrica, L.P.; Notice of Intent To Prepare an Environmental Assessment for the Proposed Ecoeléctrica Terminal Modification Project and Request for Comments on Environmental Issues

June 11, 2008.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the potential environmental impacts of the EcoEléctrica Terminal Modification Project (Project) involving construction and operation of natural gas pipeline facilities by EcoEléctrica, L.P. (EcoEléctrica) in Peñuelas, Puerto Rico. The EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies on the project. Your input will help determine which issues need to be evaluated in the EA. Please note that the scoping period will close on July 11, 2008. Details on how to submit comments are provided in the Public Participation section of this notice.

This notice is being sent to affected landowners; federal, state, and local government agencies; elected officials; other interested parties; and newspapers. State and local government representatives are asked to notify their constituents of this proposed project and to encourage them to comment on their areas of concern.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is available for viewing on the FERC Internet Web site (*http://www.ferc.gov*).

Summary of the Proposed Project

EcoEléctrica's Terminal Modification Project would provide up to 186 million cubic feet per day of natural gas to the Puerto Rico Electric Power Authority (PREPA). To accomplish this, EcoEléctrica proposes to:

- Utilize a previously constructed natural gas pipeline at the existing EcoEléctrica liquefied natural gas (LNG) terminal that extends to the facility fence line where it would interconnect with PREPA's facilities; and
- Construct two additional vertical shell and tube heat exchanger vaporizers within its existing 36-acre site.

Other required facilities associated with the vaporizers include:

- Two fixed speed, in-tank LNG sendout pumps (one operational, one in-tank spare);
- Three seawater heat exchangers (plate and frame type, one operational, and two spare);
- Three water/glycol circulation pumps (one operational, two spare);
- One water/glycol expansion tank at 1,800 gallons;
- One seawater supply pump (warehouse spare) at 6,000 gallons per minute; and
- Three seawater circulation pumps (one operational, two spare).

All construction would take place within the existing LNG facility fence lines. These modifications would increase LNG ship traffic by one ship per month. The general location of the proposed facilities is shown in appendix 1.[1]

Land Requirements for Construction

The construction of the proposed Terminal Modification Project would be entirely within previously disturbed and currently maintained portions of the existing EcoEléctrica LNG terminal site. Construction of the Project would affect a total of 0.64 acre, of which 0.12 acre would be permanently changed with the installation of the new equipment. Following construction, 0.52 acre would be restored to pre-construction condition. No clearing of vegetation would be required for the Project.

The EA Process

We[2] are preparing this EA to comply with the National Environmental Policy Act of 1969 (NEPA), which requires the Commission to take into account the environmental impact that could result if it authorizes EcoEléctrica's proposal. By this notice, we are also asking federal, state, and local agencies with jurisdiction and/or special expertise with respect to environmental issues to formally cooperate with us in the preparation of the EA. Agencies that would like to request cooperating status should follow the instructions for filing comments provided below.

NEPA also requires the FERC to discover and address concerns the public may have about proposals. This process is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the EA on important environmental issues. By this Notice, we are requesting public comments on the scope of the issues to address in the EA. All comments received are considered during the preparation of the EA.

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils
- Land use and visual quality
- Cultural resources
- Vegetation and wildlife (including threatened and endangered species)
- Air quality and noise
- Reliability and safety

We will also evaluate possible alternatives to the proposed project or portions of the project, where necessary, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be presented in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to federal, state, and local agencies; public interest groups; interested individuals; affected landowners; local libraries and newspapers; and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission.

To ensure your comments are considered, please carefully follow the

[1] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies of all appendices are available on the Commission's Web site (*http://www.fer.gov*) at the ''eLibrary'' link or from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the ''Additional Information'' section of this notice. Copies of the appendices were sent to all those receiving this notice in the mail. Requests for detailed maps of the proposed facilities should be made directly to EcoEléctrica.

[2] ''We'', ''us'', and ''our'' refer to the environmental staff of the FERC's Office of Energy Projects.

instructions in the Public Participation section below.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commentor, your concerns will be addressed in the EA and considered by the Commission. You should focus on the potential environmental effects of the proposal, alternatives to the proposal, and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send an original and two copies of your letter to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426;
- Label one copy of the comments for the attention of Gas Branch 1, PJ–11.1;
- Reference Docket No. CP95–35–001; and
- Mail your comments so that they will be received in Washington, DC on or before July 11, 2008.

Please note that the Commission strongly encourages electronic filing of any comments. See Title 18 of the Code of Federal Regulations (CFR), Part 385.2001(a)(1)(iii) and the instructions on the Commission's Internet Web site at *http://www.ferc.gov* under the link to ''Documents and Filings'' and ''eFiling.'' eFiling is a file attachment process and requires that you prepare your submission in the same manner as you would if filing on paper, and save it to a file on your computer's hard drive. New eFiling users must first create an account by clicking on ''Sign up'' or ''eRegister.'' You will be asked to select the type of filing you are making. This filing is considered a ''Comment on Filing.'' In addition, there is a ''*Quick Comment*'' option available, which is an easy method for interested persons to submit text only comments on a project. The Quick-Comment User Guide can be viewed at *http://www.ferc.gov/docs-filing/efiling/quick-comment-guide.pdf*. Quick Comment does not require a FERC eRegistration account; however, you will be asked to provide a valid e-mail address. All comments submitted under either eFiling or the Quick Comment option are placed in the public record for the specified docket. If you want to be kept on our environmental mailing list, you must provide an address along with your comment.

Becoming an Intervenor

In addition to involvement in the scoping process, you may want to become an official party to the proceeding known as an ''intervenor.'' Intervenors play a more formal role in the Commission's process. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must send one electronic copy (using the Commission's eFiling system) or 14 paper copies of its filings to the Secretary of the Commission and must send a copy of its filings to all other parties on the Commission's service list for this proceeding. If you want to become an intervenor, you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) (see appendix 2).[3] Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your environmental comments considered.

Environmental Mailing List

As described above, we may mail the EA for comment. If you are interested in receiving an EA for review and/or comment, please return the Environmental Mailing List Mailer (appendix 3). If you do not return the Environmental Mailing List Mailer, you will be taken off the mailing list. All individuals who provide written comments will remain on our environmental mailing list for this project.

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at 1–866–208–FERC or on the FERC Internet Web site (*http://www.ferc.gov*) using the ''eLibrary'' link. Click on the eLibrary link, then on ''General Search'' and enter the docket number excluding the last three digits 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 for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission now offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries and direct links to the documents. Go to *http://www.ferc.gov/esubscribenow.htm*.

Finally, any public meetings or site visits will be posted on the Commission's calendar located at *http://www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–13683 Filed 6–17–08; 8:45 am]

BILLING CODE 6717–01–P

[3] Interventions may also be filed electronically via the Internet in lieu of paper. See the previous discussion on filing comments electronically.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP08–347–000]

Columbia Gulf Transmission Company; Notice of Technical Conference

June 11, 2008.

Take notice that the Commission will convene a technical conference in the above referenced proceeding on Wednesday, July 16, 2008, at 10 a.m. (EDT), in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's May 29, 2008 order[1] in this proceeding directed that a technical conference be held to address the issues raised by an April 30, 2008 filing of Columbia Gulf Transmission Company to reflect its annual Transportation Retainage Adjustment (TRA), pursuant to the provisions of section 33 of the General Terms and Conditions of its tariff.

The parties and the Commission Staff will have the opportunity to discuss all of the issues raised by the filing including, but not limited to, providing additional technical, engineering and operations support for its proposed transportation retainage percentage.

FERC conferences are accessible under section 508 of the Rehabilitation

[1] *Columbia Gulf Transmission Company*, 123 FERC ¶ 61,216 (2008).

Act of 1973. For accessibility accommodations please send an e-mail to *accessibility@ferc.gov* or call toll free (866) 208–3372 (voice) or 202–502–8659 (TTY), or send a fax to 202–208–2106 with the required accommodations.

All interested persons are permitted to attend. For further information please contact Lisa T. Long by phone at (202) 502–8691 or via e-mail at *lisa.long@ferc.gov*.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–13680 Filed 6–17–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act Meeting Notice

June 12, 2008.

The following notice of meeting is published pursuant to section 3(a) of the government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552b:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: June 19, 2008, 10 a.m.

PLACE: Room 2C, 888 First Street, NE., Washington, DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

* **NOTE:**—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kimberly D. Bose, Secretary, Telephone (202) 502–8400. For a recorded message listing items struck from or added to the meeting, call (202) 502–8627.

This is a list of matters to be considered by the Commission. It does not include a listing of all documents relevant to the items on the agenda. All public documents, however, may be viewed on line at the Commission's Web site at *http://www.ferc.gov* using the eLibrary link, or may be examined in the Commission's Public Reference Room.

935th—Meeting

Regular Meeting, June 19, 2008, 10 a.m.

Item No.	Docket No.	Company
	ADMINISTRATIVE	
A–1	AD02–1–000	Agency Administrative Matters.
A–2	AD02–7–000	Customer Matters, Reliability, Security and Market Operations.
A–3	AD06–3–000	Energy Market Update.
	ELECTRIC	
E–1	RM05–17–003	Preventing Undue Discrimination and Preference in Transmission Service.
	RM05–25–003.	
E–2	OMITTED.	
E–3	OA08–61–000	Southwest Power Pool, Inc.
E–4	OA08–62–000	California Independent System Operator Corporation.
E–5	OA08–35–000	Xcel Energy Operating Companies.
E–6	OA08–20–000	Tampa Electric Company.
	OA08–22–000	Florida Power Corporation.
	OA08–29–000	Florida Power & Light Company.
	NJ08–6–000	Orlando Utilities Commission.
E–7	ER01–2569–006	Boralex Livermore Falls LP.
	ER98–4652–006	Boralex Straton Energy LP.
	ER02–1175–005	Boralex Ft. Fairfield LP.
	ER01–2568–005	Boralex Ashland LP.
E–8	EL08–13–000	Dynegy Moss Landing, LLC, Dynegy Morro Bay, LLC, EL Segundo Power, LLC and Reliant Energy, Inc. v. California Independent System Operator Corporation.
	EL08–20–000	California Independent System Operator Corporation.
E–9	OMITTED.	
E–10	RR08–4–000	North American Electric Reliability Corporation.
E–11	RR07–16–003	North American Electric Reliability Corporation.
E–12	ER08–527–000	Public Service Company of Colorado.
	ER08–527–001.	
	ER08–527–002.	
	ER08–527–003.	
	ER08–527–004.	
E–13	ER08–633–000	ISO New England Inc.
E–14	QM08–5–000	The United Illuminating Company.
E–15	ER08–73–000	California Independent System Operator Corporation.
E–16	OMITTED.	
E–17	ER07–1372–004	Midwest Independent Transmission System Operator, Inc.
	ER07–1372–006.	
E–18	OMITTED.	
E–19	ER06–615–017	California Independent System Operator Corporation.
	ER06–615–021.	
	ER07–1257–001.	
	ER07–1257–003.	
	ER02–1656–035.	
	ER02–1656–036.	
	EL05–146–006	Independent Energy Producers Association v. California Independent System Operator Corporation.
	EL05–146–007	California Independent System Operator Corporation.
	EL08–20–000.	
E–20	OMITTED.	

Item No.	Docket No.	Company
E–21	ER07–549–000	NSTAR Electric Company.
	ER07–549–001.	
	ER07–549–002.	
	EC06–126–002.	
	EC06–126–003.	
	EC06–126–004.	
	EL07–71–000.	
	EL07–71–001.	
	ER05–69–003.	
E–22	EL04–57–003	FPL Energy Marcus Hook, L.P. v. PJM Interconnection, L.L.C.
E–23	ER07–1372–003	Midwest Independent Transmission System Operator, Inc.
E–24	EL07–62–001	Southern California Edison Company.
E–25	ER06–615–006	California Independent System Operator Corporation.
	ER06–615–011.	
	ER07–1257–000.	
MISCELLANEOUS		
M–1	RM07–9–001	Revisions to Forms, Statements, and Reporting Requirements for Natural Gas Pipelines.
GAS		
G–1	IS05–82–002	BP Pipelines (Alaska) Inc.
	IS05–80–002	ConocoPhillips Transportation Alaska Inc.
	IS05–72–002	ExxonMobil Pipeline Company.
	IS05–96–002	Koch Alaska Pipeline Company LLC.
	IS05–107–001	Unocal Pipeline Company.
	OR05–2–001	State of Alaska v. BP Pipelines (Alaska) Inc., ExxonMobil Pipeline Company, ConocoPhillips Transportation Alaska, Inc., Unocal Pipeline Company, Koch Alaska Pipeline Company.
	OR05–3–001	Anadarko Petroleum Corporation v. TAPS Carriers.
	OR05–10–000	BP Pipelines (Alaska) Inc.
	IS06–70–000	BP Pipelines (Alaska) Inc.
	IS06–71–000	ExxonMobil Pipeline Company.
	IS06–63–000	ConocoPhillips Transportation Alaska, Inc.
	IS06–82–000	Unocal Pipeline Company.
	IS06–66–000	Koch Alaska Pipeline Company.
	OR06–2–000	Anadarko Petroleum Corporation v. TAPS Carriers.
G–2	OMITTED.	
G–3	IS08–131–002	Western Refining Pipeline Company.
G–4	RM08–1–000	Promotion of a More Efficient Capacity Release Market.
HYDRO		
H–1	P–12796–002	City of Wadsworth, Ohio.
	P–12797–002	Rathgar Development Associates, LLC.
	P–12801–001	Kentucky Municipal Power Agency.
H–2	P–2630–008	PacifiCorp.
CERTIFICATES		
C–1	CP08–46–000	Tarpon Whitetail Gas Storage, LLC.
C–2	CP07–451–000	Black Bayou Storage, LLC.
	CP07–452–000.	
	CP07–453–000.	
C–3	CP08–70–000	Portland Natural Gas Transmission System.

Kimberly D. Bose,

Secretary.

A free webcast of this event is available through *http://www.ferc.gov.* Anyone with Internet access who desires to view this event can do so by navigating to *http://www.ferc.gov*'s Calendar of Events and locating this event in the Calendar. The event will contain a link to its Webcast. The Capitol Connection provides technical support for the free Webcasts. It also offers access to this event via television in the DC area and via phone bridge for a fee. If you have any questions, visit *http://www.CapitolConnection.org* or contact Danelle Springer or David Reininger at 703–993–3100.

Immediately following the conclusion of the Commission Meeting, a press briefing will be held in the Commission Meeting Room. Members of the public may view this briefing in the designated overflow room. This statement is intended to notify the public that the press briefings that follow Commission meetings may now be viewed remotely at Commission headquarters, but will not be telecast through the Capitol Connection service.

[FR Doc. E8–13687 Filed 6–17–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP08–417–000]

Equitrans, L.P.; Notice of Request Under Blanket Authorization

June 11, 2008.

Take notice that on June 2, 2008, Equitrans, L.P. (Equitrans), 225 North Shore Drive, Pittsburgh, Pennsylvania 15212, filed in Docket No. CP08–417–000, an application pursuant to sections 157.205 and 157.213 of the Commission's Regulations under the Natural Gas Act (NGA) as amended, to drill two horizontal storage injection/withdrawal wells in its Logansport Storage Reservoir in Marion County, West Virginia, under Equitrans' blanket certificate issued in Docket No. CP96–532–000, all as more fully set forth in the application which is on file with the Commission and open to the public for inspection.

Equitrans proposes to drill two horizontal storage injection/withdrawal wells in order to replace four wells proposed to be abandoned in its Logansport Storage Reservoir [1] as part of an April 10, 2008, settlement agreement with the Consolidation Coal Company (Consol), who owns and operates a longwall coal mining operation (the Robinson Run Mine) in Marion County, West Virginia, which is in close proximity to Equitrans' Logansport Storage Field. Equitrans states that the parties have agreed to the respective rights, duties, obligations and liabilities of each party relating to the continued operation of Equitrans' Logansport Storage Field in tandem with Consol's coal mining operations. Equitrans also states that it would cost approximately $4,000,000 to drill the two replacement injection/withdrawal wells.

Any questions concerning this application may be directed to Andrew L. Murphy, Vice President, Equitrans, L.P., 225 North Shore Drive, Pittsburgh, Pennsylvania 15212, or telephone 412–395–3358 or facsimile 412–395–3166.

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 filed to access the document. For assistance, please contact FERC Online Support at FERC *OnlineSupport@ferc.gov* or call toll-free at (866) 206–3676, or, for TTY, contact (202) 502–8659. 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 intervenors to file electronically.

Any person or the Commission's staff may, within 60 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to section 157.205 of the regulations under the NGA (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the allowed time for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–13681 Filed 6–17–08; 8:45 am]

BILLING CODE 6717–01–P

[1] Equitrans has also proposed in a concurrent filing in Docket No. CP08–416–000 to abandon four injection/withdrawal wells.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP08–416–000]

Equitrans, L.P.; Notice of Request Under Blanket Authorization

June 11, 2008.

Take notice that on June 2, 2008, Equitrans, L.P. (Equitrans), 225 North Shore Drive, Pittsburgh, Pennsylvania 15212, filed in Docket No. CP08–416–000, an application pursuant to sections 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act (NGA) as amended, to abandon four storage injection/withdrawal wells in its Logansport Storage Reservoir in Marion County, WV, under Equitrans' blanket certificate issued in Docket No. CP96–532–000, all as more fully set forth in the application which is on file with the Commission and open to the public for inspection.

Equitrans proposes to abandon four injection/withdrawal wells in its Logansport Storage Reservoir [1] as part of an April 10, 2008, settlement agreement with the Consolidation Coal Company (Consol), who owns and operates a longwall coal mining operation (the Robinson Run Mine) in Marion County, WV, which is in close proximity to Equitrans' Logansport Storage Field. Equitrans states that the four injection/withdrawal well bores are in the projected path of Consol's mining operations. Equitrans further states that in order to avoid damage to both Equitrans' wells and Consol's mining equipment, the wells would need to be abandoned and the well casings removed. Equitrans also states that it would cost approximately $261,756 to abandon the four injection/withdrawal wells.

Any questions concerning this application may be directed to Andrew L. Murphy, Vice President, Equitrans, L.P., 225 North Shore Drive, Pittsburgh, Pennsylvania 15212, or telephone 412–395–3358 or facsimile 412–395–3166.

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 filed to access the document. For assistance, please contact FERC Online Support at FERC *OnlineSupport@ferc.gov* or call toll-free at (866) 206–3676, or, for TTY, contact (202) 502–8659. 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 intervenors to file electronically.

Any person or the Commission's staff may, within 60 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to section 157.205 of the regulations under the NGA (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the allowed time for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–13686 Filed 6–17–08; 8:45 am]

BILLING CODE 6717–01–P

[1] Equitrans has also proposed in a concurrent filing in Docket No. CP08–417–000 to replace the four abandoned wells with two horizontal storage injection/withdrawal wells.

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2008–0220; FRL–8365–8]

Agency Information Collection Activities; Proposed Collection; Comment Request; TSCA Section 5(a)(2) Significant New Use Rules for Existing Chemicals; EPA ICR No. 1188.09, OMB Control No. 2070–0038

AGENCY: Environmental Protection Agency (EPA).

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, entitled: ''TSCA Section 5(a)(2) Significant New Use Rules for Existing Chemicals'' and identified by EPA ICR No. 1188.09 and OMB Control No. 2070–0038, is scheduled to expire on March 31, 2009. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection.

DATES: Comments must be received on or before August 18, 2008.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2008–0220, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Hand Delivery*: OPPT Document Control Office (DCO), EPA East, Rm. 6428, 1201 Constitution Ave., NW., Washington, DC. Attention: Docket ID Number EPA–HQ–OPPT–2008–0220. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930. Such deliveries are only accepted during the DCO's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to docket ID number EPA–HQ–OPPT–2008–0220. EPA's policy is that all comments received will be included in the public docket without change and may be made available on-line 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 regulations.gov or e-mail. The regulations.gov website 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 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*.

Docket: All documents in the docket are listed in the docket index available in regulations.gov. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov website to view the docket index or access available documents. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically at *http://www.regulations.gov*, or, if only available in hard copy, at the OPPT Docket. The OPPT Docket is located in the EPA Docket Center (EPA/DC) at Rm. 3334, EPA West Bldg., 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. The telephone number of the EPA/DC Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Docket visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor bags are processed through an X-ray machine and subject to search. Visitors will be provided an EPA/DC badge that must be visible at all times in the building and returned upon departure.

FOR FURTHER INFORMATION CONTACT: *For general information contact*: Colby Lintner, Regulatory Coordinator, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 554–1404; e-mail address: *TSCA-Hotline@epa.gov*.

For technical information contact: Abeer Hashem, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–3128; fax number: (202) 564–4775; e-mail address: *hashem.abeer@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. What Information is EPA Particularly Interested in?

Pursuant to section 3506(c)(2)(A) of PRA, EPA specifically solicits comments and information to enable it 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 estimates 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.

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. 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.

II. 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. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the collection activity.
7. Make sure to submit your comments by the deadline identified under **DATES**.
8. 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.

III. What Information Collection Activity or ICR Does this Action Apply to?

Affected entities: Entities potentially affected by this action are companies that manufacture, process, import, or distribute in commerce chemical substances or mixtures.

Title: TSCA Section 5(a)(2) Significant New Use Rules for Existing Chemicals.

ICR numbers: EPA ICR No. 1188.09, OMB Control No. 2070–0038.

ICR status: This ICR is currently scheduled to expire on March 31, 2009. 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: Section 5 of the Toxic Substances Control Act (TSCA) provides EPA with a regulatory mechanism to monitor and, if necessary, control significant new uses of chemical substances. Section 5 authorizes EPA to determine by rule (a significant new use rule or SNUR), after considering all relevant factors, that a use of a chemical substance represents a significant new use. If EPA determines that a use of a chemical substance is a significant new use, section 5 requires persons to submit a significant new use notice (SNUN) to EPA at least 90 days before they manufacture, import, or process the substance for that use.

EPA uses the information obtained through this collection to evaluate the health and environmental effects of the significant new use. EPA may take regulatory actions under TSCA section 5, 6, or 7 to control the activities for which it has received a SNUR notice. These actions include orders to limit or prohibit the manufacture, importation, processing, distribution in commerce, use or disposal of chemical substances. If EPA does not take action, section 5 also requires EPA to publish a **Federal Register** document explaining the reasons for not taking action.

Responses to the collection of information are mandatory (see 40 CFR part 721). Respondents may claim all or part of a notice confidential. EPA will disclose information that is covered by a claim of confidentiality only to the extent permitted by, and in accordance with, the procedures in TSCA section 14 and 40 CFR part 2.

Burden statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to be 118.9 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 this estimate, which is only briefly summarized here:

Estimated total number of potential respondents: 10.

Frequency of response: On occasion.

Estimated total average number of responses for each respondent: 1.

Estimated total annual burden hours: 1,423 hours.

Estimated total annual costs: $99,403. This includes an estimated burden cost of $99,403 and an estimated cost of $0 for capital investment or maintenance and operational costs

IV. Are There Changes in the Estimates from the Last Approval?

There is an increase of 562 hours (from 861 hours to 1,423 hours) in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB. This increase reflects EPA's current estimate of the number of SNURs promulgated each year and the number of SNUNs received each year. This change is an adjustment.

V. 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. 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**.

List of Subjects

Environmental protection, Reporting and recordkeeping requirements.

Dated: June 11, 2008.

James Jones,

Acting Assistant Administrator, Office of Prevention, Pesticides and Toxic Substances.

[FR Doc. E8–13748 Filed 6–17–08; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2008–0219; FRL–8366–2]

Agency Information Collection Activities; Proposed Collection; Comment Request; Reporting Requirements Under EPA's Design for the Environment (DfE) Formulator Product Recognition Program; EPA ICR No. 2302.01, OMB Control No. 2070–new

AGENCY: Environmental Protection Agency (EPA).

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 for a new Information

Collection Request (ICR) to the Office of Management and Budget (OMB). This ICR, entitled: ''Reporting Requirements Under EPA's Design for the Environment (DfE) Formulator Product Recognition Program,'' is identified by EPA ICR No. 2302.01 and OMB Control No. 2070–new. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection.

DATES: Comments must be received on or before August 18, 2008.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2008–0219, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Hand Delivery*: OPPT Document Control Office (DCO), EPA East, Rm. 6428, 1201 Constitution Ave., NW., Washington, DC. Attention: Docket ID Number EPA–HQ–OPPT–2008–0219. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930. Such deliveries are only accepted during the DCO's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to docket ID number EPA–HQ–OPPT–2008–0219. EPA's policy is that all comments received will be included in the public docket without change and may be made available on-line 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 regulations.gov or e-mail. The regulations.gov website 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 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*.

Docket: All documents in the docket are listed in the docket index available in regulations.gov. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov website to view the docket index or access available documents. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically at *http://www.regulations.gov*, or, if only available in hard copy, at the OPPT Docket. The OPPT Docket is located in the EPA Docket Center (EPA/DC) at Rm. 3334, EPA West Bldg., 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. The telephone number of the EPA/DC Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Docket visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor bags are processed through an X-ray machine and subject to search. Visitors will be provided an EPA/DC badge that must be visible at all times in the building and returned upon departure.

FOR FURTHER INFORMATION CONTACT: *For general information contact*: Colby Lintner, Regulatory Coordinator, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 554–1404; e-mail address: *TSCA-Hotline@epa.gov*.

For technical information contact: Clive Davies, Economics, Exposure and Technology Division (7406M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–3821; fax number: (202) 564–0884; e-mail address: *davies.clive@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. What Information is EPA Particularly Interested in?

Pursuant to section 3506(c)(2)(A) of PRA, EPA specifically solicits comments and information to enable it 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 estimates 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.
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. 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.

II. 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. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the collection activity.
7. Make sure to submit your comments by the deadline identified under **DATES**.

8. 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.

III. What Information Collection Activity or ICR Does this Action Apply to?

Affected entities: Entities potentially affected by this action are companies that formulate end-use, for-sale chemical products.

Title: Reporting Requirements Under EPA's Design for the Environment (DfE) Formulator Product Recognition Program.

ICR numbers: EPA ICR No. 2302.01, OMB Control No. 2070–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's DfE Formulator Product Recognition Program formally recognizes safer products where all ingredients have an environmental and human health profile showing that they are the safest in their functional use class. Under the encouragement of this program, leading companies have made great progress in developing safer, highly effective chemical products. Since the program's inception in 1997, formulators have used the program as a portal to OPPT's unique chemical expertise, information resources, and guidance on greener chemistry. DfE Formulator partners enjoy Agency recognition, including the use of the DfE logo on products with the safest possible formulations. In the future, EPA expects much greater program participation due to rising demand for safer products. This information collection enables EPA to accommodate participation by more than nine formulators each year and to enhance program transparency.

Information collection activities associated with this program will assist the Agency in meeting the goals of the Pollution Prevention Act (PPA) by providing resources and recognition for businesses committed to promoting and using safer chemical products. In turn, the program will help businesses meet corporate sustainability goals by providing the means to, and an objective measure of, environmental stewardship. Investment analysts and advisers seek these types of measures in evaluating a corporation's sustainability profile and investment worthiness. Formulator Program partnership is an important impetus for prioritizing and completing the transition to safer chemical products. The Formulator Program is also needed to promote greater use of safer chemical products by companies unaware of the benefits of such a change.

EPA has tailored its request for information, and especially the Formulator Product Recognition Program application forms, to ensure that the Agency requests only that information essential to verify applicants' eligibility for recognition.

Responses to the collection of information are voluntary. Respondents may claim all or part of a notice confidential. EPA will disclose information that is covered by a claim of confidentiality only to the extent permitted by, and in accordance with, the procedures in TSCA section 14 and 40 CFR part 2.

Burden statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to range between 12 and 15 hours per response, depending upon the type of product the respondent manufactures. 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 this estimate, which is only briefly summarized here:

Estimated total number of potential respondents: 32.

Frequency of response: Annual.

Estimated total average number of responses for each respondent: 1.

Estimated total annual burden hours: 658 hours.

Estimated total annual costs: $431,166. This includes an estimated burden cost of $431,166 and an estimated cost of $0 for capital investment or maintenance and operational costs.

IV. 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. 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**.

List of Subjects

Environmental protection, Reporting and recordkeeping requirements.

Dated: June 11, 2008.

James Jones,

Acting Assistant Administrator, Office of Prevention, Pesticides and Toxic Substances.

[FR Doc. E8–13750 Filed 6–17–08; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2003–0078; FRL–8581–2]

Agency Information Collection Activity; Proposed Collection; Comment Request; National Wastewater Operator Training and Technical Assistance Program (Renewal), EPA ICR Number 1977.03, OMB Control Number 2040–0238

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR, which is abstracted below, describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before July 18, 2008.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OW–2003–0078, to (1) EPA online using *http://www.regulations.gov* (our preferred method), by e-mail to *ow-docket@epa.gov,* or by mail to: Water Docket, Environmental Protection Agency, Mail Code: 28221T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) OMB by mail to: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Gajindar Singh, Municipal Support Division, Office of Wastewater Management, OWM Mail Code: 4204M, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564–0634; fax number: (202) 501–2396; e-mail address: *singh.gajindar@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 January 23, 2008, (73 *FR* 3956), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments during the comment period. Any 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–OW–2003–0078, 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 EPA's electronic docket and comment system at *http://www.regulations.gov,* to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *http://www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *http://www.regulations.gov.*

Title: National Wastewater Operator Training and Technical Assistance Program (Renewal).

ICR Numbers: EPA ICR No. 1977.03, OMB Control No. 2040–0238.

ICR Status: This ICR expires on June 30, 2008. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: The Wastewater Operator Training Program, section 104(g)(1) of the Clean Water Act, provides on-site technical assistance to municipal wastewater treatment plants. Information will be collected from the network of forty-six states or the 104(g)(1) training centers set up through out the United States. The information will be collected to identify the facilities assisted, the different types of assistance the program provides and the environmental outcomes and benefits of the assistance provided by the program. The information will be collected and submitted on either an annual or semi-annual basis. A Microsoft Access database and an Excel spreadsheet have been developed for this purpose. This ICR will be used by EPA for the technical and financial management of the 104(g)(1) Program. The 104(g)(1) Program training centers participate in the information collection in compliance with the grant conditions. All information in the data system will be made public upon request.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 2.333 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: States and training centers.

Estimated Number of Respondents: 46.

Frequency of Response: Three times a year.

Estimated Total Annual Hour Burden: 322 hours.

Estimated Total Annual Cost: $14,361, which is entirely for labor. There are no annualized capital or O&M costs.

Changes in the Estimates: There is no change in the total estimated respondent burden hours compared with that identified in the ICR currently approved by OMB. EPA has not modified the requirements that were included in the previous ICR.

Dated: June 4, 2008.

Sara Hisel-McCoy,

Director, Collection Strategies Division.

[FR Doc. E8–13765 Filed 6–17–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2004–0015; FRL–8581–1]

Agency Information Collection Activities; Proposed Collection; Comment Request; Clean Water Act State Revolving Fund Program (Renewal); EPA ICR No. 1391.08, OMB Control No. 2040–0118

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 et seq.), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR, which is abstracted below, describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before July 18, 2008.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OW–2004–0015 by one of the following methods:

- *http://www.regulations.gov.*
- *E-mail: OW-Docket@EPA.gov.*
- *Mail:* EPA Docket Center, Environmental Protection Agency, Clean Water Act State Revolving Fund Program (Renewal), Environmental Protection Agency, Mailcode: 4204M, 1200 Pennsylvania Ave., NW., Washington, DC 20460.
- *Hand Delivery:* Clean Water Act State Revolving Fund Program (renewal), Environmental Protection Agency, Office of Wastewater Management, Municipal Support Division, 1201 Constitution Ave., NW., Washington, DC 20004.
- *Mail to:* Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Clifford Yee, Office of Wastewater Management, Mail Code 4204M, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 202–564–0598; fax number: 202–501–2403; e-mail address: *yee.clifford@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On March 12, 2008 (73 *FR* 13222), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments during the comment period. 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–OW–2004–0015 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 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 EPA's electronic docket and comment system at *http://www.regulations.gov,* to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *http://www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, confidential business information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *http://www.regulations.gov.*

Title: Clean Water Act State Revolving Fund Program (Renewal).

ICR numbers: EPA ICR No. 1391.08, OMB Control No. 2040–0118.

ICR Status: This ICR is scheduled to expire on June 30, 2008. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: The Clean Water Act, as amended by ''The Water Quality Act of 1987'' (U.S.C. 1381–1387 et seq.), created a Title VI which authorizes grants to States for the establishment of State Water Pollution Control Revolving Funds (SRFs). The information collection activities will occur primarily at the program level through the State ''Intended Use Plan'' and ''Annual Report''. The information is needed annually to implement Section 606 of the Clean Water Act (CWA).

The 1987 Act declares that water pollution control revolving funds shall be administered by an instrumentality of the State subject to the requirements of the Act. This means that each State has a general responsibility for administering its revolving fund and must take on certain specific responsibilities in carrying out its administrative duties. The information collection activities will occur primarily at the program level through the State Intended Use Plan and Annual Report. The information is needed annually to implement section 606 of the Clean Water Act (CWA). The Act requires the information to ensure national accountability, adequate public comment and review, fiscal integrity and consistent management directed to achieve environmental benefits and results. The individual information collections are: (1) Capitalization Grant Application and Agreement/State Intended Use Plan, (2) State Annual Report, (3) State Annual Audit, and (4) Application for SRF Financial Assistance.

(1) Capitalization Grant Application and Agreement/State Intended Use Plan: The State will prepare a Capitalization Grant application that includes an Intended Use Plan (IUP) outlining in detail how it will use all the funds available to the fund. The grant agreement contains or incorporates by reference the IUP, application materials, payment schedule, and required assurances. The bulk of the information is provided in the IUP, the legal agreement which commits the State and EPA to execute their responsibilities under the Act.

(2) State Annual Report: The State must agree to complete and submit a State Annual Report that indicates how the State has met the goals and objectives of the previous fiscal year as stated in the IUP and grant agreement. The report provides information on loan recipients, loan amounts, loan terms, project categories, and similar data on other forms of assistance. The report describes the extent to which the existing SRF financial operating policies, alone or in combination with other State financial assistance programs, will provide for the long term fiscal health of the Fund and carry out other provisions specified in the grant operating agreement.

(3) State Annual Audit: Most States have agreed to conduct or have conducted a separate financial audit of the Capitalization Grant which will provide opinions on the financial statements, and a report on the internal controls and compliance with program requirements. The remaining States will be covered by audits conducted under the requirements of the Single Audit Act and by EPA's Office of Inspector General.

(4) Application for SRF Financial Assistance: Local communities and other eligible entities have to prepare and submit applications for SRF assistance to their respective State Agency which manages the SRF program. The State reviews the completed loan applications, and verifies that the proposed projects will comply with applicable Federal and State requirements.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 108.73 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: State and Local governments; local communities and tribes.

Estimated Number of Respondents: 3,825.

Frequency of Response: Annually.

Estimated Total Annual Hour Burden: 415,905.

Estimated Total Annual Cost: $11,118,000 in labor costs and $0 for both annualized capital costs and O&M costs.

Changes in the Estimates: There is an increase of 76,500 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. This increase reflects EPA's acceptance of additional loan applicants for the State SRF loan program. The increase in burden hours is the time needed to process and report on these loans on an annual basis.

Dated: June 4, 2008.

Sara Hisel-McCoy,

Director, Collection Strategies Division.

[FR Doc. E8–13771 Filed 6–17–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–RCRA–2008–0330; FRL–8582–5]

Agency Information Collection Activities; Proposed Collection; Comment Request; Information Collection Request for the Schools Chemical Cleanout Campaign (SC3); EPA ICR No. 2285.01

AGENCY: Environmental Protection Agency (EPA).

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 for a new Information Collection Request (ICR) to the Office of Management and Budget (OMB). 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 18, 2008.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–RCRA–2008–0330, by one of the following methods:

- *http://www.regulations.gov*: Follow the on-line instructions for submitting comments.
- E-mail: *rcra-docket@epa.gov*.
- Fax: (202) 566–9744.
- Mail: Resource Conservation and Recovery Act (RCRA) Docket, Environmental Protection Agency, 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.
- Hand Delivery: Resource Conservation and Recovery Act (RCRA) Docket in the EPA Docket Center (EPA/DC), EPA West Building, Room 3334, 1301 Constitution Avenue, 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–RCRA–2008–0330. 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: Cynthia Merse, Hazardous Waste Minimization and Management Division, Office of Solid Waste, Mail Code: 5302P, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 703–308–0020; fax number: 703–308–8433; e-mail address: *merse.cynthia@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–RCRA–2008–0330, which is available for online viewing at *http://www.regulations.gov*, or in person viewing at the RCRA 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 RCRA Docket is 202–566–0270.

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: Entities potentially affected by this action are the EPA Partner Organizations that provide SC3 resources and services to schools.

Title: Information Collection Request for the Schools Chemical Cleanout Campaign (SC3).

ICR numbers: EPA ICR No. 2285.01.

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: The Schools Chemical Cleanout Campaign (SC3) was created in 2004, building on regional, state, tribal, and local SC3 programs across the nation. The National SC3 program was launched in March of 2007. The National SC3 program uses a variety of innovative approaches to achieve three goals: (1) Removal of outdated and dangerous chemicals from K–12 schools; (2) prevention of future accumulations of chemicals and reduction of accidents by establishing prevention activities such as good purchasing and management practices; and, (3) raising national awareness of the problem.

One of the ways that EPA accomplishes its goals is by partnering with organizations that volunteer to assist schools in the management of the schools' chemicals and the removal of schools' chemical waste. There are currently eleven Partners.

To evaluate the current state of the program and determine what the future direction should be, EPA intends to conduct a voluntary survey of its industry Partners to gather information on their activities and the results of their work under the program. To this end, EPA has prepared a draft survey form with four main goals:

- Collect general information about the Partners (e.g., reasons for joining the SC3 Program, future plans, etc.);
- Identify the accomplishments of Partners under the SC3 Program;
- Identify additional resources needed by Partners to accomplish their goals; and
- Collect lessons learned from Partners on what has worked and what has not worked under the Program, so this information can be shared with others.

EPA intends to ask Partners to complete and submit the survey annually. The survey will be available to Partners in an electronic format. They can submit completed surveys by e-mail, postal mail, or fax.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average one hour per response for Partners to complete the survey for the first time and forty-five minutes for Partners to update the survey in subsequent years. 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 will provide a detailed explanation of the Agency's estimate, which is only briefly summarized here:

Estimated total annual number of potential respondents: 33.

Frequency of response: Annually.

Estimated total average number of responses for each respondent: One per year.

Estimated total annual burden hours: 28 hours.

Estimated total annual costs: $1,247. This includes an estimated cost of $1,247 for labor and an estimated cost of $0 for capital investment or maintenance and operational costs.

What is the Next Step in the Process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. At that time, EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

Dated: June 10, 2008

Matt Hale,

Director, Office of Solid Waste.

[FR Doc. E8–13829 Filed 6–17–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2008–0221; FRL–8365–5]

Agency Information Collection Activities; Proposed Collection; Comment Request; Recordkeeping and Reporting Requirements for Allegations of Significant Adverse Reactions to Human Health or the Environment; EPA ICR No. 1031.09, OMB Control No. 2070–0017

AGENCY: Environmental Protection Agency (EPA).

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, entitled: ''Recordkeeping and Reporting Requirements for Allegations of Significant Adverse Reactions to Human Health or the Environment'' and identified by EPA ICR No. 1031.09 and OMB Control No. 2070–0017, is scheduled to expire on January 31, 2009. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection.

DATES: Comments must be received on or before August 18, 2008.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2008–0221, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Hand Delivery*: OPPT Document Control Office (DCO), EPA East, Rm. 6428, 1201 Constitution Ave., NW., Washington, DC. Attention: Docket ID Number EPA–HQ–OPPT–2008–0221. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930. Such deliveries are only accepted during the DCO's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to docket ID number EPA–HQ–OPPT–2008–0221. EPA's policy is that all comments received will be included in the public docket without change and may be made available on-line 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 regulations.gov or e-mail. The regulations.gov website 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 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*.

Docket: All documents in the docket are listed in the docket index available in regulations.gov. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov website to view the docket index or access available documents. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically at *http://www.regulations.gov*, or, if only available in hard copy, at the OPPT Docket. The OPPT Docket is located in the EPA Docket Center (EPA/DC) at Rm. 3334, EPA West Bldg., 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. The telephone number of the EPA/DC Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Docket visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor bags are processed through an X-ray machine and subject to search. Visitors will be provided an EPA/DC badge that must be visible at all times in the building and returned upon departure.

FOR FURTHER INFORMATION CONTACT: *For general information contact*: Colby Lintner, Regulatory Coordinator, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 554–1404; e-mail address: *TSCA-Hotline@epa.gov*.

For technical information contact: Gerry Brown, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–8086; fax number: (202) 564–4765; e-mail address: *brown.gerry@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. What Information is EPA Particularly Interested in?

Pursuant to section 3506(c)(2)(A) of PRA, EPA specifically solicits comments and information to enable it 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 estimates 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.
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. 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.

II. 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. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the collection activity.
7. Make sure to submit your comments by the deadline identified under **DATES**.
8. 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.

III. What Information Collection Activity or ICR Does this Action Apply to?

Affected entities: Entities potentially affected by this action are companies that manufacture, process, import, or distribute in commerce chemical substances or mixtures.

Title: Recordkeeping and Reporting Requirements for Allegations of Significant Adverse Reactions to Human Health or the Environment.

ICR numbers: EPA ICR No. 1031.09, OMB Control No. 2070–0017.

ICR status: This ICR is currently scheduled to expire on January 31, 2009. 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 Toxic Substances Control Act (TSCA) section 8(c) requires companies that manufacture, process, or distribute chemicals to maintain records of significant adverse reactions to health or the environment alleged to have been caused by such chemicals. Since section 8(c) includes no automatic reporting provision, EPA can obtain and use the information contained in company files only by inspecting those files or requiring reporting of records that relate to specific substances of concern. Therefore, under certain conditions, and using the provisions found in 40 CFR part 717, EPA may require companies to report such allegations to the Agency.

EPA uses such information on a case-specific basis to corroborate suspected adverse health or environmental effects of chemicals already under review by EPA. The information is also useful to identify trends of adverse effects across the industry that may not be apparent to any one chemical company.

Responses to the collection of information are mandatory (see 40 CFR part 717). Respondents may claim all or part of a notice confidential. EPA will disclose information that is covered by a claim of confidentiality only to the extent permitted by, and in accordance with, the procedures in TSCA section 14 and 40 CFR part 2.

Burden statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to range between 1 minute and 8 hours per response, depending upon the nature of the 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 this estimate, which is only briefly summarized here:

Estimated total number of potential respondents: 13,521.

Frequency of response: On occasion.

Estimated total average number of responses for each respondent: 0.43.

Estimated total annual burden hours: 23,536 hours.

Estimated total annual costs: $1,486,311. This includes an estimated burden cost of $1,486,311 and an estimated cost of $0 for capital investment or maintenance and operational costs.

IV. Are There Changes in the Estimates from the Last Approval?

There is a decrease of 1,012 hours (from 24,548 hours to 23,536 hours) in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB. This decrease primarily reflects EPA's current estimate of the number of employees in affected respondent companies. Because the allegation rate is based on the number of employees, the decrease in the estimated number of employees results in a decrease in total allegations, and thus a reduction in burden. This change is an adjustment.

V. 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. 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**.

List of Subjects

Environmental protection, Reporting and recordkeeping requirements.

Dated: June 11, 2008.

James Jones,

Acting Assistant Administrator, Office of Prevention, Pesticides and Toxic Substances.

[FR Doc. E8–13841 Filed 6–17–08; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2007–0152; FRL–8366–9]

Notice of Filing of Pesticide Petitions for Residues of Pesticide Chemicals in or on Various Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of pesticide petitions proposing the establishment or modification of regulations for residues of pesticide chemicals in or on various commodities.

DATES: Comments must be received on or before July 18, 2008.

ADDRESSES: Submit your comments, identified by the docket identification (ID) number and the pesticide petition number of interest, as shown in the table in Unit II, by one of the following methods:

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

• *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

• *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

Instructions: Direct your comments to EPA–HQ–OPP–2007–0152 and the pesticide petition number of interest. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line 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 regulations.gov or e-mail. The regulations.gov website 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 regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the 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 docket index available in regulations.gov. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov website to view the docket index or access available documents. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy. Publicly available docket materials are available electronically at *http://www.regulations.gov*, or, if only available in hard copy, at the 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.

FOR FURTHER INFORMATION CONTACT: The person listed at the end of the pesticide petition summary of interest.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

• Crop production (NAICS code 111).

• Animal production (NAICS code 112).

• Food manufacturing (NAICS code 311).

• Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed at the end of the pesticide petition summary of interest.

B. What Should I Consider as I Prepare My Comments for EPA?

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

2. *Tips for preparing your comments*. When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Docket ID Numbers

When submitting comments, please use the docket ID number and the pesticide petition number of interest, as shown in the table.

PP Number	Docket ID Number
PP 7F7302	EPA–HQ–OPP–2008–0381
PP 8G7320	EPA–HQ–OPP–2005–0303

III. What Action is the Agency Taking?

EPA is printing notice of the filing of pesticide petitions received under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, proposing the establishment or modification of regulations in 40 CFR part 180 for residues of pesticide chemicals in or on various food commodities. EPA has determined that the pesticide petitions described in this notice contain data or information regarding the elements set forth in FFDCA section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the pesticide petitions. Additional data may be needed before EPA rules on these pesticide petitions.

Pursuant to 40 CFR 180.7(f), a summary of each of the petitions included in this notice, prepared by the petitioner, is included in a docket EPA has created for each rulemaking. The docket for each of the petitions is available on-line at *http://www.regulations.gov*.

Amendment to Exemption from Tolerance

PP 7F7302. Circle One Global, Inc. (Circle One), P.O. Box 28, Shellman, GA 39886–0028, proposes to amend the exemption from the requirement of a tolerance in 40 CFR 180.1254 for residues of the fungicide *Aspergillus flavus* NRRL 21882 in or on the food commodity corn. Because this petition is a request to amend an exemption from the requirement of a tolerance without numerical limitations, no analytical method is required. Contact: Shanaz Bacchus; telephone (703) 308–8097; email address: *bacchus.shanaz@epa.gov*.

Amendment to Existing Exemption from Tolerance

PP 8G7320. Montana Microbial Products, 510 East Kent Ave., Missoula MT 59801 proposes to amend the temporary exemption from the requirement of a tolerance in 40 CFR 180.1269 for residues of the fungicide, *Bacillus mycoides*, isolate J, in or on pecans, potatoes, sugar beets, tomatoes, and peppers. Because this petition is a request to amend an exemption from the requirement of a tolerance without numerical limitations, no analytical method is required. Contact: Susanne Cerrelli, telephone: (703) 308–8077; and email address: *cerrelli.susanne@epa.gov*.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 6, 2008.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. E8–13625 Filed 6–17–08; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–ORD–2007–0484; FRL–8582–2]

Board of Scientific Counselors, National Center for Environmental Research (NCER) Standing Subcommittee Meeting—2008

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Cancellation of Meeting.

SUMMARY: The Environmental Protection Agency, Office of Research and Development (ORD), announces the cancellation of a meeting of the Board of Scientific Counselors (BOSC) National Center for Environmental Research (NCER) Standing Subcommittee. This meeting, a teleconference June 24, 2008, was announced in a **Federal Register** Notice published on Friday, May 30, 2008 (Volume 73, Number 105, page 31116). The purpose of this meeting was to discuss the subcommittee's draft letter report and NCER's next charge question(s), and it will be rescheduled at a later date.

FOR FURTHER INFORMATION CONTACT: The Designated Federal Officer via mail at: Susan Peterson, Mail Code 8104–R, Office of Science Policy, Office of Research and Development, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; via phone/voice mail at: (202) 564–1077; via fax at: (202) 565–2911; or via e-mail at: *peterson.susan@epa.gov.*

Dated: June 12, 2008.

Mary Ellen Radzikowski,

Acting Director, Office of Science Policy.

[FR Doc. E8–13825 Filed 6–17–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2008–0489; FRL–8369–1]

FIFRA Scientific Advisory Panel; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: There will be a 3–day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act Scientific Advisory Panel (FIFRA SAP) to consider and review an evaluation of the common mechanism of action of pyrethroid pesticides.

DATES: The meeting will be held on September 9-11, 2008, from approximately 8:30 a.m. to 5 p.m, eastern time.

Comments. The Agency encourages that written comments be submitted by August 26, 2008 and requests for oral comments be submitted by September 2, 2008. However, written comments and requests to make oral comments may be submitted until the date of the meeting. Anyone submitting written comments after August 26, 2008 should contact the Designated Federal Official (DFO) listed under **FOR FURTHER INFORMATION CONTACT.** For additional instructions, see Unit I.C. of the **SUPPLEMENTARY INFORMATION**.

Nominations. Nominations of candidates to serve as ad hoc members of the FIFRA SAP for this meeting should be provided on or before July 2, 2008.

Special accommodations. For information on access or services for individuals with disabilities, and to request accommodation of a disability, please contact the DFO listed under **FOR FURTHER INFORMATION CONTACT** at least 10 days prior to the meeting to give EPA as much time as possible to process your request.

ADDRESSES: The meeting will be held at the Environmental Protection Agency, Conference Center - Lobby Level, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, Virginia, 22202.

Comments. Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2008–0489, by one of the following methods:

- *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

Instructions. Direct your comments to docket ID number EPA–HQ–OPP–2008–0489. If your comments contain any information that you consider to be CBI or otherwise protected, please contact the DFO listed under **FOR FURTHER INFORMATION CONTACT** to obtain special instructions before submitting your comments. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line 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 regulations.gov or e-mail. The regulations.gov website 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 regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the 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 a docket index available in regulations.gov. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov website to view the docket index or access available documents. Although listed in a docket index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the 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.

Nominations, requests to present oral comments, and requests for special accommodations. Submit nominations to serve as ad hoc members of the FIFRA SAP, requests for special seating accommodations, or requests to present oral comments to the DFO listed under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Joseph E. Bailey, DFO, Office of Science Coordination and Policy (7201M), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–2045; fax number: (202) 564–8382; e-mail addresses: *bailey.joseph@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to persons who are or may be required to conduct testing of chemical substances under the Federal Food, Drug, and Cosmetic Act (FFDCA), FIFRA, and the Food Quality Protection Act of 1996 (FQPA). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the DFO listed under **FOR FURTHER INFORMATION CONTACT**.

B. What Should I Consider as I Prepare My Comments for EPA?

When submitting comments, remember to:

1. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).
2. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
3. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
4. Describe any assumptions and provide any technical information and/or data that you used.
5. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
6. Provide specific examples to illustrate your concerns and suggest alternatives.
7. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
8. Make sure to submit your comments by the comment period deadline identified.

C. How May I Participate in this Meeting?

You may participate in this meeting by following the instructions in this unit. To ensure proper receipt by EPA, it is imperative that you identify docket ID number EPA–HQ–OPP–2008–0489 in the subject line on the first page of your request.

1. *Written comments*. The Agency encourages that written comments be submitted, using the instructions in **ADDRESSES**, no later than August 26, 2008, to provide the FIFRA SAP the time necessary to consider and review the written comments. However, written comments are accepted until the date of the meeting. Persons wishing to submit written comments at the meeting should contact the DFO listed under **FOR FURTHER INFORMATION CONTACT** and submit 30 copies. Anyone submitting written comments after August 26, 2008 should contact the DFO listed under **FOR FURTHER INFORMATION CONTACT**. There is no limit on the extent of written comments for consideration by the FIFRA SAP.

2. *Oral comments*. The Agency encourages that each individual or group wishing to make brief oral comments to the FIFRA SAP submit their request to the DFO listed under

FOR FURTHER INFORMATION CONTACT no later than September 2, 2008, in order to be included on the meeting agenda. Requests to present oral comments will be accepted until the date of the meeting and, to the extent that time permits, the Chair of the FIFRA SAP may permit the presentation of oral comments at the meeting by interested persons who have not previously requested time. The request should identify the name of the individual making the presentation, the organization (if any) the individual will represent, and any requirements for audiovisual equipment (e.g., overhead projector, 35 mm projector, chalkboard). Oral comments before the FIFRA SAP are limited to approximately 5 minutes unless prior arrangements have been made. In addition, each speaker should bring 30 copies of his or her comments and presentation slides for distribution to the FIFRA SAP at the meeting.

3. *Seating at the meeting.* Seating at the meeting will be on a first-come basis.

4. *Request for nominations to serve as ad hoc members of the FIFRA SAP for this meeting.* As part of a broader process for developing a pool of candidates for each meeting, the FIFRA SAP staff routinely solicits the stakeholder community for nominations of prospective candidates for service as ad hoc members of the FIFRA SAP. Any interested person or organization may nominate qualified individuals to be considered as prospective candidates for a specific meeting. Individuals nominated for this meeting should have expertise in one or more of the following areas: Pyrethroid pesticides; voltage-sensitive sodium channels; mode of action analysis; motor activity and functional observational battery; and dose Response modeling. Nominees should be scientists who have sufficient professional qualifications, including training and experience, to be capable of providing expert comments on the scientific issues for this meeting. Nominees should be identified by name, occupation, position, address, and telephone number. Nominations should be provided to the DFO listed under **FOR FURTHER INFORMATION CONTACT** on or before July 2, 2008. The Agency will consider all nominations of prospective candidates for this meeting that are received on or before this date. However, final selection of ad hoc members for this meeting is a discretionary function of the Agency.

The selection of scientists to serve on the FIFRA SAP is based on the function of the panel and the expertise needed to address the Agency's charge to the panel. No interested scientists shall be ineligible to serve by reason of their membership on any other advisory committee to a Federal department or agency or their employment by a Federal department or agency except the EPA. Other factors considered during the selection process include availability of the potential panel member to fully participate in the panel's reviews, absence of any conflicts of interest or appearance of lack of impartiality, independence with respect to the matters under review, and lack of bias. Although, financial conflicts of interest, the appearance of lack of impartiality, lack of independence, and bias may result in disqualification, the absence of such concerns does not assure that a candidate will be selected to serve on the FIFRA SAP. Numerous qualified candidates are identified for each panel. Therefore, selection decisions involve carefully weighing a number of factors including the candidates' areas of expertise and professional qualifications and achieving an overall balance of different scientific perspectives on the panel. In order to have the collective breadth of experience needed to address the Agency's charge for this meeting, the Agency anticipates selecting approximately 10 ad hoc scientists.

The FIFRA SAP members are subject to the provisions of 5 CFR part 2634, Executive Branch Financial Disclosure, as supplemented by the EPA in 5 CFR part 6401. In anticipation of this requirement, prospective candidates for service on the FIFRA SAP will be asked to submit confidential financial information which shall fully disclose, among other financial interests, the candidate's employment, stocks and bonds, and where applicable, sources of research support. The EPA will evaluate the candidates financial disclosure form to assess whether there are financial conflicts of interest, appearance of a lack of impartiality or any prior involvement with the development of the documents under consideration (including previous scientific peer review) before the candidate is considered further for service on the FIFRA SAP. Those who are selected from the pool of prospective candidates will be asked to attend the public meetings and to participate in the discussion of key issues and assumptions at these meetings. In addition, they will be asked to review and to help finalize the meeting minutes. The list of FIFRA SAP members participating at this meeting will be posted on the FIFRA SAP website at *http://epa.gov/scipoly/sap* or may be obtained from the OPP Regulatory Public Docket at *http://www.regulations.gov*.

II. Background

A. Purpose of the FIFRA SAP

The FIFRA SAP serves as the primary scientific peer review mechanism of EPA's Office of Prevention, Pesticides and Toxic Substances (OPTS) and is structured to provide scientific advice, information and recommendations to the EPA Administrator on pesticides and pesticide-related issues as to the impact of regulatory actions on health and the environment. The FIFRA SAP is a Federal advisory committee established in 1975 under FIFRA that operates in accordance with requirements of the Federal Advisory Committee Act. The FIFRA SAP is composed of a permanent panel consisting of seven members who are appointed by the EPA Administrator from nominees provided by the National Institutes of Health and the National Science Foundation. FIFRA, as amended by FQPA, established a Science Review Board consisting of at least 60 scientists who are available to the Scientific Advisory Panel on an ad hoc basis to assist in reviews conducted by the Scientific Advisory Panel. As a peer review mechanism, the FIFRA SAP provides comments, evaluations and recommendations to improve the effectiveness and quality of analyses made by Agency scientists. Members of the FIFRA SAP are scientists who have sufficient professional qualifications, including training and experience, to provide expert advice and recommendation to the Agency.

B. Public Meeting

Pyrethroid pesticide usage has increased in the past decade in agricultural and residential settings. The Office of Pesticide Programs is in the early stages of evaluating the potential risks from increased exposure to these pesticides. As part of this evaluation, OPP is developing an analysis of the toxicity profiles of these pesticides and is evaluating whether or not some or all of the pyrethroid pesticides share a common mechanism of action (i.e., those pesticides that produce a common toxic effect by a common mechanism of toxicity). The Agency will be seeking the Scientific Advisory Panel's advice on a set of scientific issues raised in a draft science policy document proposing to establish a common mechanism group for the pyrethroid pesticides. The proposed grouping may include two or more sub-groups. Establishing a common mechanism group is the first stage toward

developing a cumulative risk assessment as required under the Food Quality Protection Act. Pending the outcome of this panel review, the Agency may begin work on the cumulative risk assessment for those pyrethroid pesticides that are determined to share a common mechanism. The Agency will be seeking advice from the SAP on the following areas related to the toxicity of the pyrethroid pesticides:

1. Interpretation of *in vivo* motor activity and functional observational battery;

2. Interpretation of recent *in vitro* literature studies involving sodium, calcium, and chloride channels;

3. Structural and functional similarities among these chemicals; and

4. The variability of animal studies conducted by different routes of administration and vehicles (e.g., dietary admix or corn oil vehicle gavage).

C. FIFRA SAP Documents and Meeting Minutes

EPA's background paper, related supporting materials, charge/questions to the FIFRA SAP, FIFRA SAP composition (i.e., members and ad hoc members for this meeting), and the meeting agenda will be available by mid-August. In addition, the Agency may provide additional background documents as the materials become available. You may obtain electronic copies of these documents, and certain other related documents that might be available electronically, at *http://www.regulations.gov* and the FIFRA SAP homepage at *http://www.epa.gov/scipoly/sap*.

The FIFRA SAP will prepare meeting minutes summarizing its recommendations to the Agency approximately 90 days after the meeting. The meeting minutes will be posted on the FIFRA SAP website or may be obtained from the OPP Regulatory Public Docket at *http://www.regulations.gov*.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: June 12, 2008.

Elizabeth Resek

Acting Director, Office of Science Coordination and Policy.

[FR Doc. E8–13773 Filed 6–17–08; 8:45 a.m.]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8581–6]

Science Advisory Board Staff Office; Clean Air Scientific Advisory Committee (CASAC); Notification of a Public Advisory Committee Meeting and Teleconference of the CASAC Sulfur Oxides (SO_x) Review Panel

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) Science Advisory Board (SAB) Staff Office announces a public meeting and a teleconference of the Clean Air Scientific Advisory Committee's (CASAC) Sulfur Oxides (SOx) Review Panel (Panel) to conduct a peer review of both EPA's *Integrated Science Assessment for Sulfur Oxides—Health Criteria (Second External Review Draft)* (EPA/600/R–08/047) as well as EPA's forthcoming document: *Risk and Exposure Assessment to Support the Review of the SO_2 Primary National Ambient Air Quality Standards: First Draft.*

DATES: The meeting will be held on Wednesday, July 30, 2008 from 8:30 a.m. to 5 p.m. and Thursday, July 31, 2008 from 8:30 a.m. to 2 p.m. (Eastern time). The public teleconference will be held on August 12, 2008 from 11 a.m. to 1 p.m.

Location: The meeting will take place at the Marriott at Research Triangle Park, 4700 Guardian Drive, Durham, NC 27703, telephone (919) 941–6200.

FOR FURTHER INFORMATION CONTACT: Any member of the public who wishes to submit a written or brief oral statement (5 minutes or less) or wants further information concerning this meeting must contact Dr. Holly Stallworth, Designated Federal Officer (DFO), EPA Science Advisory Board (1400F), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; via telephone/voice mail: (202) 343–9867; fax: (202) 233–0643; or e-mail at *Stallworth.holly@epa.gov.* General information concerning the CASAC or the EPA Science Advisory Board can be found on the SAB Web site at *http://www.epa.gov/sab.*

SUPPLEMENTARY INFORMATION:

Background: The Clean Air Scientific Advisory Committee (CASAC) was established under section 109(d)(2) of the Clean Air Act (CAA or ACT) (42 U.S.C. 7409) as an independent scientific advisory committee. CASAC provides advice, information and recommendations on the scientific and technical aspects of air quality criteria and national ambient air quality standards (NAAQS) under section 109 of the Act. The CASAC is a federal advisory committee chartered under the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C., App. The Panel will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

Under the Clean Air Act, EPA is required to carry out a periodic review and revision, as appropriate, of the air quality criteria and the NAAQS for six criteria air pollutants, which include sulfur oxides. Primary standards set limits to protect public health, including the health of ''sensitive'' populations such as asthmatics, children, and the elderly.

EPA is in the process of reviewing the primary National Ambient Air Quality Standards (NAAQS) for sulfur oxides. As part of that process, EPA's Office of Research and Development (EPA–ORD) issued the first draft of its *Integrated Science Assessment for Sulfur Oxides—Health Criteria* (EPA/600/R–07/108) in September of 2007 and received CASAC's advice in a public meeting on December 6–7, 2007 as well as in a letter to the Administrator on January 9, 2008. EPA–ORD has now updated and revised its draft document, *Integrated Science Assessment for Sulfur Oxides—Health Criteria (Second External Review Draft,* EPA/600/R–08/047). EPA's Office of Air and Radiation (EPA–OAR) released its *Sulfur Oxides Health Assessment Plan: Scope and Methods for Exposure and Risk Assessment* in November 2007 and received consultative advice from CASAC in the public meeting of December 6–7, 2007. EPA–OAR is completing its draft document: *Risk and Exposure Assessment to Support the Review of the SO_2 Primary National Ambient Air Quality Standards: First Draft.* The purpose of the July 30–31 meeting is for the CASAC Panel to conduct a review of these two documents. The purpose of the August 12, 2008 teleconference is for the CASAC to finalize its draft advisory report on the Agency's Risk and Exposure Assessment.

Technical Contact: Any questions concerning EPA's *Integrated Science Assessment for Sulfur Oxides—Health Criteria (Second External Review Draft)* should be directed to Dr. Jee Young Kim in EPA's Office of Research and Development at 919–541–4157 or *kim.jee-young@epa.gov.* Any questions concerning *EPA's Risk and Exposure Assessment to Support the Review of the SO_2 Primary National Ambient Air Quality Standards: First Draft* should be

directed to Dr. Stephen Graham in EPA's Office of Air and Radiation at 919–541–4344 or *graham.stephen@epa.gov.*

Availability of Meeting Materials: EPA–ORD's *Integrated Science Assessment for Sulfur Oxides—Health Criteria (Second External Review Draft)* can be accessed at *http://cfpub.epa.gov/ncea/cfm/recordisplay.cfm?deid=190346.* EPA–OAR's Risk and Exposure Assessment to Support the Review of the SO_2 Primary National Ambient Air Quality Standards: First Draft will be available at *http://www.epa.gov/ttn/naaqs/standards/so2/s_so2_index.html.* Agendas and materials in support of the CASAC meeting and teleconference will be available on the SAB Web site at *http://www.epa.gov/sab* in advance of the meeting.

Procedures for Providing Public Input: Interested members of the public may submit relevant written or oral information for the CASAC Panel to consider during the advisory process. *Oral Statements:* In general, individuals or groups requesting an oral presentation at a public meeting will be limited to 5 minutes per speaker, with no more than a total of 1 hour for all speakers. Interested parties should contact Dr. Stallworth, DFO, in writing (preferably via e-mail) by July 25, 2008 at the contact information noted above, to be placed on the public speaker list for this meeting. *Written Statements:* Written statements should be received in the SAB Staff Office by July 25, 2008, so that the information may be made available to the Panel for their consideration prior to this meeting. Written statements should be supplied to the DFO in the following formats: one hard copy with original signature (optional), and one electronic copy via e-mail (acceptable file format: Adobe Acrobat PDF, WordPerfect, MS Word, MS PowerPoint, or Rich Text files in IBM–PC/Windows 98/2000/XP format).

Accessibility: For information on access or services for individuals with disabilities, please contact Dr. Stallworth at the phone number or e-mail address noted above, preferably at least ten days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: June 11, 2008.

Vanessa T. Vu,

Director, EPA Science Advisory Board Staff Office.

[FR Doc. E8–13843 Filed 6–17–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8581–5]

Science Advisory Board Staff Office; Notification of Two Public Teleconferences of the Science Advisory Board Drinking Water Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) Science Advisory Board (SAB) Staff Office announces two public teleconferences of the SAB Drinking Water Committee (DWC) to provide technical comments on EPA's proposed Aircraft Drinking Water Rule.

DATES: The SAB will hold two public teleconferences on July 24 and 25, 2008. The teleconference on Thursday, July 24, 2008, will begin at 1 p.m. and end at 5 p.m. (Eastern Time). The teleconference on Friday, July 25, 2008, will begin at 2 p.m. and end at 5 p.m. (Eastern Time).

Location: The July 24 and 25, 2008, teleconferences will be conducted by telephone only.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing to obtain general information concerning the two public teleconferences, including call-in phone numbers, should contact Dr. Resha M. Putzrath, Designated Federal Officer (DFO), EPA Science Advisory Board (1400F), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; via telephone/voice mail: (202) 343–9978; fax: (202) 233–0643; or e-mail at *putzrath.resha@epa.gov.* General information concerning the EPA Science Advisory Board can be found on the SAB Web site at *http://www.epa.gov/sab.*

SUPPLEMENTARY INFORMATION: The SAB was established by 42 U.S.C. 4365 to provide independent scientific and technical advice to the Administrator on the technical basis for Agency positions and regulations. The SAB is a Federal Advisory Committee chartered under the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C., App. The SAB will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies. Pursuant to FACA, Public Law 92–463, notice is hereby given that the EPA SAB Drinking Water Committee will hold two public teleconferences to provide technical advice on EPA's proposed Aircraft Drinking Water Rule (ADWR).

Background: EPA's Office of Water has asked the SAB Drinking Water Committee to conduct a consultation on a proposed Aircraft Drinking Water Rule. Under the Safe Drinking Water Act, any interstate carrier conveyance (ICC) that regularly serves drinking water to an average of at least 25 individuals daily, at least 60 days per year, is subject to the National Primary Drinking Water Regulations (NPDWR). EPA is responsible for developing and implementing the NPDWRs for all public water systems, including public water systems on ICCs. The existing NPDWRs were designed for traditional, stationary public water systems, not mobile aircraft water systems that are operationally different. EPA has proposed an ADWR that addresses onboard water systems for aircraft within U.S. jurisdiction in the **Federal Register** (73 FR 19320–19348).

Availability of Meeting Materials: The meeting agendas and other materials will be posted on the SAB Web site at *http://www.epa.gov/sab* in advance of the meeting. The proposed ADWR can be found at *http://www.epa.gov/safewater/airlinewater/index2.html.* For questions and information concerning the proposed ADWR, please contact Mr. Richard Naylor at 202–564–3847 or *naylor.richard@epa.gov.*

Procedures for Providing Public Input: Interested members of the public may submit relevant written or oral information for the Drinking Water Committee to consider throughout the advisory process. *Oral Statements:* In general, individuals or groups requesting an oral presentation at a public SAB teleconference will be limited to three minutes per speaker, with no more than a total of one-half hour for all speakers. To be placed on the public speaker list, interested parties should contact Dr. Resha M. Putzrath, DFO, in writing via e-mail, by July 14, 2008, at the contact information noted above.

Written Statements: Written statements should be received in the SAB Staff Office by July 14, 2008, so that the information may be made available to the SAB DWC for their consideration prior to the teleconferences. Written statements should be supplied to the DFO via e-mail to *putzrath.resha@epa.gov* (acceptable file format: Adobe Acrobat PDF, WordPerfect, MS Word, MS PowerPoint, or Rich Text files in IBM–PC/Windows 98/2000/XP format).

Accessibility: For information on access or services for individuals with disabilities, please contact Dr. Resha M. Putzrath at (202) 343–9978 or

putzrath.resha@epa.gov. To request accommodation of a disability, please contact Dr. Putzrath, preferably at least ten days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: June 11, 2008.

Vanessa T. Vu,

Director, EPA Science Advisory Board Staff Office.

[FR Doc. E8–13833 Filed 6–17–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8581–4]

Notice of Approval of the Primacy Application for National Primary Drinking Water Regulations for the State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of approval and solicitation of requests for a public hearing.

SUMMARY: The Environmental Protection Agency (EPA) is hereby giving notice that the State of Missouri is revising its approved Public Water Supply Supervision Program under the Missouri Department of Natural Resources. The EPA has determined that these revisions are no less stringent than the corresponding Federal regulations. Therefore, the EPA intends to approve these program revisions.

DATES: This determination to approve the Missouri program revision is made pursuant to 40 CFR 142.12(d)(3). This determination shall become final and effective on July 18, 2008, unless (1) a timely and appropriate request for a public hearing is received or (2) the Regional Administrator elects to hold a public hearing on his own motion. Any interested person, other than Federal agencies, may request a public hearing. A request for a public hearing must be submitted to the Regional Administrator at the address shown below by July 18, 2008. If a substantial request for a public hearing is made within the requested thirty day time frame, a public hearing will be held and a notice will be given in the **Federal Register** and a newspaper of general circulation. Frivolous or insubstantial requests for a hearing may be denied by the Regional Administrator. All interested parties may request a public hearing on the approval to the Regional Administrator at the EPA Region 7 address shown below.

ADDRESSES: Any request for a public hearing shall include the following information: (1) Name, address and telephone number of the individual organization or other entity requesting a hearing; (2) a brief statement of the requesting person's interest in the Regional Administrator's determination and a brief statement on information that the requesting person intends to submit at such hearing; (3) the signature of the individual making the request or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity. Requests for Public Hearing shall be addressed to: Regional Administrator, Environmental Protection Agency-Region 7, 901 North 5th Street, Kansas City, Kansas 66101.

All documents relating to this determination are available for inspection between the hours of 9 a.m. and 4:30 p.m., Monday through Friday, at the following offices:

Missouri Department of Natural Resources, Water Protection Program, Public Drinking Water Branch, 1101 Riverside Drive, Jefferson City, Missouri 65101–4272.

Environmental Protection Agency-Region 7, Water Wetlands and Pesticides Division, Drinking Water Management Branch, 901 North 5th Street, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Robert Dunlevy, Environmental Protection Agency—Region 7, Drinking Water Management Branch, (913) 551–7798, or by e-mail at dunlevy.robert@epa.gov.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the EPA has determined to approve an application by the Missouri Department of Natural Resources to incorporate the following EPA National Primary Drinking Water Regulations: (1) Public Water System Definition as Amended by 1996 SDWA Amendments; (August 5, 1998, 63 FR 41940); (2) Disinfection Byproducts Rule and Interim Enhanced Surface Water Treatment Rule (December 16, 1998, 63 FR 69389 and 63 FR 69477); (3) Lead and Copper Rule Minor Revisions (January 12, 2000, 65 FR Page 1949); (4) Public Notification Rule (May 4, 2000, 65 FR 25981); (5) Radionuclides Rule (December 7, 2000, 65 FR 76707); (6) Arsenic and Clarifications to Compliance and New Source Contaminants Monitoring Rule (January 22, 2001, 66 FR 6975); (7) Filter Backwash Recycling Rule (June 8, 2001, 66 FR 31085); (8) Long Term 1 Enhanced Surface Water Treatment Rule (January 14, 2002, 67 FR 1811). The application demonstrates that Missouri has adopted drinking water regulations which satisfy the National Primary Drinking Water Regulations. The EPA has determined that Missouri's regulations are no less stringent than the corresponding Federal regulations and that Missouri continues to meet all requirements for primary enforcement responsibility as specified in 40 CFR 142.10.

Authority: Section 1413 of the Safe Drinking Water Act, as amended, and 40 CFR 142.10, 142.12(d) and 142.13.

Dated: April 30, 2008.

John B. Askew,

Regional Administrator, Region 7.

[FR Doc. E8–13842 Filed 6–17–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2008–0303; FRL–8368–6]

Fenamiphos; Product Registration Cancellation Order

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's order for the cancellation, voluntarily requested by the registrant and accepted by the Agency, of certain product registrations containing the pesticide fenamiphos, pursuant to section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. This cancellation order follows an April 23, 2008 **Federal Register** Notice of Receipt of Request from the fenamiphos registrant to voluntarily cancel certain fenamiphos product registrations. These are the last fenamiphos products registered for use in the United States. In the April 23, 2008 notice, EPA indicated that it would issue an order implementing the cancellations, unless the Agency received substantive comments within the 30 day comment period that would merit its further review of these requests, or unless the registrant withdrew their request within this period. The Agency did not receive any comments on the notice. Further, the registrant did not withdraw their request. Accordingly, EPA hereby issues in this notice a cancellation order granting the requested cancellations. Any distribution, sale, or use of the fenamiphos products subject to this cancellation order is permitted only in accordance with the terms of this order, including any existing stocks provisions.

DATES: The cancellations are effective June 18, 2008.

FOR FURTHER INFORMATION CONTACT: Eric Miederhoff, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 347–8028; fax number: (703) 308–7070; e-mail address: *miederhoff.eric @epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket*. EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2008–0303. 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. What Action is the Agency Taking?

This notice announces the cancellation, as requested by the registrant, of certain fenamiphos products registered under section 24(c) of FIFRA. These registrations are listed in sequence by registration number in Table 1 of this unit.

TABLE 1.—FENAMIPHOS PRODUCT REGISTRATION CANCELLATIONS

Registration No.	Product Name	Chemical Name
PR 97–0002	Nemacur 15% Granular Systemic Insecticide-Nematicide	Fenamiphos
HI 04–0002	Nemacur 15% Granular Systemic Insecticide-Nematicide	Fenamiphos
NM 90–0001	Nemacur 15% Granular Systemic Insecticide-Nematicide	Fenamiphos
PR 97–0001	Nemacur 3 Emulsifiable Systemic Insecticide-Nematicide	Fenamiphos
PR 97–0005	Nemacur 3 Emulsifiable Systemic Insecticide-Nematicide	Fenamiphos
WA 76–0034	Nemacur 3 Emulsifiable Systemic Insecticide-Nematicide	Fenamiphos
FL 84–0019	Nemacur 3 Emulsifiable Systemic Insecticide-Nematicide	Fenamiphos
HI 04–0001	Nemacur 3 Emulsifiable Systemic Insecticide-Nematicide	Fenamiphos
OR 04–0021	Nemacur 3 Emulsifiable Systemic Insecticide-Nematicide	Fenamiphos

TABLE 2.—REGISTRANTS OF CANCELED FENAMIPHOS PRODUCTS

EPA Company Number	Company Name and Address
264	Bayer CropScience 2 T.W. Alexander Drive P.O. Box 12014 Research Triangle Park, NC 27709

III. Summary of Public Comments Received and Agency Response to Comments

During the public comment period provided, EPA received no comments in response to the April 23, 2008 **Federal Register** notice announcing the Agency's receipt of the request for voluntary cancellation of certain fenamiphos product registrations.

IV. Cancellation Order

Pursuant to FIFRA section 6(f), EPA hereby approves the requested cancellations of fenamiphos registrations identified in Table 1 of Unit II. Accordingly, the Agency orders that the fenamiphos product registrations identified in Table 1 of Unit II. are hereby canceled. Any distribution, sale, or use of existing stocks of the products identified in Table 1 of Unit II. in a manner inconsistent with any of the Provisions for Disposition of Existing Stocks set forth in Unit VI. will be considered a violation of FIFRA.

V. What is the Agency's Authority for Taking this Action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled or amended to terminate one or more uses. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, following the public comment period, the Administrator may approve such a request.

VI. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which were packaged, labeled, and released for shipment prior to the effective date of the cancellation action. The cancellation order issued in this notice includes the following existing stocks provisions.

Persons other than the registrant may continue to use the affected FIFRA 24(c) labels to apply existing stocks of the previously-cancelled parent Section 3 products, Nemacur 15% Granular Systemic Insecticide-Nematicide and Nemacur 3 Emulsifiable Systemic

Insecticide-Nematicide (EPA Reg. Nos. 264–726 and 264–731, respectively), provided such use is consistent with the 24(c) labels, until such existing stocks are exhausted. The registrant is not permitted to sell or distribute the previously-cancelled parent Section 3 products, Nemacur 15% Granular Systemic Insecticide-Nematicide and Nemacur 3 Emulsifiable Systemic Insecticide-Nematicide (EPA Reg. Nos. 264–726 and 264–731, respectively) as of May 31, 2007 in accordance with a December 10, 2003 **Federal Register** Order (FRL–7332–5) (68 FR 68901). This order also stipulated that sale and distribution of Nemacur 15% Granular Systemic Insecticide-Nematicide by persons other than the registrant is prohibited as of May 31, 2008. Existing stocks of Nemacur 3 Emulsifiable Systemic Insecticide-Nematicide (EPA Reg No. 264–731) already in the hands of dealers or users may be distributed and sold until November 30, 2008 in accordance with a **Federal Register** Order issued on June 11, 2008 (FRL–8368–2).

List of Subjects

Environmental protection, Pesticides and pests.

Dated: June 10, 2008.

Steven Bradbury,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. E8–13623 Filed 6–17–08; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2008–0492; FRL–8369–2]

Certain New Chemicals; Receipt and Status Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5 of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory) to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a premanufacture notice (PMN) or an application for a test marketing exemption (TME), and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from May 12, 2008 through May 30, 2008, consists of the PMNs pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

DATES: Comments identified by the specific PMN number or TME number, must be received on or before July 18, 2008.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2008–0492, by one of the following methods:

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

• *Mail*: Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

• *Hand Delivery*: OPPT Document Control Office (DCO), EPA East Bldg., Rm. 6428, 1201 Constitution Ave., NW., Washington, DC. Attention: Docket ID Number EPA–HQ–OPPT–2008–0492. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930. Such deliveries are only accepted during the DCO's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to docket ID number EPA–HQ–OPPT–2008–0492. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line 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 regulations.gov or e-mail. The regulations.gov website 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 regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the 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*.

Docket: All documents in the docket are listed in the docket index available in regulations.gov. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov website to view the docket index or access available documents. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically at *http://www.regulations.gov*, or, if only available in hard copy, at the OPPT Docket. The OPPT Docket is located in the EPA Docket Center (EPA/DC) at Rm. 3334, EPA West Bldg., 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. The telephone number of the EPA/DC Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Docket visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor bags are processed through an X-ray machine and subject to search. Visitors will be provided an EPA/DC badge that must be visible at all times in the building and returned upon departure.

FOR FURTHER INFORMATION CONTACT: Colby Lintner, Regulatory Coordinator, Environmental Assistance Division, Office of Pollution Prevention and Toxics (7408M), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 554–1404; e-mail address: *TSCA-Hotline@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. As such, the Agency has not attempted to describe the specific entities that this action may apply to. Although others may be affected, this action applies directly to the submitter of the premanufacture notices addressed in the action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What Should I Consider as I Prepare My Comments for EPA?

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

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Why is EPA Taking this Action?

Section 5 of TSCA requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a PMN or an application for a TME and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from May 12, 2008 through May 30, 2008, consists of the PMNs pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

III. Receipt and Status Report for PMNs

This status report identifies the PMNs pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period. If you are interested in information that is not included in the following tables, you may contact EPA as described in Unit II. to access additional non-CBI information that may be available.

In Table I of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the PMNs received by EPA during this period: the EPA case number assigned to the PMN; the date the PMN was received by EPA; the projected end date for EPA's review of the PMN; the submitting manufacturer; the potential uses identified by the manufacturer in the PMN; and the chemical identity.

I. 26 PREMANUFACTURE NOTICES RECEIVED FROM: 05/12/08 TO 05/30/08

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–08–0430	05/13/08	08/10/08	CBI	(G) Moisture curing polyurethane adhesive	(G) Isocyanate terminated urethane polymer
P–08–0431	05/12/08	08/09/08	Arkema Inc.	(G) Catalyst	(G) 2,2-bis-alkylthio alkane
P–08–0432	05/13/08	08/10/08	UBE America Inc.	(G) Electric molding	(G) Phenol-xylylene resin
P–08–0433	05/15/08	08/12/08	CBI	(G) Coloration auxiliary for polyamine and like substrates.	(G) 1,7-naphthalenedisulfonic acid, 4-(substituted)-5-hydroxy-6-(substituted)-, disodium salt
P–08–0434	05/15/08	08/12/08	CBI	(G) Treated metal oxide for coatings	(G) Functional treated metal oxide
P–08–0435	05/19/08	08/16/08	CBI	(S) Intermediate	(G) Aminosilane ester
P–08–0436	05/19/08	08/16/08	CBI	(S) Hydrophilizing agent	(G) Alkoxysilane-modified polyalkyleneoxide polymer
P–08–0437	05/20/08	08/17/08	CBI	(G) Polyurethane foam catalyst	(G) Amine carboxylate
P–08–0438	05/20/08	08/17/08	CBI	(G) Silicone coating	(G) Alkyl silsesquioxanes
P–08–0439	05/21/08	08/18/08	CBI	(G) Component of paints	(G) Alkyl methacrylate polymer with alkyl acylate, aromatic vinyl monomer, isoalkyl methacrylate, alkoxy methacrylate, peroxide-initiated
P–08–0440	05/20/08	08/17/08	CBI	(G) Raw material for foams	(G) Acrylic nitrile copolymer
P–08–0441	05/20/08	08/17/08	CBI	(G) Raw material for foams	(G) Acrylic ester nitrile copolymer

I. 26 PREMANUFACTURE NOTICES RECEIVED FROM: 05/12/08 TO 05/30/08—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–08–0442	05/19/08	08/16/08	Macdermaid Inc.	(G) Photocure polymer, open, non-dispersive use	(G) Oxirane, methyl-, polymer with 5-isocyanato-1-(isocyantomethyl)-1,3,3-trimethylcyclohexane, alpha-hydro-omega-hydroxylpoly[oxy(methyl-1,2-ethanediyl)] and oxirane, poly(alkyl)glycol acrylate- blocked
P–08–0443	05/22/08	08/19/08	CBI	(G) Open, nondispersive use; polymer precursor	(G) Azo substituted benzoic acid
P–08–0444	05/22/08	08/19/08	Esstech, Inc.	(S) Adhesive; acid senstitive polymerization initiative	(S) *N*-(2-hydroxy-3-((2-methyl-1-oxo-2-propenyl)oxy)propyl)-*N*-(4-methylphenyl)-glycine, sodium salt
P–08–0445	05/22/08	08/19/08	CBI	(G) Open, nondispersive use; polymer additive for pigment and ink enhancment	(G) Polyalkylene azo benzamide
P–08–0446	05/22/08	08/19/08	CBI	(G) Open, nondispersive use; polymer additive for pigment and ink enhancment	(G) Poly(oxyalkylene) azo benzamide
P–08–0447	05/22/08	08/19/08	PQ Corporation	(G) Catalyst absorbent	(G) Silica alumino phosphate
P–08–0448	05/23/08	08/20/08	CBI	(G) Open non-dispersive	(G) Acrylate
P–08–0449	05/27/08	08/24/08	CBI	(G) Additive, open, non-dispersive use	(G) Vinyltrimethoxysiloxane modified polydimethylsiloxane
P–08–0450	05/20/08	08/17/08	INX International Ink Co.	(G) Resin dispersant aid	(G) Polymer of alkenoic acid, substituted ethene and alkyl acrylate
P–08–0451	05/20/08	08/17/08	Inx International Ink Co.	(G) Resin dispersant aid	(G) Polymer of alkenoic acid, carbomonocyclic acrylate and methacrylic acid
P–08–0452	05/28/08	08/25/08	CBI	(G) Resin for water swelling material	(G) Urethane prepolymer (polyether polyol react with organic isocyanante)
P–08–0453	05/29/08	08/26/08	CBI	(G) Component of industrial use coating	(G) Cationic polyether
P–08–0454	05/29/08	08/26/08	CBI	(G) Component of industrial use coating	(G) Cationic polyether
P–08–0455	05/29/08	08/26/08	CBI	(G) Component of industrial use coating	(G) Cationic polyether

In Table II of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the Notices of Commencement to manufacture received:

II. 13 NOTICES OF COMMENCEMENT FROM: 05/12/08 TO 05/30/08

Case No.	Received Date	Commencement Notice End Date	Chemical
P–05–0401	05/12/08	04/28/08	(G) Isocyanate functional polyester acrylic polyether urethane polymer
P–05–0774	05/27/08	10/31/06	(G) (orixane,2-halocylcoalkyl-,2-halophenylalkyl-)
P–05–0833	05/19/08	05/11/08	(G) Polyurethane resin
P–06–0800	05/14/08	04/07/08	(G) Siloxane, silsesquioxanes
P–07–0007	05/11/08	01/12/07	(G) Mixed polyol - glycerol fatty acid ester
P–07–0489	05/27/08	05/02/08	(G) Salt of alkylolaminoamid and ethoxylated alcohols, phosphates
P–07–0674	05/12/08	04/29/08	(G) Oxirane, substituted silylmethyl-, hydrolysis products with alkanol zirconium(4+) salt and silica, acetates
P–08–0004	05/27/08	04/17/08	(G) Aliphatic polycarbonate diol polyurethane
P–08–0019	05/20/08	05/06/08	(G) Benzene, 1,4-bis(aralkoxy)-
P–08–0103	05/12/08	04/09/08	(G) Dialkylmonoheterocycledione, homopolymer, ester with 1,2,3-propanetriol
P–08–0176	05/14/08	04/23/08	(S) Magnesium, bu alc. chloro titanium complexes
P–08–0199	05/21/08	04/22/08	(G) Carbon
P–08–0203	05/12/08	04/28/08	(G) Isocyanate terminated urethane polymer

List of Subjects

Environmental protection, Chemicals, Premanufacturer notices.

Dated: June 11, 2008.

Chandler Sirmons,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. E8–13777 Filed 6–17–08; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8582–3]

State Program Requirements; Application To Administer the National Pollutant Discharge Elimination System (NPDES) Program; Alaska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The State of Alaska has submitted a request for approval of an Alaska version of the National Pollutant Discharge Elimination System (NPDES) program, pursuant to section 402 of the Clean Water Act (CWA or ''the Act''). With this request, the Alaska Department of Environmental Conservation (ADEC) seeks approval to administer a program regulating discharges of pollutants into waters of the United States under its jurisdiction. The State's request includes an implementation plan that transfers the administration of specific program components from EPA to the State over a three year period from the date of program approval. If EPA approves the Alaska Pollutant Discharge Elimination System (APDES) program application, the State will administer this program, subject to continuing EPA oversight and enforcement authority, in place of the National Pollutant Discharge Elimination System (NPDES) program now administered by EPA in Alaska. Today, EPA is requesting comments on the State's request and is providing notice of public hearings and comment period on that proposal. EPA will either approve or disapprove the State's request after considering all comments it receives.

DATES: *Comments.* The public comment period on the State's request for approval to administer the proposed APDES program will be from the date of publication until August 18, 2008. Comments must be received or post-marked by no later than 11:59 p.m. on August 18, 2008

Educational Meetings and Public Hearings: EPA, Region 10 will hold three combined educational meetings and public hearings on the following dates:

1. July 21, 2008, Educational Meeting, 4 to 6 p.m.; Public Hearing, from 7 p.m. until all testimony is heard or 10 p.m., whichever is earlier, in Fairbanks, AK.

2. July 22, 2008, Educational Meeting, 4 to 6; Public Hearing, from 7 p.m. until all testimony is heard or 10 p.m., whichever is earlier, in Juneau, AK.

3. July 23, 2008, Educational Meeting, 4 to 6 p.m.; Public Hearing from 7 p.m. until all testimony is heard or 10 p.m., whichever is earlier, in Anchorage, AK.

Comments. Send or hand deliver all paper copies to Nina Kocourek, Office of Water and Watersheds, Mail Stop OWW–130, 1200 Sixth Avenue, Suite 900, Seattle, WA 98101–3140. Call (206) 553–1200 before hand delivery to verify business hours; send electronic copies to *kocourek.nina@epa.gov*; and fax copies to (206) 553–0165. EPA requests that a duplicate copy of comments be sent to Sharon Morgan, *sharon.morgan@alaska.gov*, Alaska Department of Environmental Conservation, P. O. Box 111800, 410 Willoughby Avenue, Suite 303, Juneau, AK 99811–1800.

Viewing and/or Obtaining Copies of Documents. Copies of Alaska's APDES program submission (aka application) and all other documents in the official record are available for inspection at the EPA Region 10 Library, Park Place Building, 1200 6th Avenue, Suite 900, Seattle, WA 98101–3140. The library hours are 9 a.m. to noon and 1 p.m. to 2:30 p.m. Monday through Friday, except federal holidays, telephone number (206) 553–1289; and at the EPA, Region 10, Alaska Operations Office, 222 W 7th Avenue, #19, Room 537, Anchorage, AK 99513, during normal business hours, contact Greg Kellogg at (907) 271–6328. The application can be viewed or downloaded from the EPA Web site *http://www.epa.gov/r10earth/waterpermits.htm.* ADEC will also have copies of the application available for viewing Monday through Friday, 8:30 a.m. to 4:30 p.m., except Alaska holidays, at the following locations: 555 Cordova Street, Anchorage, AK 99501–2617; 410 Willoughby Avenue, Suite 303, Juneau, AK 99811–1800; 610 University Drive, Fairbanks, AK 99709; 1700 E Bogard Road #B, Suite 103, Wasilla, AK 99654; and 43335 Kalifonsky Beach, Suite 11, Soldotna, AK 99669. ADEC will have the application available on compact disk (CD), contact Sharon Morgan, e-mail *sharon.morgan@alaska.gov* or call (907) 465–5530) to receive a CD. The application can be viewed or downloaded from the State of Alaska Web site *http://www.dec.state.ak.us/water/npdes/npdes.htm.* Part or all of the State's 2,455 page APDES program application may be copied at EPA or at ADEC. ADEC has no copy fee for 200 or fewer pages and charges .20 per page for more than 200 pages. You may also request a copy of all or parts of the application from EPA using the Freedom of Information Act (FOIA) request process. The procedures and costs associated with a FOIA request can be found at the EPA Web site *http://yosemite.epa.gov/r10/extaff.nsf/webpage/Freedom+of+Information+Act?OpenDocument.*

Locations of Educational Meetings and Public Hearings: On July 21, 2008 at the Regency Fairbanks Hotel, 85 10th Avenue, Fairbanks, AK; on July 22, 2008 at the Centennial Hall, 101 Egan Drive, Juneau, AK; and on July 23, 2008 at the Howard Johnson Plaza Hotel, 239 W. 4th Avenue, Anchorage, AK. See **SUPPLEMENTARY INFORMATION** for additional information.

FOR FURTHER INFORMATION CONTACT: Nina Kocourek, Office of Water and Watersheds, U.S. Environmental Protection Agency, Region 10, 1200 6th Avenue, Suite 900, Mail Stop OWW–130, Seattle, WA 98101–3140, (206) 553–6502, *kocourek.nina@epa.gov* or Greg Kellogg U.S. Environmental Protection Agency, Region 10, Alaska Operations Office, 222 W 7th Avenue, #19, Room 537, Anchorage, AK 99513, (907) 271–6328, *kellogg.greg@epa.gov.*

SUPPLEMENTARY INFORMATION: Section 402 of the CWA created the NPDES program under which EPA may issue permits for the point source discharge of pollutants to waters of the United States under conditions required by the Act. Section 402 also provides that EPA may approve a State to administer an equivalent state program, upon the Governor's request, provided the State has appropriate legal authority and a program sufficient to meet the Act's requirements. The regulatory requirements for state program approval are set forth in 40 CFR Part 123, and 40 CFR 123.21 lists the basic elements of an approvable application.

EPA Region 10 considers the documents submitted by the State of Alaska to be administratively complete at the time of this notice. EPA will not make a final decision on APDES program approval until after: (1) Considering all public comments provided during the public comment period and from the public hearings; (2) completion of EPA's evaluation of, and if necessary consultation with the National Marine Fisheries Service on,

the affects program approval may have on essential fish habitat, in accordance with section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act; and (3) completion of government to government tribal consultations, as requested, with federally recognized tribes in Alaska.

By letter dated June 29, 2006, the Governor of Alaska requested NPDES program approval and submitted an application that included a program description, an Attorney General's statement, copies of applicable State statutes and regulations, and a Memorandum of Agreement (MOA) to be executed by the Regional Administrator of EPA Region 10 and the Commissioner of ADEC. EPA received this package of materials on July 5, 2006. EPA Region 10 determined that Alaska's approval request did not constitute a complete package under 40 CFR 123.21, and notified the Governor of Alaska on August 1, 2006, in writing of its concerns. On October 31, 2006, EPA sent ADEC a comprehensive list of comments on the July 5, 2006 application.

Thereafter, by letter dated April 22, 2008, the Governor of Alaska requested NPDES program approval and submitted an application that includes a program description, an Attorney General's statement, copies of applicable State statutes and regulations, and a Memorandum of Agreement (MOA) to be executed by the Regional Administrator of EPA Region 10 and the Commissioner of ADEC. EPA received this package of materials on May 1, 2008. EPA Region 10 determined that the APDES program application received on May 1, 2008, along with revisions received up to June 9, 2008, constitute a complete package under 40 CFR 123.21. A letter of completeness was sent to the Commissioner of ADEC on June 10, 2008.

The State of Alaska is applying to administer the NPDES permitting, compliance and enforcement programs for individual and general permits, as well as for the pretreatment and stormwater programs in Alaska. The State is not applying to regulate the disposal of sewage sludge (Bio-Solids Program) in Alaska. If EPA approves the State's program, EPA will retain NPDES permitting authority and primary enforcement responsibility over the Bio-Solids Program in accordance with section 405 of the Act and 40 CFR part 503.

The State does not have the authority to administer the NPDES program for facilities operating in the Denali National Park and Preserve pursuant to Alaska Statehood Act section 11; the United States has exclusive jurisdiction over the Denali National Park and Preserve. Additionally, the State does not have jurisdiction to administer the NPDES program over facilities discharging in Indian Country as defined in 18 U.S.C. 1151; facilities operating outside state waters (three miles offshore), or over facilities with CWA section 301(h) waivers. If EPA approves the State's program, EPA will retain NPDES permitting authority and primary enforcement responsibility over these facilities.

The State of Alaska has asked to assume responsibility for the NPDES programs in phases, pursuant to the CWA section 402(n)(4). Alaska's application appears to meet the requirements for such a phased approach. In accordance with CWA section 402(n)(4), EPA may approve a phased permit program covering administration of a major component that represents a significant and identifiable part of the NPDES program.

The State proposes to assume administration of the NPDES program by phases within 5 years after submission of the application, and agrees to make all reasonable efforts to assume such administration by such date. Specifically, ADEC's approval request includes a schedule for EPA to transfer permit, compliance, and enforcement responsibility for the NPDES program to DEC over three years from the date of APDES program approval. The following schedule identifies the phasing plan for when the APDES program will begin the administration of permitting, compliance, and enforcement activities associated with each major component: Phase I, at program approval the APDES program will include: Domestic Discharges, Timber Harvesting, Seafood Processing Facilities and Hatcheries. Phase II, one year from program approval the APDES program will add: Federal Facilities, Stormwater Program (excluding the Bio-Solids Program), Pretreatment Program, and miscellaneous non-domestic discharges. Phase III, two years from program approval the APDES program will add Mining. Phase IV, three years from program approval the APDES program will add: Oil and Gas, Cooling water intakes and dischargers, Munitions, and all other remaining facilities.

Pursuant to 40 CFR 123.21 and 123.61(b), the EPA must approve or disapprove the submitted APDES program (which has been determined to be complete) within 90 days of receipt, unless this review period is extended by mutual EPA-State agreement. To obtain program approval, the State must show, among other things that it has the authority to issue permits which comply with the Act, authority to impose civil and criminal penalties for permit violations, and authority to ensure that the public is given notice and an opportunity for a hearing on each proposed permit. After close of the comment period and completion of the required consultations, the Regional Administrator for EPA Region 10 will make a decision to approve or disapprove the APDES program based on the requirements of Section 402 of the CWA and 40 CFR 123. If the Regional Administrator approves the Alaska program, the Regional Administrator will so notify the State and sign the proposed MOA. Notice would be published in the **Federal Register** and, as of the date of program approval, EPA would suspend issuance of NPDES permits in Alaska in accordance with the State's approved schedule to transfer NPDES program authority as described in the State's phasing plan. If EPA's Regional Administrator disapproves the APDES program, ADEC will be notified of the reasons for disapproval and of any revisions or modifications to the program that are necessary to obtain approval.

Educational Meetings. The educational meetings will include a technical overview of both the federal and state programs. ADEC will participate with EPA during the educational portion of the meetings.

Public Hearing Procedures. The public hearings will be conducted in accordance with 40 CFR 124.12 and will provide interested parties with the opportunity to give written and/or oral comments for the official record. The following procedures will be used at the public hearings. (1) The Presiding Officer shall conduct the hearing in a manner which will allow all interested persons wishing to make oral statements an opportunity to do so; however, the Presiding Officer may inform attendees of any time limits during the opening statement of the hearing. (2) Any person may submit written statements or documents for the hearing record. (3) The Presiding Officer may, in his discretion, exclude oral testimony if such testimony is overly repetitious of previous testimony or is not relevant to the decision to approve the submitted State APDES program. (4) The transcript taken at the hearing, together with copies of all submitted statements and documents, shall become a part of the record submitted to the Regional Administrator. (5) The hearing record shall be left open until the deadline for receipt of comments specified at the

beginning of this Notice to allow any person time to submit additional written statements or to present views or evidence tending to rebut testimony presented at the public hearing. (6) Hearing statements may be oral or written. Written copies of oral statements are urged for accuracy of the record and for use of the Hearing Panel and other interested persons. Persons wishing to make oral testimony supporting their written comments are encouraged to give a summary of their points rather than reading lengthy written comments verbatim into the record. All comments received by EPA Region 10 by the deadline for receipt of comments, or presented at the public hearing, will be considered by EPA before taking final action on Alaska's request for NPDES program approval.

Summary of the Alaska Pollutant Discharge Elimination System (APDES) Program Submission. The ADEC application for program approval applies to discharges into waters of the United States covered by the authority of that Agency. This includes most discharges of pollutants subject to the federal NPDES program (e.g., municipal wastewater and stormwater point source discharges, pretreatment, industrial wastewater and stormwater point source discharges; and point source discharges from federal facilities). ADEC is not seeking authority to regulate the discharges of sewage sludge (Bio-Solids Program). The APDES program is fully described in documents the State has submitted in accordance with 40 CFR 123.21, which include the following: a letter from the Governor requesting program approval; a Memorandum of Agreement (MOA) for execution by ADEC and EPA; a Program Description outlining the procedures, personnel and protocols that will be relied on to implement the State's permitting, compliance and enforcement program; a Statement signed by the Attorney General that describes the State's legal authority to administer a program equivalent to the federal NPDES program; and a description of the State's Continuing Planning Process. The following is a summary of these documents:

Governor's Letter: Alaska's application for program approval includes a letter dated April 22, 2008, from Governor Sarah Palin officially requesting NPDES program approval pursuant to 40 CFR 123.21(a)(1).

Memorandum of Agreement (MOA): The requirements for the MOA are found in 40 CFR 123.24. An MOA is a document signed by each Agency, committing them to specific responsibilities relevant to the administration and enforcement of the State's regulatory program. An MOA specifies these responsibilities and provides structure for the State's program management and EPA's program oversight. The MOA submitted by the State of Alaska has been signed by the Commissioner of the Alaska Department of Environmental Conservation. The Regional Administrator of U.S. EPA Region 10 will sign the document if the MOA and the program have been determined approvable after all comments received during the comment period have been considered.

Program Description: A program description submitted by a State seeking program approval must meet the minimum requirements of 40 CFR 123.22. It must provide a narrative description of the scope, structure, coverage, and processes of the State program; a description of the organization and staffing for the lead State agency; and itemized costs and funding sources for the program for the first two years after program approval. It must describe all applicable State procedures (including administrative procedures for the issuance of permits and administrative or judicial procedures for their review) and include copies of forms used in the program. It must further contain a complete description of the State's compliance and enforcement tracking program.

Attorney General's Statement: An Attorney General's Statement is required and described in regulations found at 40 CFR 123.23. The State Attorney General must certify that the State has lawfully adopted statutes and regulations which provide the State agency with the legal authority to administer a permitting program in compliance with 40 CFR Part 123. The Attorney General's Statement from Alaska certifies that the State of Alaska has the legal authority to administer the APDES program described in the program description.

Continuing Planning Process: The State has submitted a description of its Continuing Planning process in accordance with CWA Section 303(e) and 40 CFR 130.5. This document describes the State's planning processes for developing effluent limitations, total maximum daily loads (TMDLs), and water quality standards, among other things. The State plans to update this document, when necessary, to reflect significant changes to the process or new or amended federal regulations or guidance.

Public Comment on the Described Program. The program submitted by the State of Alaska has been determined by EPA to be complete in accordance with the regulations found at 40 CFR part 123. EPA and ADEC want to encourage public participation in this authorization process so that the citizens of Alaska will understand the program in their State. Therefore, EPA requests the public to review the program that ADEC has submitted and provide any comments they feel are appropriate. EPA will consider all comments on the APDES program and/or its authorization in its decision.

Authority: This action is taken under the authority of Section 402 of the Clean Water Act as amended, 42 U.S.C. 1342. I hereby provide public notice of the application by the State of Alaska for approval to administer the State NPDES program, in accordance with 40 CFR 123.61.

Dated: June 10, 2008.

Elin D. Miller,

Regional Administrator, Region 10.

[FR Doc. E8–13831 Filed 6–17–08; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL MARITIME COMMISSION

Notice of Agreement Filed

The Commission hereby gives notice of the filing of the following agreement under the Shipping Act of 1984. Interested parties may submit comments on agreements to the Secretary, Federal Maritime Commission, Washington, DC 20573, within ten days of the date this notice appears in the **Federal Register**. Copies of agreements are available through the Commission's Web site (*http://www.fmc.gov*) or contacting the Office of Agreements (202) 523–5793 or *tradeanalysis@fmc.gov*).

Agreement No.: 201175–001.

Title: Port of NY/NJ Sustainable Services Agreement.

Parties: APM Terminals North America, Inc.; Global Terminal & Container Services LLC; Maher Terminals LLC; New York Container Terminal, Inc.; and Port Newark Container Terminal LLC.

Filing Party: Carol N. Lambos; The Lambos Firm; 29 Broadway 9th Floor; New York, NY 10006–3101.

Synopsis: The agreement deletes American Stevedoring, Inc. as a party to the agreement.

Dated: June 13, 2008.

By order of the Federal Maritime Commission.

Karen V. Gregory,

Assistant Secretary.

[FR Doc. E8–13774 Filed 6–17–08; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for license as a Non-Vessel Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. chapter 409 and 46 CFR part 515).

Persons knowing of any reason why the following applicants should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Non-Vessel Operating Common Carrier Ocean Transportation Intermediary Applicants

HTL Logistics India Private Limited, 315 & 316 2nd Floor Oxford Towers, 139 Kodihalli, Airport Road, Bangalore 560008, India, Officers: Rakesh Suri, Director, (Qualifying Individual), Ahamed R. Farook, Chairman.

Ports Express (USA) Inc. dba Ports Express (Shanghai) Limited, PortsContainers Limited, 419 N. Oak Street, Inglewood, CA 90302, Officer: Alex T. Chan, President (Qualifying Individual).

MGL (USA) Inc., 20955 Pathfinder Road, Ste. 350, Diamond Bar, CA 91765, Officers: Helen X. Chin, Manager (Qualifying Individual), Winna Leung, President.

Non-Vessel Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary Applicants

Clutch Global Logistics, 180 Champion Way, Northlake, IL 60164, Officer: LJ Stevenson, Vice President (Qualifying Individual).

Euroworld Transport System America, Inc., 735 N. Water Street, Ste. 936, Milwaukee, WI 53202, Officer: Uros Pejanovic, Vice President (Qualifying Individual).

Hemarc Forwarders, Inc., 8201 NW 64 Street, Unit 2, Miami, FL 33166, Officers: Hedda Bronquete, Vice President, (Qualifying Individual). Marcelo Bronquete, President.

CJ GLS America, Inc., 404 Foxrun Ave., Opelika, AL 36801, Officer: Joon Park, CFO (Qualifying Individual).

IWC Shipping Corp., 772 65th Street, Ste. 2, Brooklyn, NY 11220, Officer: Hassan Hamze, President (Qualifying Individual).

Goshen Services Group, LLC dba Goshen Express, 6525 Belcrest Road, Ste. 519, Hyattsville, MD 20782, Officers: Franklin C. Ojukwu, President (Qualifying Individual), April C. Ibeji, Vice President.

InterChez Global Services, Inc., 3924 Clock Pointe Trail, Ste. 10, Stow, OH 44224, Officers: Rebecca L. Smith, General Manager, (Qualifying Individual) Mark A. Chesnes, President.

3PL Express Freight, Inc., 3236 San Anseline Ave., Long Beach, CA 90808, Officers: Maria C. Vidaurre, CFO (Qualifying Individual), Kari A. Stupke, President.

Genesis Forwarding Group USA, Inc. dba Genesis Container Lines, 800 Hindry Ave., Units B-D, Inglewood, CA 90301, Officer: Karen L. Sedor, Vice President (Qualifying Individual).

Global Links Express, Inc., 167–10 S. Conduit Ave., Ste. 202, Jamaica, NY 11434, Officer: Alex Yeh, President (Qualifying Individual).

Ocean Freight Forwarder—Ocean Transportation Intermediary Applicants

WTO Express (U.S.A.), Corp., 20265 Valley Blvd, Ste. B, Walnut, CA 91789, Madison, NJ 07940–0880, Officer: Su Chin-Tien, President (Qualifying Individual).

D.A.T. International, Inc., 11512 W. 183rd Street, Unit SE, Orland Park, IL 60467, Officers: Joy M. Blanco, President, (Qualifying Individual) Donald A. Taylor, Vice President.

NUCO Logistics, Inc., One World Trade Center, Suite 1890, Long Beach, CA 90831, Officers: Wendy Gabbard, Secretary, (Qualifying Individual) Noushin G. Shamsili, President.

Genesis Forwarding Services IL, Inc., 2601 Greenleaf Ave., Elk Grove Village, IL 60007, Officer: Karen L. Sedor, Vice President (Qualifying Individual).

Freight Net Inc., 1N649 Bob-O-Link Drive, Winfield, IL 60190, Officers: Shelton G. Scott, III, President (Qualifying Individual), Lorena P. Scott, Secretary.

SBB Shipping USA Inc., 100 Plaza Drive, Ste. 102, Secaucus, NJ 07094, Officers: Daniel L. Vesque, Exec. Vice President (Qualifying Individual), Batuhan F. Cakmak, President.

Exodus and Zion, Corp. dba American Industries, Co., 6110 Westline Dr., Houston, TX 77036, Officers: Victor Byaly, Director (Qualifying Individual), Geraldina Paz, President.

MMI Logistics & Forwarding, LLC, 15201 East Frwy, Ste. 111, Channelview, TX 77530, Officers: Karen Crain, President (Qualifying Individual).

C. Steinweg (Houston), Inc., 1717 Turning Basin Drive, Ste. 430, Houston, TX 77029, Officers: Rupert Denney, Secretary (Qualifying Individual), Chris Jonker, President.

Roar Logistics, Inc., 2495 Main Street, Ste. 442, Buffalo, NY 14214, Officers: Joseph P. Reisdorf, Secretary (Qualifying Individual), William G. Gisel, Director.

Penbroke Marine Services Inc., 975 East Linden Avenue, Linden, NJ 07036, Officer: Brian J. Brennan, President (Qualifying Individual).

Dated: June 13, 2008.

Karen V. Gregory,

Assistant Secretary.

[FR Doc. E8–13783 Filed 6–17–08; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 12:00 p.m., Monday, June 23, 2008.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

FOR FURTHER INFORMATION CONTACT: Michelle Smith, Director, or Dave Skidmore, Assistant to the Board, Office of Board Members at 202–452–2955.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at *http://www.federalreserve.gov* for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Board of Governors of the Federal Reserve System, June 13, 2008.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 08–1369 Filed 6–16–08; 8:53 am]

BILLING CODE 6210–01–S

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request; Extension

AGENCY: Federal Trade Commission.

ACTION: Notice.

SUMMARY: The information collection requirements described below will be submitted to the Office of Management and Budget (''OMB'') for review, as required by the Paperwork Reduction Act. The Federal Trade Commission (''FTC'' or ''Commission'') is seeking public comments on its proposal to extend through October 31, 2011 the current OMB clearance for information collection requirements contained in its Amplifier Rule. That clearance expires on October 31, 2008.

DATES: Comments must be filed by August 18, 2008.

ADDRESSES: Interested parties are invited to submit written comments. Comments should refer to ''Amplifier Rule: FTC Project No. P974222'' to facilitate the organization of comments. A comment filed in paper form should include this reference both in the text and on the envelope and should be mailed or delivered to the following address: Federal Trade Commission, Office of the Secretary, Room H-135 (Annex J), 600 Pennsylvania Ave., NW, Washington, DC 20580. The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions. Moreover, because paper mail in the Washington area and at the Agency is subject to delay, please consider submitting your comments in electronic form, as prescribed below. If, however, the comment contains any material for which confidential treatment is requested, it must be filed in paper form, and the first page of the document must be clearly labeled ''Confidential.''[1]

Comments filed in electronic form should be submitted by using the following weblink: (*https://secure.commentworks.com/ftc-AmplifierPRA*) (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-AmplifierPRA*). If this notice appears at (*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.

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 *www.ftc.gov*. As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC website. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy at (*http://www.ftc.gov/ftc/privacy.htm*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be addressed to Jock K. Chung, Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, NJ-2122, 600 Pennsylvania Avenue, N.W., Washington, DC 20580, (202) 326-2984.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act (''PRA''), 44 U.S.C. 3501-3520, federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. ''Collection of information'' means agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. 44 U.S.C. 3502(3); 5 CFR 1320.3(c). As required by section 3506(c)(2)(A) of the PRA, the FTC is providing this opportunity for public comment before requesting that OMB extend the existing paperwork clearance for the information collection requirements contained in the Commission's Trade Regulation Rule entitled Power Output Claims for Amplifiers Utilized in Home Entertainment Products (''Amplifier Rule'' or ''Rule''), 16 CFR Part 432 (OMB Control Number 3084-0105).

The FTC invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of 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 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. All comments should be filed as prescribed in the **ADDRESSES** section above, and must be received on or before August 18, 2008.

The Amplifier Rule assists consumers by standardizing the measurement and disclosure of power output and other performance characteristics of amplifiers in stereos and other home entertainment equipment. The Rule also specifies the test conditions necessary to make the disclosures that the Rule requires.

Estimated annual hours burden: 450 hours (300 testing-related hours; 150 disclosure-related hours).

The Rule's provisions require affected entities to test the power output of amplifiers in accordance with a specified FTC protocol. The Commission staff estimates that approximately 300 new amplifiers and receivers come on the market each year. High fidelity manufacturers routinely conduct performance tests on these new products prior to sale. Because manufacturers conduct such tests, the Rule imposes no additional costs except to the extent that the FTC protocol is more time-consuming than alternative testing procedures. In this regard, a warm-up (''precondition'') period that the Rule requires before measurements are taken may add approximately one hour to the time testing would otherwise entail. Thus, staff estimates that the Rule imposes approximately 300 hours (1 hour x 300 new products) of added testing burden annually.

In addition, the Rule requires disclosures if a manufacturer makes a power output claim for a covered product in an advertisement, specification sheet, or product brochure. This requirement does not impose any additional costs on manufacturers because, absent the Rule, media

[1] FTC Rule 4.2(d), 16 CFR 4.2(d). The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. *See* FTC Rule 4.9(c), 16 CFR 4.9(c).

advertisements, as well as manufacturer specification sheets and product brochures, would contain a power specification obtained using an alternative to the Rule-required testing protocol. The Rule, however, also requires disclosure of harmonic distortion, power bandwidth, and impedance ratings in manufacturer specification sheets and product brochures that might not otherwise be included.

Staff assumes that manufacturers produce one specification sheet and one brochure each year for each new amplifier and receiver. The burden of disclosing the harmonic distortion, bandwidth, and impedance information on the specification sheets and brochures is limited to the time needed to draft and review the language pertaining to the aforementioned specifications. Staff estimates the time involved for this task to be a maximum of fifteen minutes for each new specification sheet and brochure for a total of 150 hours ([300 new products x 1 specification sheet) + (300 new products x 1 brochure)] x 15 minutes).

The total annual burden imposed by the Rule, therefore, is approximately 450 burden hours for testing and disclosures.

Estimated annual cost burden: $19,000, rounded to the nearest thousand.[2]

Generally, electronics engineers perform the testing of amplifiers and receivers. Staff estimates a labor cost of $12,300 for such testing (300 hours for testing x $41 per hour). Staff assumes advertising or promotions managers prepare the disclosures contained in product brochures and manufacturer specification sheet and estimates a labor cost of $6,600 (150 hours for disclosures x $44 per hour). Accordingly, staff estimates the total labor costs associated with the Rule to be approximately $19,000 per year, rounded to the nearest thousand ($12,300 for testing + $6,600 for disclosures).

The Rule imposes no capital or other non-labor costs because its requirements are incidental to testing and advertising done in the ordinary course of business.

David C. Shonka

Acting General Counsel

[FR Doc. E8–13660 Filed 6–17–08: 8:45 am]

[Billing code: 6750–01–S]

[2] Staff's labor cost estimates are based on recent data from the Bureau of Labor and Statistics.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control

Special Emphasis Panel (SEP): Epidemiological Studies of Reproductive and Developmental Outcomes in Denmark: Supplement on Congenital Cytomegalovirus Infection among Children with Hearing Loss, Program Announcement Number (PA) DD 07–001

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 a.m.–5 p.m., July 2, 2008 (Closed).

Place: Teleconference.

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 applications received in response to ''Epidemiological Studies of Reproductive and Developmental Outcomes in Denmark: Supplement on Congenital Cytomegalovirus Infection among Children with Hearing Loss, PA DD 07–001.''

Contact Person for More Information: K. Ann Berry, Senior Scientist, CDC, 1600 Clifton Road, NE., Mailstop E20, Atlanta, GA 30333, Telephone (404) 498–2503.

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 11, 2008.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E8–13664 Filed 6–17–08; 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): Elimination of Health Disparities Through Translation Research (Panel A), Funding Opportunity Announcement (FOA), CD08–001

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:

Times and Dates: 9 a.m.–5:30 p.m., July 9, 2008 (Closed); 9 a.m.–1 p.m., July 10, 2008 (Closed).

Place: Hyatt Regency Atlanta, 265 Peachtree Street, NE., Atlanta GA 30303.

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 ''Elimination of Health Disparities through Translation Research (Panel A), FOA CD08–001.''

Contact Person for More Information: Maurine F. Goodman, M.A., M.P.H., Scientific Review Administrator, CDC, 1600 Clifton Road, NE., Mailstop D72, Atlanta, GA 30333, Telephone (404) 639–4737.

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 10, 2008.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E8–13702 Filed 6–17–08; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Center for Injury Prevention and Control/Initial Review Group

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting of the aforementioned review group:

Name: National Center for Injury Prevention and Control/Initial Review Group, (NCIPC/IRG).

Time and Date: 11 a.m.–12 noon, July 10, 2008 (closed).

Place: Teleconference.

Status: Portions of the meetings 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 Section 10(d) of Pub. L. 92–463.

Purpose: This group is charged with providing advice and guidance to the Secretary, Department of Health and Human Services, and the Director, CDC, concerning the scientific and technical merit of grant and cooperative agreement applications received from academic institutions and other public and private profit and nonprofit organizations, including State and local government agencies, to conduct research on environmental exposures to hazardous substances.

Matters to be Discussed: The meeting will include the review, discussion, and evaluation of cooperative agreement applications submitted in response to Fiscal Year 2008 Requests for Applications related to the following individual research announcement: TS–08–003. This funding opportunity announcement solicits from the Association of Minority Health Professions Schools, a grant application to conduct substance-specific research to address research needs identified by the Agency for Toxic Substances and Disease Registry for priority hazardous substances and to apply these findings to positively affect public health and environmental medicine in low-income and/or minority communities.

Agenda items are subject to change as priorities dictate.

CONTACT PERSON FOR MORE INFORMATION: J Felix Rogers, PhD., M.P.H., Telephone (770) 488–4334, NCIPC/ERPO, CDC, 4770 Buford Highway, NE., M/S F62, Atlanta, Georgia 30341–3724.

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 10, 2008.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E8–13729 Filed 6–17–08; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Docket Number 139]

The Potential Modification of the NIOSH Statement of Standard for a Chemical, Biological, Radiological, and Nuclear (CBRN) Full Facepiece Air-Purifying Respirator (APR)

AGENCY: The National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of document available for public comment.

SUMMARY: The National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC) announces the opportunity for manufacturers and stakeholders to provide NIOSH with input on the potential modification of the NIOSH Statement of Standard for a Chemical, Biological, Radiological, and Nuclear (CBRN) Full Facepiece Air-Purifying Respirator (APR), which would permit an alternative to the single standard 40-mm screw mounted canister for the Department of Defense. Authority: Occupational Safety and Health Act, 29 U.S.C. 651 *et seq.*

Public Comment Period: Submit input to the NIOSH Docket Office within 120 days from June 18, 2008.

Status: Written comments may be submitted to the NIOSH Docket Office, Robert A. Taft Laboratories, 4676 Columbia Parkway, M/S C 34, CBRN APR Mechanical Connector Design, Cincinnati, Ohio 45226, telephone (513) 533–8303, Facsimile (513) 533–8285.

All material submitted should reference NIOSH Docket number 139. Comments may be e-mailed to *nioshdocket@cdc.gov.* All electronic comments should be formatted as Microsoft Word.

All information received in response to this notice will be available for public examination and copies available at the NIOSH Docket Office, Room 111, 4674 Colombia Parkway, Cincinnati, Ohio 45226.

Background: The National Personal Protective Technology Laboratory (NPPTL) is currently seeking stakeholder input regarding a request from the Department of Defense (DoD). The request is for a proposed modification to the CBRN APR Statement of Standard to allow for mechanical connectors other than the specified single 40-mm thread connector. The DoD is seeking modification of the standard to allow DoD first responders to use a newly developed respirator, the Joint Service General Protective Mask (JSGPM), for respiratory protection on military installations in the United States, or when called upon to support civil authorities. The JSGPM uses a bayonet mounted, dual filter design instead of the single standard 40-mm screw mounted canister. DoD's request is to supplement the existing NIOSH standard with an alternate design for DoD application. The DoD request to NIOSH for modification of the NIOSH Statement of Standard may be obtained from the NIOSH Docket Office using the contact information available above.

Because of their experiences in responding to the terrorist events of 2001, emergency responders identified the need for the interoperability of canisters and facepieces as a respirator user issue that NIOSH needed to address.

During the evolution of the CBRN Statement of Standard, NIOSH identified a single mechanical connector design requirement to support interchangeability of CBRN certified canisters and masks. The user community strongly encouraged requiring interoperable capability at all three public meetings held that discussed the requirements for the CBRN APR, and interoperability was strongly recommended in the 2002 Rand Report entitled, ''Protecting Emergency Responders Lessons Learned from Terrorist Attacks.'' Through a collaborative approach with multiple partnerships, applicable military and industrial technologies were integrated by NIOSH in the CBRN APR standard to provide the full range of protection needed by emergency responders.

Working with the partnerships from Federal government agencies, the private sector, and user groups, NIOSH expedited development and publication of new testing and certification standards for voluntary use by

emergency responders in CBRN terrorist attacks. Information about the public meetings that discussed the conceptual requirements for the CBRN APR is available through this link: *http://www.cdc.gov/niosh/npptl/standardsdev/cbrn/meetings.html.*

The NIOSH Statement of Standard and supporting concept papers for the CBRN APR are available through this link: *http://www.cdc.gov/niosh/npptl/standardsdev/cbrn/apr/.*

Since the Standard was established in 2003, multiple models of CBRN APRs from multiple manufacturers have been certified to the Statement of Standard.

The DoD's request is to supplement the existing NIOSH standard with an alternate permissible design for DoD applications. DoD requirements for the JSGPM require availability of replacement filters in the mask carrier worn on the individual and field level logistic support for additional filters. Neither of these are requirements for commercial mask applications. For the DoD user, the advantages of the bayonet attachment on the JSGPM does not compromise the interoperability considerations for emergency responders outside of the DoD.

DoD Instruction 6055.1 indicates that in non-military unique workplaces where OSHA standards or other Federal safety standards apply but do not cover, or only partially cover, existing conditions, the DoD Components shall use appropriate national safety and occupational health consensus standards under Public Law 104–113. When there is no relevant OSHA or national consensus standard, the DoD Components may develop other protective measures to ensure the safety and health of DoD personnel. Also, the DoD Components may prescribe more stringent exposure limits or monitoring frequencies than those in the basic OSHA standards. Requesting NIOSH to include another mechanical connector design for DoD applications that may allow for NIOSH certification of the JSGPM meets this intent.

Through this announcement, NIOSH/NPPTL is seeking input from stakeholders and manufacturers to determine the following:

1. Opinions on the current design requirement for the single 40-mm thread canister mechanical connector.
2. Rationale and data to maintain the current design requirement.
3. Rationale and data to support adding an alternative design for DoD applications for canister mechanical connectors.
4. Identification of alternative approaches to implement the alternative design concept for the canister mechanical connector.
5. Other comments on the subject.

Contact Person for Technical Information: Jonathan V. Szalajda, General Engineer, National Personal Protective Technology Laboratory (NPPTL), NIOSH, CDC, telephone (412) 386–6627, E-mail *zfx1@cdc.gov.*

Dated: June 10, 2008.

James D. Seligman,

Chief Information Office, Centers for Disease Control and Prevention.

[FR Doc. E8–13721 Filed 6–17–08; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Proposed Projects

Title: Generic Clearance to Conduct Qualitative Data Collections.

OMB No.: New Collection.

Description: The Office of Planning, Research and Evaluation (OPRE), Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS), intends to request approval from the Office of Management and Budget (OMB) for a generic clearance that will allow OPRE to conduct a variety of qualitative data collections. Over the next three years, OPRE anticipates undertaking a variety of new research projects in the fields of cash welfare, employment and self-sufficiency, Head Start, child care, healthy marriage and responsible fatherhood, and child welfare. In order to inform the development of OPRE research, to maintain a research agenda that is rigorous and relevant, and to ensure that research products are as current as possible, OPRE will engage in a variety of qualitative data collections in concert with researchers and practitioners throughout the field. OPRE envisions using a variety of techniques including semi-structured discussions, focus groups, telephone interviews, and in-person observations and site visits, in order to integrate the perspectives of program operators, policy officials and members of the research community.

Following standard Office of Management and Budget (OMB) requirements, OPRE will submit a change request to OMB individually for every group of data collection activities undertaken under this generic clearance. OPRE will provide OMB with a copy of the individual instruments or questionnaires (if one is used), as well as other materials describing the project.

Respondents: Administrators or staff of State and local agencies or programs in the relevant fields; academic researchers; and policymakers at various levels of government.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total annual burden hours
Semi-Structured Discussion and Information-Gathering Protocol	600	1	.5	300
Estimated Total Annual Burden Hours				300

Additional Information:

Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. E-mail address: *OPREInfoCollection@acf.hhs.gov*. All requests should be identified by the title of the information collection.

OMB Comment:

OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following:

Office of Management and Budget, Paperwork Reduction Project. FAX: 202–395–6974. Attn: Desk Officer for ACF.

Dated: June 9, 2008.

Brendan C. Kelly,

OPRE Reports Clearance Officer.

[FR Doc. E8–13428 Filed 6–17–08; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Proposed Project

Title: Communities Empowering Youth Evaluation Study.

OMB No. New Collection.

Description: The information collection activity proposed under this notice will obtain information about lead and partner organizations funded under the Communities Empowering Youth (CEY) program. The information collected will complement a survey (OMB No. 0970–0335) that is examining the organizational and partnership capacity building experienced by organizations funded under the CEY program. The proposed information collection will allow in-depth examination of a select number of lead organizations and their partners. Information collection will be through on-site observations of organizations and partnerships and structured discussions with key staff, using uniform protocols. Pilot testing will be conducted at two sites to ensure that the protocols and observations are valid and reliable. On-site information collection will occur three times: near the beginning, at the mid-point, and at the end of the three-year CEY grant period. Periodic telephone follow-ups, occurring approximately every six months, will be conducted between on-site data collection in order to clarify or update information collected earlier and to prepare for future site visits.

Respondents: Executive directors and key staff of faith based and community organizations that received three-year CEY grants beginning in 2007.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Lead Organization Executive Director	10	1	3.5	35
Lead Organization Key Staff	20	1	2.5	50
Partner Organization Executive Director	60	1	3.5	210
Partner Organization 2 Key Staff	60	1	2.5	150
Estimated Total Annual Burden Hours				445

Additional Information:

Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. E-mail address: *OPREInfoCollection@hhs.gov*. All requests should be identified by the title of the information collection.

OMB Comment:

OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register** . Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following:

Office of Management and Budget, Paperwork Reduction Project. FAX: 202–395–6974. Attn: Desk Officer for ACF.

Dated: June 9, 2008.

Brendan C. Kelly,

OPRE Reports Clearance Officer.

[FR Doc. E8–13429 Filed 6–17–08; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Proposed Projects

Title: Continued Tracking of Families in the Head Start Impact Study.

OMB No.: 0970–0229.

Description: The Administration for Children and Families (ACF) of the Department of Health and Human Services (HHS) plans to collect follow-up information from children and families in the Head Start Impact Study (OMB No. 0970–0229). In anticipation of the possibility of conducting an 8th grade follow-up for this study, this effort will collect information necessary to identify respondents' current location, as well as other basic information about the parents' whereabouts and future contacts, should the follow-up study be continued.

The Head Start Impact Study is a longitudinal study involving approximately 5,000 first time enrolled three- and four-year old preschool children across 84 nationally representative grantee/delegate agencies (in communities where there were more eligible children and families than can be served by the program.) Participating children were randomly assigned to either a Head Start group (that could enroll in Head Start services) or a control group (that could not enroll in Head Start services but could enroll in other available services selected by their parents). Data collection for the study began in fall of 2002 and extended through spring 2008, through the children's 3rd grade year.

It is the intention of the Administration for Children and Families to continue to examine outcomes for this sample of children and families through the spring of the child's 8th grade year. In order to ensure that participants can be located for that future study, location and contact information will be collected from

parents or guardians in the spring of 2009, 2010, and 2012. A small set of additional items will provide information on the parents' perception of the children's well-being. The tracking updates will primarily be conducted over the telephone with in-person follow-up as necessary.

Respondents: Treatment and control group members in the Head Start Impact Study.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Tracking Interview	4,667	1	.25	1,166.75
Estimated Total Annual Burden Hours				1,166.75

Additional Information:

Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. E-mail address: *OPREInfoCollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

OMB Comment:

OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication.

Written comments and recommendations for the proposed information collection should be sent directly to the following:

Office of Management and Budget, Paperwork Reduction Project. FAX: 202–395–6974. Attn: Desk Officer for ACF.

Dated: June 9, 2008.

Brendan C. Kelly,

OPRE Reports Clearance Officer.

[FR Doc. E8–13432 Filed 6–17–08; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Project

Title: Early Head Start Family and Child Experiences Survey (Baby FACES).

OMB No. New Collection

Description: The Administration for Children and Families (ACF), U.S. Department of Health and Human Services, is conducting a descriptive study of Early Head Start Programs (Early Head Start Family and Child Experiences Survey, or Baby FACES). Baby FACES is a longitudinal study of a nationally representative sample of programs and children in two cohorts (perinatal and age 1) that will collect information about programs, services, families, and children. Data for Baby FACES will be annually collected through interviews with parents, teachers, home visitors, and program directors/managers, as well as direct child assessments, videotaped parent child interactions, and observations of the home environment when children are two and three years old. Data collection will also include quality observations of child care center classrooms and home visits conducted by program staff.

Data will be collected on a sample of approximately 2,000 children and families selected at random from 90 Early Head Start programs. Over the life of the project, Baby FACES will involve four waves of data collection, ending when the second cohort of children (perinatal cohort) reaches 36 months of age. This information collection request covers the first three years of data collection. All waves of data collection will acquire program level information through an hour-long program director interview. Additionally, staff from all programs will complete a simple service tracking form every week for each child in the sample for all years to determine what services are being delivered to families.

Respondents: Parents of EHS Children, EHS Children, EHS Teachers, Home Visitors, and Program Directors/Managers.

ANNUAL BURDEN ESTIMATES

Instrument	Annual number of respondents	Number of responses per respondent	Average burden hour per response	Estimated annual burden hours
Parent Interview	1,715	1	1	1,715
Program Director/Manager Interview	90	1	1	90
Child Care Provider Interview	180	1	1	180
Home Visitor Interview	270	1	1	270
Teacher/Home Visitor Child Rating	450	2.6	0.25	293
Family Service Tracking	450	136	0.1666	10,200
Child Direct Assessment	907	1	1	907
Parent-Child Interaction	907	1	0.25	227
Total Burden Hours				12,975

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. E-mail address: *OPREinfocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: June 11, 2008.

Brendan C. Kelly,

OPRE Reports Clearance Officer.

[FR Doc. E8–13658 Filed 6–17–08; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request Title: Community Based Child Abuse Prevention Program (CBCAP).

OMB No.: 0970–0155.

Description: The Program Instruction, prepared in response to the enactment of the Community-Based Grants for the Prevention of Child Abuse and Neglect (administratively known as the Community Based Child Abuse Prevention Program, (CECAP), as set forth in Title II of Pub. L. 108 36, Child Abuse Prevention and Treatment Act Amendments of 2003, and in the process of reauthorization, provides direction to the States and Territories to accomplish the purposes of (1) supporting community-based efforts to develop, operate, expand, and where appropriate to network, initiatives aimed at the prevention of child abuse and neglect, and to support networks of coordinated resources and activities to better strengthen and support families to reduce the likelihood of child abuse and neglect, and; (2) fostering an understanding, appreciation, and knowledge of diverse populations in order to be effective in preventing and treating child abuse and neglect. This Program Instruction contains information collection requirements that are found in Pub. L. 108–36 at Sections 201; 202; 203; 205; 206; 207; and pursuant to receiving a grant award. The information submitted will be used by the agency to ensure compliance with the statute, complete the calculation of the grant award entitlement, and provide training and technical assistance to the grantee.

Respondents: State Governments.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Application	52	1	40	2,080
Annual Report	52	1	24	1,248
Estimated Total Annual Burden Hours				3,328

Additional Information:

Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. E-mail address: *infocollection@acf.hhs.gov.*

OMB Comment:

OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following:

Office of Management and Budget, Paperwork Reduction Project. Fax: 202–395–6974. Attn: Desk Officer for the Administration for Children and Families.

Dated: June 11, 2008.

Janean Chambers,

Reports Clearance Officer.

[FR Doc. E8–13661 Filed 6–17–08; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Use of Amyloid Proteins as Vaccine Scaffolds

Description of Technology: Amyloid proteins are composed of peptides whose chemical properties are such that they spontaneously aggregate in vitro or in vivo, assuming parallel or antiparallel beta sheet configurations. Amyloid proteins can arise from peptides which, though differing in primary amino acid sequences, assume the same tertiary and quaternary structures. The amyloid structure presents a regular array of accessible N–termini of the peptide molecules.

Claimed in this application are compositions and methods for use of amyloid proteins as vaccine scaffolds, on which peptide determinants from microorganisms or tumors may be presented to more efficiently generate and produce a sustained neutralizing antibody response to prevent infectious diseases or treat tumors. The inventors have arrayed peptides to be optimally immunogenic on the amyloid protein scaffold by presenting antigen using three different approaches. First, the N-terminal ends of the amyloid forming peptides can be directly modified with the peptide antigen of interest; second, the N-termini of the amyloid forming peptides are modified with a linker to which the peptide antigens of interest are linked; and third, the scaffold amyloid may be modified to create a chimeric molecule.

Aside from stability and enhanced immunogenicity, the major advantages of this approach are the synthetic nature of the vaccine and its low cost. Thus, concerns regarding contamination of vaccines produced from cellular substrates, as are currently employed for some vaccines, are eliminated; the robust stability allows the amyloid based vaccine to be stored at room temperature for prolonged periods of time; and the inexpensive synthetic amino acid starting materials, and their rapid spontaneous aggregation in vitro should provide substantial cost savings over the resource and labor-intensive current vaccine production platforms.

Application: Immunization to prevent infectious diseases or treat chronic conditions or cancer.

Development Status: Vaccine candidates have been synthesized and preclinical studies have been performed.

Inventors: Amy Rosenberg (CDER/FDA), James E. Keller (CBER/FDA), Robert Tycko (NIDDK).

Patent Status: PCT Application No. PCT/US2008/059499 filed 04 Apr 2008, claiming priority to 06 Apr 2007 (HHS Reference No. E–106–2007/0–PCT–02).

Licensing Status: Available for exclusive or non-exclusive licensing.

Licensing Contact: Peter A. Soukas, J.D.; 301/435–4646; *soukasp@mail.nih.gov*.

Collaborative Research Opportunity: The FDA, Division of Therapeutic Proteins (CDER) and Office of Vaccines, Division of Bacterial Products (CBER) is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize amyloid based vaccines for prevention of infectious disease or treatment of malignant states. Please contact Amy Rosenberg at *amy.rosenberg@fda.hhs.gov* or (301) 827–1794 for more information.

Immunostimulatory Combinations of TLR Ligands and Methods of Use

Description of Technology: New drugs or therapies that act by stimulating the immune system, or alternatively inhibiting certain aspects of the immune system, may be useful for treating various diseases or disorders, for example viral diseases, neoplasias, and/or allergies, and may also have use as vaccine adjuvants. However, although adjuvants have been suggested for use in vaccine compositions, there is an unmet need for adjuvants that can effectively enhance immune response.

Development of innate and adaptive immunity critically depends on the engagement of pattern recognition receptors (PRRs), which specifically detect microbial components named pathogen-or microbe-associated molecular patterns (PAMPs or MAMPs) (1–4). Toll-like receptors (TLRs) represent an important group of PRRs that can sense PAMPs or MAMPs once in the body. TLRs are widely expressed by many types of cells, for example cells in the blood, spleen, lung, muscle and intestines.

The present invention claims immunostimulatory combinations of TLR ligands and therapeutic and/or prophylactic methods that include administering an immunostimulatory combination to a subject. In general, the immunostimulatory combinations can provide an increased immune response compared to other immunostimulatory combinations and/or compositions. More specifically, combinations of TLR 2, 3 and 9 are claimed. The application also describes a novel mechanism for TLR synergy in terms of both signaling pathways and cytokine combinations.

Application: Development of improved adjuvants and/or synergistic combinations of adjuvants for vaccines.

Development Status: Compositions have been synthesized and preclinical studies have been performed.

Inventors: Jay Berzofsky and Qing Zhu (NCI).

Patent Status: U.S. Provisional Application No. 60/995,212 filed 24 Sep 2007 (HHS Reference No. E–298–2007/0–US–01).

Licensing Status: Available for exclusive or nonexclusive licensing.

Licensing Contact: Peter A. Soukas, J.D.; 301/435–4646; *soukasp@mail.nih.gov.*

Collaborative Research Opportunity: The National Cancer Institute's Vaccine Branch is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize this invention of synergistic combinations of TLR ligands. Please contact John D. Hewes, PhD at 301–435–3121 or *hewesj@mail.nih.gov* for more information.

Catalytic Domains of [beta](1,4)-galactosyltransferase I Having Altered Donor and Acceptor Specificities, Domains That Promote In Vitro Protein Folding, and Methods for Their Use

Description of Technology: [beta](1,4)-galactosyltransferase I catalyzes the transfer of galactose from the donor, UDP-galactose, to an acceptor, N-acetylglucosamine, to form a galactose-[beta](1,4)-N-acetylglucosamine bond. This reaction allows galactose to be linked to an N-acetylglucosamine that may itself be linked to a variety of other molecules. The reaction can be used to make many types of molecules having great biological significance. For example, galactose-[beta](1,4)-N-acetylglucosamine linkages are very important for cellular recognition and binding events as well as cellular interactions with pathogens, such as viruses. Therefore, methods to synthesize these types of bonds have many applications in research and medicine to develop pharmaceutical agents and improved vaccines that can be used to treat disease.

The present invention is based on the surprising discovery that the enzymatic activity of [beta](1,4)-galactosyltransferase can be altered such that the enzyme can make chemical bonds that are very difficult to make by other methods. These alterations involve mutating the enzyme such that the mutated enzyme can transfer many different types of sugars from sugar nucleotide donors to many different types of acceptors. Therefore, the mutated [beta](1,4)-galactosyltransferases of the invention

can be used to synthesize a variety of products that, until now, have been very difficult and expensive to produce.

The invention also provides amino acid segments that promote the proper folding of a galactosyltransferase catalytic domain and mutations in the catalytic domain that enhance folding efficiency and make the enzyme stable at room temperature. The amino acid segments may be used to properly fold the galactosyltransferase catalytic domains of the invention and thereby increase their activity. The amino acid segments may also be used to increase the activity of galactosyltransferases that are produced recombinantly. Accordingly, use of the amino acid segments according to the invention allows for production of [beta](1,4)-galactosyltransferases having increased enzymatic activity relative to [beta](1,4)-galactosyltransferases produced in the absence of the amino acid segments.

Applications: Synthesis of polysaccharide antigens for conjugate vaccines, glycosylation of monoclonal antibodies, and as research tools.

Development Status: The enzymes have been synthesized and preclinical studies have been performed.

Inventors: Pradman K. Qasba, Boopathy Ramakrishnan, Elizabeth Boeggeman (NCI).

Patent Status: U.S. and Foreign Rights Available (HHS Reference No. E–230–2002/2).

Licensing Status: Available for exclusive or non-exclusive licensing.

Licensing Contact: Peter A. Soukas, J.D.; 301/435–4646; *soukasp@mail.nih.gov*.

Collaborative Research Opportunity: The National Cancer Institute's Nanobiology Program is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize the use of galactose and modified galactose to be linked to an N-acetylglucosamine that may itself be linked to a variety of other molecules. Please contact John D. Hewes, Ph.D. at 301–435–3121 or *hewesj@mail.nih.gov* for more information.

Methods of Glycosylation and Bioconjugation

Description of Technology: Eukaryotic cells express several classes of oligosaccharides attached to proteins or lipids. Animal glycans can be N-linked via beta-GlcNAc to Asn (N-glycans), O-linked via -GalNAc to Ser/Thr (O-glycans), or can connect the carboxyl end of a protein to a phosphatidylinositol unit (GPI-anchors) via a common core glycan structure. Beta (1,4)-galactosyltransferase I catalyzes the transfer of galactose from the donor, UDP-galactose, to an acceptor, N-acetylglucosamine, to form a galactose-beta (1,4)-N-acetylglucosamine bond, and allows galactose to be linked to an N-acetylglucosamine that may itself be linked to a variety of other molecules. Examples of these molecules include other sugars and proteins. The reaction can be used to make many types of molecules having great biological significance. For example, galactose-beta (1,4)-N-acetylglucosamine linkages are important for many recognition events that control how cells interact with each other in the body, and how cells interact with pathogens. In addition, numerous other linkages of this type are also very important for cellular recognition and binding events as well as cellular interactions with pathogens, such as viruses. Therefore, methods to synthesize these types of bonds have many applications in research and medicine to develop pharmaceutical agents and improved vaccines that can be used to treat disease.

The invention provides *in vitro* folding methods for a polypeptidyl-alpha-N-acetylgalactosaminyltransferase (pp-GalNAc-T) that transfers GalNAc to Ser/Thr residue on a protein. The application claims that this *in vitro*-folded recombinant ppGalNAc-T enzyme transfers modified sugar with a chemical handle to a specific site in the designed C-terminal polypeptide tag fused to a protein. The invention provides methods for engineering a glycoprotein from a biological substrate, and methods for glycosylating a biological substrate for use in glycoconjugation. Also included in the invention are diagnostic and therapeutic uses.

Application: Enzymes and methods are provided that can be used to promote the chemical linkage of biologically important molecules that have previously been difficult to link.

Development Status: Enzymes have been synthesized and characterization studies have been performed.

Inventors: Pradman Qasba and Boopathy Ramakrishnan (NCI).

Patent Status: U.S. Provisional Application No. 60/930,294 filed 14 May 2007 (HHS Reference No. E–204–2007/0–US–01).

Licensing Status: Available for exclusive or non-exclusive licensing.

Licensing Contact: Peter A. Soukas, J.D.; 301/435–4646; *soukasp@mail.nih.gov*

Collaborative Research Opportunity: The National Cancer Institute is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize this technology. Please contact John D. Hewes, Ph.D. at 301–435–3121 or *hewesj@mail.nih.gov* for more information.

Alpha 1–3 N–Acetylgalactosaminyltransferases With Altered Donor and Acceptor Specificities, Compositions, and Methods of Use

Description of Technology: The present invention relates to the field of glycobiology, specifically to glycosyltransferases. The present invention provides structure-based design of novel glycosyltransferases and their biological applications.

The structural information of glycosyltransferases has revealed that the specificity of the sugar donor in these enzymes is determined by a few residues in the sugar-nucleotide binding pocket of the enzyme, which is conserved among the family members from different species. This conservation has made it possible to reengineer the existing glycosyltransferases with broader sugar donor specificities. Mutation of these residues generates novel glycosyltransferases that can transfer a sugar residue with a chemically reactive functional group to N–acetylglucosarnine (GlcNAc), galactose (Gal) and xylose residues of glycoproteins, glycolipids and proteoglycans (glycoconjugates). Thus, there is potential to develop mutant glycosyltransferases to produce glycoconjugates carrying sugar moieties with reactive groups that can be used in the assembly of bio-nanoparticles to develop targeted-drug delivery systems or contrast agents for medical uses.

Accordingly, methods to synthesize N–acetylglucosamine linkages have many applications in research and medicine, including in the development of pharmaceutical agents and improved vaccines that can be used to treat disease.

This application claims compositions and methods based on the structure-based design of alpha 1–3 N–Acetylgalactosaminyltransferase (alpha 3 GalNAc–T) mutants from alpha l–3galactosyltransferase (a3Gal–T) that can transfer 2′-modified galactose from the corresponding UDP-derivatives due to mutations that broaden the alpha 3Gal–T donor specificity and make the enzyme alpha3 GalNAc–T.

Application: Development of pharmaceutical agents and improved vaccines.

Development Status: Enzymes have been synthesized and preclinical studies have been performed.

Inventors: Pradman Qasba, Boopathy Ramakrishnan, Elizabeth Boeggman, Marta Pasek (NCI).

Patent Status: PCT Patent Application filed 22 Aug 2007 (HHS Reference No. E–279–2007/0–PCT–01).

Licensing Status: Available for exclusive or non-exclusive licensing.

Licensing Contact: Peter A. Soukas, J.D.; 301/435–4646; *soukasp@mail.nih.gov.*

Collaborative Research Opportunity: The National Cancer Institute's Nanobiology Program is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize structure-based design of novel glycosyltransferases. Please contact John D. Hewes, PhD at 301–435–3121 or *hewesj@mail.nih.gov* for more information.

Beta 1,4–Galactosyltransferases With Altered Donor and Acceptor Specificities, Compositions and Methods of Use

Description of Technology: The present invention relates to the field of glycobiology, specifically to glycosyltransferases. The present invention provides structure-based design of novel glycosyltransferases and their biological applications.

The structural information of glycosyltransferases has revealed that the specificity of the sugar donor in these enzymes is determined by a few residues in the sugar-nucleotide binding pocket of the enzyme, which is conserved among the family members from different species. This conservation has made it possible to reengineer the existing glycosyltransferases with broader sugar donor specificities. Mutation of these residues generates novel glycosyltransferases that can transfer a sugar residue with a chemically reactive functional group to N–acetylglucosarnine (GlcNAc), galactose (Gal) and xylose residues of glycoproteins, glycolipids and proteoglycans (glycoconjugates). Thus, there is potential to develop mutant glycosyltransferases to produce glycoconjugates carrying sugar moieties with reactive groups that can be used in the assembly of bio-nanoparticles to develop targeted-drug delivery systems or contrast agents for medical uses.

Accordingly, methods to synthesize N–acetylglucosamine linkages have many applications in research and medicine, including in the development of pharmaceutical agents and improved vaccines that can be used to treat disease.

The invention claims beta (1,4)–galactosyltransferase I mutants having altered donor and acceptor and metal ion specificities, and methods of use thereof. In addition, the invention claims methods for synthesizing oligosaccharides using the beta (1,4)–galactosyltransferase I mutants and to using the beta (1,4)–galactosyltransferase I mutants to conjugate agents, such as therapeutic agents or diagnostic agents, to acceptor molecules. More specifically, the invention claims a double mutant beta 1,4 galactosyltransferase, human beta–1,4–Tyr289Leu–Met344His–Gal–T1, constructed from the individual mutants, Tyr289Leu–Gal–T1 and Met344His–Gal–T1, that transfers modified galactose in the presence of magnesium ion, in contrast to the wild-type enzyme which requires manganese ion.

Application: Development of pharmaceutical agents and improved vaccines.

Development Status: Enzymes have been synthesized and preclinical studies have been performed.

Inventors: Pradman Qasba, Boopathy Ramakrishnan, Elizabeth Boeggman (NCI).

Patent Status: PCT Patent Application filed 22 Aug 2007 (HHS Reference No. E–280–2007/0–PCT–01).

Licensing Status: Available for exclusive or non-exclusive licensing.

Licensing Contact: Peter A. Soukas, J.D.; 301/435–4646; *soukasp@mail.nih.gov.*

Collaborative Research Opportunity: The National Cancer Institute's Nanobiology Program is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize glycosyltransferases. Please contact John D. Hewes, Ph.D., Technology Transfer Specialist, NCI, at (301) 435–3121 or *hewesj@nail.nih.gov.*

Bioreactor Device and Method and System for Fabricating Tissue

Description of Technology: Available for licensing and commercial development is a millifluidic bioreactor system for culturing, testing, and fabricating natural or engineered cells and tissues. The system consists of a millifluidic bioreactor device and methods for sample culture. Biologic samples that can be utilized include cells, scaffolds, tissue explants, and organoids. The system is microchip controlled and can be operated in closed-loop, providing controlled delivery of medium and biofactors in a sterile temperature regulated environment under tabletop or incubator use. Sample perfusion can be applied periodically or continuously, in a bidirectional or unidirectional manner, and medium re-circulated.

Advantages: The device is small in size, and of conventional culture plate format.

Provides the ability to grow larger biologic samples than microfluidic systems, while utilizing smaller medium volumes than conventional bioreactors. The bioreactor culture chamber is adapted to contain sample volumes on a milliliter scale (10 [mu]L to 1 mL, with a preferred size of 100 [mu]L), significantly larger than chamber volumes in microfluidic systems (on the order of 1 [mu]L). Typical microfluidic systems are designed to culture cells and not larger tissue samples.

The integrated medium reservoirs and bioreactor chamber design provide for, (1) Concentration of biofactors produced by the biologic sample, and (2) the use of smaller amounts of exogenous biofactor supplements in the culture medium. The local medium volume (within the vicinity of the sample) is less than twice the sample volume. The total medium volume utilized is small, preferably 2 ml, significantly smaller than conventional bioreactors (typically using 500–1000 mL).

Provides for real-time monitoring of sample growth and function in response to stimuli via an optical port and embedded sensors. The optical port provides for microscopy and spectroscopy measurements using transmitted, reflected, or emitted (e.g., fluorescent, chemiluminescent) light. The embedded sensors provide for measurement of culture fluid pressure and sample pH, oxygen tension, and temperature.

Capable of providing external stimulation to the biologic sample, including mechanical forces (e.g., fluid shear, hydrostatic pressure, matrix compression, microgravity via clinorotation), electrical fields (e.g., AC currents), and biofactors (e.g., growth factors, cytokines) while monitoring their effect in real-time via the embedded sensors, optical port, and medium sampling port.

Monitoring of biologic sample response to external stimulation can be performed non-invasively and non-destructively through the embedded sensors, optical port, and medium sampling port. Testing of tissue mechanical and electrical properties (e.g., stiffness, permeability, loss modulus via stress or creep test, electrical impedance) can be performed

over time without removing the sample from the bioreactor device.

The bioreactor sample chamber can be constructed with multiple levels fed via separate perfusion circuits, facilitating the growth and production of multiphasic tissues.

Application: Cartilage repair and methods for making tissue-engineered cartilage.

Development Status: Electrospinning method is fully developed and cartilage has been synthesized.

Inventors: Juan M. Taboas (NIAMS), Rocky S. Tuan (NIAMS), *et al.*

Patent Status: PCT Application No. PCT/US2006/028417 filed 20 Jul 2006, which published as WO 2007/012071 on 25 Jan 2007; claiming priority to 20 Jul 2005 (HHS Reference No. E–042–2005/0–PCT–02).

Licensing Status: Available for exclusive or non-exclusive licensing.

Licensing Contact: Peter A. Soukas, J.D.; 301/435–4646; *soukasp@mail.nih.gov.*

Cell-Nanofiber Composite Based Engineered Cartilage

Description of Technology: Available for licensing and commercial development is a tissue-engineered cartilage derived from a cellular composite made from a biodegradable, biocompatible polymeric nanofibrous matrix having dispersed chondrocytes or adult mesenchymal stem cells. More particularly, tissue-engineered cartilage can be prepared where the cartilage has a biodegradable and biocompatible nanofibrous polymer matrix prepared by electrospinning and a plurality of chondrocytes or mesenchymal stem cells dispersed in the pores of the matrix. The tissue-engineered cartilage possesses compressive strength properties similar to natural cartilage.

The electrospinning process is a simple, economical means to produce biomaterial matrices or scaffolds of ultra-fine fibers derived from a variety of biodegradable polymers (Li WJ, *et al., J. Biomed. Mater. Res.* 2002; 60:613–21). Nanofibrous scaffolds (NFSs) formed by electrospinning, by virtue of structural similarity to natural extracellular matrix (ECM), may represent promising structures for tissue engineering applications. Electrospun three-dimensional NFSs are characterized by high porosity with a wide distribution of pore diameter, high-surface area to volume ratio and morphological similarities to natural collagen fibrils (Li WJ, *et al., J. Biomed. Mater. Res.* 2002; 60:613–21). These physical characteristics promote favorable biological responses of seeded cells in vitro and in vivo, including enhanced cell attachment, proliferation, maintenance of the chondrocytic phenotype (Li WJ, et al., *J. Biomed. Mater. Res.* 2003; 67A: 1105–14), and support of chondrogenic differentiation (Li WJ, *et al., Biomaterials* 2005; 26:599–609) as well as other connective tissue lineage differentiation (Li WJ, *et al., Biomaterials* 2005; 26:5158–5166). The invention based on cell-nanofiber composite represents a candidate engineered tissue for cell-based approaches to cartilage repair.

Application: Cartilage repair and methods for making tissue-engineered cartilage.

Development Status: Electrospinning method is fully developed and cartilage has been synthesized.

Inventors: Wan-Ju Li and Rocky Tuan (NIAMS).

Publications: The invention is further described in:

1. W-J Li *et al.,* Engineering controllable anisotropy in electrospun biodegradable nanofibrous scaffolds for musculoskeletal tissue engineering. J Biomech. 2007; 40(8):1686–1693.
2. W-J Li *et al.,* Fabrication and characterization of six electrospun poly(alpha-hydroxy ester)-based fibrous scaffolds for tissue engineering applications. Acta Biomater. 2006 Jul; 2(4):377–385.
3. CK Kuo *et al.,* Cartilage tissue engineering: its potential and uses. Curr Opin Rheumatol. 2006 Jan; 18(1):64–73. Review.
4. W-J Li *et al.,* Multilineage differentiation of human mesenchymal stem cells in a three-dimensional nanofibrous scaffold. Biomaterials. 2005 Sep; 26(25):5158–5166.

Patent Status: PCT Application No. PCT/US2006/0237477 filed 15 Jun 2006, claiming priority to 15 Jun 2005 (HHS Reference No. E–116–2005/0–PCT–02).

Licensing Status: Available for exclusive or non-exclusive licensing.

Licensing Contact: Peter A. Soukas, J.D.; 301/435–4646; *soukasp@mail.nih.gov.*

Cell-Nanofiber Composite and Cell-Nanofiber Composite Amalgam Based Engineered Intervertebral Disc

Description of Technology: Diseased or damaged musculoskeletal tissues are often replaced by an artificial material, cadaver tissue or donated, allogenic tissue. Tissue engineering offers an attractive alternative whereby a live, natural tissue is generated from a construct made up of a patient's own cells or an acceptable/compatible cell source in combination with a biodegradable scaffold for replacement of defective tissue.

Degeneration of the intervertebral disc (IVD) is a common and significant source of morbidity in our society. Approximately 8 of 10 adults at some point in their life will experience an episode of significant low back pain, with the majority improving without any formal treatment. However, for the subject requiring surgical management current interventions focus on fusion of the involved IVD levels, which eliminates pain but does not attempt to restore disc function. Approximately 200,000 spinal fusions were performed in the United States in 2002 to treat pain associated with lumbar disc degeneration. Spinal fusion however is thought to significantly alter the biomechanics of the disc and lead to further degeneration, or adjacent segment disease. Therefore, in the past decade there has been mounting interest in the concept of IVD replacement. The replacement of the IVD holds tremendous potential as an alternative to spinal fusion for the treatment of degenerative disc disease by offering a safer alternative to current spinal fusion practices.

At the present time, several disc replacement implants are at different stages of preclinical and clinical testing. These disc replacement technologies are designed to address flexion, extension, and lateral bending motions; however, they do little to address compressive forces and their longevity is limited due to their inability to biointegrate. Therefore, a cell-based tissue engineering approach offers the most promising alternative to replace the degenerated IVD. Current treatment for injuries that penetrate subchondral bone include subchondral drilling, periosteal tissue grafting, osteochondral allografting, chondrogenic cell and transplantation; but are limited due to suboptimal integration with host tissues.

The present invention claims tissue engineered intervertebral discs comprising a nanofibrous polymer hydrogel amalgam having cells dispersed therein, methods of fabricating tissue engineered intervertebral discs by culturing a mixture of stem cells or intervertebral disc cells and a electrospun nanofibrous polymer hydrogel amalgam in a suitable bioreactor, and methods of treatment comprising implantation of tissue engineered intervertebral disc into a subject.

Application: Intervertebral disc bio-constructs and electrospinning methods for fabrication of the discs.

Development Status: Prototype devices have been fabricated and

preclinical studies have been performed.

Inventors: Wan-Ju Li, Leon Nesti, Rocky Tuan (NIAMS).

Patent Status: PCT Application No. PCT/US07/020974 filed 27 Sep 2007, claiming priority to 27 Sep 2006 (HHS Reference No. E–309–2006/2–PCT–01).

Licensing Status: Available for exclusive or non-exclusive licensing.

Licensing Contact: Peter A. Soukas, J.D.; 301/435–4646; *soukasp@mail.nih.gov*.

Methods for Preparing Bacillus anthracis Protective Antigen for Use in Vaccines

Description of Technology: This invention relates to improved methods of preparing *Bacillus anthracis* protective antigen (PA) from a cell or organism, particularly a recombinant cell or microorganism, for use in vaccines. Production and purification methods of modified PA from a non-sporogenic strain of *Bacillus anthracis* are described. Specifically, a scalable fermentation and purification process is claimed that is suitable for vaccine development, and that produces almost three times more product than earlier-reported processes. This is accomplished using a biologically inactive protease-resistant PA variant in a protease-deficient non-sporogenic avirulent strain of *B. anthracis* (BH445). One of the PA variants described in the patent application lacks the furin and chymotrypsin cleavage sites.

Advantages: Bacillus anthracis protective antigen is a major component of the currently licensed human vaccine (Anthrax Vaccine Adsorbed, AVA). Although the current human vaccine has been shown to be effective against cutaneous anthrax infection in animals and humans and against inhalation anthrax in rhesus monkeys, the licensed vaccine has several limitations: (1) AVA elicits a relatively high degree of local and systemic adverse reactions, probably mediated by variable amounts of undefined bacterial products, making standardization difficult; (2) the immunization schedule requires administration of six doses within an eighteen (18) month period, followed by annual boosters; (3) there is no defined vaccine-induced protective level of antibody to PA by which to evaluate new lots of vaccines; and (4) AVA is comprised of a wild-type PA. Thus a vaccine comprising a modified purified recombinant PA would be effective, safe, allow precise standardization, and require fewer injections.

The invention also relates to PA variants, and/or compositions thereof, which are useful for eliciting an immunogenic response in mammals, particularly humans, including responses that provide protection against, or reduce the severity of, infections caused by *B. anthracis.* The vaccines claimed in this application are intended for active immunization for prevention of *B. anthracis* infection, and for preparation of immune antibodies.

Application: Improved *B. anthracis* vaccines.

Development Status: Phase I clinical studies are being performed.

Inventors: Joseph Shiloach (NIDDK), Stephen Leppla (NIDCR), Delia Ramirez (NIDDK), Rachel Schneerson (NICHD), John Robbins (NICHD).

Publication: DM Ramirez *et. al.* Production, recovery and immunogenicity of the protective antigen from a recombinant strain of *Bacillus anthracis*. J Ind Microbiol Biotechnol. 2002 Apr;28(4):232–238.

Patent Status: U.S. Patent Application No. 10/290,712 filed 08 Nov 2002 (HHS Reference No. E–023–2002/0–US–02).

Licensing Status: Available for exclusive or nonexclusive licensing.

Licensing Contact: Peter A. Soukas, J.D.; 301/435–4646; *soukasp@mail.nih.gov.*

Collaborative Research Opportunity: The National Institutes of Health is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize methods of preparing *Bacillus anthracis* protective antigen (PA) from a cell or organism, particularly a recombinant cell or microorganism, for use in vaccines. Please contact Rochelle S. Blaustein, J.D., at 301/451–3636 or *Rochelle.Blaustein@nih.gov* for additional information.

Recombinant Modified Bacillus anthracis Protective Antigen for Use in Vaccines

Description of Technology: This invention relates to improved methods of preparing *Bacillus anthracis* protective antigen (PA) for use in vaccines. PA is a secreted, non-toxic protein with a molecular weight of 83 KDa. PA is a major component of the currently licensed human vaccine (Anthrax Vaccine Adsorbed, AVA). Although the licensed human vaccine has been shown to be effective against cutaneous anthrax infection in animals and humans and against inhalation anthrax in rhesus monkeys, the licensed vaccine has several limitations: (1) AVA elicits a relatively high degree of local and systemic adverse reactions, probably mediated by variable amounts of undefined bacterial products, making standardization difficult; (2) the immunization schedule requires administration of six doses within an eighteen (18) month period, followed by annual boosters; (3) there is no defined vaccine-induced protective level of antibody to PA by which to evaluate new lots of vaccines; and (4) AVA is comprised of a wild-type PA. It has been suggested that a vaccine comprising a modified purified recombinant PA would be effective, safe, allow precise standardization, and require fewer injections.

This invention claims methods of producing and recovering PA from a cell or organism, particularly a recombinant cell or microorganism. The invention claims production and purification of modified PA from a non-sporogenic strain of *Bacillus anthracis*. In contrast to other previously described methods, greater quantities of PA are obtainable from these cells or microorganisms. Specifically, a scalable fermentation and purification process is claimed that is suitable for vaccine development, and that produces almost three times more product than earlier-reported processes. This is accomplished using a biologically inactive protease-resistant PA variant in a protease-deficient non-sporogenic avirulent strain of *B. anthracis* (BH445). One of the PA variants described in the patent application lacks the furin and chymotrypsin cleavage sites.

The invention relates to improved methods of producing and recovering sporulation-deficient *B. anthracis* mutant strains, and for producing and recovering recombinant *B. anthracis* protective antigen (PA), especially modified PA which is protease resistant, and to methods of using of these PAs or nucleic acids encoding these PAs for eliciting an immunogenic response in humans, including responses which provide protection against, or reduce the severity of, *B. anthracis* bacterial infections and which are useful to prevent and/or treat illnesses caused by *B. anthracis*, such as inhalation anthrax, cutaneous anthrax and gastrointestinal anthrax.

Application: Improved *B. anthracis* vaccines.

Development Status: Phase I clinical studies are being performed.

Inventors: Stephen Leppla (NIDCR), M. J. Rosovitz (NIDCR), John Robbins (NICHD), Rachel Schneerson (NICHD).

Patent Status: U.S. Patent No. 7,261,900 issued 28 Aug 2007 (HHS Reference No. E–268–2002/0–US–02); U.S. Patent Application No. 11/831,860 filed 31 Jul 2007 (HHS Reference No. E–268–2002/0–US–03).

Licensing Status: Available for exclusive or nonexclusive licensing.

Licensing Contact: Peter A. Soukas, J.D.; 301/435–4646; *soukasp@mail.nih.gov.*

γPGA Conjugates for Eliciting Immune Responses Directed Against Bacillus anthracis and Other Bacilli

Description of Technology: This invention claims immunogenic conjugates of a poly-γ-glutamic acid (γPGA) of *B. anthracis*, or of another bacillus that expresses a γPGA that elicit a serum antibody response against *B. anthracis*, in mammalian hosts to which the conjugates are administered. The invention also relates methods which are useful for eliciting an immunogenic response in mammals, particularly humans, including responses which provide protection against, or reduce the severity of, infections caused by *B. anthracis*. The vaccines claimed in this application are intended for active immunization for prevention of *B. anthracis* infection, and for preparation of immune antibodies. The vaccines of this invention are designed to confer specific immunity against infection with *B. anthracis*, and to induce antibodies specific to *B. anthracis* γPGA. The *B. anthracis* vaccine is composed of non-toxic bacterial components, suitable for infants, children of all ages, and adults.

Inventors: Rachel Schneerson (NICHD), Stephen Leppla (NIAID), John Robbins (NICHD), Joseph Shiloach (NIDDK), Joanna Kubler-Kielb (NICHD), Darrell Liu (NIDCR), Fathy Majadly (NICHD).

Publication: R Schneerson *et al.* Poly(gamma-D-glutamic acid) protein conjugates induce IgG antibodies in mice to the capsule of *Bacillus anthracis:* a potential addition to the anthrax vaccine. Proc Natl Acad Sci USA. 2003 Jul 22;100(15):8945–8950.

Patent Status: U.S. Patent Application No. 10/559,825 filed 02 Dec 2005, claiming priority to 05 Jun 2003 (HHS Reference No. E–343–2002/0–US–04).

Licensing Status: Available for licensing.

Licensing Contact: Peter A. Soukas, J.D.; 301/435–4646; *soukasp@mail.nih.gov.*

Methods for Conjugation of Oligosaccharides or Polysaccharides to Protein Carriers Through Oxime Linkages Via 3-Deoxy-D-Manno-Octulsonic Acid

Description of Technology: This technology comprises new methods for the conjugation of O-specific polysaccharides/oligosaccharides (O-SP/OS) derived from bacterial lipooligosaccharides/lipopolysaccharides (LOS/LPS), after their cleavage from Lipid A, to carrier proteins, to serve as potential vaccines. Conjugation is performed between the carbonyl group on the terminal reducing end of the saccharide and the aminooxy group of a bifunctional linker bound further to the protein.

The inventors have carried out the reaction under mild conditions and in a short time resulting in binding 3-deoxy-D-manno-octulosonic acid (KDO) on the sacchride to the protein. These conjugates preserve the external non-reducing end of the sacchride, are recognized by antisera, and induce immune responses in mice to both conjugate components (*i.e.*, the OS and the associated carrier protein).

Application: Cost effective and efficient manufacturing of conjugate vaccines.

Inventors: Joanna Kubler-Kielb (NICHD), Vince Pozsgay (NICHD), Gil Ben-Menachem (NICHD), Rachel Schneerson (NICHD), *et al.*

Patent Status: PCT Application No. PCT/US2007/016373 filed 18 Jul 2007, which published as WO 2008/013735 on 31 Jan 2008; claiming priority to 21 Jul 2006 (HHS Reference No. E–183–2005/0–PCT–02).

Licensing Status: Available for exclusive or non-exclusive licensing.

Licensing Contact: Peter A. Soukas, J.D.; 301/435–4646; *soukasp@mail.nih.gov.*

Dated: June 10, 2008.

Richard U. Rodriguez,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. E8–13669 Filed 6–17–08; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Construction of Recombinant Baculoviruses Carrying the Gene Encoding the Major Capsid Protein, VP1, From Calicivirus Strains (Including Norovirus Strains Toronto, Hawaii, Desert Shield, Snow Mountain, and MD145–12)

Description of Technology: The noroviruses (known as ''Norwalk-like viruses'') are associated with an estimated 23,000,000 cases of acute gastroenteritis in the United States each year. Norovirus illness often occurs in outbreaks, affecting large numbers of individuals, illustrated recently by well-publicized reports of gastroenteritis outbreaks on several recreational cruise ships and in settings such as hospitals and schools. Norovirus disease is clearly important in terms of medical costs and missed workdays, and accumulating data support its emerging recognition as important agents of diarrhea-related morbidity.

Because the noroviruses cannot be propagated by any means in the laboratory, an important strategy in their study is the development of molecular biology-based tools. This invention reports the development of recombinant baculoviruses carrying the capsid gene from several caliciviruses associated with human disease. Growth of these baculovirus recombinants in insect cells results in the expression of virus-like particles (VLPs) that are antigenically indistinguishable from the native calicivirus particle. These VLPs can be purified in large quantities for use as diagnostic reagents and potential vaccine candidates.

Inventors: Kim Y. Green, Judy F. Lew, Adriene D. King, Stanislav V. Sosnovtsev, Gael M. Belliot (NIAID).

Publication: An example of the application of these materials is further described in KY Green *et al.*, ''A predominant role for Norwalk-like viruses as agents of epidemic gastroenteritis in Maryland nursing homes for the elderly,'' J. Infect. Dis. 2002 Jan. 15;185(2):133–146.

Patent Status: HHS Reference No. E–198–2003/0—Research Material.

Licensing Status: The materials embodied in this invention are available

nonexclusively through a biological materials license.

Licensing Contact: Peter A. Soukas, J.D.; 301/435–4646; *soukasp@mail.nih.gov.*

Collaborative Research Opportunity: The Laboratory of Infectious Diseases, NIAID, NIH, is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize norovirus VLP antigens. Please contact Kim Y. Green at *kgreen@niaid.nih.gov* for more information.

Full-Length cDNA Clone Representing the Consensus Sequence of the RNA Genome of a Human Norovirus (Strain MD145–12) That Encodes Biologically Active Proteins

Description of Technology: The invention provides for a full-length cloned cDNA copy of the RNA genome of a predominant norovirus strain (Genogroup II.4) designated MD145–12 that was associated with human gastrointestinal illness. The noroviruses, which were formerly known as ''Norwalk-like'' viruses are estimated to cause 23 million cases of acute gastroenteritis in the USA each year. The virus has been designated into category B of the CDC biodefense-related priority pathogens because it can be used as an agent of bioterrorism. The subject cDNA clone of the virus encodes proteins of the MD145–12 strain that, when expressed in vitro, exhibit properties that would be expected from those produced by the original infectious virus. This cDNA clone is presently the only source to obtain norovirus proteins to facilitate studies aimed at developing control strategies such as vaccines and therapeutic drugs.

Inventors: Gael M. Belliot, Kim Y. Green, Stanislav V. Sosnovtsev (NIAID).

Patent Status: HHS Reference No. E–212–2003/0—Research Material.

Licensing Status: The cDNA clone for norovirus strain MD145–12 is available for licensing via a biological material license (BML).

Licensing Contact: Peter A. Soukas, J.D.; 301/435–4646; *soukasp@mail.nih.gov.*

Collaborative Research Opportunity: The Laboratory of Infectious Diseases, NIAID, NIH, is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize reagents derived from a cDNA clone of the genome of a predominant human norovirus strain, Genogroup II.4. Please contact Kim Y. Green at *kgreen@niaid.nih.gov* for more information.

Construction of an Infectious Full-Length cDNA Clone of the Porcine Enteric Calicivirus RNA Genome

Description of Technology: Porcine enteric calicivirus (PEC) is a member of the genus Sapovirus in the family Caliciviridae. This virus causes diarrheal illness in pigs. In addition, PEC serves as an important model for the study of enteric caliciviruses that cause diarrhea and that cannot be grown in cell culture (including the noroviruses represented by Norwalk virus and the sapoviruses represented by Sapporo virus). The development of an infectious cDNA clone is important because it enables the use of ''reverse genetics'' to engineer mutations of interest into the genome of PEC and to study their effects. In addition, it allows the introduction of foreign coding sequences into the genome of PEC that could be useful for vaccine development in swine and possibly humans. This discovery has both basic research applications such as mapping mutations involved in tissue culture adaptation, tissue tropism, and virulence as well as practical applications such as providing a genetic backbone for the development of chimeric vaccine viruses.

Inventors: Kyeong-Ok Chang (NIAID), Stanislav V. Sosnovtsev (NIAID), Gael M. Belliot (NIAID), Kim Y. Green (NIAID), *et al.*

Publication: The materials are further described in KO Chang *et al.*, ''Cell-culture propagation of porcine enteric calicivirus mediated by intestinal contents is dependent on the cyclic AMP signaling pathway,'' Virology. 2002 Dec 20;304(2):302–310.

Patent Status: HHS Reference No. E–214–2003/0—Research Material.

Licensing Status: The materials embodied in this invention are available nonexclusively through a biological materials license.

Licensing Contact: Peter A. Soukas, J.D.; 301/435–4646; *soukasp@mail.nih.gov.*

Collaborative Research Opportunity: The Laboratory of Infectious Diseases, NIAID, NIH, is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize reagents derived from an infectious cDNA copy of the genome of porcine enteric calicivirus. Please contact Kim Y. Green at *kgreen@niaid.nih.gov* for more information.

Enzymatically-Active RNA-Dependent RNA Polymerase From a Human Norovirus (Calicivirus)

Description of Technology: The noroviruses (formerly known as ''Norwalk-like viruses'') are associated with gastroenteritis outbreaks, affecting large numbers of individuals each year. Emerging data are supporting their increasing recognition as important agents of diarrhea-related morbidity and mortality. The frequency with which noroviruses are associated with gastroenteritis as ''food and water-borne pathogens'' has led to the inclusion of caliciviruses as Category B Bioterrorism Agents/Diseases. Because the noroviruses cannot be propagated by any means in the laboratory, an important strategy in their study is development of molecular biology-based tools and replication systems. This invention reports the isolation of the first recombinant, enzymatically-active proteinase and RNA dependent RNA polymerase (RdRp) complex for a human norovirus. This enzyme should facilitate studies aimed at developing therapeutic drugs for norovirus disease.

Inventors: Gael M. Belliot, Stanislav V. Sosnovtsev, Kyeong-Ok Chang, Kim Y. Green (NIAID).

Publication: The materials are further described in L Wei *et al.*, ''Proteinase-polymerase precursor as the active form of feline calicivirus RNA-dependent RNA polymerase,'' J. Virol. 2001 Feb;75(3):1211–1219.

Patent Status: HHS Reference No. E–283–2003/0—Research Material.

Licensing Status: The materials embodied in this invention are available nonexclusively through a biological materials license.

Licensing Contact: Peter A. Soukas, J.D.; 301/435–4646; *soukasp@mail.nih.gov.*

Collaborative Research Opportunity: The Laboratory of Infectious Diseases, NIAID, NIH, is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize an active human norovirus proteinase-polymerase enzyme. Please contact Kim Y. Green at *kgreen@niaid.nih.gov* for more information.

A Sensitive, High Throughput Pseudovirus-Based Papillomavirus Neutralization Assay for HPV 16 and HPV 18

Description of Technology: This invention is a research tool for measuring protective antibody responses against Human Papilloma Viruses (HPV). Sensitive high-throughput neutralization assays, based upon pseudoviruses carrying a secreted alkaline phosphatase (SEAP) reporter gene, were developed and validated by the inventors for HPV 16, HPV 18, and bovine papillomavirus 1 (BPV1). In a

96-well plate format, the assay was reproducible and appears to be as sensitive as, but more type-specific than, a standard papillomavirus-like particle (VLP)-based enzyme-linked immunosorbent assay (ELISA). The SEAP pseudovirus-based neutralization assay should be a practical method for quantifying potentially protective antibody responses in HPV natural history and prophylactic vaccine studies.

Inventors: John T. Schiller (NCI), Douglas R. Lowy (NCI), Christopher Buck (NCI), Diana V. Pastrana (NCI), *et al.*

Publication: The assay is further described in Pastrana *et al.*, ''Reactivity of human sera in a sensitive, high-throughput pseudovirus-based papillomavirus neutralization assay for HPV16 and HPV18,'' Virology. 2004 Apr 10;321(2):205–216.

Patent Status: HHS Reference No. E–137–2004/0—Research Material.

Licensing Status: This assay is available nonexclusively through a biological materials license.

Licensing Contact: Peter A. Soukas, J.D.; 301/435–4646; *soukasp@mail.nih.gov.*

Methods for Preparing Complex Multivalent Immunogenic Conjugates

Description of Invention: Claimed in this application are novel methods for preparing complex multivalent immunogenic conjugates and conjugate vaccines. The multivalent conjugates and conjugate vaccines are synthesized by conjugating mixtures of more than one polysaccharide at a desired ratio of the component polysaccharides to at least one carrier protein using hydrazide chemistry. Because of the high efficiency of hydrazide chemistry in conjugation, the polysaccharides are effectively conjugated to the carrier protein(s) so that the resulting complex synthesized vaccine conjugate products, without requiring tedious and complicated purification procedures such as chromatography and/or ammonium sulfate precipitation, are efficacious in inducing antibodies in mice against each component polysaccharide. The methods claimed in this application simplify the preparation of multivalent conjugate vaccines by utilizing simultaneous conjugation reactions in a single reaction mixture or batch that includes at least two immunogenic-distinct polysaccharides. This single-batch simultaneous reaction eliminates the need for multiple parallel synthesis processes for each polysaccharide vaccine conjugate component as employed in conventional methods for making multivalent conjugate vaccines.

Application: Cost effective and efficient manufacturing of conjugate vaccines.

Inventors: Che-Hung Robert Lee (CBER/FDA).

Patent Status: PCT Application No. PCT/US2007/006627 filed 16 Mar 2007 (HHS Reference No. E–085–2005/0–PCT–02).

Licensing Status: Available for exclusive or non-exclusive licensing. The technology is not available for licensing in the field of use of multivalent meningitis vaccines.

Licensing Contact: Peter A. Soukas, J.D.; 301/435–4646; *soukasp@mail.nih.gov.*

Human Neutralizing Monoclonal Antibodies to Respiratory Syncytial Virus and Human Neutralizing Antibodies to Respiratory Syncytial Virus

Description of Technology: This invention is a human monoclonal antibody fragment (Fab) discovered utilizing phage display technology. It is described in Crowe *et al.*, Proc Natl Acad Sci USA. 1994 Feb 15;91(4):1386–1390 and Barbas *et al.*, Proc Natl Acad Sci USA. 1992 Nov 1;89(21):10164–10168. This MAb binds an epitope on the RSV F glycoprotein at amino acid 266 with an affinity of approximately $10^9 M^{-1}$. This MAb neutralized each of 10 subgroup A and 9 subgroup B RSV strains with high efficiency. It was effective in reducing the amount of RSV in lungs of RSV-infected cotton rats 24 hours after treatment, and successive treatments caused an even greater reduction in the amount of RSV detected.

Applications: Research and drug development for treatment of respiratory syncytial virus.

Inventors: Robert M. Chanock (NIAID), Brian R. Murphy (NIAID), James E. Crowe Jr. (NIAID), *et al.*

Patent Status: U.S. Patent 5,762,905 issued 09 Jun 1998 (HHS Reference No. E–032–1993/1–US–01); U.S. Patent 6,685,942 issued 03 Feb 2004 (HHS Reference No. E–032–1993/1–US–02); U.S. Patent Application No. 10/768,952 filed 29 Jan 2004 (HHS Reference No. E–032–1993/1-US–03).

Licensing Status: Available for non-exclusive licensing.

Licensing Contact: Peter A. Soukas, J.D.; 301/435–4646; *soukasp@mail.nih.gov.*

Neutralizing Monoclonal Antibodies to Respiratory Syncytial Virus

Description of Technology: Respiratory syncytial virus (RSV) is the most common cause of bronchiolitis and pneumonia among infants and children under 1 year of age. Illness begins most frequently with fever, runny nose, cough, and sometimes wheezing. During their first RSV infection, between 25% and 40% of infants and young children have signs or symptoms of bronchiolitis or pneumonia, and 0.5% to 2% require hospitalization. Most children recover from illness in 8 to 15 days. The majority of children hospitalized for RSV infection are under 6 months of age. RSV also causes repeated infections throughout life, usually associated with moderate-to-severe cold-like symptoms; however, severe lower respiratory tract disease may occur at any age, especially among the elderly or among those with compromised cardiac, pulmonary, or immune systems.

This invention is a human monoclonal antibody fragment (Fab) discovered utilizing phage display technology. The neutralizing monoclonal antibody was isolated and its binding site was identified. Fab F2–5 is a broadly reactive fusion (F) protein-specific recombinant Fab generated by antigen selection from a random combinatorial library displayed on the surface of filamentous phage. In an in vitro plaque-reduction test, the Fab RSVF2–5 neutralized the infectivity of a variety of field isolates representing viruses of both RSV subgroups A and B. The Fab recognized an antigenic determinant that differed from the only other human anti-F monoclonal antibody (RSV Fab 19) described thus far. A single dose of 4.0 mg of Fab RSVF2–5/kg of body weight administered by inhalation was sufficient to achieve a 2000-fold reduction in pulmonary virus titer in RSV-infected mice. The antigen-binding domain of Fab RSVF2–5 offers promise as part of a prophylactic regimen for RSV infection in humans.

Application: Respiratory Syncytial Virus prophylaxis/therapeutic.

Development Stage: The antibodies have been synthesized and preclinical studies have been performed.

Inventors: Brian Murphy (NIAID), Robert Chanock (NIAID), James Crowe (NIAID), *et al.*

Publication: JE Crowe *et al.* Isolation of a second recombinant human respiratory syncytial virus monoclonal antibody fragment (Fab RSVF2–5) that exhibits therapeutic efficacy in vivo. J Infect Dis. 1998 Apr;177(4):1073–1076.

Patent Status: HHS Reference No. E–001–1996/0—U.S. and Foreign Rights Available.

Licensing Status: Available for exclusive or non-exclusive licensing.

Licensing Contact: Peter A. Soukas, J.D.; 301/435–4646; *soukasp@mail.nih.gov.*

Murine Monoclonal Antibodies Effective To Treat Respiratory Syncytial Virus

Description of Technology: Available for licensing through a Biological Materials License Agreement are the murine MAbs described in Beeler *et al.*, ''Neutralization epitopes of the F glycoprotein of respiratory syncytial virus: effect of mutation upon fusion function,'' J Virol. 1989 Jul;63(7):2941–2950. The MAbs that are available for licensing are the following: 1129, 1153, 1142, 1200, 1214, 1237, 1112, 1269, and 1243. One of these MAbs, 1129, is the basis for a humanized murine MAb (see U.S. Patent 5,824,307 to humanized 1129 owned by MedImmune, Inc.), recently approved for marketing in the United States. MAbs in the panel reported by Beeler *et al.* have been shown to be effective therapeutically when administered into the lungs of cotton rats by small-particle aerosol. Among these MAbs several exhibited a high affinity (approximately $10^9 M^{-1}$) for the RSV F glycoprotein and are directed at epitopes encompassing amino acid 262, 272, 275, 276 or 389. These epitopes are separate, nonoverlapping and distinct from the epitope recognized by the human Fab of U.S. Patent 5,762,905 owned by The Scripps Research Institute.

Applications: Research and drug development for treatment of respiratory syncytial virus.

Inventors: Robert M. Chanock, Brian R. Murphy, Judith A. Beeler, and Kathleen L. van Wyke Coelingh (NIAID).

Patent Status: HHS Reference No. B–056–1994/1—Research Tool.

Licensing Status: Available for non-exclusive licensing under a Biological Materials License Agreement.

Licensing Contact: Peter A. Soukas, J.D.; 301/435–4646; *soukasp@mail.nih.gov.*

Dated: June 10, 2008.

Richard U. Rodriguez,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. E8–13672 Filed 6–17–08; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Health of the Population SBIR Study Section.
Date: June 26–27, 2008.
Time: 8:30 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: Brookshire Inner Harbor Suites, 120 E. Lombard Street, Baltimore, MD 21202.
Contact Person: Karin F. Helmers, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3148, MSC 7770, Bethesda, MD 20892, 301–435–1017, *helmersk@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Oncology and Related Topics.
Date: July 7, 2008.
Time: 2 p.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health.
6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Angela Y. Ng, PhD, MBA, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6200, MSC 7804 (For courier delivery, use MD 20817), Bethesda, MD 20892, 301–435–1715, *nga@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel;
Xenopus Genetics and Development.
Date: July 9–10, 2008.
Time: 8 a.m. to 5:30 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).
Contact Person: Barbara J. Thomas, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2218, MSC 7890, Bethesda, MD 20892, 301–435–0603, *bthomas@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel;
Topics In Eukaryotic Pathogens.
Date: July 9, 2008.
Time: 2 p.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).
Contact Person: Liangbiao Zheng, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3214, MSC 7808, Bethesda, MD 20892, 301–402–5671, *zhengli@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel;
International Bioethics.
Date: July 10, 2008.
Time: 8:30 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015.
Contact Person: Dan D. Gerendasy, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5132, MSC 7843, Bethesda, MD 20892, 301–594–6830, *gerendad@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR 06–293–Quick Trial on Imaging and Image-guide Intervention.
Date: July 14, 2008.
Time: 1 p.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).
Contact Person: John Firrell, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5213, MSC 7854, Bethesda, MD 20892, 301–435–2598, *firrellj@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel;
Data Management and Coordinating Center (DMCC) for the Rare Diseases.
Date: July 15, 2008.
Time: 8 a.m. to 3 p.m.
Agenda: To review and evaluate grant applications.
Place: One Washington Circle Hotel, One Washington Circle, Washington, DC 20037.
Contact Person: Jose Fernando Arena, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3135, MSC 7770, Bethesda, MD 20892, 301–435–1735, *arenaj@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Bacterial Pathogens and Host Responses.
Date: July 15, 2008.
Time: 2 p.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Liangbiao Zheng, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3214, MSC 7808, Bethesda, MD 20892, 301–402–5671, *zhengli@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Community Interventions Member Conflict Panel.
Date: July 16, 2008.
Time: 10:30 a.m. to 12:30 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).
Contact Person: Fungai F. Chanetsa, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3135, MSC 7770, Bethesda, MD 20892, 301–435–1262, *chanetsaf@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Biomaterials and Tissue Engineering.
Date: July 29–30, 2008.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).
Contact Person: Alexander Gubin, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Rm 5144, MSC 7812, Bethesda, MD 20892, 301–435–2902, *gubina@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: June 9, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–13389 Filed 6–17–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Complementary and Alternative Medicine Announcement of Meditation for Health Purposes Workshop

ACTION: Notice.

SUMMARY: The National Center for Complementary and Alternative Medicine (NCCAM) will convene a workshop on Meditation for Health Purposes. The goals of the workshop are to assess current knowledge and identify opportunities for future research on the mechanisms and efficacy of meditation practices for a variety of health concerns. This workshop will bring together experts in the fields of meditation practices, research design and methodology, physiological mechanisms, and affective and cognitive processes and outcomes. The meeting will draw on this expertise to elucidate relevant aspects that would best move the field of meditation research forward. The meeting will utilize a combination of short presentations, discussions, and breakout groups.

The Workshop will take place on July 8–9, 2008 in Bethesda, Maryland. Seating will be limited, and researchers in the relevant scientific fields are particularly encouraged to attend. Attendees should register by July 1, 2008 by visiting *http://nccam.nih.gov/news/upcomingmeetings/*.

Background: The National Center for Complementary and Alternative Medicine (NCCAM) was established in 1999 with the mission of exploring complementary and alternative healing practices in the context of rigorous science, training CAM researchers, and disseminating authoritative information to the public and professionals. NCCAM funds research grants that explore the science of CAM. For more information, see *http://nccam.nih.gov/research/nccamfunds.htm*.

FOR FURTHER INFORMATION CONTACT: To request more information, visit the NCCAM Web site at *http://nccam.nih.gov/news/upcomingmeetings/*, call 301–593–2800 (Jodi Mazel) or e-mail *jmazel@lclmllc.com*.

Dated: June 4, 2008.

Catherine Stoney,

Program Officer, National Center for Complementary and Alternative Medicine, National Institutes of Health.

[FR Doc. E8–13688 Filed 6–17–08; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; 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 Heart, Lung, and Blood Institute, Special Emphasis Panel, Research Project in Cardiovascular Diseases.
Date: July 9, 2008.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.
Contact Person: Yingying Li-Smerin, MD, PhD, Scientific Review Officer, Review Branch/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7184, Bethesda, MD 20892–7924, 301–435–0277, *lismerin@nhlbi.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute, Special Emphasis Panel, Cardiovascular Biomarker Standardization Program.
Date: July 9, 2008.
Time: 10 a.m. to 3 p.m.
Agenda: To review and evaluate contract proposals.
Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.
Contact Person: William J Johnson, PhD, Scientific Review Officer, Review Branch/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7178, Bethesda, MD 20892–7924, 301–435–0725, *johnsonwj@nhlbi.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute, Special Emphasis Panel, Lung Image Clinical Trial.
Date: July 15, 2008.
Time: 1 p.m. to 2 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call)
Contact Person: Youngsuk Oh, PhD, Scientific Review Officer, Review Branch/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7182, Bethesda, MD 20892–7924, 301–435–0277, *yoh@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: June 11, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–13667 Filed 6–17–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin 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 Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel; Building Interdisciplinary Research Team (BIRT) Revision Awards (RO1).

Date: June 24–25, 2008.

Time: 7 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Marriott Washingtonian Center Courtyard, 204 Boardwalk Place, Gaithersburg, MD 20878.

Contact Person: Michael L. Bloom, PhD, MBA, Scientific Review Administrator, EP Review Branch, NIH/NIAMS, One Democracy Plaza, Room 820, MSC 4872, 6701 Democracy Blvd, Bethesda, MD 20892–4872, 301–594–4953, *Michael_Bloom@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel Research Program Projects

Date: July 31, 2008.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Charles H. Washabaugh, PhD, Scientific Review Administrator, Review Branch, NIAMS/NIH, 6701 Democracy Blvd, Room 816, Bethesda, MD 20892, 301 451–4838, *washabac@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: June 9, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–13390 Filed 6–17–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Life Study.

Date: July 7, 2008.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue Room 2c–212, Bethesda, MD 20814 (Telephone Conference Call).

Contact Person: Ramesh Vemuri, PhD, Scientific Review Office, National Institute on Aging, National Institutes of Health, 7201 Wisconsin Avenue, Suite 2c–212, Bethesda, MD 20892, 301–402–7700, *rv23r@nih.gov.*

Name of Committee: National Institute on Aging Special Emphasis Panel; Ad Registry.

Date: July 22, 2008.

Time: 12 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20814 (Telephone Conference Call).

Contact Person: Alicja L. Markowska, PhD, DSC, National Institute on Aging, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, 301–496–9666, *markowsa@nia.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: June 9, 2008.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–13391 Filed 6–17–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; 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 Mental Health Special Emphasis Panel; K99 Summer Review.

Date: July 10, 2008.

Time: 8:30 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.

Contact Person: Henry J. Haigler, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Rm. 6150, MSC 9608, Bethesda, MD 20892–9608, 301/443–7216, *hhaigler@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Fellowships and Dissertation Grants.

Date: July 23, 2008.

Time: 10 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Marina Broitman, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6153, MSC 9608, Bethesda, MD 20892–9608, 301–402–8152, *mbroitma@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: June 9, 2008.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–13392 Filed 6–17–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases, Special Emphasis Panel, NIH Support for Conferences and Scientific Meetings Applications.

Date: July 9, 2008.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6700B Rockledge Drive, Bethesda, MD 20817. (Telephone Conference Call)

Contact Person: Ileana M. Ponce-Gonzalez, MD, MPH, Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, 301–451–3679, *ipgonzalez@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: June 11, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–13662 Filed 6–17–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Dental and Craniofacial Research, Special Emphasis Panel Review R03, F, K.

Date: July 8, 2008.

Time: 11:30 a.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6706 Democracy Blvd., Bethesda, MD 20892. (Telephone Conference Call)

Contact Person: Raj K. Krishnaraju, PhD, MS, Scientific Review Officer, Scientific Review Branch, National Institute of Dental and Craniofacial Research, National Institutes of Health, 45 Center Dr. Rm. 4AN 32J, Bethesda, MD 20892, 301–594–4864, *kkrishna@nidcr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: June 11, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–13665 Filed 6–17–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse, Special Emphasis Panel, Treatment of Substance Abuse With Real Time Fmri.

Date: July 8, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Westin Embassy Row Hotel, 2100 Massachusetts Avenue, NW., Washington, DC 20008.

Contact Person: Mark Swieter, PhD, Chief, Training and Special Projects Review Branch, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, 6101 Executive Boulevard, Suite 220, Bethesda, MD 20892–8401, (301) 435–1389, *ms80x@nih.gov.*

Name of Committee: National Institute on Drug Abuse Special 'Emphasis Panel, HIV–1 and Host Genetics in Drug Using Populations and Model Organisms.

Date: July 8, 2008.

Time: 12 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6101 Executive Boulevard, Rockville, MD 20852. (Telephone Conference Call)

Contact Person: Gerald L. McLaughlin, PhD, Scientific Review Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 220, MSC 8401, 6101 Executive Blvd., Bethesda, MD 20892–8401, 301–402–6626, *gm145a@nih.gov.*

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, Avant Garde Interviews.

Date: July 9–10, 2008.

Time: 8:30 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Ritz Carlton Hotel, 1150 22nd Street, NW., Washington, DC 20037.

Contact Person: Nadine Rogers, PhD, Scientific Review Administrator, Office of

Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 220, MSC 8401, 6101 Executive Boulevard, Bethesda, MD 20892–8401, 301–402–2105, *rogersn2@nida.nih.gov.*

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, Substance Abuse and Glial Regulation of Nervous System Functions.

Date: July 10–11, 2008.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Madison Hotel, 1177 Fifteenth St., NW., Washington, DC 20005.

Contact Person: Meenaxi Hiremath, PhD, Health Scientist Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6101 Executive Blvd., Suite 220, MSC 8401, Bethesda, MD 20892, 301–402–7964, *mh392g@nih.gov.*

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, I/START Review.

Date: July 11, 2008.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6101 Executive Boulevard 220, Rockville, MD 20852. (Virtual Meeting)

Contact Person: Mark Swieter, PhD, Chief, Training and Special Projects Review Branch, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, 6101 Executive Boulevard, Suite 220, Bethesda, MD 20892–8401, (301) 435–1389, *ms80x@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: June 11, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–13668 Filed 6–17–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; ''Rat Module of Dyslexia.''

Date: June 24, 2008.

Time: 12 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, 5B0, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Norman Chang, PhD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5b01, Bethesda, MD 20892, (301) 496–1485, *changn@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: June 11, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–13670 Filed 6–17–08; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; 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 General Medical Sciences, Special Emphasis Panel, 2008 NIH Director's Pioneer Award Finalist Interviews.

Date: June 30–July 2, 2008.

Time: 8 a.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Lawton Chiles International House, Building 16, Bethesda, MD 20892.

Contact Person: Shan R. McCollough, Program Analyst, Division of Genetics and Developmental Biology, National Institute of General Medical Sciences, Building 45, Center Drive, Room 3AS13F, Bethesda, MD 20892, 301–594–3555, *smccollough@nigms.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of General Medical Sciences, Special Emphasis Panel, Minority Biomedical Research Support.

Date: July 1, 2008.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 45 Center Drive, 3AN–12, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Arthur L. Zachary, PhD, Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, Natcher Building, Room 3AN–12, Bethesda, MD 20892, (301) 594–2886, *zacharya@nigms.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of General Medical Sciences, Special Emphasis Panel, Minority Biomedical Research Support in Behavioral Science.

Date: July 8, 2008.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 45 Center Drive, Room 3AN–12, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Arthur L. Zachary, PhD, Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, Natcher Building, Room 3AN–12, Bethesda, MD 20892, (301) 594–2886, *zacharya@nigms.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: June 11, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–13689 Filed 6–17–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Modulation of Iron Deposition in SCD and Other Hemoglobinopathies.

Date: July 9, 2008.

Time: 3 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: Lakshmanan Sankaran, PhD, Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 755, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7799, *ls38oz@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: June 11, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–13701 Filed 6–17–08; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: Geldanamycin Derivative and Method of Treating Viral Infections

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: This is notice, in accordance with 35 U.S.C. 209(c)(1) and 37 CFR Part 404.7(a)(1)(i), that the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of an exclusive patent license to practice the invention embodied in U.S. Patent No. 6,890,917, issued May 10, 2005, entitled ''Geldanamycin Derivative and Method of Treating Cancer Using Same'' [E–050–2000/0–US–15] and foreign equivalents, to Avira Therapeutics, LLC, having a place of business in Menlo Park, California. The patent rights in these inventions have been assigned to the United States of America.

The prospective exclusive license territory may be worldwide, and the field of use may be limited to the use of the manufacture, use, distribution and sale of 17–DMAG, an analog of geldanamycin, as a therapeutic to inhibit the influenza virus, respiratory syncytial virus (RSV) and dengue virus.

This replaces a notice published in 73 FR 31702 on Tuesday, June 3, 2008, which omitted the name of the potential licensee.

DATES: Only written comments and/or applications for a license which are received by the NIH Office of Technology Transfer on or before August 18, 2008 will be considered.

ADDRESSES: Requests for copies of the patent application, inquiries, comments, and other materials relating to the contemplated exclusive license should be directed to: Adaku Madu, J.D., Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; Telephone: (301) 435–5560; Facsimile: (301) 402–0220; E-mail: *madua@mail.nih.gov*.

SUPPLEMENTARY INFORMATION: This technology relates to novel cytotoxic compounds derived from 17-aminoalkylamino-substituted geldanamycin and pharmaceutical compositions thereof. In particular, this invention refers to 17-(dimehtylamino) propylamino-geldanamycin, 17-(dimethylamino) ethylamino-geldanamycin, and the hydrochloride salt of 17-(dimethylamino) ethylamino-geldanamycin (DMAG and analogs). These compounds are Hsp90 inhibitors. Hsp90 inhibition downregulates B–Raf, decreases cell proliferation and reduces activation of the MEK/ERK pathways in some cells. Hsp90 plays an essential role in maintaining stability and activity in its client proteins. Hsp90 inhibitors interfere with diverse signaling pathways by destabilizing and attenuating activity of such proteins, and thus exhibit antitumor activity. Specifically, 17–DMAG shows cytotoxicity against a number of human colon and lung cell lines, specific melanoma, renal and breast lines, and potentially against various viral infections. In addition, these compounds appear to have favorable pharmaceutical properties including oral activity and improved water-solubility.

The prospective exclusive license will be royalty bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR Part 404.7. The prospective exclusive license may be granted unless within sixty (60) days from the date of this published notice, the NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Applications for a license in the field of use filed in response to this notice will be treated as objections to the grant of the contemplated exclusive license. Comments and objections submitted to this notice will not be made available for public inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: June 9, 2008.

Richard U. Rodriguez,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. E8–13671 Filed 6–17–08; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

DEPARTMENT OF STATE

Office of the Secretary

Exercise of Authority Under Section 212(d)(3)(B)(i) of the Immigration and Nationality Act

AGENCY: Office of the Secretary, DHS; Office of the Secretary, DOS.

ACTION: Notice of Determination.

DATES: This determination is effective June 3, 2008.

Authority: 8 U.S.C. 1182(d)(3)(B)(i).

The Secretary of Homeland Security and the Secretary of State, following consultations with the Attorney General, hereby conclude, as a matter of

discretion in accordance with our respective authorities under section 212(d)(3)(B)(i) of the Immigration and Nationality Act (INA), 8 U.S.C. 1182(d)(3)(B)(i), as amended by the Consolidated Appropriations Act, 2008 (CAA), Public Law 110–161, Div. J, section 691(a), 121 Stat. 1844, 2364 (December 26, 2007), as well as the foreign policy and national security interests deemed relevant in these consultations, that section 212(a)(3)(B) of the INA, excluding subclause (i)(II), shall not apply with respect to an alien not otherwise covered by the automatic relief provisions of section 691(b) of the CAA, for any activity or association relating to appropriate groups affiliated with the Montagnards, provided that there is no reason to believe that the relevant terrorist activities of the alien or the recipients were targeted against noncombatant persons, and further provided that the alien satisfies the relevant agency authority that the alien:

(a) Is seeking a benefit or protection under the INA and has been determined to be otherwise eligible for the benefit or protection;

(b) Has undergone and passed relevant background and security checks;

(c) Has fully disclosed, in all relevant applications and interviews with U.S. government representatives and agents, the nature and circumstances of each activity or association falling within the scope of section 212(a)(3)(B) of the INA;

(d) Poses no danger to the safety and security of the United States; and

(e) Is warranted to be exempted from the relevant inadmissibility provision by the totality of the circumstances.

Implementation of this determination will be made by U.S. Citizenship and Immigration Services (USCIS), in consultation with U.S. Immigration and Customs Enforcement (ICE), or by U.S. consular officers, as applicable, who shall ascertain, to their satisfaction, and in their discretion, that the particular applicant meets the criteria set forth above.

This exercise of authority may be revoked as a matter of discretion and without notice at any time with respect to any and all persons subject to it. Any determination made under this exercise of authority as set out above shall apply to any subsequent benefit or protection application, unless such exercise of authority has been revoked.

This exercise of authority shall not be construed to prejudice, in any way, the ability of the U.S. government to commence subsequent criminal or civil proceedings in accordance with U.S. law involving any beneficiary of this exercise of authority (or any other person). This exercise of authority is not intended to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

In accordance with section 212(d)(3)(B)(ii) of the INA, 8 U.S.C. 1182(d)(3)(B)(ii), a report on the aliens to whom this exercise of authority is applied, on the basis of case-by-case decisions by the Department of Homeland Security or by the Department of State, shall be provided to the specified congressional committees not later than 90 days after the end of the fiscal year.

This determination is based on an assessment related to the national security and foreign policy interests of the United States as they apply to the particular persons described herein and shall not have any application with respect to other persons or to other provisions of U.S. law.

Dated: June 3, 2008.

Michael Chertoff,

Secretary of Homeland Security.

Condoleezza Rice,

Secretary of State.

[FR Doc. E8–13638 Filed 6–17–08; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

DEPARTMENT OF STATE

Office of the Secretary

Exercise of Authority Under Section 212(d)(3)(B)(i) of the Immigration and Nationality Act

AGENCY: Office of the Secretary, DHS; Office of the Secretary, DOS.

ACTION: Notice of determination.

DATES: This determination is effective June 3, 2008.

Authority: 8 U.S.C. 1182(d)(3)(B)(i).

The Secretary of Homeland Security and the Secretary of State, following consultations with the Attorney General, hereby conclude, as a matter of discretion in accordance with our respective authorities under section 212(d)(3)(B)(i) of the Immigration and Nationality Act (INA), 8 U.S.C. 1182(d)(3)(B)(i), as amended by the Consolidated Appropriations Act, 2008 (CAA), Public Law 110–161, Div. J, section 691(a), 121 Stat. 1844, 2364 (December 26, 2007), as well as the foreign policy and national security interests deemed relevant in these consultations, that section 212(a)(3)(B) of the INA, excluding subclause (i)(II), shall not apply with respect to an alien not otherwise covered by the automatic relief provisions of section 691(b) of the CAA, for any activity or association relating to the Karen National Union/Karen National Liberation Army (KNU/KNLA), provided that there is no reason to believe that the relevant terrorist activities of the alien or the recipients were targeted against noncombatant persons, and further provided that the alien satisfies the relevant agency authority that the alien:

(a) Is seeking a benefit or protection under the INA and has been determined to be otherwise eligible for the benefit or protection;

(b) Has undergone and passed relevant background and security checks;

(c) Has fully disclosed, in all relevant applications and interviews with U.S. government representatives and agents, the nature and circumstances of each activity or association falling within the scope of section 212(a)(3)(B) of the INA;

(d) Poses no danger to the safety and security of the United States; and

(e) Is warranted to be exempted from the relevant inadmissibility provision by the totality of the circumstances.

Implementation of this determination will be made by U.S. Citizenship and Immigration Services (USCIS), in consultation with U.S. Immigration and Customs Enforcement (ICE), or by U.S. consular officers, as applicable, who shall ascertain, to their satisfaction, and in their discretion, that the particular applicant meets the criteria set forth above.

This exercise of authority may be revoked as a matter of discretion and without notice at any time with respect to any and all persons subject to it. Any determination made under this exercise of authority as set out above shall apply to any subsequent benefit or protection application, unless such exercise of authority has been revoked.

This exercise of authority shall not be construed to prejudice, in any way, the ability of the U.S. government to commence subsequent criminal or civil proceedings in accordance with U.S. law involving any beneficiary of this exercise of authority (or any other person). This exercise of authority is not intended to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

In accordance with section 212(d)(3)(B)(ii) of the INA, 8 U.S.C. 1182(d)(3)(B)(ii), a report on the aliens to whom this exercise of authority is

applied, on the basis of case-by-case decisions by the Department of Homeland Security or by the Department of State, shall be provided to the specified congressional committees not later than 90 days after the end of the fiscal year.

This determination is based on an assessment related to the national security and foreign policy interests of the United States as they apply to the particular persons described herein and shall not have any application with respect to other persons or to other provisions of U.S. law.

Dated: June 3, 2008.

Michael Chertoff,

Secretary of Homeland Security.

Condoleezza Rice,

Secretary of State.

[FR Doc. E8–13640 Filed 6–17–08; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

DEPARTMENT OF STATE

Office of the Secretary

Exercise of Authority Under Section 212(d)(3)(B)(i) of the Immigration and Nationality Act

AGENCY: Office of the Secretary, DHS; Office of the Secretary, DOS.

ACTION: Notice of determination.

DATES: This determination is effective June 3, 2008.

Authority: 8 U.S.C. 1182(d)(3)(B)(i).

The Secretary of Homeland Security and the Secretary of State, following consultations with the Attorney General, hereby conclude, as a matter of discretion in accordance with our respective authorities under section 212(d)(3)(B)(i) of the Immigration and Nationality Act (INA), 8 U.S.C. 1182(d)(3)(B)(i), as amended by the Consolidated Appropriations Act, 2008 (CAA), Public Law 110–161, Div. J, section 691(a), 121 Stat. 1844, 2364 (December 26, 2007), as well as the foreign policy and national security interests deemed relevant in these consultations, that section 212(a)(3)(B) of the INA, excluding subclause (i)(II), shall not apply with respect to an alien not otherwise covered by the automatic relief provisions of section 691(b) of the CAA, for any activity or association relating to the Karenni National Progressive Party (KNPP), provided that there is no reason to believe that the relevant terrorist activities of the alien or the recipients were targeted against noncombatant persons, and further provided that the alien satisfies the relevant agency authority that the alien:

(a) Is seeking a benefit or protection under the INA and has been determined to be otherwise eligible for the benefit or protection;

(b) Has undergone and passed relevant background and security checks;

(c) Has fully disclosed, in all relevant applications and interviews with U.S. government representatives and agents, the nature and circumstances of each activity or association falling within the scope of section 212(a)(3)(B) of the INA;

(d) Poses no danger to the safety and security of the United States; and

(e) Is warranted to be exempted from the relevant inadmissibility provision by the totality of the circumstances.

Implementation of this determination will be made by U.S. Citizenship and Immigration Services (USCIS), in consultation with U.S. Immigration and Customs Enforcement (ICE), or by U.S. consular officers, as applicable, who shall ascertain, to their satisfaction, and in their discretion, that the particular applicant meets the criteria set forth above.

This exercise of authority may be revoked as a matter of discretion and without notice at any time with respect to any and all persons subject to it. Any determination made under this exercise of authority as set out above shall apply to any subsequent benefit or protection application, unless such exercise of authority has been revoked.

This exercise of authority shall not be construed to prejudice, in any way, the ability of the U.S. government to commence subsequent criminal or civil proceedings in accordance with U.S. law involving any beneficiary of this exercise of authority (or any other person). This exercise of authority is not intended to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

In accordance with section 212(d)(3)(B)(ii) of the INA, 8 U.S.C. 1182(d)(3)(B)(ii), a report on the aliens to whom this exercise of authority is applied, on the basis of case-by-case decisions by the Department of Homeland Security or by the Department of State, shall be provided to the specified congressional committees not later than 90 days after the end of the fiscal year.

This determination is based on an assessment related to the national security and foreign policy interests of the United States as they apply to the particular persons described herein and shall not have any application with respect to other persons or to other provisions of U.S. law.

Dated: June 3, 2008.

Michael Chertoff,

Secretary of Homeland Security.

Condoleezza Rice,

Secretary of State.

[FR Doc. E8–13643 Filed 6–17–08; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

DEPARTMENT OF STATE

Office of the Secretary

Exercise of Authority Under Section 212(d)(3)(B)(i) of the Immigration and Nationality Act

AGENCY: Office of the Secretary, DHS; Office of the Secretary, DOS.

ACTION: Notice of determination.

DATES: This determination is effective June 3, 2008.

Authority: 8 U.S.C. 1182(d)(3)(B)(i).

The Secretary of Homeland Security and the Secretary of State, following consultations with the Attorney General, hereby conclude, as a matter of discretion in accordance with our respective authorities under section 212(d)(3)(B)(i) of the Immigration and Nationality Act (INA), 8 U.S.C. 1182(d)(3)(B)(i), as amended by the Consolidated Appropriations Act, 2008 (CAA), Public Law 110–161, Div. J, section 691(a), 121 Stat. 1844, 2364 (December 26, 2007), as well as the foreign policy and national security interests deemed relevant in these consultations, that section 212(a)(3)(B) of the INA, excluding subclause (i)(II), shall not apply with respect to an alien not otherwise covered by the automatic relief provisions of section 691(b) of the CAA, for any activity or association relating to the Chin National Front/Chin National Army (CNF/CNA), provided that there is no reason to believe that the relevant terrorist activities of the alien or the recipients were targeted against noncombatant persons, and further provided that the alien satisfies the relevant agency authority that the alien:

(a) Is seeking a benefit or protection under the INA and has been determined to be otherwise eligible for the benefit or protection;

(b) Has undergone and passed relevant background and security checks;

(c) Has fully disclosed, in all relevant applications and interviews with U.S. government representatives and agents, the nature and circumstances of each activity or association falling within the scope of section 212(a)(3)(B) of the INA;

(d) Poses no danger to the safety and security of the United States; and

(e) Is warranted to be exempted from the relevant inadmissibility provision by the totality of the circumstances.

Implementation of this determination will be made by U.S. Citizenship and Immigration Services (USCIS), in consultation with U.S. Immigration and Customs Enforcement (ICE), or by U.S. consular officers, as applicable, who shall ascertain, to their satisfaction, and in their discretion, that the particular applicant meets the criteria set forth above.

This exercise of authority may be revoked as a matter of discretion and without notice at any time with respect to any and all persons subject to it. Any determination made under this exercise of authority as set out above shall apply to any subsequent benefit or protection application, unless such exercise of authority has been revoked.

This exercise of authority shall not be construed to prejudice, in any way, the ability of the U.S. government to commence subsequent criminal or civil proceedings in accordance with U.S. law involving any beneficiary of this exercise of authority (or any other person). This exercise of authority is not intended to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

In accordance with section 212(d)(3)(B)(ii) of the INA, 8 U.S.C. 1182(d)(3)(B)(ii), a report on the aliens to whom this exercise of authority is applied, on the basis of case-by-case decisions by the Department of Homeland Security or by the Department of State, shall be provided to the specified congressional committees not later than 90 days after the end of the fiscal year.

This determination is based on an assessment related to the national security and foreign policy interests of the United States as they apply to the particular persons described herein and shall not have any application with respect to other persons or to other provisions of U.S. law.

Dated: June 3, 2008.

Michael Chertoff,

Secretary of Homeland Security.

Condoleezza Rice,

Secretary of State.

[FR Doc. E8–13651 Filed 6–17–08; 8:45 am]

BILLING CODE 9117–97–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

DEPARTMENT OF STATE

Office of the Secretary

Exercise of Authority Under Section 212(d)(3)(B)(i) of the Immigration and Nationality Act

AGENCY: Office of the Secretary, DHS; Office of the Secretary, DOS.

ACTION: Notice of determination.

DATES: This determination is effective June 3, 2008.

Authority: 8 U.S.C. 1182(d)(3)(B)(i).

The Secretary of Homeland Security and the Secretary of State, following consultations with the Attorney General, hereby conclude, as a matter of discretion in accordance with our respective authorities under section 212(d)(3)(B)(i) of the Immigration and Nationality Act (INA), 8 U.S.C. 1182(d)(3)(B)(i), as amended by the Consolidated Appropriations Act, 2008 (CAA), Public Law 110–161, Div. J, section 691(a), 121 Stat. 1844, 2364 (December 26, 2007), as well as the foreign policy and national security interests deemed relevant in these consultations, that section 212(a)(3)(B) of the INA, excluding subclause (i)(II), shall not apply with respect to an alien not otherwise covered by the automatic relief provisions of section 691(b) of the CAA, for any activity or association relating to the Alzados, provided that there is no reason to believe that the relevant terrorist activities of the alien or the recipients were targeted against noncombatant persons, and further provided that the alien satisfies the relevant agency authority that the alien:

(a) Is seeking a benefit or protection under the INA and has been determined to be otherwise eligible for the benefit or protection;

(b) has undergone and passed relevant background and security checks;

(c) has fully disclosed, in all relevant applications and interviews with U.S. government representatives and agents, the nature and circumstances of each activity or association falling within the scope of section 212(a)(3)(B) of the INA;

(d) poses no danger to the safety and security of the United States; and

(e) is warranted to be exempted from the relevant inadmissibility provision by the totality of the circumstances.

Implementation of this determination will be made by U.S. Citizenship and Immigration Services (USCIS), in consultation with U.S. Immigration and Customs Enforcement (ICE), or by U.S. consular officers, as applicable, who shall ascertain, to their satisfaction, and in their discretion, that the particular applicant meets the criteria set forth above.

This exercise of authority may be revoked as a matter of discretion and without notice at any time with respect to any and all persons subject to it. Any determination made under this exercise of authority as set out above shall apply to any subsequent benefit or protection application, unless such exercise of authority has been revoked.

This exercise of authority shall not be construed to prejudice, in any way, the ability of the U.S. government to commence subsequent criminal or civil proceedings in accordance with U.S. law involving any beneficiary of this exercise of authority (or any other person). This exercise of authority is not intended to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

In accordance with section 212(d)(3)(B)(ii) of the INA, 8 U.S.C. 1182(d)(3)(B)(ii), a report on the aliens to whom this exercise of authority is applied, on the basis of case-by-case decisions by the Department of Homeland Security or by the Department of State, shall be provided to the specified congressional committees not later than 90 days after the end of the fiscal year.

This determination is based on an assessment related to the national security and foreign policy interests of the United States as they apply to the particular persons described herein and shall not have any application with respect to other persons or to other provisions of U.S. law.

Dated: June 3, 2008.

Michael Chertoff,

Secretary of Homeland Security

Condoleezza Rice,

Secretary of State.

[FR Doc. E8–13644 Filed 6–17–08; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

DEPARTMENT OF STATE

Office of the Secretary

Exercise of Authority Under Section 212(d)(3)(B)(i) of the Immigration and Nationality Act

AGENCY: Office of the Secretary, DHS; Office of the Secretary, DOS.

ACTION: Notice of determination.

DATES: This determination is effective June 3, 2008.

Authority: 8 U.S.C. 1182(d)(3)(B)(i).

The Secretary of Homeland Security and the Secretary of State, following consultations with the Attorney General, hereby conclude, as a matter of discretion in accordance with our respective authorities under section 212(d)(3)(B)(i) of the Immigration and Nationality Act (INA), 8 U.S.C. 1182(d)(3)(B)(i), as amended by the Consolidated Appropriations Act, 2008 (CAA), Public Law 110–161, Div. J, section 691(a), 121 Stat. 1844, 2364 (December 26, 2007), as well as the foreign policy and national security interests deemed relevant in these consultations, that section 212(a)(3)(B) of the INA, excluding subclause (i)(II), shall not apply with respect to an alien not otherwise covered by the automatic relief provisions of section 691(b) of the CAA, for any activity or association relating to the Arakan Liberation Party (ALP), provided that there is no reason to believe that the relevant terrorist activities of the alien or the recipients were targeted against noncombatant persons, and further provided that the alien satisfies the relevant agency authority that the alien:

(a) Is seeking a benefit or protection under the INA and has been determined to be otherwise eligible for the benefit or protection;

(b) has undergone and passed relevant background and security checks;

(c) has fully disclosed, in all relevant applications and interviews with U.S. government representatives and agents, the nature and circumstances of each activity or association falling within the scope of section 212(a)(3)(B) of the INA;

(d) poses no danger to the safety and security of the United States; and

(e) is warranted to be exempted from the relevant inadmissibility provision by the totality of the circumstances.

Implementation of this determination will be made by U.S. Citizenship and Immigration Services (USCIS), in consultation with U.S. Immigration and Customs Enforcement (ICE), or by U.S. consular officers, as applicable, who shall ascertain, to their satisfaction, and in their discretion, that the particular applicant meets the criteria set forth above.

This exercise of authority may be revoked as a matter of discretion and without notice at any time with respect to any and all persons subject to it. Any determination made under this exercise of authority as set out above shall apply to any subsequent benefit or protection application, unless such exercise of authority has been revoked.

This exercise of authority shall not be construed to prejudice, in any way, the ability of the U.S. government to commence subsequent criminal or civil proceedings in accordance with U.S. law involving any beneficiary of this exercise of authority (or any other person). This exercise of authority is not intended to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

In accordance with section 212(d)(3)(B)(ii) of the INA, 8 U.S.C. 1182(d)(3)(B)(ii), a report on the aliens to whom this exercise of authority is applied, on the basis of case-by-case decisions by the Department of Homeland Security or by the Department of State, shall be provided to the specified congressional committees not later than 90 days after the end of the fiscal year.

This determination is based on an assessment related to the national security and foreign policy interests of the United States as they apply to the particular persons described herein and shall not have any application with respect to other persons or to other provisions of U.S. law.

Dated: June 3, 2008.

Michael Chertoff,

Secretary of Homeland Security.

Condoleezza Rice,

Secretary of State.

[FR Doc. E8–13655 Filed 6–17–08; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

DEPARTMENT OF STATE

Office of the Secretary

Exercise of Authority Under Section 212(d)(3)(B)(i) of the Immigration and Nationality Act

AGENCY: Office of the Secretary, DHS; Office of the Secretary, DOS.

ACTION: Notice of determination.

DATES: This determination is effective June 3, 2008.

Authority: 8 U.S.C. 1182(d)(3)(B)(i).

The Secretary of Homeland Security and the Secretary of State, following consultations with the Attorney General, hereby conclude, as a matter of discretion in accordance with our respective authorities under section 212(d)(3)(B)(i) of the Immigration and Nationality Act (INA), 8 U.S.C. 1182(d)(3)(B)(i), as amended by the Consolidated Appropriations Act, 2008 (CAA), Public Law 110–161, Div. J, section 691(a), 121 Stat. 1844, 2364 (December 26, 2007), as well as the foreign policy and national security interests deemed relevant in these consultations, that section 212(a)(3)(B) of the INA, excluding subclause (i)(II), shall not apply with respect to an alien not otherwise covered by the automatic relief provisions of section 691(b) of the CAA, for any activity or association relating to the Kayan New Land Party (KNLP), provided that there is no reason to believe that the relevant terrorist activities of the alien or the recipients were targeted against noncombatant persons, and further provided that the alien satisfies the relevant agency authority that the alien:

(a) Is seeking a benefit or protection under the INA and has been determined to be otherwise eligible for the benefit or protection;

(b) Has undergone and passed relevant background and security checks;

(c) Has fully disclosed, in all relevant applications and interviews with U.S. government representatives and agents, the nature and circumstances of each activity or association falling within the scope of section 212(a)(3)(B) of the INA;

(d) Poses no danger to the safety and security of the United States; and

(e) Is warranted to be exempted from the relevant inadmissibility provision by the totality of the circumstances.

Implementation of this determination will be made by U.S. Citizenship and

Immigration Services (USCIS), in consultation with U.S. Immigration and Customs Enforcement (ICE), or by U.S. consular officers, as applicable, who shall ascertain, to their satisfaction, and in their discretion, that the particular applicant meets the criteria set forth above.

This exercise of authority may be revoked as a matter of discretion and without notice at any time with respect to any and all persons subject to it. Any determination made under this exercise of authority as set out above shall apply to any subsequent benefit or protection application, unless such exercise of authority has been revoked.

This exercise of authority shall not be construed to prejudice, in any way, the ability of the U.S. government to commence subsequent criminal or civil proceedings in accordance with U.S. law involving any beneficiary of this exercise of authority (or any other person). This exercise of authority is not intended to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

In accordance with section 212(d)(3)(B)(ii) of the INA, 8 U.S.C. 1182(d)(3)(B)(ii), a report on the aliens to whom this exercise of authority is applied, on the basis of case-by-case decisions by the Department of Homeland Security or by the Department of State, shall be provided to the specified congressional committees not later than 90 days after the end of the fiscal year.

This determination is based on an assessment related to the national security and foreign policy interests of the United States as they apply to the particular persons described herein and shall not have any application with respect to other persons or to other provisions of U.S. law.

Dated: June 3, 2008.

Michael Chertoff,

Secretary of Homeland Security.

Condoleezza Rice,

Secretary of State.

[FR Doc. E8–13666 Filed 6–17–08; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

DEPARTMENT OF STATE

Office of the Secretary

Exercise of Authority Under Section 212(d)(3)(B)(i) of the Immigration and Nationality Act

AGENCY: Office of the Secretary, DHS; Office of the Secretary, DOS.

ACTION: Notice of determination.

DATES: This determination is effective June 3, 2008.

Authority: 8 U.S.C. 1182(d)(3)(B)(i).

The Secretary of Homeland Security and the Secretary of State, following consultations with the Attorney General, hereby conclude, as a matter of discretion in accordance with our respective authorities under section 212(d)(3)(B)(i) of the Immigration and Nationality Act (INA), 8 U.S.C. 1182(d)(3)(B)(i), as amended by the Consolidated Appropriations Act, 2008 (CAA), Public Law 110–161, Div. J, section 691(a), 121 Stat. 1844, 2364 (December 26, 2007), as well as the foreign policy and national security interests deemed relevant in these consultations, that section 212(a)(3)(B) of the INA, excluding subclause (i)(II), shall not apply with respect to an alien not otherwise covered by the automatic relief provisions of section 691(b) of the CAA, for any activity or association relating to the Chin National League for Democracy (CNLD), provided that there is no reason to believe that the relevant terrorist activities of the alien or the recipients were targeted against noncombatant persons, and further provided that the alien satisfies the relevant agency authority that the alien:

(a) Is seeking a benefit or protection under the INA and has been determined to be otherwise eligible for the benefit or protection;

(b) Has undergone and passed relevant background and security checks;

(c) Has fully disclosed, in all relevant applications and interviews with U.S. government representatives and agents, the nature and circumstances of each activity or association falling within the scope of section 212(a)(3)(B) of the INA;

(d) Poses no danger to the safety and security of the United States; and

(e) Is warranted to be exempted from the relevant inadmissibility provision by the totality of the circumstances.

Implementation of this determination will be made by U.S. Citizenship and Immigration Services (USCIS), in consultation with U.S. Immigration and Customs Enforcement (ICE), or by U.S. consular officers, as applicable, who shall ascertain, to their satisfaction, and in their discretion, that the particular applicant meets the criteria set forth above.

This exercise of authority may be revoked as a matter of discretion and without notice at any time with respect to any and all persons subject to it. Any determination made under this exercise of authority as set out above shall apply to any subsequent benefit or protection application, unless such exercise of authority has been revoked.

This exercise of authority shall not be construed to prejudice, in any way, the ability of the U.S. government to commence subsequent criminal or civil proceedings in accordance with U.S. law involving any beneficiary of this exercise of authority (or any other person). This exercise of authority is not intended to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

In accordance with section 212(d)(3)(B)(ii) of the INA, 8 U.S.C. 1182(d)(3)(B)(ii), a report on the aliens to whom this exercise of authority is applied, on the basis of case-by-case decisions by the Department of Homeland Security or by the Department of State, shall be provided to the specified congressional committees not later than 90 days after the end of the fiscal year.

This determination is based on an assessment related to the national security and foreign policy interests of the United States as they apply to the particular persons described herein and shall not have any application with respect to other persons or to other provisions of U.S. law.

Dated: June 3, 2008.

Michael Chertoff,

Secretary of Homeland Security.

Condoleezza Rice,

Secretary of State.

[FR Doc. E8–13673 Filed 6–17–08; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

DEPARTMENT OF STATE

Office of the Secretary

Exercise of Authority Under Section 212(d)(3)(B)(i) of the Immigration and Nationality Act

AGENCY: Office of the Secretary, DHS; Office of the Secretary, DOS.

ACTION: Notice of determination.

DATES: This determination is effective June 3, 2008.

Authority: 8 U.S.C. 1182(d)(3)(B)(i).

The Secretary of Homeland Security and the Secretary of State, following consultations with the Attorney General, hereby conclude, as a matter of discretion in accordance with our respective authorities under section 212(d)(3)(B)(i) of the Immigration and Nationality Act (INA), 8 U.S.C. 1182(d)(3)(B)(i), as amended by the Consolidated Appropriations Act, 2008 (CAA), Public Law 110–161, Div. J, section 691(a), 121 Stat. 1844, 2364 (December 26, 2007), as well as the foreign policy and national security interests deemed relevant in these consultations, that section 212(a)(3)(B) of the INA, excluding subclause (i)(II), shall not apply with respect to an alien not otherwise covered by the automatic relief provisions of section 691(b) of the CAA, for any activity or association relating to the Mustangs, provided that there is no reason to believe that the relevant terrorist activities of the alien or the recipients were targeted against noncombatant persons, and further provided that the alien satisfies the relevant agency authority that the alien:

(a) Is seeking a benefit or protection under the INA and has been determined to be otherwise eligible for the benefit or protection;

(b) Has undergone and passed relevant background and security checks;

(c) Has fully disclosed, in all relevant applications and interviews with U.S. government representatives and agents, the nature and circumstances of each activity or association falling within the scope of section 212(a)(3)(B) of the INA;

(d) Poses no danger to the safety and security of the United States; and

(e) Is warranted to be exempted from the relevant inadmissibility provision by the totality of the circumstances.

Implementation of this determination will be made by U.S. Citizenship and Immigration Services (USCIS), in consultation with U.S. Immigration and Customs Enforcement (ICE), or by U.S. consular officers, as applicable, who shall ascertain, to their satisfaction, and in their discretion, that the particular applicant meets the criteria set forth above.

This exercise of authority may be revoked as a matter of discretion and without notice at any time with respect to any and all persons subject to it. Any determination made under this exercise of authority as set out above shall apply to any subsequent benefit or protection application, unless such exercise of authority has been revoked.

This exercise of authority shall not be construed to prejudice, in any way, the ability of the U.S. government to commence subsequent criminal or civil proceedings in accordance with U.S. law involving any beneficiary of this exercise of authority (or any other person). This exercise of authority is not intended to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

In accordance with section 212(d)(3)(B)(ii) of the INA, 8 U.S.C. 1182(d)(3)(B)(ii), a report on the aliens to whom this exercise of authority is applied, on the basis of case-by-case decisions by the Department of Homeland Security or by the Department of State, shall be provided to the specified congressional committees not later than 90 days after the end of the fiscal year.

This determination is based on an assessment related to the national security and foreign policy interests of the United States as they apply to the particular persons described herein and shall not have any application with respect to other persons or to other provisions of U.S. law.

Dated: June 3, 2008.

Michael Chertoff.

Secretary of Homeland Security.

Condoleezza Rice,

Secretary of State.

[FR Doc. E8–13642 Filed 6–17–08; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

DEPARTMENT OF STATE

Office of the Secretary

Exercise of Authority Under Section 212(d)(3)(B)(i) of the Immigration and Nationality Act

AGENCY: Office of the Secretary, DHS; Office of the Secretary, DOS.

ACTION: Notice of determination.

DATES: This determination is effective June 3, 2008.

Authority: 8 U.S.C. 1182(d)(3)(B)(i).

The Secretary of Homeland Security and the Secretary of State, following consultations with the Attorney General, hereby conclude, as a matter of discretion in accordance with our respective authorities under section 212(d)(3)(B)(i) of the Immigration and Nationality Act (INA), 8 U.S.C. 1182(d)(3)(B)(i), as amended by the Consolidated Appropriations Act, 2008 (CAA), Public Law 110–161, Div. J, section 691(a), 121 Stat. 1844, 2364 (December 26, 2007), as well as the foreign policy and national security interests deemed relevant in these consultations, that section 212(a)(3)(B) of the INA, excluding subclause (i)(II), shall not apply with respect to an alien not otherwise covered by the automatic relief provisions of section 691(b) of the CAA, for any activity or association relating to appropriate groups affiliated with the Hmong, provided that there is no reason to believe that the relevant terrorist activities of the alien or the recipients were targeted against noncombatant persons, and further provided that the alien satisfies the relevant agency authority that the alien:

(a) Is seeking a benefit or protection under the INA and has been determined to be otherwise eligible for the benefit or protection;

(b) Has undergone and passed relevant background and security checks;

(c) Has fully disclosed, in all relevant applications and interviews with U.S. government representatives and agents, the nature and circumstances of each activity or association falling within the scope of section 212(a)(3)(B) of the INA;

(d) Poses no danger to the safety and security of the United States; and

(e) Is warranted to be exempted from the relevant inadmissibility provision by the totality of the circumstances.

Implementation of this determination will be made by U.S. Citizenship and

Immigration Services (USCIS), in consultation with U.S. Immigration and Customs Enforcement (ICE), or by U.S. consular officers, as applicable, who shall ascertain, to their satisfaction, and in their discretion, that the particular applicant meets the criteria set forth above.

This exercise of authority may be revoked as a matter of discretion and without notice at any time with respect to any and all persons subject to it. Any determination made under this exercise of authority as set out above shall apply to any subsequent benefit or protection application, unless such exercise of authority has been revoked.

This exercise of authority shall not be construed to prejudice, in any way, the ability of the U.S. government to commence subsequent criminal or civil proceedings in accordance with U.S. law involving any beneficiary of this exercise of authority (or any other person). This exercise of authority is not intended to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

In accordance with section 212(d)(3)(B)(ii) of the INA, 8 U.S.C. 1182(d)(3)(B)(ii), a report on the aliens to whom this exercise of authority is applied, on the basis of case-by-case decisions by the Department of Homeland Security or by the Department of State, shall be provided to the specified congressional committees not later than 90 days after the end of the fiscal year.

This determination is based on an assessment related to the national security and foreign policy interests of the United States as they apply to the particular persons described herein and shall not have any application with respect to other persons or to other provisions of U.S. law.

Dated: June 3, 2008.

Michael Chertoff,

Secretary of Homeland Security.

Condoleezza Rice,

Secretary of State.

[FR Doc. E8–13652 Filed 6–17–08; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2008–0170]

Collection of Information Under Review by Office of Management and Budget: OMB Control Numbers: 1625–0004

AGENCY: Coast Guard, DHS.

ACTION: Thirty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this request for comments announces that the U.S. Coast Guard is forwarding an Information Collection Request (ICR), abstracted below, to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB) requesting an extension of their approval for the following collection of information: 1625–0004, United States Coast Guard Academy Application and Supplemental Forms. Our ICR describes the information we seek to collect from the public. Review and comments by OIRA ensure we only impose paperwork burdens commensurate with our performance of duties.

DATES: Please submit comments on or before July 18, 2008.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2008–0170] to the Docket Management Facility (DMF) at the U.S. Department of Transportation (DOT) or to OIRA. To avoid duplication, please submit your comments by only one of the following means:

(1) Electronic submission. (a) To Coast Guard docket at *http://www.regulation.gov*. (b) To OIRA by e-mail to: *oira_submission@omb.eop.gov*.

(2) Mail or Hand delivery. (a) DMF (M–30), DOT, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Hand deliver between the hours of 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329. (b) To OIRA, 725 17th Street, NW., Washington, DC 20503, to the attention of the Desk Officer for the Coast Guard.

(3) Fax. (a) To DMF, 202–493–2251. (b) To OIRA at 202–395–6566. To ensure your comments are received in time, mark the fax to the attention of the Desk Officer for the Coast Guard.

The DMF maintains the public docket for this notice. Comments and material received from the public, as well as documents mentioned in this notice as being available in the docket, will become part of this docket and will be available for inspection or copying at room W12–140 on the West Building Ground Floor, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://www.regulations.gov*.

A copy of the complete ICR is available through this docket on the Internet at *http://www.regulations.gov*. Additionally, copies are available from Commandant (CG–611), U.S. Coast Guard Headquarters, (Attn: Mr. Arthur Requina), 2100 2nd Street SW, Washington, DC 20593–0001. The telephone number is 202–475–3523.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur Requina, Office of Information Management, telephone 202–475–3523 or fax 202–475–3929, for questions on these documents. Contact Ms. Renee V. Wright, Program Manager, Docket Operations, 202–366–9826, for questions on the docket.

SUPPLEMENTARY INFORMATION:

The Coast Guard invites comments on whether this information collection request should be granted based on it being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the collections; (2) the accuracy of the estimated burden of the collections; (3) ways to enhance the quality, utility, and clarity of information subject to the collections; and (4) ways to minimize the burden of collections on respondents, including the use of automated collection techniques or other forms of information technology.

Comments to Coast Guard or OIRA must contain the OMB Control Number of the ICR. Comments to Coast Guard must contain the docket number of this request, [USCG 2008–0170]. For your comments to OIRA to be considered, it is best if they are received on or before the July 18, 2008.

Public participation and request for comments: We encourage you to respond to this request by submitting comments and related materials. We will post all comments received, without change, to *http://www.regulations.gov*. They will include any personal information you provide. We have an agreement with DOT to use their DMF. Please see the paragraph on DOT's ''Privacy Act Policy'' below.

Submitting comments: If you submit a comment, please include the docket number [USCG–2008–0170], indicate the specific section of the document to

which each comment applies, providing a reason for each comment. We recommend you include your name, mailing address, an e-mail address, or other contact information in the body of your document so that we can contact you if we have questions regarding your submission. You may submit comments and material by electronic means, mail, fax, or delivery to the DMF at the address under **ADDRESSES**; but please submit them by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change the documents supporting this collection of information or even the underlying requirements in view of them. The Coast Guard and OIRA will consider all comments and material received during the comment period.

Viewing comments and documents: Go to *http://www.regulations.gov* to view documents mentioned in this notice as being available in the docket. Enter the docket number [USCG–2008–0170] in the Search box, and click, ''Go>>.'' You may also visit the DMF in room W12–140 on the West Building Ground Floor, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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

Previous Request for Comments.

This request provides a 30-day comment period required by OIRA. The Coast Guard has published the 60-day notice (73 FR 16027, March 26, 2008) required by 44 U.S.C. 3506(c)(2). That notice elicited no comments.

Information Collection Request.

Title: United States Coast Guard Academy Application and Supplemental Forms.

OMB Control Number: 1625–0004.

Type of Request: Extension of currently approved collection.

Affected Public: Applicants must apply only once per year.

Abstract: Section 182 of 14 U.S.C. directs the appointments to cadetships at the Academy be made under regulations prescribed by the Secretary. As indicated in regulation 33 CFR 40.1, the information sought in this ICR is needed to select applicants for appointment as Cadet to attend the Academy.

Burden Estimate: The estimated burden has decreased from 8,300 hours to 8,100 hours a year.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended.

Dated: June 10, 2008.

D. T. Glenn,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Command, Control, Communications, Computers and Information Technology.

[FR Doc. E8–13692 Filed 6–17–08; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5196–N–02]

Capacity Building for Community Development and Affordable Housing Grants: Amendment

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of Funding Availability (NOFA), amendment.

SUMMARY: On April 9, 2008, HUD published its Fiscal Year (FY) 2008 Capacity Building for Community Development and Affordable Housing Grants notice of funding opportunity (NOFA). Today's notice amends HUD's requirement to provide a cash or in-kind match as set out in the April 9, 2008 publication.

DATES: The application submission date for the Capacity Building for Community Development and Affordable Housing Grants program remains as published in the **Federal Register** on April 9, 2008.

FOR FURTHER INFORMATION CONTACT: Karen Daly, Director, Office of Policy Development and Coordination, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7240, Washington, DC 20410–7000; telephone 202–708–1817 (this is not a toll-free number). Persons with speech or hearing impairments may access this number through TTY by calling the toll-free Federal Income Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: HUD published its FY2008 Capacity Building for Community Development and Affordable Housing Grants NOFA on April 9, 2008 (73 FR 19380). The FY2008 NOFA makes approximately $36.95 million available competitively to carry out the eligible activities related to community development and affordable housing for the capacity building program. This competition is limited to Living Cities/The National Community Development Initiative, Enterprise Community Partners, Inc. (formerly The Enterprise Foundation), the Local Initiatives Support Corporation (LISC), and Habitat for Humanity International.

In the April 9, 2008 publication, HUD stated that Section 4(c) of the HUD Demonstration Act of 1993 requires that each dollar awarded under the NOFA must be matched by three-dollars in cash or in-kind contribution obtained from private sources. HUD made this an application threshold requirement, stating specifically that applicants were required to submit with their applications documentation providing a firm commitment to demonstrate the existence of the match. Upon reconsideration, however, HUD has decided to withdraw the requirement that applicants meet the match as a threshold for the competition. HUD is taking this action because individual projects and actions may not be known to applicants at the time they submit their applications. As a result, it may be difficult for applicants to submit documentation with their applications to meet the match requirement.

Accordingly, HUD is amending its FY2008 Capacity Building for Community Development and Affordable Housing Grants NOFA published on April 9, 2008 (73 FR 19380), as follows:

On page 19380, section III.B., HUD is amending this paragraph to read as follows:

B. Match Requirement

Section 4(c) of the HUD Demonstration Act of 1993 requires that each dollar awarded must be matched by three-dollars in cash or in-kind contribution obtained from private sources. To receive funding under this NOFA, each of the organizations funded under this competition will be required at the time the organization enters into a grant agreement, to document its share of matching resources. The types of documentation accepted by HUD will be determined at the time that the organization enters into a grant agreement. All match including in-kind contributions, shall conform to the requirements of 24 CFR 84.23.

On page 19383, section V.A.4., HUD is amending this paragraph to read as follows:

4. Rating Factor 4: Leveraging Resources (15 points)

This factor evaluates the applicant's ability to leverage (secure) public and/or private sector resources (such as financing, supplies, or services) from sources other than Section 4 that can be added to Section 4 funds to perform eligible activities and sustain the applicant's proposed project. Higher points will be awarded for higher percentages of leveraged resources, compared to the amount of Section 4 funds requested. For leveraging, HUD's Management Plan has a performance goal of ten investment dollars from outside sources in total project development costs for each Section 4 grant awarded. To document leveraging for the FY2008 NOFA, applicants should report their actual results in leveraging Section 4-assisted projects in Federal Fiscal Year 2007 (October 1, 2006–September 30, 2007). All leveraging commitments shall be scanned and attached to the electronic application or submitted via fax using form HUD–96011, ''Third Party Documentation Facsimile Transmittal'' (''Facsimile Transmittal Form'' on Grants.gov) as part of the application.

Dated: June 11, 2008.

Nelson R. Bregón,

General Deputy Assistant Secretary for Community Planning and Development.

[FR Doc. E8–13691 Filed 6–17–08; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5100–FA–08]

Announcement of Funding Awards for the Community Development Technical Assistance Programs Fiscal Year 2007

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department in a competition for funding under the Notice of Funding Availability (NOFA) for the Community Development Technical Assistance programs. This announcement contains the names of the awardees and the amounts of the awards made available by HUD.

FOR FURTHER INFORMATION CONTACT: Mark A. Horwath, Director, Office of Technical Assistance and Management, Office of Community Planning and Development, 451 Seventh Street, SW., Room 7218, Washington, DC 20410–7000; telephone (202) 402–2576 (this is not a toll-free number). Hearing- and speech-impaired persons may access this number via TTY by calling the Federal Relay Service toll-free at (800) 877–8339. For general information on this and other HUD programs, call Community Connections at 1–800–998–9999 or visit the HUD Web site at *http://www.hud.gov*.

SUPPLEMENTARY INFORMATION: The Fiscal Year 2007 Community Development Technical Assistance program was designed to increase the effectiveness of HUD's HOME Investment Partnerships Program (HOME), CHDO (HOME) program, McKinney-Vento Homeless Assistance programs (Homeless), and Housing Opportunities for Persons with AIDS (HOPWA) program through the selection of technical assistance (TA) providers for these four programs.

The competition was announced in the SuperNOFA published March 13, 2007 (72 FR 11434). The CD-TA NOFA was extended on May 11, 2007 (72 FR 27032) and closed on June 22, 2007. The NOFA allowed for approximately $25.4 million for CD-TA grants. Applications were rated and selected for funding on the basis of selection criteria contained in that Notice. For the Fiscal Year 2007 competition, 58 awards, totaling $20,683,017 were awarded to 42 distinct technical assistance providers nationwide.

In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), the Department is publishing the grantees and the amounts of the awards in Appendix A to this document.

Dated: June 11, 2008.

Nelson R. Bregón,

General Deputy Assistant Secretary for Community Planning and Development.

Appendix A

FISCAL YEAR 2007 FUNDING AWARDS FOR COMMUNITY DEVELOPMENT TECHNICAL ASSISTANCE PROGRAMS

Recipient	State	Amount
State of Alaska Housing Finance Corporation	AK	$50,000
Rural Community Assistance Corporation	CA	560,000
Housing Assistance Council	DC	699,000
National Council on Agricultural Life & Labor Research Fund	DE	125,000
Housing Action of Illinois	IL	100,000
Indiana Association for Community Economic Development	IN	75,000
Homeless & Housing Coalition of Kentucky	KY	150,000
Community Economic Development Assistance Corporation (CEDAC)	MA	150,000
Enterprise Community Partners	MD	561,502
Michigan State Housing Development Authority	MI	225,000
Minnesota Housing Partnership	MN	140,000
Training & Development Associates, Inc	NC	1,600,000
Housing and Community Development Network of New Jersey	NJ	75,000
Local Initiatives Support Corporation	NY	571,000
Structured Employment Economic Development Corporation (SEEDCO)	NY	350,000
Ohio Capital Corporation for Housing	OH	160,000
Ohio CDC Association	OH	30,000
Neighborhood Partnership Fund	OR	35,000
Puerto Rico Community Foundation	PR	100,000
Community Frameworks (aka Northwest Regional Facilitators)	WA	40,000
Urban Economic Development Association of Wisconsin, Inc. (UEDA)	WI	71,000
Wisconsin Partnership for Housing Development, Inc	WI	134,000

FISCAL YEAR 2007 FUNDING AWARDS FOR COMMUNITY DEVELOPMENT TECHNICAL ASSISTANCE PROGRAMS—Continued

Recipient	State	Amount
Total CHDO		6,001,502
State of Alaska Housing Finance Corporation	AK	45,000
Rural Community Assistance Corporation	CA	525,000
Dennison Associates	DC	1,560,000
National Association of Housing and Redevelopment Officials (NAHRO)	DC	994,160
Enterprise Community Partners	MD	400,000
Michigan State Housing Development Authority	MI	175,000
Minnesota Housing Partnership	MN	100,000
Training & Development Associates, Inc	NC	1,310,000
New Mexico Mortgage Finance Authority	NM	50,000
Ohio Capital Corporation for Housing	OH	150,000
Capital Access, Inc	PA	525,000
Puerto Rico Community Foundation	PR	65,000
ICF Incorporated, L.L.C	VA	1,330,000
ICF Incorporated, L.L.C	VA	670,000
Common Ground	WA	45,000
Community Frameworks (aka Northwest Regional Facilitators)	WA	30,000
Total HOME		7,974,160
HomeBase/The Center for Common Concerns	CA	150,000
Dennison Associates	DC	244,500
Illinois Community Action Association	IL	65,000
Abt Associates	MA	2,150,000
Technical Assistance Collaborative, Inc	MA	305,000
University of Massachusetts at Boston	MA	75,000
Cloudburst Consulting Group, Inc	MD	1,350,000
Enterprise Community Partners	MD	75,000
Training & Development Associates, Inc	NC	829,000
New Mexico Coalition to End Homelessness	NM	40,000
Corporation for Supportive Housing	NY	265,000
Supportive Housing Network of New York	NY	140,000
Coalition on Homelessness and Housing in Ohio	OH	55,125
Partnership Center, Ltd	OH	14,875
Homeless Network of Texas dba Texas Homeless Network	TX	85,000
ICF Incorporated, L.L.C	VA	656,500
Total Homeless		6,500,000
AIDS Housing Corporation	MA	210,000
Training & Development Associates, Inc	NC	270,000
ICF Incorporated, L.L.C	VA	250,000
AIDS Housing of Washington	WA	207,355
Total HOPWA		937,355
Grand Total		20,683,017

[FR Doc. E8–13696 Filed 6–17–08; 8:45 am]
BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5130–N–25]

Privacy Act of 1974; Notice of a Computer Matching Program Between the U.S. Department of Housing and Urban Development (HUD) and the U.S. Department of Education (ED)

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice of a Computer Matching Program between HUD and ED.

SUMMARY: In accordance with the Privacy Act of 1974 (5 U.S.C. 552a), as amended by the Computer Matching and Privacy Protection Act of 1988 (Pub. L. 100–503), and the Office of Management and Budget (OMB) Guidelines on the Conduct of Matching Programs (54 FR 25818 (June 19, 1989)); and OMB Bulletin 89–22, ''Instructions on Reporting Computer Matching Programs to the Office of Management and Budget (OMB), Congress and the Public,'' HUD is issuing a public notice of its intent to conduct a recurring computer matching program with ED to utilize a computer information system of HUD, the Credit Alert Interactive Voice Response System (CAIVRS), with ED's debtor files. HUD has revised the ''records to be matched'' section of this notice to reflect the new HUD Privacy Act Systems of Records involved in the matching program. This update does not change the authority or objectives of the existing matching program.

DATES: *Effective Date:* The effective date of the matching program shall July 18, 2008 or at least 40 days from the date copies of the signed (by both agencies Data Integrity Boards (DIBs)) computer matching agreement are sent to the Office of Management and Budget (OMB) and Congress, whichever is later, providing no comments are received which would result in a contrary determination.

Comments Due Date: July 18, 2008.

ADDRESSES: Interested persons are invited to submit comments regarding this notice to the Rules Docket Clerk, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, Room 10276, SW., Washington, DC 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: Contact the ''Recipient Agency'' Departmental Privacy Act Officer, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 2256, Washington, DC 20410, telephone number (202) 402–8073 or the ''Source Agency'' Department of Education, Federal Student Aid/ Borrower Services, 830 First Street, NE., Room 41B4–UCP, Washington, DC 20202, telephone number (202) 377–3212. [These are not toll-free numbers.] A telecommunication device for hearing- and speech-impaired individuals (TTY) is available at (800) 877–8339 (Federal Information Relay Service).

SUPPLEMENTARY INFORMATION: HUD's CAIVRS database includes delinquent debt information from Education (ED), Veteran's Affairs (VA), Justice (DOJ), Small Business Administration (SBA), and the U.S. Department of Agriculture (USDA). This match will allow prescreening of applicants for debts owed to or loans guaranteed by the Federal government to ascertain if the applicant is delinquent in paying a debt owed to or insured by the federal government for HUD or ED direct or guaranteed loans. Before granting a loan, the lending agency and/or the authorized lending institution will be able to interrogate the CAIVRS debtor file which contains the Social Security Numbers (SSNs) of HUD's delinquent debtors, defaulters and defaulted debtor records of ED to verify that the loan applicant is not in default or delinquent on a direct or guaranteed loan of the participating federal programs of either agency. As a result of the information produced by this match, the authorized users may not deny, terminate, or make a final decision concerning any loan assistance to an applicant or take other adverse action against such applicant, until an officer or employee of such agency has independently verified such information.

Reporting of Matching Program

In accordance with Public Law 100–503, the Computer Matching and Privacy Protection Act of 1988, as amended, and OMB Bulletin 89–22, ''Instructions on Reporting Computer Matching Programs to the Office of Management and Budget (OMB), Congress and the Public,'' copies of this notice and report are being provided to the Committee on Government Reform of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Office of Management and Budget.

Authority

HUD has authority to collect and review mortgage data pursuant to the National Housing Act, as amended, 12 U.S.C. 1701 *et seq.*, and related laws. The Department of Education oversees and manages federal student aid programs pursuant to the Higher Education Act of 1965, as amended, 20 U.S.C. 1001 *et seq.* This computer matching will be conducted pursuant to Public Law 100–503, ''The Computer Matching and Privacy Protection Act of 1988,'' as amended, and Office of Management and Budget (OMB) Circulars A–129 (Managing Federal Credit Programs). One of the purposes of all Executive departments and agencies is to implement efficient management practices for Federal Credit Programs. OMB Circular A–129 was issued under the authority of the Budget and Accounting Act of 1921, as amended; the Budget and Accounting Act of 1950, as amended; the Debt Collection Act of 1982, as amended by the Debt Collection Improvement Act of 1996; Section 2653 of Public Law 98–369; the Federal Credit Reform Act of 1990, as amended; the Federal Debt Collection Procedures Act of 1990, the Chief Financial Officers Act of 1990, as amended; Executive Order 8248; the Cash Management Improvement Act Amendments of 1992; and pre-existing common law authority to charge interest on debts and to offset payments to collect debts administratively.

Objectives To Be Met by the Matching Program

HUD's primary purpose for continuing the existing matching program is to permit prescreening of applicants for Federal Credit benefits, to ensure that applicants are not delinquent on a Federal debt or have defaulted on a direct or guaranteed loan. As part of this process, HUD will be provided access to ED's debtor data for prescreening purposes.

In this computer matching program, each month HUD/CAIVRS receives limited information on borrowers who have defaulted on loans administered by participating Federal agencies. This information includes: Social Security Number (SSN) or Employer Identification Number (EIN), case number, Federal Agency identifying code, and record type. Participating agencies also provide HUD with a file containing authorized lenders/business partners. When federal agency personnel or authorized lenders access CAIVRS, they must enter a user authorization code followed by either an SSN or EIN (for businesses and non-profits). Only the following information is returned/displayed:

- Yes/No as to whether the holder of that SSN/EIN is in default on a Federal loan; and
- If Yes, then CAIVRS provides to the lender:
- Loan case number;
- Record type (claim, default, foreclosure, or judgment);
- Agency administering the loan program; and
- Phone # at that agency (to call to clear up the default)
- Confirmation Code associated with the query

By law, processing of applications for Federal Credit benefits (such as government-insured loans) must be suspended when applicants are delinquent on Federal debt. Processing may continue only when the debtor satisfactorily resolves the debt (e.g., pays in full or renegotiates a new payment plan). To remove a CAIVRS sanction, the borrower must use the information provided to contact the agency that reported their SSN or EIN to HUD/CAIVRS.

Records To Be Matched

HUD will use records from its systems of records entitled, HUD/SFH–01, Single Family Default Monitoring System; HUD/SFH–02, Single Family Insurance System CLAIMS Subsystem; HUD/HS–55, Debt Collection Asset Management System; and HUD/HS–57, Single Family Mortgage Notes. The debtor files for programs involved are included in these systems of records. HUD's debtor files contain information on borrowers and co-borrowers who are currently in default (at least 90 days delinquent on their loans or who have had their partial claim subordinate mortgage called due and payable and it has not been repaid in full); or who have any outstanding claims paid during the last 3 years on a Title II insured or guaranteed home mortgage loans; or

individuals who had a claim paid in the last 3 years on a Title I loan.

ED will provide HUD with debtor files contained in its system of records (Higher Education Act, Title IV Program File, 18–11–05), originally published in the **Federal Register** at 64 FR 30163–66 (June 4, 1999) and subsequently amended at 64 FR 72407 December 27, 1999). ED records from which the information is compiled are maintained in the Student Financial Assistance Collection system of records, 18–11–07, 64 FR 30166 (June 4, 1999), as amended, 64 FR 72407 (December 27, 1999). ED's routine use for this match is published as routine use number one in the notice for the Student Financial Assistance Files, which permits disclosures of the pertinent information to HUD. ED's data contain information on individuals who have defaulted on their guaranteed loans. ED will retain ownership and responsibility for their systems of records that they place with HUD. HUD serves only as a record location and routine use recipient for ED's data and maintains these records only as a ministerial action on behalf of ED, and not as part of HUD's systems of records.

Notice Procedures

HUD and ED have separate notification procedures. When the Federal credit being sought is a HUD/FHA mortgage, HUD will notify individuals at the time of application (ensuring that routine use appears on the application form). ED will notify individuals at the time of application for Federal student loan programs that their records will be matched to determine whether they are delinquent or in default on a Federal debt. HUD and ED will also publish notices concerning ''routine use'' disclosures in the **Federal Register** to inform individuals that a computer match may be performed to determine a loan applicant's credit status with the Federal government.

Categories of Records/Individuals Involved

The debtor records include these data elements: SSN, claim number, the Department of Education's Regional Office Code, Collection Agency Code, program code, and indication of indebtedness. Categories of records include: Records of claims and defaults, repayment agreements, credit reports, financial statements, and records of foreclosures. Categories of individuals include: former mortgagors and purchasers of HUD-owned properties, and home improvement loan debtors who are delinquent or in default (at least 90 days delinquent on their loans or who have had their partial claim subordinate mortgage called due and payable and it has not been paid in full); or who have any outstanding claims paid during the last 3 years on a title II insured or guaranteed home mortgage loans; or individuals who has a claim paid in the last 3 years on a Title I loan. ED's data contain information on individuals who have defaulted on their guaranteed loans

Period of the Match

Matching will begin at least 40 days from the date copies of the signed (by both agencies DIBs) computer matching agreement are sent to both Houses of Congress and OMB or at least 30 days from the date this notice is published in the **Federal Register**, whichever is later, providing no comments are received which would result in a contrary determination.

Dated: June 6, 2008.

Joseph M. Milazzo,

Acting Chief Information Officer.

[FR Doc. E8–13876 Filed 6–17–08; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Guidiville Band of Pomo Indians of the Guidiville Indian Rancheria Liquor Control Ordinance

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice publishes the Guidiville Band of Pomo Indians of the Guidiville Indian Rancheria Liquor Control Ordinance. The Ordinance regulates and controls the possession, sale and consumption of liquor within the Guidiville Band of Pomo Indians of the Guidiville Indian Rancheria tribal land. The tribal land is located on trust land. This Ordinance will increase the ability of the tribal government to control the distribution and possession of liquor within their tribal land, and at the same time will provide an important source of revenue and strengthening of the tribal government and the delivery of tribal services.

DATES: This Ordinance is effective June 18, 2008.

FOR FURTHER INFORMATION CONTACT: Fred Doka Jr., Tribal Operations Officer, Pacific Regional Office, 2800 Cottage Way, Sacramento, CA 95825, Telephone (916) 978–6067; or Elizabeth Colliflower, Office of Tribal Services, 1849 C Street, NW., Mail Stop 4513–MIB, Washington, DC 20240; Telephone (202) 513–7627; Fax (202) 501–0679.

SUPPLEMENTARY INFORMATION: Pursuant to the Act of August 15, 1953, Public Law 83–277, 67 Stat. 586, 18 U.S.C. 1161, as interpreted by the Supreme Court in *Rice* v. *Rehner*, 463 U.S. 713 (1983), the Secretary of the Interior shall certify and publish in the **Federal Register** notice of adopted liquor ordinances for the purpose of regulating liquor transactions in Indian country. The Guidiville Band of Pomo Indians of the Guidiville Indian Rancheria Tribal Council adopted this amendment to its Liquor Control Ordinance on March 27, 2008. The purpose of this Ordinance is to govern the sale, possession and distribution of alcohol within the Guidiville Band of Pomo Indians of the Guidiville Indian Rancheria tribal land.

This notice is published in accordance with the authority delegated by the Secretary of the Interior to the Assistant Secretary-Indian Affairs. I certify that the Guidiville Band of Pomo Indians adopted this Liquor Control Ordinance on March 27, 2008.

Dated: June 9, 2008.

George T. Skibine,

Acting Deputy Assistant Secretary for Policy and Economic Development.

The Guidiville Band of Pomo Indians of the Guidiville Indian Rancheria Liquor Control Ordinance reads as follows:

Ordinance of the Guidiville Band of Pomo Indians of the Guidiville Indian Rancheria

Ordinance Name: Guidiville Indian Rancheria Liquor Control Ordinance.

Ordinance Number: 05–02, as amended.

Date Approved: November 21, 2005.

Date Amended: March 27, 2008.

Whereas, Guidiville Indian Rancheria is a federally recognized Tribe as a result of the *Scotts Valley et al.* v. *the United States* case of September 6, 1991 (NO. C–86–3660–VRW); and,

Whereas, The Tribal Council of the Guidiville Indian Rancheria is the duly authorized governing body of the Tribe to fully exercise governmental responsibilities, and is empowered to make Tribal policy, pass Tribal codes and ordinances, approve contracts, and carry out Tribal business under the authority of the Constitution of the Guidiville Indian Rancheria; and,

Whereas, The Tribal Council has determined that an ordinance to regulate the possession and sale of liquor on lands, or future lands, and/or areas subject to the jurisdiction of the Tribe and to permit alcohol sales by business entities, corporations, tribally owned and operated enterprises, and at tribally approved special events, is in

the best interests of the Tribe, its members and the general public; and

Whereas, The Guidiville Band of Pomo Indians Liquor Control Ordinance is in conformity with the laws of the State of California as required by 18 U.S.C. 1161, and with all applicable federal laws and has been prepared and reviewed by staff, legal counsel and the Tribal Council for consistency with federal law and other tribal laws and regulations.

Therefore be it resolved, that the Tribal Council representing the Guidiville Band of Pomo Indians of the Guidiville Indian Rancheria hereby adopts the following:

Article 1: Name: This statute shall be known as the Guidiville Indian Rancheria Liquor Control Ordinance.

Article 2: Authority: This statute is enacted pursuant to the general authority of the Guidiville Tribal Council and the Act of August 15, 1953, (Pub. L. 83–277, 67 Stat. 588, 18 U.S.C. 1161).

Article 3: Purpose: The purpose of this statute is to regulate and control the possession and sale of liquor on lands and future lands that are within the jurisdiction of the Guidiville Band of Pomo Indians Tribal government, and to permit alcohol sales by tribally owned and operated enterprises, and at tribally approved special events, for the purpose of the economic development of the Tribe. The enactment of a tribal statute governing liquor possession and sales on lands within the jurisdiction of the Guidiville Tribal government will increase the ability of the Tribal Government to control liquor distribution and possession, and will provide an important source of revenue for the continued operations and strengthening of the tribal government, the economic viability of tribal enterprises, and the delivery of tribal government services. This Liquor Control Ordinance is in conformity with the laws of the State of California as required by 18 U.S.C. 1161, and with all applicable federal laws.

Article 4: Effective Date: This statute shall be effective as of the date of its publication in the **Federal Register**.

Article 5: Possession of Alcohol: The introduction or possession of alcoholic beverages shall be lawful on lands within the exterior boundaries of the Guidiville Indian Rancheria and/or general governmental jurisdiction of the Tribe, provided that such sales are in conformity with the laws of the State of California governing possession of alcoholic beverages.

Article 6: Sales of Alcohol:

(a) The sale of alcoholic beverages by business enterprises owned by and subject to the control of the Tribe shall be lawful within the exterior boundaries of the Guidiville Indian Rancheria and/or general governmental jurisdiction of the Tribe; provided that such sales are in conformity with the laws of the State of California governing the sale of alcoholic beverages.

(b) The sale of alcoholic beverages by the drink at special events authorized by the Tribe shall be lawful within the exterior boundaries of the Guidiville Indian Rancheria and/or general governmental jurisdiction of the Tribe; provided that such sales are in conformity with the laws of the State of California governing special event sales and with prior approval by the Tribe.

Article 7: Age Limits: The drinking age for individuals within the exterior boundaries of the Guidiville Indian Rancheria and/or general governmental jurisdiction of the Tribe shall be the same as that of the State of California, which is currently 21 years. No person under the age of 21 years shall purchase, possess or consume any alcoholic beverage. At such time, if any, as California Business and Profession case 25658, which sets the drinking age for the State of California, is repealed or amended to raise or lower the drinking age within California, this Article shall automatically become null and void, and the Tribal Council shall be empowered to amend this Article from time to time to match the age limit imposed by California State law, such amendment to become effective upon publication in the **Federal Register** by the Secretary of the Interior.

Article 8: Civil Penalties: The Tribe, through the authority of its Tribal Council, shall have the authority to enforce this statute by confiscating or causing to be confiscated any liquor sold, possessed or introduced in violation hereof. The Tribal Council shall be empowered to sell such confiscated liquor for the benefit of the Tribe and to develop and approve such regulation as may become necessary for enforcement of this ordinance.

Article 9: Prior Inconsistent Enactments: Any prior tribal laws, resolutions, or statutes governing the control, possession or sale of liquor on lands and future lands that are within the jurisdiction of the Guidiville Band of Pomo Indians Tribal government, and to permit alcohol sales by tribally owned and operated enterprises, and at tribally approved special events which are inconsistent with this statute, are hereby repealed to the extent they are inconsistent with this statute.

Article 10: Sovereign Immunity: Nothing contained in this statute is intended to, nor does in any way, limit, alter, restrict, or waive the sovereign immunity of the Tribe or any of its agencies from un-consented suit or action of any kind.

Article 11: Severability: If any provision of this statute is found by any agency or court of competent jurisdiction to be unenforceable, the remaining provisions shall be unaffected thereby.

Article 12: Amendment: This statute may be amended by a majority vote of the Tribal Council of the Tribe at a duly noticed Tribal Council meeting, such amendment to become effective upon publication in the **Federal Register** by the Secretary of the Interior.

Certification

This is to certify that this Ordinance #05–02 was amended at a special meeting of the Guidiville Indian Rancheria Tribal Council on March 27, 2008, at which a quorum was present and that this Ordinance was adopted by a vote of 3 For, 0 Opposed, 0 Abstentions. This resolution has not been rescinded in any way.

Dated: March 27, 2008.

Merlene Sanchez,

Chairperson.

Dated: March 27, 2008.

Denise Dawson.

[FR Doc. E8–13725 Filed 6–17–08; 8:45 am]

BILLING CODE 4310–4J–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[F–14834–A, F–14834–B, F–14834–B2; 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 the surface estate for conveyance pursuant to the Alaska Native Claims Settlement Act will be issued to Atqasuk Corporation. The lands are in the vicinity of Atqasuk, Alaska, and are located in:

Umiat Meridian, Alaska

T. 13 N., R. 19 W.,
Secs. 6, 7, 18, and 19;
Sec. 30.
Containing approximately 2,857 acres.
T. 14 N., R. 19 W.,
Secs. 19, 20, and 30;

Sec. 31.
Containing approximately 1,740 acres.
T. 13 N., R. 20 W.,
Secs. 1, 2, 11, and 12;
Secs. 13, 14, and 23;
Secs. 24, 25, and 26;
Sec. 31.
Containing approximately 5,586 acres.
T. 14 N., R. 20 W.,
Secs. 25 to 29, inclusive;
Secs. 32 to 36, inclusive.
Containing approximately 5,959 acres.
T. 12 N., R. 21 W.,
Secs. 2 and 11.
Containing approximately 909 acres.
Aggregating approximately 17,051 acres.

These lands lie entirely within National Petroleum Reserve—Alaska, established by the Naval Petroleum Production Act of 1976. The subsurface estate will be reserved to the United States in the conveyance to Atqasuk 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 18, 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. E8–13718 Filed 6–17–08; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[F–14881–B; F–14881–C; F–14881–D; AK–965–1410–HY–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 Koyuk Native Corporation. The lands are in the vicinity of Koyuk, Alaska, and are located in:

Kateel River Meridian, Alaska

T. 8 S., R. 11 W.,
Secs. 3 to 6, inclusive;
Secs. 9, 10, and 15.
Containing 1,611.47 acres.
T. 4 S., R. 12 W.,
Secs. 20 and 21;
Secs. 28, 29, and 33.
Containing 2,096.63 acres.
T. 7 S., R. 12 W.,
Sec. 36.
Containing 13.08 acres.
T. 4 S., R. 13 W.,
Secs. 10, 11, and 12.
Containing 1,920.00 acres.
T. 5 S., R. 13 W.,
Sec. 13;
Secs. 24 to 27, inclusive.
Containing 3,200.00 acres.
T. 6 S., R. 13 W.,
Secs. 31 to 35, inclusive.
Containing 3,174.40 acres.
Aggregating 12,015.58 acres.

The subsurface estate in these lands will be conveyed to Bering Straits Native Corporation when the surface estate is conveyed to Koyuk Native Corporation. Notice of the decision will also be published four times in the Nome Nugget.

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 18, 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.

Suzette Claypool,

Land Law Examiner, Land Transfer Adjudication II.

[FR Doc. E8–13722 Filed 6–17–08; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[F–14949–A, F–14949–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 Tulkisarmute Incorporated. The lands are in the vicinity of Tuluksak, Alaska, and are located in:

Seward Meridian, Alaska

T. 12 N., R. 64 W.,
Secs. 6, 7 and 18.
Containing 1,670.95 acres.
T. 13 N., R. 64 W.,
Secs. 1, 6, 7, and 12;
Secs. 13, 24, 25, and 26;
Secs. 34, 35, and 36.
Containing approximately 6,383 acres.
T. 14 N., R. 64 W.,
Secs. 19, 25, 30 and 31;
Sec. 36.
Containing approximately 3,104 acres.
T. 12 N., R. 65 W.,
Secs. 1, 2, and 3;
Secs. 10 to 14, inclusive;
Secs. 23 to 26, inclusive;
Secs. 35 and 36.
Containing approximately 7,810 acres.
Aggregating approximately 18,968 acres.

The subsurface estate in these lands will be conveyed to Calista Corporation when the surface estate is conveyed to Tulkisarmute Incorporated. Notice of the decision will also be published four times in the Tundra Drums.

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 18, 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. E8–13723 Filed 6–17–08; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID 100 1220MA 241A: DBG081009]

Notice of Public Meeting: Resource Advisory Council to the Boise District, Bureau of Land Management, U.S. Department of the Interior

AGENCY: Bureau of Land Management, U.S. Department of the 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) Boise District Resource Advisory Council (RAC), will hold a meeting as indicated below.

DATES: The meeting will be held July 18, 2008, departing the Boise District Offices at 8 a.m. and returning by 4 p.m. The meeting will be a day-long field trip to various sites in the Owyhee Field Office. Members of the public are invited to attend, and comment periods will be held during the course of the field day.

FOR FURTHER INFORMATION CONTACT: MJ Byrne, Public Affairs Officer and RAC Coordinator, BLM Boise District, 3948 Development Ave., Boise, ID 83705, Telephone (208) 384–3393.

SUPPLEMENTARY INFORMATION: The 15-member Council advises the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with public land management in southwestern Idaho. RAC members will be looking at areas of interest included in the Travel Management Plans for Wilson Creek and Reynolds Creek sub-regions located in the Owyhee Field Office. There will be briefings provided updating wind energy proposals. Representatives of the Thunder Mountain Mining Company have also been invited to provide a briefing on plans to develop their South Mountain Mine in the Owyhees. Hot Topics will be discussed by the District Manager, and Field Office managers will provide highlights on activities in their offices. Agenda items and location may change due to changing circumstances. 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 Coordinator as provided above.

Dated: June 10, 2008.

David Wolf,

Associate, District Manager.

[FR Doc. E8–13693 Filed 6–17–08; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–040–1430–EU; WYW–167299]

Notice of Realty Action; Proposed Direct Sale of Public Lands in Sweetwater County, WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action.

SUMMARY: A parcel of public land totaling 12.5 acres in Sweetwater County, Wyoming, is being considered for direct sale to PacifiCorp under the provisions of the Federal Land Policy Management Act of 1976 (FLPMA) and implementing regulations contained in 43 CFR 2711.3–3(2), at no less than appraised fair market value. PacifiCorp has proposed the direct sale of these lands to accommodate expansion of the existing industrial landfill at the Jim Bridger Power Plant.

DATES: In order to ensure consideration in the environmental analysis of the proposed sale, comments must be received by August 4, 2008.

ADDRESSES: Address all comments concerning this Notice to the Field Manager, Bureau of Land Management (BLM), Rock Springs Field Office, 280 Highway 191 North, Rock Springs, Wyoming 82901.

FOR FURTHER INFORMATION CONTACT: Teri Deakins, Environmental Protection Specialist, at the above address or phone (307) 352–0211.

SUPPLEMENTARY INFORMATION: The following described public land in Sweetwater County, Wyoming, is being considered for direct sale under the authority of Section 203 of the Federal Land Policy and Management Act of 1976, (90 Stat. 2750, 43 U.S.C. 1713) and implementing regulations contained in 43 CFR 2711.3–3(2).

Sixth Principal Meridian

T. 21 N., R. 101 W.,
sec. 24, S½ SW¼ NW¼ SW¼, S½ SE¼ NW¼ SW¼, SW¼ SW¼ NE¼ SW¼

The area described contains 12.5 acres more or less.

The proposed sale is consistent with the objectives, goals and decisions of the BLM Green River Resource Management Plan, dated August 8, 1997, and the land is not required for other Federal purposes.

Conveyance of the identified public land will be subject to valid existing rights and encumbrances of record, including but not limited to rights-of-way for roads and other facilities, and those public utilities not held by PacifiCorp. Minerals will be reserved to the United States in the conveyance.

On June 18, 2008, the above described land will be segregated from appropriation under the public land laws, including the mining laws, except the sale provisions of the FLPMA. Until completion of the sale, BLM will not accept land use applications affecting the identified public land, except applications for the amendment of previously-filed right-of-way applications or existing authorizations to increase the term of the grants in accordance with 43 CFR 2807.15 and 2886.15. The segregative effect will terminate upon issuance of a patent, publication in the **Federal Register** of a termination of the segregation, or June 18, 2010, unless extended by the BLM

State Director in accordance with 43 CFR 2711.1–2(d) prior to the termination date.

The following reservations, rights, and conditions will be included in the patent that may be issued for the above parcel of Federal land:

1. A reservation of all minerals to the United States;

2. A right-of-way thereon for ditches or canals constructed by the authority of the United States pursuant to the Act of August 30, 1890 (43 U.S.C. 945);

3. All valid existing rights of record, including those documented on the official public land records at the time of patent issuance.

Detailed information concerning the proposed land sale, including sale procedures, appraisal, planning and environmental documents, and a mineral report is available for review at the BLM, Rock Springs Field Office at the above address. Normal business hours are 7:45 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

For a period until August 4, 2008, interested parties and the general public may submit in writing any comments concerning the land being considered for sale, including notification of any encumbrances or other claims relating to the identified land, to the Field Manager, BLM Rock Springs Field Office, at the above address. In order to ensure consideration in the environmental analysis of the proposed sale, comments must be in writing and postmarked or delivered within 45 days of the initial date of publication of this Notice. Comments received electronically, via e-mail or facsimile, will not be accepted. Before including your address, phone number, e-mail address, or other personal indentifying information in your comment, be advised that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. Any adverse comments will be reviewed by the State Director, who may sustain, vacate, or modify this realty action. In the absence of timely filed objections, this realty action will become the final determination of the Department of the Interior.

The land will not be offered for sale prior to August 18, 2008.

Authority: 43 CFR 2711.1–2.

Dated: May 28, 2008.

Lance C. Porter,

Field Manager.

[FR Doc. E8–13713 Filed 6–17–08; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–180–1430–EU; CAS 056771]

Notice of Realty Action: Recreation and Public Purposes Classification Amendment; Calaveras County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action.

SUMMARY: The County of Calaveras proposes to purchase under the Recreation and Public Purposes (R&PP) Act the Wilseyville landfill currently under R&PP lease CAS–056771–01. The R&PP conveyance proposal is for the existing landfill area, consisting of 12.5 acres. The 10 acre landfill area was classified for conveyance in the **Federal Register**, Vol. 62, No. 70, page 17853, on April 11, 1997. It was later discovered that the entrance gate to the transfer station was inadvertently located outside the original classified 10 acres. To remedy this situation, classification for conveyance under the R&PP Act is amended to add 2.5 acres to the 10 acre classification, for a total of 12.5 acres.

The 2.5 acres has been examined and found suitable for conveyance for recreational or public purposes under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*).

FOR FURTHER INFORMATION CONTACT: You may contact Jodi Lawson at (916) 985–4474.

SUPPLEMENTARY INFORMATION: The following public land, located in Calaveras County, near the community of Wilseyville has been examined and found suitable for conveyance for recreational or public purposes under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*).

T, 6 N., R. 13 E., M. D. M.,
Section 14, S½S½SW¼NW¼SW¼.
Containing 2.5 acres, more or less.

The land is not required for any federal purpose. The conveyance is consistent with current Bureau planning for this area and would be in the public interest. The patent, when issued, will be subject to the provisions of the Recreation and Public Purposes Act and applicable regulations of the Secretary of the Interior and will contain the following reservations to the United States:

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. All minerals shall be reserved to the United States.

3. Any other valid and existing rights of record not yet identified.

The land will be segregated from all other forms of appropriation under the public land laws, including the general mining laws and leasing under the mineral leasing laws, except for conveyance under the Recreation and Public Purposes Act on the date of publication in the **Federal Register**. For a period of 45 days from the date of publication in the **Federal Register**, interested persons may submit comments regarding the proposed classification for conveyance of the land to the Field Manager, Folsom Field Office Bureau of Land Management, 63 Natoma Street, Folsom, California.

Classification Comments: Interested parties may submit comments involving the suitability of the land for R&PP conveyance. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

Application Comments: Interested parties may submit comments regarding the specific use proposed in the application, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land conveyance under R&PP.

Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification will become effective 60 days from the date of publication in the **Federal Register**.

A plan of development for the Wilseyville Landfill is on file in the Folsom Field Office.

James M. Eicher,

Associate Field Manager.

[FR Doc. E8–13720 Filed 6–17–08; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

[Docket No: MMS–2008–OMM–0030]

MMS Information Collection Activity: 1010–0059, Oil and Gas Production Safety Systems, Extension of an Information Collection; Submitted for Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of an extension of an information collection (1010–0059).

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), MMS is inviting comments on a collection of information that we will submit to the Office of Management and Budget (OMB) for review and approval. The information collection request (ICR) concerns the paperwork requirements in the regulations under 30 CFR part 250, subpart H, ''Oil and Gas Production Safety Systems.''

DATES: Submit written comments by August 18, 2008.

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

- Electronically: Go to *http://www.regulations.gov*. Under the tab ''More Search Options,'' click Advanced Docket Search, then select ''Minerals Management Service'' from the agency drop-down menu, then click ''submit.'' In the Docket ID column, select MMS–2008–OMM–0030 to submit public comments and to view supporting and any related materials. Information on using *Regulations.gov*, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's ''User Tips'' link. The MMS will post all comments.
- Mail or hand-carry comments to the Department of the Interior; Minerals Management Service; Attention: Cheryl Blundon; 381 Elden Street, MS–4024; Herndon, Virginia 20170–4817. Please reference ''Information Collection 1010–0059'' in your subject line and mark your message for return receipt. Include your name and return address in your message text.

FOR FURTHER INFORMATION CONTACT: Cheryl Blundon, Regulations and Standards Branch at (703) 787–1607. You may also contact Cheryl Blundon to obtain a copy, at no cost, of the regulations that require the subject collection of information.

SUPPLEMENTARY INFORMATION:

Title: 30 CFR part 250, subpart H, Oil and Gas Production Safety Systems.

OMB Control Number: 1010–0059.

Abstract: The Outer Continental Shelf (OCS) Lands Act, as amended (43 U.S.C. 1331 *et seq.* and 43 U.S.C. 1801 *et seq.*), authorizes the Secretary of the Interior (Secretary) to prescribe rules and regulations to administer leasing of the OCS. Such rules and regulations will apply to all operations conducted under a lease. Operations on the OCS must preserve, protect, and develop oil and natural gas resources in a manner that is consistent with the need to make such resources available to meet the Nation's energy needs as rapidly as possible; to balance orderly energy resource development with protection of human, marine, and coastal environments; to ensure the public a fair and equitable return on the resources of the OCS; and to preserve and maintain free enterprise competition.

The OCS Lands Act at 43 U.S.C. 1332(6) states that ''operations in the [O]uter Continental Shelf should be conducted in a safe manner by well-trained personnel using technology, precautions, and techniques sufficient to prevent or minimize the likelihood of blowouts, loss of well control, fires, spillages, physical obstruction to other users of the waters or subsoil and seabed, or other occurrences which may cause damage to the environment or to property, or endanger life or health.''

This notice concerns the reporting and recordkeeping elements of 30 CFR part 250, subpart H, Oil and Gas Production Safety Systems, and related Notices to Lessees and Operators (NTLs) that clarify and provide additional guidance on some aspects of the regulations.

The MMS OCS Regions use the information submitted under subpart H to evaluate equipment and/or procedures that lessees propose to use during production operations, including evaluation of requests for departures or use of alternative procedures. Information submitted is also used to verify the no-flow condition of wells to continue the waiver of requirements to install valves capable of preventing backflow. The MMS inspectors review the records maintained to verify compliance with testing and minimum safety requirements.

We will protect information from respondents considered proprietary under the Freedom of Information Act (5 U.S.C. 552) and its 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,'' and 30 CFR part 252, ''OCS Oil and Gas Information Program.'' No items of a sensitive nature are collected. Responses are mandatory.

Frequency: On occasion or annual.

Estimated Number and Description of Respondents: Approximately 130 Federal OCS oil and gas or sulphur lessees.

Estimated Reporting and Recordkeeping ''Hour'' Burden: The currently approved annual reporting burden for this collection is 17,598 hours. The following chart details the individual components and respective hour burden estimates of this ICR. In calculating the burdens, we assumed that respondents perform certain requirements in the normal course of their activities. We consider these to be usual and customary and took that into account in estimating the burden.

Citation 30 CFR 250 subpart H and NTL(s)	Reporting and recordkeeping requirement	Hour burden
		Non-hour cost burden
	Reporting	
800; 801; 802; 803; related NTLs.	Submit application and request approval for design, installation, and operation of subsurface safety devices and surface production-safety systems; including related requests for departures or use of alternative procedures (supervisory control and data acquisition systems, valve closure times, time delay circuitry, etc.).	8.
801(g)	Submit annual verification of no-flow condition of well	2.

Citation 30 CFR 250 subpart H and NTL(s)	Reporting and recordkeeping requirement	Hour burden Non-hour cost burden
801(h)(2); 803(c)	Identify well with sign on wellhead that subsurface safety device is removed; flag safety devices that are out of service.	Usual/customary safety procedure for removing or identifying out-of-service safety devices.
802(e)	Submit statement/application certifying final surface production safety system installed conforms to approved design with ≥125 components.	4. $4,750 per submission. $12,400 per offshore visit. $13,000 per shipyard visit.
	≥=25–125 components	4. $1,150 per submission $7,850 per offshore visit $4,500 per shipyard visit
	≥25 components	4. $570 per submission.
	Submit modification certifying final surface production safety system installed conforms to approved design with ≥125 components.	3. $530 per submission.
	≥=25–125 components	3. $190 per submission.
	< 25 components	3 $80 per submission.
803(b)(2)	Submit required documentation under API RP 17J	50.
803(b)(8); related NTLs.	Submit information (risk assessment) to request "new" firefighting system departure approval (GOMR).	8.
803(b)(8); related NTLs.	Submit information (risk assessment) to retain current firefighting system departure approval (GOMR).	8.
803(b)(8)(iv); (v)	Post diagram of firefighting system; furnish evidence firefighting system suitable for operations in subfreezing climates.	2.
804(a)(12); 800	Notify MMS prior to production when ready to conduct pre-production test and upon commencement for a complete inspection.	½.
804; related NTLs ...	Request departure from testing schedule requirements	1.
804; related NTL	Submit copy of state-required Emergency Action Plan (EAP) containing test abatement plans (Pacific OCS Region).	1.
806(c)	Request evaluation and approval of other quality assurance programs covering manufacture of SPPE.	2.
800–807	General departure and alternative compliance requests not specifically covered elsewhere in subpart H regulations.	4.
	Recordkeeping	
801(h)(2); 802(e); 804(b).	Maintain records on subsurface and surface safety devices to include approved design & installation features, testing, repair, removal, etc.	20.
803(b)(1)(iii), (2)(i) ...	Maintain pressure-recorder charts	12.
803(b)(4)(iii)	Maintain schematic of the emergency shutdown (ESD) which indicates the control functions of all safety devices.	6.
803(b)(11)	Maintain records of wells that have erosion-control programs and results for 2 years; make available to MMS upon request.	4.

Estimated Reporting and Recordkeeping "Non-Hour Cost" Burden: The currently OMB approved non-hour cost burdens total $544,877. We have identified nine non-hour cost burdens for this collection. These non-hour cost burdens consist of service fees which are determined by the number of components involved in the review and approval process; along with the cost of the offshore and/or shipyard visits under § 250.802(e). We have not identified any other non-hour cost burdens.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor 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) 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.

Agencies must also estimate the ''non-hour cost'' burdens to respondents or recordkeepers resulting from the collection of information. Therefore, if you have costs to generate, maintain, and disclose this information, you should comment and provide your total capital and startup cost components or annual operation, maintenance, and purchase of service components. You should describe the methods you use to estimate major cost factors, including system and technology acquisition, expected useful life of capital equipment, discount rate(s), and the period over which you incur costs. Capital and startup costs include, among other items, computers and software you purchase to prepare for collecting information, monitoring, and record storage facilities. You should not include estimates for equipment or services purchased: (i) Before October 1, 1995; (ii) to comply with requirements not associated with the information collection; (iii) for reasons other than to provide information or keep records for the Government; or (iv) as part of customary and usual business or private practices.

We will summarize written responses to this notice and address them in our submission for OMB approval. As a result of your comments, we will make any necessary adjustments to the burden in our submission to OMB.

Public Comment Procedures: 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.

MMS Information Collection Clearance Officer: Arlene Bajusz, (202) 208–7744.

Dated: June 5, 2008.

E.P. Danenberger,

Chief, Office of Offshore Regulatory Programs.

[FR Doc. E8–13663 Filed 6–17–08; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Notice of Proposed Information Collection for 1029–0092 and 1029–0107

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

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSM) is announcing its intention to request approval for the collections of information under 30 CFR 745, State-Federal cooperative agreements; and 30 CFR 887, Subsidence Insurance Program Grants.

DATES: Comments on the proposed information collection must be received by August 18, 2008, to be assured of consideration.

ADDRESSES: Comments may be mailed to John A. Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave, NW., Room 202—SIB, Washington, DC 20240. Comments may also be submitted electronically to *jtrelease@osmre.gov.*

FOR FURTHER INFORMATION CONTACT: To request a copy of the information collection request, explanatory information and related forms, contact John Trelease, at (202) 208–2783 or via e-mail at the address listed above.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities [see 5 CFR 1320.8 (d)]. This notice identifies information collections that OSM will be submitting to OMB for approval. These collections are contained in (1) 30 CFR 745, State-Federal cooperative agreements; and (2) 30 CFR 887, Subsidence Insurance Program Grants. OSM will request a 3-year term of approval for each information collection activity.

Comments are invited on: (1) The need for the collection of information for the performance of the functions of the agency; (2) the accuracy of the agency's burden estimates; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information. A summary of the public comments will accompany OSM's submission of the information collection request to OMB.

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.

The following information is provided for the information collection: (1) Title of the information collection; (2) OMB control number; (3) summary of the information collection activity; and (4) frequency of collection, description of the respondents, estimated total annual responses, and the total annual reporting and recordkeeping burden for the collection of information.

Title: 30 CFR 745—State-Federal cooperative agreements.

OMB Control Number: 1029–0092.

Summary: 30 CFR 745 requires that States submit information when entering into a cooperative agreement with the Secretary of the Interior. OSM uses the information to make findings that the State has an approved program and will carry out the responsibilities mandated in the Surface Mining Control and Reclamation Act to regulate surface coal mining and reclamation activities on Federal lands.

Bureau Form Number: None.

Frequency of Collection: Once.

Description of Respondents: State governments that regulate coal operations.

Total Annual Responses: 11.

Total Annual Burden Hours: 600.

Total Annual Non-Wage Costs: $0.

Title: 30 CFR 887—Subsidence Insurance Program Grants.

OMB Control Number: 1029–0107.

Summary: States and Indian tribes having an approved reclamation plan may establish, administer and operate self-sustaining State and Indian Tribe-administered programs to insure private property against damages caused by land subsidence resulting from underground mining. States and Indian tribes interested in requesting monies for their insurance programs would apply to the Director of OSM.

Bureau Form Number: None.

Frequency of Collection: Once.

Description of Respondents: States and Indian tribes with approved coal reclamation plans.

Total Annual Responses: 1.

Total Annual Burden Hours: 8.

Total Annual Non-Wage Costs: $0.

Dated: June 12, 2008.

John R. Craynon,

Chief, Division of Regulatory Support.

[FR Doc. E8–13711 Filed 6–17–08; 8:45 am]

BILLING CODE 4310–05–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–744 (Second Review)]

Brake Rotors From China

Determination

On the basis of the record [1] developed in the subject five-year review, the United States International Trade Commission (Commission) determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)), that revocation of the antidumping duty order on brake rotors from China would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission instituted this review on July 2, 2007 (72 FR 36037) and determined on October 5, 2007 that it would conduct a full review (72 FR 59111, October 18, 2007). Notice of the scheduling of the Commission's review and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on November 27, 2007 (72 FR 66187). The hearing was held in Washington, DC, on April 15, 2008, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this review to the Secretary of Commerce on June 11, 2008. The views of the Commission are contained in USITC Publication 4009 (June 2008), entitled *Brake Rotors from China: Investigation No. 731–TA–744 (Second Review).*

By order of the Commission.

Issued: June 12, 2008.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E8–13678 Filed 6–17–08; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Joint Industry Project for Fluid Properties Meter Development and Support

Notice is hereby given that, on May 20, 2008, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ('the Act'), Southwest Research Institute: Joint Industry Project for Fluid Properties Meter Development and Support (''SwRI: Fluid Properties Meter'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its nature and objective. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the period of performance has been extended to June 30, 2008.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and SwRI: Fluid Properties Meter intends to file additional written notifications disclosing all changes in membership.

On November 30, 2004, SwRI: Fluid Properties Meter filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on February 2, 2005 (70 FR 5487).

The last notification was filed with the Department on April 11, 2005. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on June 15, 2005 (70 FR 34796).

Patricia A. Brink,

Deputy Director of Operations, Antitrust Division.

[FR Doc. E8–13659 Filed 6–17–08; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 07–42]

Harriston Lee Bass, Jr., M.D.; Revocation of Registration

On June 18, 2007, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, issued an Order to Show Cause to Harriston Lee Bass, M.D. (Respondent), of Las Vegas, Nevada. The Show Cause Order proposed the revocation of Respondent's DEA Certificate of Registration, BB0816441, as a practitioner, and the denial of any pending applications to renew or modify his registration, on three separate grounds. Show Cause Order at 1.

First, the Show Cause Order alleged that on several dates, Respondent had committed acts inconsistent with the public interest by prescribing various controlled substances including Percocet, a schedule II narcotic, as well as schedule III narcotics containing hydrocodone, to an undercover officer, without a legitimate medical purpose and outside of the usual course of professional practice. Show Cause Order at 1–2 (citing 21 CFR 1306.04(a)). Relatedly, the Show Cause Order alleged that on June 1, 2006, the State of Nevada had executed a search warrant at Respondent's office and residence and seized 10,882 dosage units of controlled substances notwithstanding that his state medical license authorized only the prescribing and administration of, and not the dispensing of, controlled substances. *Id.* at 2.

Second, the Show Cause Order alleged that on June 16, 2006, the Nevada Board of Medical Examiners summarily suspended Respondent's state medical license based on, *inter alia,* his improper prescribing of controlled substances to nine patients who became addicted to the drugs, and that his prescribing ''contribut[ed] to the deaths of six of these patients.'' *Id.* The Show Cause Order thus alleged that because Respondent lacks authority to handle controlled substances in the State in which he holds his DEA

registration, he was not entitled to maintain his registration.[1] *Id.*

On July 17, 2007, Respondent requested a hearing on the allegations; the matter was assigned to Administrative Law Judge (ALJ) Mary Ellen Bittner. On August 3, 2007, the Government moved for summary disposition and to stay the proceeding pending the resolution of its motion.

The basis of the Government's motion was that the state board had suspended Respondent's state medical license and Respondent therefore lacked authority to handle controlled substances in Nevada, the State in which he holds his DEA registration. Motion at 1–2. As support for its motion, the Government attached a copy of the June 16, 2006 order of the Nevada Board which suspended Respondent's state license pending the resolution of disciplinary proceedings. Order of Summary Suspension at 1–3. Citing numerous agency decisions, the Government argued that because Respondent lacked authority under Nevada law to handle controlled substances, he was not entitled to maintain his DEA registration. Gov. Mot. at 1–2. *Id.* Respondent did not respond to the Government's motion.

The ALJ granted the Government's motion. Noting that there was no dispute as to whether Respondent was without authority to handle controlled substances in Nevada, the ALJ applied the settled rule that a practitioner is not entitled to hold a DEA registration if he lacks authority to handle controlled substances under state law. ALJ Dec. at 2. The ALJ thus recommended that Respondent's registration be revoked and forwarded the record to me for final agency action. *Id.* at 2–3.

Having considered the record as a whole, I adopt the ALJ's decision in its entirety.[2] I find that on June 16, 2006, the Nevada Board of Medical Examiners suspended Respondent's state medical license pending the outcome of disciplinary proceedings.[3] Based on public information available at the Nevada's Board Web site, I further find that Respondent's state medical license remains suspended and that he is without authority under Nevada law to handle controlled substances.

Under the Controlled Substances Act (CSA), a practitioner must be currently authorized to handle controlled substances in ''the jurisdiction in which he practices'' in order to maintain a DEA registration. *See* 21 U.S.C. 802(21) (''[t]he term 'practitioner' means a physician * * * licensed, registered, or otherwise permitted, by * * * the jurisdiction in which he practices * * * to distribute, dispense, [or] administer * * * a controlled substance in the course of professional practice''). *See also id.* § 823(f) (''The Attorney General shall register practitioners * * * if the applicant is authorized to dispense * * * controlled substances under the laws of the State in which he practices.''). As these provisions make plain, possessing authority to dispense a controlled substance under the laws of the State in which a physician practices medicine is an essential condition for holding a DEA registration.

Accordingly, DEA has repeatedly held that the CSA requires the revocation of a registration issued to a practitioner whose state license has been suspended or revoked. *See Sheran Arden Yeates,* 71 FR 39130, 39131 (2006); *Dominick A. Ricci,* 58 FR 51104, 51105 (1993); *Bobby Watts,* 53 FR 11919, 11920 (1988). *See also* 21 U.S.C. 824(a)(3) (authorizing the revocation of a registration ''upon a finding that the registrant * * * has had his State license or registration suspended [or] revoked * * * and is no longer authorized by State law to engage in the * * * distribution [or] dispensing of controlled substances''). Because Respondent's Nevada medical license has been indefinitely suspended, he is not entitled to maintain his DEA registration.

Order

Pursuant to the authority vested in me by 21 U.S.C. 823(f) & 824(a), as well as 28 CFR 0.100(b)–0.104, I hereby order that DEA Certificate of Registration, BB0816441, issued to Harriston L. Bass, M.D., be, and it hereby is, revoked. I further order that any pending applications of Harriston L. Bass, M.D., for renewal or modification of his registration be, and they hereby are, denied. This order is effective immediately.[4]

Dated: June 11, 2008.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. E8–13741 Filed 6–17–08; 8:45 am]

BILLING CODE 4410–09–P

[1] The Show Cause Order also alleged that on June 18, 2005, Respondent had materially falsified his application to renew his DEA registration by failing to disclose a prior disciplinary action by the Nevada Board of Medical Examiners. Show Cause Order at 2.

[2] Because Respondent did not deny the allegation that Respondent's DEA registration does not expire until July 31, 2008, *see* Show Cause Order at 1, I deem the allegation admitted and find that Respondent has a current registration.

[3] I further note that in its Order of Summary Suspension, the State Board found that ''Respondent's prescribing practices cannot be ruled out as contributing factors in the deaths of 6 patients, 5 of whom died of overdoses.'' *In re Harriston L. Bass, Jr., M.D.,* Order of Summary Suspension, at 2. (Nev. Bd. of Med. Examiners, Case No. 06–9455–1).

[4] My decision that this Order be made effective immediately is based on the state's Board finding that ''Respondent's prescribing practices cannot be ruled out as contributing factors in the deaths of 6 patients, 5 of whom died of overdoses.'' Order of Summary Suspension, at 2; see also 21 CFR 1316.67.

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

June 11, 2008.

The Department of Labor (DOL) hereby announces the submission of the following public information collection requests (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of each ICR, with applicable supporting documentation; including among other things a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAMain* or by contacting Darrin King on 202–693–4129 (this is not a toll-free number) / e-mail: *king.darrin@dol.gov.*

Interested parties are encouraged to send comments to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Employment and Training Administration (ETA), Office of Management and Budget, Room 10235, Washington, DC 20503, Telephone: 202–395–7316 / Fax: 202–395–6974 (these are not toll-free numbers), e-mail: *OIRA_submission@omb.eop.gov* within 30 days from the date of this publication in the **Federal Register**. In order to ensure the appropriate consideration, comments should reference the OMB Control Number (see below).

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.* , permitting electronic submission of responses.

Agency: Employment and Training Administration.

Type of Review: Extension without change of a currently approved collection.

Title: Unemployment Insurance Data Validation Program.

OMB Control Number: 1205–0431.

Form Number: Handbook 361.

Affected Public: State Governments.

Estimated Number of Respondents: 53.

Estimated Total Annual Burden Hours: 29,150.

Estimated Total Annual Costs Burden: $0.

Description: This program requires States to operate a system for ascertaining the validity (adherence to Federal reporting requirements) of specified unemployment insurance (UI) data they submit to ETA on certain reports they are required to submit monthly or quarterly. Some of these data are used to assess performance, including for the Government Performance and Results Act, or determine States' grants for UI administration. For additional information, see related notice published at 73 FR 8066 on February 12, 2008.

Agency: Employment and Training Administration.

Type of Review: Extension without change of a currently approved collection.

Title: Non Production Questionnaire.

OMB Control Number: 1205–0447.

Form Number: ETA–9118.

Affected Public: Private Sector—Business or other for-profits.

Estimated Number of Respondents: 555.

Estimated Total Annual Burden Hours: 1,943.

Estimated Total Annual Costs Burden: $0.

Description: Information on the Form ETA–9118 is required in order to make a determination on Trade Adjustment Assistance petitions filed on behalf of service workers in accordance with Section 223 of the Trade Adjustment Assistance Act of 2002. For additional information, see related notice published at 73 FR 13922 on March 14, 2008.

Agency: Employment and Training Administration.

Type of Review: Extension without change of a currently approved collection.

Title: Unemployment Insurance (UI) Facilitation of Claimant Reemployment

OMB Control Number: 1205–0452.

Form Number: ETA–9047.

Affected Public: State Governments.

Estimated Number of Respondents: 53.

Estimated Total Annual Burden Hours: 2,120.

Estimated Total Annual Costs Burden: $0.

Description: This information is collected at the state level to determine the percentage of individuals who become reemployed in the calendar quarter subsequent to the quarter in which they received their first UI payment. The data will be used to measure performance for the Department's Government Performance and Results Act of 1993 with the goal of facilitating the reemployment of UI claimants. For additional information, see related notice published at 73 FR 13013 on March 11, 2008.

Agency: Employment and Training Administration.

Type of Review: New (Request for a new OMB Control Number).

Title: Workforce Investment Streamlined Performance Reporting (WISPR) System.

OMB Control Number: 1205–0NEW.

Form Numbers: WISRD–1; ETA–9131; ETA–9132; and ETA–9133.

Affected Public: State Governments.

Estimated Number of Respondents: 54.

Estimated Total Annual Burden Hours: 816,071.

Estimated Total Annual Costs Burden: $0.

Description: The WISPR System replaces the reporting and recordkeeping requirements of 7 Employment and Training programs. The goal is to ensure that the workforce system is clearly focused on results, which will help ensure that the system's jobseeker and employer customers are effectively served. The Office of Management and Budget and other Federal agencies developed a set of common performance measures; these common measures are integral to ETA's performance accountability system and are the key results that ETA programs strive to achieve for their customers and to measure with a uniform information collection system. For additional information, see related notices published at 69 FR 42777 on July 16, 2004 and 71 FR 65000 on November 6, 2006.

Darrin A. King,

Acting Departmental Clearance Officer.

[FR Doc. E8–13648 Filed 6–17–08; 8:45 am]

BILLING CODE 4510–FW–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

June 12, 2008.

The Department of Labor (DOL) hereby announces the submission of the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of this ICR, with applicable supporting documentation; including among other things a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAMain* or by contacting Darrin King on 202–693–4129 (this is not a toll-free number)/e-mail: *king.darrin@dol.gov.*

Interested parties are encouraged to send comments to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Employee Benefits Security Administration (EBSA), Office of Management and Budget, Room 10235, Washington, DC 20503, Telephone: 202–395–7316/Fax: 202–395–6974 (these are not toll-free numbers), E-mail: *OIRA_submission@omb.eop.gov* within 30 days from the date of this publication in the **Federal Register**. In order to ensure the appropriate consideration, comments should reference the OMB Control Number (see below).

The OMB is particularly interested in comments which:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who

are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Employee Benefits Security Administration.

Type of Review: Extension without change of currently approved collection.

Title: Alternative Method of Compliance for Certain Simplified Employee Pensions.

OMB Number: 1210–0034.

Affected Public: Private Sector—Business or other for-profits

Total Estimated Number of Respondents: 35,660.

Total Estimated Annual Burden Hours: 21,227.

Total Estimated Annual Costs Burden: $31,297.

Description: Section 110 of the Employee Retirement Income Security Act (ERISA) authorizes the Secretary of Labor to prescribe alternative methods of compliance with the reporting and disclosure requirements of Title I of ERISA for pension plans. The Department's regulations at 29 CFR 2520.104–49 provide an alternative method of disclosure for sponsors of certain types of Simplified Employee Pensions that is easier to comply with than otherwise required under ERISA. For additional information, see related notice published at 73 FR 18003 on April 4, 2008.

Darrin A. King,

Acting Departmental Clearance Officer.

[FR Doc. E8–13653 Filed 6–17–08; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Office of the Secretary

Bureau of International Labor Affairs; Office of Trade and Labor Affairs; Central America—Dominican Republic—United States Free Trade Agreement; Notice of Determination Regarding Review of Submission #2008–01

AGENCY: Bureau of International Labor Affairs, U.S. Department of Labor.

ACTION: Notice.

SUMMARY: The Office of Trade and Labor Affairs (OTLA) gives notice that on June 12, 2008, Submission #2008–01 was accepted for review pursuant to Article 16.4.3 of Chapter Sixteen (the Labor Chapter) of the Central America—Dominican Republic—United States Free Trade Agreement (CAFTA–DR).

The submission was filed with the OTLA on April 23, 2008 by the American Federation of Labor and Congress of Industrial Organizations (AFL–CIO) and a group of six Guatemalan trade unions. The submission alleges the Government of Guatemala has violated Articles 16.1.1, 16.2.1(a), and 16.3.1 of the Labor Chapter of the CAFTA–DR with respect to five separate cases. In these cases, the submission alleges that the Government of Guatemala failed to enforce its laws with regard to the right of association and the right to organize and bargain collectively. The submission alleges acts of violence against trade unionists, including two instances of murder. In addition, there are further allegations of failure to enforce laws relating to non-payment of severance and social security benefits. These allegations were supported by specific factual descriptions which, if substantiated, could demonstrate that the Government of Guatemala's actions were inconsistent with its commitments under the Labor Chapter.

The objectives of the review of the submission will be to gather information to assist the OTLA to better understand and publicly report on the issues raised by the submission.

DATES: June 12, 2008.

FOR FURTHER INFORMATION CONTACT: Gregory Schoepfle, Director, Office of Trade and Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S–5303, Washington, DC 20210. Telephone: (202) 693–4900 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Article 16.4.3 of the Labor Chapter of the CAFTA–DR establishes that each Party's contact point shall provide for the submission, receipt, and consideration of communications from persons of a Party on matters related to provisions of the Labor Chapter and shall review such communications in accordance with domestic procedures. The Department of Labor's Office of Trade Agreement Implementation, which in December 2006 was reestablished as the OTLA in a **Federal Register** notice (71 FR 76691 (2006)), was designated as the office to serve as the contact point for implementing the CAFTA–DR's labor provisions. The same **Federal Register** notice informed the public of the Procedural Guidelines that the OTLA would follow for the receipt and review of public submissions. According to the definitions contained in the Procedural Guidelines (Section B) a ''submission,'' as used in the guidelines, means ''a communication from the public containing specific allegations, accompanied by relevant supporting information, that another Party has failed to meet its commitments or obligations arising under a labor chapter.''* * *

On April 23, 2008, Submission #2008–01 was filed with the OTLA by the American Federation of Labor and Congress of Industrial Organizations (AFL–CIO) and a group of Guatemalan trade unions composed of the Union of Port Quetzal Company Workers (STEPQ), the Union of Izabal Banana Workers (SITRABI), the Union of International Frozen Products, Inc. Workers (SITRAINPROCSA), the Coalition of Avandia Workers, the Union of Fribo Company Workers (SITRAFRIBO), and the Federation of Food and Similar Industries Workers of Guatemala (FESTRAS).

The submission alleges first that the Government of Guatemala has violated Article 16.1.1 of the CAFTA–DR Labor Chapter in which the Parties reaffirm their obligations as members of the International Labor Organization (ILO) and their commitments under the ILO Declaration on Fundamental Principles and Rights at Work (1998), and agree to strive to ensure that the Declaration's principles and the internationally recognized labor rights set forth in Article 16.8 are recognized and protected by its law. Second, the submission alleges that the Government of Guatemala has violated Article 16.2.1(a) which states, ''A Party shall not fail to effectively enforce its labor laws, through a sustained or recurring course of action or inaction, in a manner affecting trade between the Parties, after the date of entry into force of [the CAFTA–DR].'' Third, the submission alleges that the Government of Guatemala has violated Article 16.3.1, which states, ''Each Party shall ensure that persons with a legally recognized interest under its law in a particular matter have appropriate access to tribunals for the enforcement of the Party's labor laws.''* * *

To support these allegations, the submission outlines five separate cases in which it alleges that workers were prevented from exercising their right of association and the right to organize and bargain collectively. In several of the cases, serious acts of violence and intimidation are alleged, including murder. Furthermore, the submission alleges that domestic labor laws, which would have protected these workers' rights, were not enforced. The submission also alleges a failure to enforce labor laws relating to payments to the Guatemalan Social Security Institute (the health care system) in two

instances and appropriate legal severance payments in one instance.

The Procedural Guidelines for the OTLA, published in the **Federal Register** on December 14, 2006, 71 FR 76691, 76695, specify that the OTLA shall consider six factors, to the extent that they are relevant, in determining whether to accept a submission for review. As relating to FTAs, these are as follows: (a) Whether the submission raises issues relevant to any matter arising under a labor chapter; (b) whether a review would further the objectives of a labor chapter; (c) whether the submission clearly identifies the person filing the submission, is signed and dated, and is sufficiently specific to determine the nature of the request and permit an appropriate review; (d) whether the statements contained in the submission, if substantiated, would constitute a failure of the other Party to comply with its obligations or commitments under a labor chapter; (e) whether the statements contained in the submission or available information demonstrate that appropriate relief has been sought under the domestic laws of the other Party, or that the matter or a related matter is pending before an international body; and (f) whether the submission is substantially similar to a recent submission and significant, new information has been furnished that would substantially differentiate the submission from the one previously filed.

The OTLA has taken these factors into account and has accepted the submission for review for several reasons. The submission raises issues relevant to the CAFTA–DR Labor Chapter and a review of these issues would further the objectives of the Labor Chapter. The submission clearly identifies the person filing the submission, is signed and dated, and is sufficiently specific to determine the nature of the request and permit an appropriate review. If substantiated, the statements in the submission could constitute a failure on the part of Guatemala, a Party to the CAFTA–DR, to comply with its obligations or commitments under the Labor Chapter, and could demonstrate that relief has been sought under the domestic laws.

The OTLA's decision to accept the submission for review is not intended to indicate any determination as to the validity or accuracy of the allegations contained in the submission. The objectives of the review will be to gather information to assist the OTLA to better understand and publicly report on the issues raised by the submission. The review will be completed and a public report issued within 180 days, unless circumstances, as determined by the OTLA, require an extension of time, as set out in the Procedural Guidelines of the OTLA. The public report will include a summary of the review process, as well as findings and recommendations.

Signed at Washington, DC on June 12, 2008.

Lawrence W. Casey,

Associate Deputy Under Secretary, Bureau of International Labor Affairs.

[FR Doc. E8–13676 Filed 6–17–08; 8:45 am]

BILLING CODE 4510–28–P

DEPARTMENT OF THE INTERIOR

National Indian Gaming Commission

Submission of Information Collection Under the Paperwork Reduction Act; Reinstatement

AGENCY: National Indian Gaming Commission, Interior.

ACTION: Notice.

SUMMARY: The National Indian Gaming Commission (''NIGC'' or ''Commission''), in accordance with the Paperwork Reduction Act, is seeking reinstatement of the approval for collection of information for the following information collection activities: (1) Compliance and Enforcement under the Indian Gaming Regulatory Act (IGRA); (2) Privacy Act Procedures; (3) Approval of Class II/ Background Investigation Tribal Licenses; (4) Management Contract Regulations; (5) Freedom of Information Act Procedures; (6) National Environmental Policy Act Procedures; (7) Annual Fees Payable by Indian Gaming Operations; (8) Issuance of Certificates of Self Regulation to Tribes for Class II Gaming; (9) Minimum Internal Control Standards. These information collections have expired.

DATES: Submit comments on or before July 18, 2008.

ADDRESSES: Comments can be mailed directly to the Office of Information and Regulatory Affairs, OMB, Attn: Desk Officer for the National Indian Gaming Commission, 725 17th Street, NW., Washington, DC 20503, or mailed, faxed, or e-mailed to the attention of Michael Gross or Regina McCoy, National Indian Gaming Commission, 1441 L Street, NW., Washington, DC 20005. Comments may be faxed to 202–632–7066 (not a toll-free number). Comments may be sent electronically to *info@nigc.gov*, subject: pra reinstatements.

FOR FURTHER INFORMATION CONTACT: Michael Gross or Regina McCoy, at (202) 632–7003; fax (202) 632–7066 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

I. Request for Comments

You are invited to comment on the following items to the Desk Office at OMB at the citation in the **ADDRESSES** section.

(a) 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;

(b) The accuracy of the agency's estimate of the burden (including the hours and cost) of the proposed collection of information, including the validity of the methodology and assumption used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other collection techniques or forms of information technology.

Comments submitted in response to this notice will be summarized and become a matter of public record.

OMB has up to 60 days to make a decision but may decide after 30 days; therefore, your comments will receive maximum consideration if received during the 30-day period.

We will not request nor sponsor a collection of information, and you need not respond to such a request, if there is no valid Office of Management and Budget Control Number.

II. Data

Title: Compliance and Enforcement.

OMB Control Number: 3141–0001.

Background: The Indian Gaming Regulatory Act (25 U.S.C. 2701 *et seq.*) (IGRA) governs the regulation of gaming on Indian lands. Although the IGRA places primary responsibility with the tribes for regulating gaming, Section 2706(b) directs the NIGC to monitor gaming conducted on Indian lands on a continuing basis. IGRA authorizes the NIGC to access and inspect all papers, books and records relating to gaming conducted on Indian lands. IGRA also requires tribes to provide NIGC with annual independent audits of gaming, including contracts in excess of $25,000.00. 25 U.S.C. 2710(b)(2)(c), (d); 25 U.S.C. 2710(d)(1)(A)(ii). In accordance with these statutory responsibilities, 25 CFR 571.7 requires Indian gaming operations to keep

permanent financial records. 25 CFR 571.12 and 571.13 require, respectively, an annual independent audit of a tribe's gaming operations and submission of this audit to the NIGC. The NIGC uses this information to fulfill its statutory responsibility to monitor Indian gaming. Additionally, Section 2713 of IGRA authorizes the Chairman to issue civil fine assessments and closure orders for violations of the Act or the Commission's regulations. This authority is implemented through 25 CFR part 575. The full Commission reviews these matters on appeal under 25 CFR part 577.

Brief Description of Collection: This collection is mandatory and allows the NIGC to conduct its statutory duty to regulate Indian gaming. No additional burden is imposed by the requirements to maintain customary business records and to allow NIGC personnel access to those records.

Respondents: Indian tribal gaming operations.

Estimated Number of Respondents: 387.

Estimated Annual Responses: 1,194.

Estimated Time per Response: The range of time can vary from no additional burden hours to 50 burden hours for one item.

Frequency of Response: Varies.

Estimated Total Annual Burden on Respondents: 3,424.

Title: Privacy Act Procedures.

OMB Control Number: 3141–0002.

Background: On October 17, 1988, Congress enacted the Indian Gaming Regulatory Act (''IGRA'' or ''Act''), 25 U.S.C. 2701–21, creating the National Indian Gaming Commission (''NIGC'' or ''Commission'') and developing a comprehensive framework for the regulation of gaming on Indian lands. 25 U.S.C. 2702. Congress enacted the Privacy Act in 1974. Under the Privacy Act, individuals are allowed to request access to documents under the control of the NIGC that are maintained under a personal identifier unique to the individual. 25 CFR Part 515.3 lists the requirements for making Privacy Act requests. 25 CFR Part 515.6 lists the requirements for appealing an adverse determination on the release of information. 25 CFR 515.7 explains how to make a request for amendment to a record.

Brief Description of Collection: This collection is mandatory and the benefit to the respondents is processing of their request to view records maintained on themselves.

Respondents: Individuals and submission is mandatory.

Estimated Number of Respondents: 2.

Estimated Time per Response: 10 hours.

Frequency of Response: Varies.

Estimated Total Annual Hourly Burden to Respondents: 20 total annual hours of burden.

Title: Approval of Class II and Class III Ordinances, Background Investigations and Gaming Licenses.

OMB Control Number: 3141–0003.

Background: The IGRA establishes the National Indian Gaming Commission to oversee Indian gaming. IGRA sets standards for the regulation of gaming including requirements for approval or disapproval of tribal gaming ordinances. IGRA section 2705(a)(3) requires the Chairman to review all class II and class III tribal gaming ordinances.

In accordance with this provision, 25 CFR 552.2 of the NIGC's regulations requires tribes to submit to the NIGC: (1) A copy of the gaming ordinance to be approved, including a copy of the authorizing resolution by which it was enacted by the tribal government and a request for approval of the ordinance or resolution; (2) a description of procedures the tribe will employ in conducting background investigations on key employees or primary management officials; (3) a description of procedures the tribe will use to issue licenses to primary management officials and key employees; (4) copies of all gaming regulations; (5) a copy of any applicable tribal—state compact; (6) a description of dispute resolution procedures for disputes arising between the gaming public and the tribe or management contractor; (7) identification of the law enforcement agency that will take fingerprints and a description of the procedures for conducting criminal history checks; and (8) designation of an agent for service of process.

Under 25 CFR 522.3, tribes must submit any amendment to the ordinance or resolution for approval by the Chairman. In this instance, the tribe must provide a copy of the authorizing resolution. The NIGC will use the information collected to approve or disapprove the ordinance or amendment.

Section 2710 of IGRA requires tribes to conduct background investigations on key employees and primary management officials involved in class II and class III gaming. 25 CFR 556 and 558 require tribes to perform each investigation using information such as name, address, previous employment records, previous relationships with either Indian tribes or the gaming industry, licensing relating to those relationships, any convictions, and any other information a tribe feels is relevant to the employment of the individuals being investigated. Tribes are then required to submit to the NIGC a copy of the completed employment applications and investigative reports and licensing eligibility determinations on key employees or primary management officials before issuing gaming licenses to those persons. The NIGC uses this information to review the eligibility/suitability determinations tribes make and advises them if it disagrees with any particular determination.

Brief Description of Collection: This collection is mandatory and allows the NIGC to carry out its statutory duties and gives the respondents standards for compliance.

Respondents: Indian tribal gaming operations.

Estimated Number of Respondents: 282.

Estimated Time per Response: The range of time can vary from .5 burden hours to 80 burden hours for one item.

Frequency of Response: Varies.

Estimated Total Annual Burden Hours on Respondents: 36,973 hours.

Title: Management Contract Regulations

OMB Control Number: 3141–0004.

Background: Under Sections 2710(e) and 2711 of the Indian Gaming Regulatory Act (IGRA), subject to the approval of the NIGC Chairman, an Indian tribe may enter into a gaming management contract for the operation and management of a tribal gaming activity. In approving a management contract, by the terms of the statute, the Chairman shall require and obtain the following: Name, address, and other pertinent background information on each person or entity having a financial interest in, or management responsibility for such contract, and in the case of a corporation those individuals who serve on the board of directors of such corporation and certain stockholders; a description of previous experience that each person has had with other Indian gaming contracts or with the gaming industry including any gaming licenses which the person holds; and a complete financial statement of each person listed.

Under 25 CFR part 533, the Chairman requires the submission of the contract to contain the following: Original signatures, any collateral agreements to the contract, a tribal ordinance or resolution authorizing the submission and supporting documentation, a three-year business plan which sets forth the parties' goals, objectives, budgets,

financial plans, related matters, income statements, sources and use of funds statements for the previous three years, and, for any contract exceeding five years or which includes a management fee of more than 30 percent, justification that the capital investment required and income projections for the gaming operation require the longer duration or the additional fee.

Under 25 CFR part 535, the Chairman may approve a modification to a management contract or an assignment of that management contract based on information similar to that required under part 533. The part also specifies that the Chairman may void a previous management contract approval and allows the parties the opportunity to submit information relevant to that determination.

25 CFR part 537 specifies the requirements for submission of background information in amplification of the statutory requirement for obtaining information on persons and entities having a direct financial interest in or management responsibility for a management contract. Finally, 25 CFR part 539 permits appeals to the Commission from a decision of the Chairman to disapprove a management contract and allows the Indian tribe and the management company an opportunity to provide information relevant to that appeal. The NIGC will use the information collected to either approve or disapprove the contract or, in the case of an appeal, to grant or deny the appeal.

Brief Description of Collection: This collection is mandatory, and the benefit to the respondents is the approval of Indian gaming management contracts.

Respondents: Tribal governing bodies and management contractors.

Estimated Number of Respondents: 201 (submission of contracts, contract amendments, and background investigation submissions).

Estimated Time per Response: The range of time can vary from no added burden hours to 70 burden hours for one item.

Frequency of Response: Usually no more than once a year.

Estimated Total Annual Hourly Burden to Respondents: 6,540.

Title: Freedom of Information Act Procedures.

OMB Control Number: 3141–0005.

Background: On October 17, 1988, Congress enacted the Indian Gaming Regulatory Act (''IGRA'' or ''Act''), 25 U.S.C. 2701–21, creating the National Indian Gaming Commission (''NIGC'' or ''Commission'') and developing a comprehensive framework for the regulation of gaming on Indian lands. 25 U.S.C. 2702. Congress enacted the FOIA in 1966 and last modified it on December 31, 2007. Under the FOIA, individuals are allowed to request access to documents under the control of the NIGC. 25 CFR Part 517.4 lists the requirements for making FOIA requests to the NIGC. 25 CFR Part 517.7 explains how the NIGC handles requests for information that is confidential commercial information. 25 CFR Part 517.8 lists the requirements for appealing an adverse determination on the release of information.

Brief Description of Collection: This collection is mandatory and the benefit to the respondents is processing of their FOIA requests.

Respondents: Individuals, businesses, state, local, and Tribal governments and submission is mandatory.

Estimated Number of Respondents: 100.

Estimated Time per Response: The estimated total time is 6.9 hours.

Frequency of Response: Varies.

Estimated Total Annual Hourly Burden to Respondents: 690 hours.

Title: Proposed NEPA Procedures Manual.

OMB Control Number: 3141–0006.

Background: NEPA requires federal agencies to analyze proposed major federal actions that significantly affect the quality of the human environment. The NIGC has identified one type of action it undertakes that requires review under NEPA—approving third-party management contracts for the operation of gaming activity under the Indian Gaming Regulatory Act (''IGRA''), 25 U.S.C. 2711. Depending on the nature of the subject contract and other circumstances, approval of such management contracts may be categorically excluded from NEPA, it may require the preparation of an Environmental Assessment (''EA''), or it may require the preparation of an Environmental Impact Statement (''EIS''). In any case, the proponents of a management contract will be expected to submit information to the NIGC and assist in the development of the required NEPA documentation. Possible respondents for this information collection include tribal governing bodies, gaming management companies, and environmental consultants.

Brief Description of Collection: This collection is mandatory according to the Proposed NEPA Procedures Manual, the National Environmental Policy Act (NEPA), 42 U.S.C. 4321, *et seq.*, and White House Council on Environmental Quality regulations, 40 CFR 1500–1508.

Respondents: Tribal governing bodies, management companies, and environmental consultants.

Estimated Number of Respondents: 7.

Estimated Time per Response: The range of time can vary from 1,300 to 4,500 hours per response. This is a change of 2,700 hours per EIS response. No change to hours per EA response.

Frequency of Response: Annually.

Estimated Total Annual Burden on Respondents: 12,300 hours. 12,300 (6 EAs × 1,300 hours) + 4,500 hours for EIS.

Title: Annual Fees Payable by Indian Gaming Operations.

OMB Control Number: 3141–0007.

Background: The Indian Gaming Regulatory Act, 25 U.S.C. 2701 *et seq.*, requires the NIGC to set an annual funding rate. The annual funding rate is the primary mechanism for NIGC funding under 25 U.S.C. 2717, and 25 CFR part 514 implements the requirement. Fees are computed on the basis of the assessable gross revenues of each gaming operation using rates set by the NIGC. The total of all fees assessed annually cannot exceed 0.08 percent of gross gaming revenue. Under its implementing regulation for the fee payment program, 25 CFR part 514, the NIGC relies on a quarterly statement of gross gaming revenues provided by each gaming operation that is subject to the fee requirement. The required information is needed for the NIGC to both set and adjust fee rates and to support the computation of fees paid by each gaming operation.

Brief Description of Collection: This collection is mandatory and allows the NIGC to both set and adjust fee rates and to support the computation of fees paid by each gaming operation.

Respondents: Indian tribal gaming operations.

Estimated Number of Respondents: 423.

Estimated Annual Responses: 1,692.

Estimated Time per Response: 2 hours.

Estimated Annual Burden Hours per Respondent: 8.

Frequency of Response: Quarterly.

Estimated Total Annual Burden on Respondents: 3,384 annual burden hours (1,692 annual responses × 2 hours per response).

Title: Issuance of Certificates of Self Regulation to Tribe for Class II Gaming, 25 CFR part 518.

OMB Control Number: 3141–0008

Background:

The Indian Gaming Regulatory Act, 25 U.S.C. 2701 *et seq.*, allows any Indian tribe that has conducted class II gaming

for at least three years to petition the NIGC for a certificate of self-regulation for its class II gaming operations. The NIGC will issue the certificate if it determines from available information that the tribe has conducted its gaming activity in a manner which has resulted in an effective and honest accounting of all revenues, a reputation for safe, fair, and honest operation of the activity, and an enterprise free of evidence of criminal or dishonest activity. The tribe must also have adopted and implemented proper accounting, licensing, and enforcement systems and conducted the gaming operation on a fiscally or economically sound basis. The implementing regulation of the NIGC, 25 CFR part 518, requires a tribe interested in receiving the certificate to file a petition with the NIGC describing, generally, the tribe's gaming operations, its regulatory process, its uses of net gaming revenue, and its accounting and record keeping systems for the gaming operation. The tribe must also provide copies of various documents in support of the petition. Submission of the petition and supporting documentation is voluntary. The NIGC will use the information submitted by the respondent tribe determining on whether to issue the certificate of self-regulation.

Those tribes who have been issued a certificate of self-regulation are required to submit annually a report to the NIGC. Such report shall set forth information to establish that the tribe has continuously met the eligibility requirements of 25 CFR part 518.2 and the approval requirements of 25 CFR part 518.4 and shall include a report with supporting documentation which explains how tribal gaming revenues were used in accordance with the requirements of 25 U.S.C. 2710(b)(2)(B).

Brief Description of Collection: This collection is voluntary for those tribes petitioning for a certificate of self-regulation and mandatory for those tribes who hold a certificate of self-regulation according to statutory regulations, and the benefit to the respondents is a reduction of the amount of fees assessed on class II gaming revenue by the NIGC.

Respondents: Tribal governments; tribes who hold certificates of self-regulation; petition submission is voluntary; annual report submission is mandatory.

Estimated Number of Voluntary Respondents: 0.

Estimated Time per Voluntary Response: 0.

Frequency of Response: At will.

Estimated Total Annual Hourly Burden to Voluntary Respondents: 0.

Number of Mandatory Respondents: 2.

Estimated Time per Mandatory Response: 50.

Frequency of Mandatory Response: Annual.

Estimated Total Annual Hourly Burden to Mandatory Respondents: 100.

Title: Minimum Internal Control Standards

OMB Control Number: 3141–0009

Background: The Indian Gaming Regulatory Act (25 U.S.C. 2701 *et seq.*) (IGRA) governs the regulation of gaming on Indian lands. Although the IGRA places primary responsibility with the tribes for regulating gaming, Section 2706(b) directs the NIGC to monitor gaming conducted on Indian lands on a continuing basis. IGRA authorizes the NIGC to access and inspect all papers, books and records relating to gaming conducted on Indian lands. In accordance with these statutory responsibilities, 25 CFR 542.3(c) requires Class II and limited Class III Indian tribal gaming regulatory authorities to establish and implement tribal internal control standards that provide a level of control that equals or exceeds those set out in part 542, establishing internal control standards. 25 CFR 542.3(d) requires each affected gaming operation to develop and implement internal control standards that, at a minimum, comply with the tribal internal control standards established by the tribal gaming regulatory authority.

Brief Description of Collection: This collection is mandatory according to statutory regulations, and allows the NIGC to confirm tribal compliance with the standards contained in the Agreed-Upon-Procedures report.

Respondents: Tribal governing bodies

Estimated Number of Respondents: 387

Estimated Time per Response: 1 hour

Frequency of Response: Annually

Estimated Total Annual Hourly Burden to Respondents: 387 hours

Dated: June 12, 2008.

Philip N. Hogen,

Chairman.

Norman H. DesRosiers,

Commissioner.

[FR Doc. E8–13679 Filed 6–17–08; 8:45 am]

BILLING CODE 7565–01–P

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The NRC published a **Federal Register** Notice with a 60-day comment period on this information collection on March 24, 2008.

1. *Type of submission—new, revision, or extension:* Revision.

2. *The title of the information collection:* 10 CFR Part 54, ''Requirements for Renewal of Operating Licenses for Nuclear Power Plants.''

3. *Current OMB approval number:* 3150–0155.

4. *The form number if applicable:* Not applicable.

5. *How often the collection is required:* There is a one-time application for any licensee wishing to renew its nuclear power plant's operating license. There is a one-time requirement for each licensee with a renewed operating license to submit a commitment completion letter. All holders of renewed licenses must perform yearly record keeping.

6. *Who will be required or asked to report:* Commercial nuclear power plant licensees who wish to renew their operating licenses and holders of renewed licenses.

7. *An estimate of the number of annual responses:* 10 (six Part 54 respondents plus four commitment completion letter respondents).

8. *The estimated number of annual respondents:* 50 (10 responses plus 40 recordkeepers).

9. *An estimate of the total number of hours needed annually to complete the requirement or request:* 544,940 hours (504,940 hours reporting plus 40,000 hours recordkeeping).

10. *Abstract:* Title 10, Part 54, establishes license renewal requirements for commercial nuclear

power plants and describes the information that licensees must submit to the NRC when applying for a license renewal.

The application must contain information on how the licensee will manage the detrimental effects of age-related degradation on certain plant systems, structures, and components so as to continue the plant's safe operation during the renewal term. The NRC needs this information to determine whether the licensee's actions will be effective in assuring the plant's continued safe operation.

Holders of renewed licenses must retain in an auditable and retrievable form, for the term of the renewed operating license, all information and documentation required to document compliance with 10 CFR Part 54. The NRC needs access to this information for continuing effective regulatory oversight.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F21, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html*. The document will be available on the NRC home page site for 60 days after the signature date of this notice. Comments and questions should be directed to the OMB reviewer listed below by July 18, 2008. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date. Nathan J. Frey, Office of Information and Regulatory Affairs (3150–0155), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be e-mailed to *Nathan_J._Frey@omb.eop.gov* or submitted by telephone at (202) 395–7345.

The NRC Clearance Officer is Margaret A. Janney, (301) 415–7245.

Dated at Rockville, Maryland, this 12th day of June, 2008.

For the Nuclear Regulatory Commission.

Gregory Trussell,

Acting NRC Clearance Officer, Office of Information Services.

[FR Doc. E8–13726 Filed 6–17–08; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–8905]

Notice of Application From Rio Algom Mining LLC for Consent To Indirect Change of Control With Respect to Materials License SUA–1473, and Opportunity To Provide Comments and To Request a Hearing

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of consideration of request from Rio Algom Mining LLC for consent to transfer of materials license and the opportunity to request a hearing.

DATES: A request for a hearing must be filed by July 8, 2008.

FOR FURTHER INFORMATION CONTACT: Thomas McLaughlin, Project Manager, Materials Decommissioning Branch, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, D.C., 20555. Telephone: (301) 415–5869; fax number: (301) 415–5369; e-mail: *tgm@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Nuclear Regulatory Commission (NRC) is considering an application from Rio Algom Mining LLC (RAML), submitted December 18, 2007, requesting approval of an indirect change of control with respect to materials license SUA–1473. RAML's parent company Billiton Investment 15 B.V. (BIBV), plans to sell its entire ownership interest in RAML to Uranium Resources, Inc. (URI).

BIBV currently owns one hundred percent (100%) of RAML. On October 12, 2007, BIBV entered into a Purchase Agreement with HRI–RAML Acquisition LLC, a Delaware limited liability company and an indirect subsidiary of URI, pursuant to which HRI–RAML Acquisition LLC will acquire from BIBV all of the interest in RAML. Consummation of the transaction will result in the indirect transfer of control of RAML and license SUA–1473 from BIBV to URI. RAML is requesting that the NRC consent to this indirect change of control.

RAML's application states that there would be no change to RAML's operations, key operating personnel or licensed activities as a result of the transaction and the indirect change of control. RAML would continue to be the holder of license SUA–1473 after the closing of the transaction and the indirect change of control. RAML will remain technically and financially qualified as the licensee and will continue to fulfill all responsibilities as the licensee. The applicant states that no amendment to the License will be necessary in connection with the request for consent.

Pursuant to 10 CFR 40.46, no Part 40 license shall be transferred, assigned or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of the license to any person, unless the Commission, after securing full information, finds that the transfer is in accordance with the provisions of the Atomic Energy Act, and gives its consent in writing. An Environmental Assessment (EA) will not be performed for this proposed action because it falls within a class of actions categorically excluded from the requirement to perform an EA pursuant to 10 CFR 51.22(c)(21).

Approval of the indirect change of control is contingent upon receipt of the fully executed financial assurance instruments which are in form and substance satisfactory to NRC. Upon receipt of such instruments, the NRC staff plans to approve the December 18, 2007, application by issuing the necessary order, along with a supporting safety evaluation report.

II. Opportunity To Request a Hearing

Any person whose interest may be affected if the December 18, 2007, application is approved, and who desires to participate as a party in an NRC adjudicatory hearing, must file a request for a hearing. The hearing request must include a specification of the contentions which the person seeks to have litigated in the hearing, and must be filed in accordance with the NRC E-Filing rule, which the NRC promulgated in August, 2007, 72 FR 49139, (August 28, 2007). The E-Filing rule requires participants to submit and serve documents over the internet or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek a waiver in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten (10) days prior to the filing deadline, the petitioner/requestor must contact the Office of the Secretary by e-mail at *HEARINGDOCKET@NRC.GOV*, or by calling (301) 415–1677, to request (1) a digital identification (ID) certificate , which allows the participant (or its counsel or representative) to digitally sign documents and access the E-

Submittal server for any proceeding in which it is participating; and/or (2) creation of an electronic docket for the proceeding (even in instances in which the petitioner/requestor (or its counsel or representative) already holds an NRC-issued digital ID certificate). Each petitioner/requestor will need to download the Workplace Forms Viewer™ to access the Electronic Information Exchange (EIE), a component of the E-Filing system. The Workplace Forms Viewer™ is free and is available at *http://www.nrc.gov/site-help/e-submittals/install-viewer.html*. Information about applying for a digital ID certificate is available on NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html*.

Once a petitioner/requestor has obtained a digital ID certificate, had a docket created, and downloaded the EIE viewer, it can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at *http://www.nrc.gov/site-help/e-submittals.html*. A filing is considered complete at the time the filer submits its documents through EIE. To be timely, an electronic filing must be submitted to the EIE system no later than 11:59 p.m. Eastern Standard Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The EIE system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically may seek assistance through the ''Contact Us'' link located on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html* or by calling the NRC technical help line, which is available between 8:30 a.m. and 4:15 p.m., Eastern Time, Monday through Friday. The help line number is (800) 397–4209 or locally, (301) 415–4737.

Participants who believe that they have a good cause for not submitting documents electronically must file a motion, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville, Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service.

Non-timely requests and/or petitions and contentions will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board that the petition and/or request should be granted and/or the contentions should be admitted based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)–(viii). To be timely, filings must be submitted no later than 11:59 p.m. Eastern Standard Time on the due date.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at *http://ehd.nrc.gov/EHD_Proceeding/home.asp*, unless excluded pursuant to an order of the Commission, an Atomic Safety and Licensing Board, or a Presiding Officer. Participants are requested not to include social security numbers in their filings. Copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, should not be included in the submission.

The formal requirements for documents contained in 10 CFR 2.304(c)–(e) must be met. If the NRC grants an electronic document exemption in accordance with 10 CFR 2.302(g)(3), then the requirements for paper documents, set forth in 10 CFR 2.304(b) must be met.

In accordance with 10 CFR 2.309(b), a request for a hearing must be filed by July 8, 2008.

In addition to meeting other applicable requirements of 10 CFR 2.309, a request for a hearing filed by a person other than an applicant must state:

1. The name, address, and telephone number of the requester;
2. The nature of the requester's right under the Act to be made a party to the proceeding;
3. The nature and extent of the requester's property, financial or other interest in the proceeding;
4. The possible effect of any decision or order that may be issued in the proceeding on the requester's interest; and
5. The circumstances establishing that the request for a hearing is timely in accordance with 10 CFR 2.309(b).

In accordance with 10 CFR 2.309(f)(1), a request for hearing or petitions for leave to intervene must set forth with particularity the contentions sought to be raised. For each contention, the request or petition must:

1. Provide a specific statement of the issue of law or fact to be raised or controverted;
2. Provide a brief explanation of the basis for the contention;
3. Demonstrate that the issue raised in the contention is within the scope of the proceeding;
4. Demonstrate that the issue raised in the contention is material to the findings that the NRC must make to support the action that is involved in the proceeding;
5. Provide a concise statement of the alleged facts or expert opinions which support the requester's/petitioner's position on the issue and on which the requester/petitioner intends to rely to support its position on the issue; and
6. Provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. This information must include references to specific portions of the application that the requester/petitioner disputes and the supporting reasons for each dispute, or, if the requester/petitioner believes the application fails to contain information on a relevant matter as required by law, the identification of each failure and the supporting reasons for the requester's/petitioner's belief.

In addition, in accordance with 10 CFR 2.309(f)(2), contentions must be based on documents or other information available at the time the petition is to be filed, such as the application, or other supporting document filed by an applicant or licensee, or otherwise available to the petitioner. Contentions may be amended or new contentions filed after the initial filing only with leave of the presiding officer.

Requesters/petitioners should, when possible, consult with each other in preparing contentions and combine

similar subject matter concerns into a joint contention, for which one of the co-sponsoring requesters/petitioners is designated the lead representative. Further, in accordance with 10 CFR 2.309(f)(3), any requester/petitioner that wishes to adopt a contention proposed by another requester/petitioner must do so, in accordance with the E-Filing rule, within 10 days of the date the contention is filed, and designate a representative who shall have the authority to act for the requester/petitioner.

As indicated below, pursuant to 10 CFR 2.310(g), any hearing would be subject to the procedures set forth in 10 CFR Part 2, subpart M.

III. Opportunity to Provide Written Comments

Within 30 days from the date of publication of this notice, persons may submit written comments regarding the license transfer application, as provided for in 10 CFR 2.1305. The Commission will consider and, if appropriate, respond to these comments, but such comments will not otherwise constitute part of the decisional record. Comments should be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and should cite the publication date and page number of this **Federal Register** notice. Comments received after 30 days will be considered if practicable to do so, but only those comments received on or before the due date can be assured consideration.

IV. Further Information

For further details with respect to the proposed action, see the licensee's letter dated December 18, 2007 (See ADAMS ML073540523), a letter from NRC to the licensee dated February 1, 2008, requesting financial information from the potential buyer (See ADAMS ML080160032), a letter from NRC to the licensee dated February 1, 2008, acknowledging the receipt of the Application (See ADAMS ML080090595), a transmittal letter dated March 21, 2008, and affidavit requesting that the financial information provided to NRC be withheld from the public pursuant to NRC regulation 10 CFR part 2.390 (See ADAMS ML081420592), and a letter from NRC dated May 30, 2008, to the counsel representing the potential buyer agreeing with the 10 CFR Part 2.390 request (See ADAMS ML081440408), all of which are available for public inspection, and can be copied for a fee, at the U.S. Nuclear Regulatory Commission's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, 20852. The NRC maintains an Agency-wide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. These documents may be accessed through the NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov*.

Persons who do not have access to ADAMS or who have problems in accessing the documents located in ADAMS may contact the PDR reference staff at 1–800–397–4209, 301–415–4737 or by e-mail at *pdr.resource@nrc.gov*.

Dated at Rockville, Maryland, this *11*th day of June 2008.

For the Nuclear Regulatory Commission.

Keith I. 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. E8–13727 Filed 6–17–08; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Proposed Personnel Demonstration Project; Performance-Based Pay Adjustments in the Department of Veterans Affairs

AGENCY: U.S. Office of Personnel Management.

ACTION: Notice of a proposed demonstration project plan.

SUMMARY: Chapter 47 of title 5, United States Code, authorizes the U.S. Office of Personnel Management (OPM), directly or in agreement with one or more agencies, to conduct demonstration projects that experiment with new and different human resources management concepts to determine whether changes in human resources policy or procedures would result in improved Federal human resources management. The Department of Veterans Affairs (DVA) and OPM propose to test a performance-based pay system with open pay ranges linked to the corresponding minimum and maximum rates for the grades of the General Schedule pay structure. Section 4703 of title 5 requires OPM to publish the proposed project plan in the **Federal Register** . This notice fulfills that requirement. The proposed project plan has been approved by DVA and OPM.

DATES: Written comments must be submitted on or before July 18, 2008. A public hearing on the proposed project plan is scheduled for Tuesday, August 5, 2008, and will begin at 10 a.m. Eastern Standard Time. The location of the hearing is: U.S. Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington DC 20420.

Public parking is limited, but the building is conveniently accessible to the ''McPherson Square'' Metro station. This is a secure facility. Members of the public must show a government-issued photo ID (e.g., State driver's license). Attendees will undergo electronic screening, and their personal belongings will be subject to a physical search. Personal items prohibited include devices that can transmit and record, weapons (guns, knives, explosives, etc.), and alcohol. A member of the public possessing such items will be barred from entering, and such items are subject to confiscation. There will be a sign-in table set up in the main lobby. A greeter, and signs, will direct attendees to the main auditorium location.

There will be a telephone call-in number for members of the public who cannot attend in person. That number will be 1–800–767–1750 (access code #28773), and the line will be active from 10 a.m. until the hearing is adjourned.

At the time of the hearing, interested persons or organizations may present their written or oral comments on the proposed demonstration project. The hearing will be informal. However, anyone wishing to testify should contact the person listed under **FOR FURTHER INFORMATION CONTACT**, so that DVA and OPM can plan the hearing and provide sufficient time for all interested persons and organizations to be heard. Priority will be given to those on the schedule, with others speaking in any remaining available time. Each speaker's presentation will be limited to 10 minutes. Written comments may be submitted to supplement oral testimony during the public comment period.

ADDRESSES: Comments may be mailed to Demonstration Projects, U.S. Office of Personnel Management, 1900 E Street, NW., Room 7456, Washington, DC 20415 or submitted by email to *Demoprojects@opm.gov.*

FOR FURTHER INFORMATION CONTACT: (1) Department of Veterans Affairs: Lauren Kuiper-Rocha, Demonstration Project Leader, Office of Human Resources Management (055), (202) 461–7804, VA Central Office, 810 Vermont Avenue, NW., Washington, DC 20420; (2) Office of Personnel Management: Patsy Stevens, Systems Innovation Group Manager, (202) 606–1574, U.S. Office of Personnel Management, 1900 E Street,

NW., Room 7456, Washington, DC 20415.

SUPPLEMENTARY INFORMATION: The goal of this demonstration project is to make employees' pay increases more performance-sensitive, so that only Fully Successful or better performers will receive any pay adjustments and the best performers will receive the largest pay adjustments.

Linda M. Springer,
Director.

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I. Executive Summary

This project was designed by DVA in consultation with OPM. The demonstration project will modify the General Schedule pay system by eliminating fixed steps within each grade and providing for annual pay adjustments based on performance. The proposed project will test the application of meaningful distinctions in levels of performance to the allocation of annual pay increases under the General Schedule.

II. Introduction

A. Purpose

The purpose of the proposed project is to modify the General Schedule (GS) pay system to provide larger annual pay increases to employees who are better performers based on performance distinctions made under a credible, strategically-aligned performance appraisal program and thereby improve the results-oriented performance culture within the organization. The proposed project provides no pay increase to any participant rated below the Fully Successful performance level.

B. Rationale for a New System

The current GS pay system provides annual pay increases to all employees, even those whose performance is less than Fully Successful. Similarly, periodic within-grade pay increases are virtually automatic. Although an employee's performance must be determined to be at an ''acceptable level of competence'' in order for the employee to receive a within-grade increase (WGI), this is only a single-level threshold and no further distinctions in levels of performance play a role. All performance levels above the threshold are treated the same for purposes of determining the amount of the increase and the rate at which an employee advances through the rate range of his or her grade. DVA and OPM believe that a more prudent use of the limited resources available to compensate Federal employees is to adjust the pay system to make pay more sensitive to performance.

The current GS pay system does provide some tools to address distinctions in levels of performance—namely, quality step increases (QSIs) and awards based upon performance. QSIs are discretionary adjustments that are not integrated into the normal pay adjustment process; thus, limited funds are available to provide QSIs, and the decision-making process may not be very transparent. In addition, there is no flexibility as to the amount of the QSI; a full step increase is required. Also, QSIs may be used only for those with the highest rating of record. In summary, QSIs alone cannot be relied upon to establish an effective link between pay and performance based on meaningful distinctions among different levels of performance.

As the discussion above reveals, the General Schedule has somewhat limited options for the purposes of establishing a more results-oriented performance culture. DVA would like to use the Human Capital Assessment and Accountability Framework (HCAAF) to make its system more performance-sensitive. Within the HCAAF, a results-oriented performance culture effectively plans, monitors, develops, rates, and rewards employee performance, consistent with the merit system principle that ''appropriate incentives and recognition should be provided for excellence in performance'' (5 U.S.C. 2301(b)(3)).

C. Changes Required/Expected Benefits

The proposed demonstration project responds to the limitation identified above by eliminating the 10 fixed steps within each of the 15 GS grades and by making annual GS pay adjustments performance-sensitive. Pay adjustments will be funded from a pay pool consisting of the amounts that would otherwise be used to pay the annual GS pay adjustment, WGIs, and QSIs to employees covered by the demonstration project. A share mechanism will be used to allocate pay increases among employees with different levels of performance. Implementation of the proposed pay system will result in larger pay increases going to employees who demonstrate higher performance. By regularly rewarding better performance with better pay, the participating organization will strengthen the results-oriented performance culture. Among other things, they will be better able to retain their good performers and recruit new ones.

D. Participating Organizations

The Department of Veterans Affairs is committed to operating robust performance appraisal programs aligned to the organization's strategic goals and objectives. The Department of Veterans Affairs Veterans Health Administration (VHA) will be participating in the demonstration project. DVA is committed to providing the training and resources that will be needed to make performance management programs highly effective.

E. Participating Employees

The demonstration project will cover all GS employees in the GS–0670 Health Systems Administrator series at the GS–14/15 grade levels who are organizationally titled Assistant Medical Center Director, Associate Medical Center Director, and Deputy Network Director. Table 1 shows the number of employees to be covered by the project by occupational series and grade.

TABLE 1.—COVERED EMPLOYEES, BY OCCUPATIONAL SERIES AND GRADE

Series	Grade														
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
0670	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	52	98
Total	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	52	98

Management has provided initial notice to affected employees and will continue consultation throughout project implementation.

F. Project Design

The project has been designed simply to ensure that no participating employee with a rating of record of less than Fully Successful will receive a pay increase and that funds available for pay adjustments will be allocated on the basis of performance.

III. Personnel System Changes

A. Performance Appraisal

DVA recognizes the importance of maintaining highly credible performance management systems. DVA will use a performance appraisal program under the Department of Veterans Affairs appraisal system that has been approved by OPM consistent with chapter 43 of title 5, United States Code. Throughout the duration of the demonstration project, the effectiveness of performance management within the project will be monitored by examining metrics and assessments that OPM and agencies generally apply to performance management systems and programs.

1. Program Requirements

The performance appraisal program, which is established under chapter 43 of title 5, United States Code, requires written performance plans for each covered employee containing the employee's performance elements and standards. The performance plan links the performance elements and standards for individual employees to the organization's strategic goals and objectives. Ongoing feedback and dialogue between employees and their supervisors regarding performance is required. In addition, the program provides for, at a minimum, one mid-year progress review.

The appraisal program, including its performance levels and standards, provides for making meaningful distinctions in performance. The program uses the following levels for official ratings of record: Outstanding, Excellent, Fully Successful, Minimally Satisfactory, and Unsatisfactory. Employees must be covered by their performance plan for at least 90 days before they can be assigned a rating of record. Supervisors and managers apply the program to make appropriate ratings. Ratings given accurately reflect actual performance, and are linked, to the extent appropriate, to overall organizational performance. As a consequence, actual distinctions in levels of performance become apparent from the ratings given out. Employees receive a written performance appraisal (i.e., a rating of record) annually. There will be no forced distribution of ratings. Each annual appraisal period will begin on October 1 and end on the following September 30. Performance appraisals will be completed in a timely manner to support pay decisions in accordance with section III.C below.

2. Supervisory Accountability

Supervisors are responsible for providing appropriate consequences for employee performance by addressing poor performance and recognizing exceptional performance. Performance elements for supervisors and managers include the degree to which supervisors and managers plan, assess, monitor, develop, correct, rate, and reward subordinate employees' performance. It is recognized that specific training may be provided to prepare supervisors and managers to exercise these responsibilities.

3. Reconsideration of Ratings

To support fairness and transparency for the system and its consequences, employees have an opportunity to request formal reconsideration of a rating of record by a management official at the next level above the official who decided the rating. Requests for reconsideration must be in writing and be submitted no more than 15 calendar days after the official rating of record has been communicated to the employee. The request shall state the employee's reasons as to why the rating of record should be changed. The management official above the deciding official will discuss the request with the employee within 10 calendar days after receipt and provide a written response. If the employee is not satisfied with the decision of the higher level official the employee may then further request a secondary reconsideration of the rating to the management official at the respective next higher level in the organization. This second level reconsideration must be submitted in writing to the management official at the respective next higher level in the organization within 10 calendar days of the receipt of the decision provided by the management official above the deciding official. This higher level official reviewing the secondary reconsideration will make the final decision after full consideration of the record, including any relevant information or pleading submitted by the employee, within 15 work days after receipt and provide the response in writing. The decision by this official will be the final administrative decision in the matter.

If the reconsideration of the appraisal results in a different rating of record, the revised rating of record will become the basis for the employee's pay adjustment(s) in accordance with section III.C below. If the adjustment occurs after all pay deliberations have been finalized, it does not result in a recalculation of other employees' pay adjustments.

The reconsideration request procedures outlined above do not apply to employees who receive a rating of Unsatisfactory. Rather, the employee's right to a review of an Unsatisfactory rating by an official higher than the approving official will occur in conjunction with the employee's right to appeal or grieve a subsequent personnel action based on the Unsatisfactory rating, such as a reassignment, demotion or removal from Federal service. Therefore, the employee's right to request reconsideration of the rating will occur within the right to file an agency grievance (in the case of a reassignment) or a statutory appeal right (in the case of a demotion or removal) and will be in lieu of the reconsideration request procedures outlined above.

B. Open-Range Pay System

Employees will continue to be covered by the 15-grade GS position classification system established under 5 U.S.C. chapter 51; however, the GS pay system established under 5 U.S.C. chapter 53, subchapter III, will be

modified as described in the following sections. Except as otherwise provided in this plan, demonstration project employees will be considered to be GS employees in applying other laws, regulations, and policies.

1. Elimination of Fixed Steps

The 10 fixed steps of each GS grade will not apply to employees participating in the demonstration project. The fixed-step system was designed to reward longevity. An open-range pay system is an important element of any effort to make pay more performance-sensitive. No employee's pay will be reduced as a result of becoming covered by the demonstration project. However, demonstration project employees will no longer receive longevity-based, within-grade pay increases at prescribed intervals. Instead, they will be granted annual performance adjustments as described in section III.C below.

2. Rate Range

The normal minimum and maximum rates of the rate range for each grade will equal the applicable step 1 rate and step 10 rate, respectively, in the General Schedule.

For employees with a rating of record below Fully Successful, the minimum rate of the range is extended 5 percent below the normal minimum rate. An employee's rate may fall below the normal range minimum when that minimum increases as a result of a rate range adjustment, but the employee cannot receive a pay adjustment because the employee's rating of record is below Fully Successful, as described in section III.C.4 below.

For employees with a rating of record at the highest level (Outstanding), the maximum rate of each range is extended 5 percent above the normal maximum rate. This feature will help ensure that the range of available pay rates will be adequate to recognize truly outstanding performance. If an employee within this range extension receives a rating of record below Outstanding, special provisions apply, as described in section III.B.3 below.

3. Pay Administration

Performance-based pay adjustments described in section III.C below will be made to the rate of basic pay. These adjustments are scheduled to be made on the same date that annual rate range adjustments normally take effect—i.e., the first day of the first pay period beginning on or after January 1.

Locality-based comparability payments under 5 U.S.C. 5304 and special rate supplements under 5 U.S.C. 5305, as applicable, will be paid on top of the rate of basic pay in the same manner as those payments apply to other GS employees, except as otherwise provided in this plan. An adjusted rate cap 5 percent higher than the normal EX–IV cap is established to accommodate those Outstanding performers in the 5 percent upper rate range extension. This higher cap will apply only to employees receiving a rate within the upper range extension. If the locality rate for an employee at the normal grade maximum is affected by the EX–IV cap, resulting in an ''effective locality pay percentage'' that is less than the regular locality pay percentage, the locality rate for an employee in the upper rate range extension of the same grade will be computed using that same effective locality pay percentage. (For example, if the regular locality pay percentage is 30 percent, but the EX–IV cap causes the amount of locality pay actually received by an employee at the normal grade maximum to be 20 percent, that effective locality pay percentage of 20 percent would be used to compute locality pay for an employee in the upper range extension of the same grade. Similarly, if the special rate supplement-adjusted rate for an employee at the normal grade maximum is affected by the EX–IV cap, resulting in an ''effective special rate supplement percentage'' that is less than the regular special rate supplement percentage, the adjusted rate for an employee in the upper rate range extension of the same grade will be computed using that same effective special rate supplement percentage.)

Subject to guidance provided by OPM, DVA will establish pay administration rules for determining an employee's rate of pay upon initial appointment, promotion, demotion, transfer, reassignment, or other position change. In addressing geographic conversions and simultaneous pay actions, such rules must be consistent with 5 CFR 531.205 and 5 CFR 531.206, respectively.

Upon promotion, an employee is entitled to an increase of 8 percent, or a higher increase as necessary to set the employee's rate at the normal minimum of the range for the higher grade. DVA may establish exceptions to this policy to deal with employees receiving a retained rate, employees who are re-promoted shortly after a demotion, employees with exceptional performance warranting a larger increase with higher management approval, etc.

The grade retention provisions in 5 U.S.C. 5362 and 5 CFR part 536 continue to be applicable. The pay retention rules in 5 U.S.C. 5363 and 5 CFR part 536 apply to demonstration project employees, subject to the following exceptions:

(1) An employee with a rating of record below Fully Successful may not receive an increase in his or her retained rate under the 50-percent adjustment rule in 5 U.S.C. 5363(b)(2)(B);

(2) The cap on retained rates is equal to the rate for level IV of the Executive Schedule plus 5 percent (instead of the EX–IV cap established in 5 CFR 536.306) in order to accommodate the upper range extension;

(3) An employee in the upper range extension who is rated below Outstanding will be converted to a retained rate before processing any other pay action; and

(4) The range maximum rate used in computing retained rate adjustments under the 50-percent adjustment rule will be the maximum rate of the highest applicable rate range (including any applicable locality payment or special rate supplement) taking into consideration an employee's rating of record. For retained rate employees rated Outstanding, the increase is 50 percent of the dollar change in the applicable adjusted rate for the upper range extension maximum. (Note that an employee rated Outstanding must have a retained rate in excess of the upper range extension maximum adjusted rate, since he or she would otherwise be converted to a rate within that range extension.) For retained rate employees rated below Outstanding, the increase is 50 percent of the dollar change in the applicable adjusted rate for the normal grade maximum.

If an employee is receiving a retained rate that is less than the applicable adjusted maximum rate (including any applicable locality payment or special rate supplement) for the upper range extension for the employee's grade, and if that employee receives a rating of record of Outstanding, the employee's retained rate will be terminated and converted to an equal adjusted rate (base rate in upper range extension plus applicable locality payment or special rate supplement). This conversion must be processed before any other pay adjustment.

For a retained rate employee with a rating of record of Outstanding, if a retained rate increase provided at the time of a range adjustment results in the retained rate falling below the applicable adjusted rate for the upper range extension maximum, the employee's retained rate will be terminated, and the employee's pay will be set at the maximum rate of the upper range extension.

For a retained rate employee with a rating of record of Fully Successful or Excellent, if a retained rate adjustment provided at the time of a range adjustment results in the retained rate falling below the applicable adjusted rate for the normal grade maximum, the employee's retained rate will be terminated, and the employee's pay will be set at the normal grade maximum rate.

For a retained rate employee with a rating of record below Fully Successful, the retained rate is frozen and not subject to adjustment. When such an employee's retained rate falls below the applicable adjusted rate for the normal grade maximum, the employee's retained rate will be terminated, and the employee's pay will be set at an adjusted rate equal to the retained rate (i.e., the rate is not set at the range maximum).

As required by 5 CFR 536.304(a)(2) and 536.305(a)(2), any general pay adjustment, including a retained rate adjustment as described in the preceding paragraphs, must be processed before any other simultaneous pay action (such as a geographic pay conversion).

When applicable, the saved pay rules in 5 U.S.C. 3594 and 5 CFR 359.705 for former SES members continue to apply to demonstration project employees, except that (1) an employee with a rating of record below Fully Successful may not receive an increase in his or her saved rate under 5 U.S.C. 3594(c)(2); and (2) the 50-percent adjustment rule must be applied in the same manner as it is applied for a retained rate under 5 U.S.C. 5363, subject to the modifications described in the preceding paragraphs. The rules regarding termination of a saved rate when it falls below the applicable adjusted maximum rate must be parallel to those governing termination of a retained rate under 5 U.S.C. 5363, subject to the modifications described in the preceding paragraphs.

An employee's rate of basic pay may not exceed the normal maximum rate for the employee's grade unless the employee is receiving a retained rate under 5 U.S.C. 5363, a saved rate under 5 U.S.C. 3594, or is entitled to a rate within the upper range extension for employees with an Outstanding rating of record, as provided under section III.B.2. An employee's rate of basic pay may not be below the normal minimum rate for the employee's grade unless the employee's most recent rating of record is below Fully Successful.

C. Performance-Based Pay Adjustments

1. Pay Pools

Funds that otherwise would be spent on the across-the-board GS pay adjustment, WGIs, and QSIs for demonstration project employees will instead be placed into a pay pool, which will be used to fund annual performance-based pay increases for those employees whose rating of record is Fully Successful or higher. A share mechanism will be used (1) to ensure that employees with higher ratings of record receive greater pay increases than employees with lower ratings and (2) to control costs without resorting to a forced distribution of ratings. Each employee will be assigned a certain number of shares, based on his or her rating of record in accordance with section III.C.2 below. All employees in the normal rate range whose rating of record is at least Fully Successful will receive an adjustment equal to at least the amount of the annual GS base pay comparability increase under 5 U.S.C. 5303. Employees with a rating of record below Fully Successful will not receive any pay adjustment.

DVA will establish one or more pay pools for allocating performance pay increases. DVA will determine which participating employees are covered by any pay pool and determine the dollar value of each pay pool. In setting the value of pay pools, at a minimum DVA will allocate an amount for performance pay increases equal to the estimated value of the WGIs, QSIs, and annual GS pay adjustments that otherwise would have been paid to participating employees. In computing the estimated value of WGIs and QSIs, DVA may use estimated Governmentwide averages as computed by the Office of Personnel Management.

2. Performance Shares

DVA will establish rating/share patterns for each pay pool—that is, the relationship between a rating of record and a single number of shares. The DVA health care system is characterized by a dynamic employment environment, and thus DVA will use two sets of rating/share patterns based on the Veterans Health Administration's 2005 Facility Complexity Model.

The Veterans Health Administration's 2005 Facility Complexity Model assigns DVA Medical Centers into three complexity levels; one level contains two subcomponent levels. The complexity levels are based on a cumulative score in regard to seven individual variables, including but not limited to, complexity of intensive care units, availability of sub-specialty services, diversity of residency training programs, and scope of research programs. The positions of Deputy Network Director and those Assistant Medical Center Directors and Associate Medical Center Directors assigned to a complexity level 1a facility deal with the highest level of patient complexity, teaching, and research, and their facilities have the greatest number and breadth of clinical specialists, as well as the most intensive care units.

In order to distinguish the higher degree of complexity the number of shares for each rating level for the positions of Deputy Network Director and Assistant Medical Center Director and Associate Medical Center Director at a complexity level 1a facility will initially be as follows: 4.5 shares are assigned to the Outstanding rating, 3.5 shares to the Excellent rating, 2 shares to the Fully Successful rating, and 0 shares to a less than Fully Successful rating. The number of shares for each rating level for the positions of Assistant Medical Center Director and Associate Medical Center Director at complexity level 1b, 1c, 2, and 3 facilities will initially be as follows: 4 shares are assigned to the Outstanding rating, 3 shares to the Excellent rating, 2 shares to the Fully Successful rating, and 0 shares to a less than Fully Successful rating.

DVA may revise the rating/share pattern in coordination with OPM, and after giving affected employees advanced notice. Employees will be informed in writing at least 180 days before the end of the appraisal period of any decision by DVA to change the rating/share pattern. No shares may be assigned to any rating of record below Fully Successful, since no pay increase is payable to employees with such a rating of record. After the ratings of record and shares are assigned to employees, the value of a single share can be calculated.

3. Pay Adjustments

In general: DVA will determine the value of one performance share, expressed as a percentage of the employee's rate of basic pay, based on the value of the pay pool and the distribution of shares among pay pool employees. An individual employee's performance payout percentage is determined by multiplying the determined value of a performance share by the number of shares assigned to the employee. On the first day of the first pay period beginning on or after January 1 of each year, this amount must be paid as an increase in the employee's rate of basic pay, but only to the extent that it does not cause the

employee's rate to exceed the applicable maximum of the employee's rate range. Notwithstanding the preceding sentence, employees in the upper range extension rated below the highest level are subject to special rules as described in section III.B.2 and III.B.3. above. At the discretion of the Secretary or the Secretary's designee, any portion of the employee's performance payout amount not delivered as a basic pay increase may be paid out as a lump sum (with no charge to the pay pool). Such a lump-sum payment is not basic pay for any purpose and is not a cash award under chapter 45 of title 5, United States Code. Special rules apply to retained rate employees as described later in this section.

An employee with a rating of record of Fully Successful or higher may not receive a performance payout that is less than the percentage value of any simultaneous rate range adjustment, except for (1) an employee receiving a retained rate and (2) an employee in the upper range extension with a rating of record of Fully Successful or Excellent who is converted to a retained rate (as provided in sections III.B.2 and III.B.3 above). This guaranteed amount will be used in place of any lower performance payout resulting from the share methodology. Any additional costs of using the guaranteed amount will be funded outside the pay pool. Otherwise, the guaranteed amount is applied in the same manner as the regular performance payout.

The rating period of an employee who has been in the position less than 90 days as of September 30 will be extended and a rating of record completed after the employee has performed at least 90 days under the employee's performance plan. Performance payouts resulting from extended rating periods will be funded outside the pay pool and will be effective prospectively. Those payouts may be prorated to take into account the fact that an employee had less than a full year under the performance plan.

DVA may establish policies on prorating the performance pay increases and/or lump-sum payments for an employee who, during the period between annual pay adjustments, was (1) hired or promoted, (2) in an approved leave status, (3) on a part-time work schedule, or (4) in other circumstances that make proration appropriate. Such proration policies will provide each eligible employee with the full percentage adjustment used to adjust base rate ranges (if any) and may prorate any additional amount of performance pay increase that would be applicable to the employee.

If an employee's rating of record that is the basis for a performance payout is retroactively revised (after the regular effective date of performance payouts) through a reconsideration or appeals process, the employee's performance payout must be retroactively recomputed using the share value as originally determined. Any such retroactive corrections are not funded out of the pay pool and do not affect the performance payouts provided to other employees in the pay pool. In setting the size of a future pay pool, management will take into account past and projected corrections.

Special provisions for employees returning to duty after an extended period of service in the uniformed services or in receipt of workers' compensation benefits: Special pay-setting provisions apply to employees who were not able to perform under the performance plan for at least 90 days (including an opportunity for an extended rating period) and who are returning to duty status after a period of leave or separation during which the employee was (1) serving in the uniformed services (as defined in 38 U.S.C. 4303 and 5 CFR 353.102) with legal restoration rights (e.g., 38 U.S.C. 4316), or (2) receiving workers' compensation benefits under 5 U.S.C. chapter 81, subchapter I. In these cases, DVA will determine the employee's prospective rate of basic pay upon return to duty by making performance pay adjustments for the intervening period based on the last DVA rating of record for the returning employee if the last DVA rating of record is dated within 2 years of the employee's date of return to duty. If there is no previous DVA rating of record, as described, the employee will have pay set prospectively by applying the percentage increase equivalent to an Excellent rating. The performance pay increases during the intervening period may not be prorated based on periods covered by this provision. In addition, a performance pay increase that is effective after the employee's return to duty may not be prorated based on periods covered by this provision. A lump-sum payment for a period including actual service performed after the employee's return to duty must be prorated (based on service covered by this provision) under the same agency proration policies that apply generally to periods of leave.

Special provision for employees receiving a retained rate of basic pay: An employee receiving a retained rate under 5 U.S.C. 5363 or 5 U.S.C. 3594 is not eligible for a basic pay increase, except in conjunction with (1) a rate range adjustment, as described in section III.B.3 above; or (2) a geographic conversion under 5 CFR 359.705(e) or 536.303(b), as applicable. At the discretion of the Secretary or the Secretary's designee, a retained rate employee may receive the same lump-sum payment approved for an employee in the same pay pool who is at the applicable range maximum and who has the same performance rating of record and number of shares.

4. Employees Who Do Not Receive a Pay Adjustment

Employees with a rating of record below Fully Successful are prohibited from receiving a pay increase, except if necessary to prevent an employee's rate from falling more than 5 percent below the normal range minimum. When an employee does not receive a pay increase because of performance below the Fully Successful level, his or her pay rate may fall below the normal minimum rate of the grade, since that range minimum may be increasing. However, in no case may an employee's rate of basic pay fall more than 5 percent below the normal range minimum.

Each employee who does not receive an increase in basic pay because his or her performance is less than Fully Successful will be entitled to be notified promptly in writing of that fact. At the same time, the employee must be informed in writing of the right to request that the agency reconsider its determination, under the same procedures prescribed by OPM regarding the determination not to provide a within-grade increase under 5 U.S.C. 5335(c). The Merit Systems Protection Board will process any appeals under this section in the same manner that it processes appeals under 5 U.S.C.5335(c).

5. Locality Pay and Special Rate Supplement

When a locality-based comparability payment established under 5 U.S.C. 5304 is increased, a demonstration project employee whose most recent rating of record is below Fully Successful is entitled to the increased locality payment, but his or her underlying rate of basic pay will be reduced in a manner that ensures the employee's total rate of pay does not increase. This reduction is necessary to ensure, in an administratively feasible way, that an employee rated less than Fully Successful will not receive a pay increase; it does not constitute a reduction in pay for purposes of applying the adverse action procedures in chapter 75 of title 5, United States

Code. (Exception: An employee's rate of basic pay may not be reduced under this paragraph to the extent that the reduction would cause an employee's rate to fall more than 5 percent below the normal range minimum.)

Similarly, when a special rate supplement established under 5 U.S.C. 5305 is increased, a demonstration project employee whose rating of record is below Fully Successful is entitled to the increased supplement, but his or her underlying rate of basic pay will be reduced in a manner that ensures the employee's total rate of pay does not increase.

A locality rate and special rate cap 5 percent higher than the normal EX–IV cap is established to accommodate those Outstanding performers in the 5 percent upper rate range extension. See section III.B.3 for additional information.

IV. Training

Training for all involved is essential to the success of the demonstration project. Training will be provided to employees, supervisors, and managers before the project is launched and throughout the life of the project. It is important that employees perceive the performance management program as fair and transparent; therefore, supervisors and managers will be trained in the effective management of performance.

All employees will be trained in the performance appraisal process and the pay adjustment mechanism. Various types of training are being considered, including videos, on-line tutorials, and train-the-trainer concepts.

V. Conversion

A. Conversion to the Demonstration Project

Employees whose positions are converted to the demonstration project will be converted with no change in their rate of basic pay. Any simultaneous pay action that was scheduled to take effect under the GS pay system on the date of conversion must be processed before processing the conversion to the modified GS pay system. Immediately after conversion, eligible employees will receive an increase in basic pay reflecting the prorated value of the next scheduled WGI. The prorated value is determined by calculating the portion of the time-in-step an employee has completed towards the waiting period for his or her next step increase. This within-grade ''buy-in'' adjustment will not be made for (1) employees who are at the step 10 rate for their grade immediately before conversion to the demonstration project, (2) employees who are receiving a retained rate of pay under 5 U.S.C. 5363 or a saved rate under 5 U.S.C. 3594 immediately before conversion to the demonstration project, or (3) employees whose rating of record is below Fully Successful. The first performance-based pay increase under the project's pay adjustment mechanism will be effective on the first day of the first pay period beginning on or after January 1, 2010.

For employees who enter the demonstration project by lateral reassignment or transfer (i.e., not by conversion of position), DVA may apply parallel pay conversion rules, including rules for providing a prorated adjustment reflecting time accrued toward a GS within-grade increase or similar within-range adjustment under another pay system. If conversion into the demonstration project is accompanied by a geographic move, the employee's pay entitlements under the former pay system in the new geographic area must be determined before the pay conversion.

B. Conversion to the General Schedule

If a demonstration project employee is moving to a GS position not under the demonstration project, or if the project ends and each project employee must be converted back to a GS position not covered by the project, the employee's rate of basic pay under the demonstration project as in effect immediately before conversion will be used in applying any simultaneous pay actions under the regular GS pay system that are effective on the date of conversion (e.g., promotion, geographic movement). If the rate of basic pay falls between steps after applying any simultaneous pay actions, the employee's rate will be set at the next higher step.

If a demonstration project employee is receiving a retained rate immediately before conversion back to the regular GS pay system, the employee will continue to be entitled to a retained rate upon conversion, but the retained rate thereafter will be governed by 5 U.S.C. 5363 and 5 CFR part 536 or 5 CFR 359.705, as applicable.

If a demonstration project employee is receiving a rate above the normal GS rate range because his or her rate is set within the upper range extension for Outstanding performers and converts to the GS pay system, that rate must be converted to a retained rate subject to the rules and limitations in 5 U.S.C. 5363 and 5 CFR part 536.

If a demonstration project employee is receiving a rate below the normal GS rate range because his or her rate has fallen within the lower range extension for less than Fully Successful performers, that rate must be converted to the minimum rate for the grade upon conversion to the regular GS pay system.

VI. Project Duration

The initial implementation period for the demonstration project will terminate prior to the end of the 5-year period beginning on the date which the project takes effect. However, with OPM's concurrence, the project may be extended, modified or terminated on or before the expiration of the 5-year period.

VII. Project Evaluation

Section 4703(h) of title 5, U.S.C., requires an evaluation of the results of the demonstration project. DVA, in coordination with OPM, will develop a plan to evaluate the demonstration project to determine the extent to which the pay increases paid to participating employees reflect meaningful distinctions among their levels of performance. Workforce data will be analyzed to determine whether the project is achieving its goal and whether it is resulting in any adverse impact. Key features of successful performance-based pay systems, including leadership commitment, communication, stakeholder involvement, training, planning, mission alignment, and the rewarding of performance, will be assessed to determine the effectiveness of the demonstration project and ensure compliance with stated project goals. The evaluation will address the extent to which the project has incorporated the elements required by section 1126 of Public Law 108–136 (5 U.S.C. 4701 note). DVA will be accountable for exercising and maintaining fiscal responsibility in the execution of the demonstration project. The project will be examined during each phase of the evaluation to assess that costs are being managed effectively. Moreover, cost discipline will be examined during each phase of the evaluation to ensure spending remains within acceptable limits. Finally, employee feedback will be sought through surveys, interviews, and focus groups to assess employee perceptions of the fairness and integrity of the performance appraisal and pay adjustment processes.

VIII. Costs

A. Buy-in Costs

There will be added costs resulting from the within-grade increase ''buy-in'' provision described in section V above; however, those costs will be offset by the elimination of within-grade step

increases that otherwise would have occurred.

B. Recurring Costs

All funding will be provided through the organization's budget. No additional funding will be requested specifically for this project; all costs will be charged to available funds through existing appropriations, including those incurred in the areas of project development, training, and project evaluation.

IX. Waiver of Laws and Regulations Required

A. Waivers to Title 5, United States Code

Chapter 35, section 3594: Saved pay for former members of the Senior Executive Service (only to the extent necessary to (1) bar employees with a rating of record below Fully Successful from receiving a saved rate increase under 5 U.S.C. 3594(c)(2); and (2) apply rules parallel to those governing adjustment and termination of retained rates under 5 U.S.C. 5363, as modified under this plan).

Chapter 53, section 5302(1)(A), (8) and (9): Definitions (only to the extent necessary to provide that employees under the demonstration project are not considered to be GS employees for the purposes of annual adjustments under section 5303 or similar provision of law governing annual adjustments for employees covered by section 5303).

Chapter 53, section 5303: Annual adjustments to pay schedules.

Chapter 53, section 5304(g)(1): Locality-based comparability payments (only to the extent necessary to (1) provide a locality rate may not exceed the rate for EX–IV, plus 5 percent for employees in the upper range extension; and (2) apply an ''effective'' locality pay percentage for employees in the upper range extension under circumstances described in the plan).

Chapter 53, section 5305(a)(1): Special pay authority (only to the extent necessary to (1) provide a special rate may not exceed the rate for EX–IV, plus 5 percent for employees in the upper range extension; (2) to interpret the references to the minimum and maximum rates of a grade as references to the normal minimum and maximum rates of a grade under this plan; and (3) apply an ''effective'' special rate supplement percentage for employees in the upper range extension under circumstances described in this plan).

Chapter 53, subchapter III: General Schedule pay rates (except that, for purposes of applying any other laws, regulations, or policies that refer to GS employees or to subchapter III of chapter 53 of title 5, United States Code, the modified pay system established under this plan must be considered to be a GS pay system established under such subchapter III, except as otherwise provided in this plan; these purposes include, but are not limited to, references to the General Schedule in section 5304 (relating to locality pay, except as provided in the waiver above), section 5545(d) (relating to hazard pay), and sections 5753–5754 (dealing with recruitment, relocation, and retention incentives)).

Chapter 53, section 5363: Pay retention (only to the extent necessary to (1) bar employees with a less than Fully Successful rating of record from receiving retained rate increases under 5 U.S.C. 5363(b)(2)(B); (2) provide that pay (including any locality adjustment or special rate supplement) of an employee in the upper range extension who is rated below Outstanding will be converted to a retained rate before processing any other actions; (3) provide a retained rate that is less than the maximum rate (including any locality adjustment or special rate supplement) of the upper range extension for an employee who receives a rating of record of Outstanding will be terminated and converted to an equal adjusted rate; (4) provide the range maximum rate used to compute retained rate adjustments is the normal range maximum rate (including any locality adjustment or special rate supplement) for employees with a rating of record below Outstanding and the upper range maximum rate (including any locality adjustment or special rate supplement) for an employee with an Outstanding rating of record; and (5) provide when a retained rate for an employee with a rating of record below Fully Successful falls below the applicable adjusted rate for the normal band maximum, the retained rate will be terminated and the employee's pay will be set at an adjusted rate equal to the retained rate).

Chapter 75, section 7512(4): Adverse actions (only to the extent necessary to provide that adverse actions do not apply to reductions in rates of basic pay to offset a locality pay or special rate supplement increase as a result of receiving a rating of record below Fully Successful).

Note: If any of the provisions of title 5, United States Code, listed above are amended during the period this demonstration project is in effect, DVA may choose to terminate the waiver of one or more such provisions with respect to employees participating in the project, without formally modifying the project itself. DVA must notify OPM when any such waiver is terminated.

B. Waivers to Title 5, Code of Federal Regulations

Part 359, subpart G, section 359.705: Pay (only to the extent necessary to (1) bar employees with a rating of record below Fully Successful from receiving a saved rate increase under 5 CFR 350.705(d)(1); and (2) apply rules parallel to those governing adjustment and termination of retained rates under 5 CFR part 536, as modified under this plan).

Part 430, subpart B, section 430.203: Definitions (only to the extent necessary to allow an additional rating of record to support a pay decision under C.3 or 4 of this project plan).

Part 530, section 530.304(a): Establishing or increasing special rates (only to the extent necessary to (1) provide a special rate may not exceed the rate for EX–IV, plus 5 percent for employees in the upper range extension; (2) interpret references to the minimum and maximum rates of a grade as references to the normal minimum and maximum rates of a grade under this plan; and (3) apply an ''effective'' special rate supplement percentage for employees in the upper range extension under circumstances described in this plan).

Part 531, subpart B: Determining Rate of Basic Pay.

Part 531, subpart D: Within-Grade Increases.

Part 531, subpart E: Quality Step Increases.

Part 531, section 531.604: Determining an employee's locality rate (only to the extent necessary to apply an ''effective'' locality pay percentage for employees in the upper range extension under circumstances described in this plan).

Part 531, section 531.606: Maximum limits on locality rates (only to the extent necessary to provide a locality rate may not exceed the rate for EX–IV, plus 5 percent for employees in the upper range extension).

Part 536, subpart C: Pay Retention (only to the extent necessary to (1) bar employees with a less than Fully Successful rating of record from receiving retained rate increases under 5 CFR 536.305; (2) provide that a retained rate may not exceed the rate for EX–IV, plus 5 percent; (3) provide the pay (including any locality adjustment or special rate supplement) of an employee in the upper range extension who is rated below Outstanding will be converted to a retained rate before processing any other actions; (4) provide a retained rate that is less than the maximum rate (including any locality adjustment or special rate supplement)

of the upper range extension for an employee who receives a rating of record of Outstanding will be terminated and converted to an equal adjusted rate; (5) provide the range maximum rate used to compute retained rate adjustments is the normal range maximum rate (including any locality adjustment or staffing supplement) for employees with a rating of record below Outstanding and the upper range maximum rate (including any locality adjustment or staffing supplement) for an employee with an Outstanding rating of record; and (6) provide when a retained rate for an employee with a rating of record below Fully Successful falls below the applicable adjusted rate for the normal grade maximum, the retained rate will be terminated and the employee's pay will be set at an adjusted rate equal to the retained rate).

Part 752, section 752.401(a)(4): Adverse actions (only to the extent necessary to provide that adverse action provisions do not apply to reductions in rates of basic pay to offset a locality pay or special rate supplement increase as a result of receiving a rating of record below Fully Successful).

Note: If any of the provisions of title 5, Code of Federal Regulations, listed above are revised during the period this demonstration project is in effect, DVA may choose to terminate the waiver of one or more such provisions with respect to employees participating in the project, without formally modifying the project itself. DVA must notify OPM when any such waiver is terminated.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57949; File No. 600–23]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing and Order Approving an Extension of Temporary Registration as a Clearing Agency

June 11, 2008.

The Securities and Exchange Commission (''Commission'') is publishing this notice and order to solicit comments from interested persons and to extend the Fixed Income Clearing Corporation's (''FICC'') temporary registration as a clearing agency through June 30, 2009.[1]

On February 2, 1987, pursuant to Sections 17A(b) and 19(a) of the Act[2] and Rule 17Ab2–1 promulgated thereunder,[3] the Commission granted the MBS Clearing Corporation (''MBSCC'') registration as a clearing agency on a temporary basis for a period of eighteen months.[4] The Commission subsequently extended MBSCC's registration through June 30, 2003.[5]

On May 24, 1988, pursuant to Sections 17A(b) and 19(a) of the Act[6] and Rule 17Ab2–1 promulgated thereunder,[7] the Commission granted the Government Securities Clearing Corporation (''GSCC'') registration as a clearing agency on a temporary basis for a period of three years.[8] The Commission subsequently extended GSCC's registration through June 30, 2003.[9]

On January 1, 2003, MBSCC was merged into GSCC, and GSCC was renamed FICC.[10] The Commission subsequently extended FICC's temporary registration through June 30, 2008.[11]

On May 28, 2008, FICC requested that the Commission grant FICC permanent registration as a clearing agency or in the alternative extend FICC's temporary registration until such time as the Commission is prepared to grant FICC permanent registration.[12]

In April, 2006, FICC announced its plan to have its Mortgage-Backed Securities Division (''MBS Division'') act as a central counterparty (''CCP'').[13] Pursuant to this service, FICC would act as the CCP for MBS Division members and would become the new legal counterparty to all original parties for eligible mortgage-backed securities transactions. Currently, FICC through its Government Securities Division acts as the CCP for its members U.S. Government securities transactions.

Therefore, the Commission is extending FICC's temporary registration as a clearing agency in order that FICC may continue to operate as a registered clearing agency and to provide its users clearing and settlement services. The Commission will consider permanent registration of FICC at a future date after the Commission has further evaluated FICC's plans to have its MBS Division act as a CCP and after the Commission and FICC have had time to evaluate how FICC is functioning with its MBS Division acting as a CCP, assuming the MBS Division CCP service is implemented.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. 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 600–23 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 600–23. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements

[1] FICC is the successor to MBS Clearing Corporation and Government Securities Clearing Corporation.

[2] 15 U.S.C. 78q–1(b) and 78s(a).

[3] 17 CFR 240.17Ab2–1.

[4] Securities Exchange Act Release No. 24046 (February 2, 1987), 52 FR 4218.

[5] Securities Exchange Act Release Nos. 25957 (August 2, 1988), 53 FR 29537; 27079 (July 31, 1989), 54 FR 34212; 28492 (September 28, 1990), 55 FR 41148; 29751 (September 27, 1991), 56 FR 50602; 31750 (January 21, 1993), 58 FR 6424; 33348 (December 15, 1993), 58 FR 68183; 35132 (December 21, 1994), 59 FR 67743; 37372 (June 26, 1996), 61 FR 35281; 38784 (June 27, 1997), 62 FR 36587; 39776 (March 20, 1998), 63 FR 14740; 41211 (March 24, 1999), 64 FR 15854; 42568 (March 23, 2000), 65 FR 16980; 44089 (March 21, 2001), 66 FR 16961; 44831 (September 21, 2001), 66 FR 49728; 45607 (March 20, 2002), 67 FR 14755; 46136 (June 27, 2002), 67 FR 44655.

[6] *Supra* note 2.

[7] *Supra* note 3.

[8] Securities Exchange Act Release No. 25740 (May 24, 1988), 53 FR 19839.

[9] Securities Exchange Act Release Nos. 25740 (May 24, 1988), 53 FR 19639; 29236 (May 24, 1991), 56 FR 24852; 32385 (June 3, 1993), 58 FR 32405; 35787 (May 31, 1995), 60 FR 30324; 36508 (November 27, 1995), 60 FR 61719; 37983 (November 25, 1996), 61 FR 64183; 38698 (May 30, 1997), 62 FR 30911; 39696 (February 24, 1998), 63 FR 10253; 41104 (February 24, 1999), 64 FR 10510; 41805 (August 27, 1999), 64 FR 48682; 42335 (January 12, 2000), 65 FR 3509; 43089 (July 28, 2000), 65 FR 48032; 43900 (January 29, 2001), 66 FR 8988; 44553 (July 13, 2001), 66 FR 37714; 45164 (December 18, 2001), 66 FR 66957; 46135 (June 27, 2002), 67 FR 44655.

[10] Securities Exchange Act Release No. 47015 (December 17, 2002), 67 FR 78531 (December 24, 2002) [File Nos. SR–GSCC–2002–07 and SR–MBSCC–2002–01].

[11] Securities Exchange Act Release Nos. 48116 (July 1, 2003), 68 FR 41031; 49940 (June 29, 2004), 69 FR 40695; 51911 (June 23, 2005), 70 FR 37878; 54056 (June 28, 2006), 71 FR 38193; and 55920 (June 18, 2007), 72 FR 35270.

[12] Letter from Nikki Poulos, Managing Director, General Counsel, and Chief Privacy Officer, FICC (May 28, 2008).

[13] *See* FICC White Paper: ''A Central Counterparty For Mortgage-Backed Securities: Paving The Way'' at *http://www.dtcc.com/downloads/leadership/whitepapers/ccp.pdf*.

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 Section, 100 F Street, NE., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of FICC and on FICC's Web site at *www.ficc.com*. 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 600–23 and should be submitted on or before July 9, 2008.

It is therefore ordered that FICC's temporary registration as a clearing agency (File No. 600–23) be and hereby is extended through June 30, 2009.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.[14]

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–13704 Filed 6–17–08; 8:45 am]

BILLING CODE 8010–01–P

[14] 17 CFR 200.30–3(a)(16).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57952; File No. SR–Amex–2008–44]

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing of Proposed Rule Change Modifying the Provisions Governing Contacts Between Specialists and Issuers

June 11, 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 20, 2008, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Amex Rule 27 to (i) modify the provisions governing contacts between specialists and issuers or, in the case of exchange traded funds (''ETFs'') and structured products, sponsors, and (ii) clarify other procedures applicable to the allocation of securities to specialists.

The text of the proposed rule change is available on the Amex's Web site at *http://www.amex.com,* the Amex's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant 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 revise Amex Rule 27 in order to better reflect the different treatment that is afforded ETFs and structured products in connection with the allocation of securities to specialists. This is reflected in the fact that ETFs and structured products are typically allocated to a specialist within a few days after approval of the issuer's application for listing on the Exchange. However, in the case of other equity securities, the allocation process may take a longer period of time so that allocation to a specialist may not occur within a few days of approval of the issuer's listing application.

Amex Rule 27 sets forth the procedures and policies pursuant to which the Allocations Committee allocates securities listing on the Exchange to specialists. In particular, paragraph (e) describes the Exchange's ''issuer choice'' program under which issuers or, in the case of an ETF or structured product, sponsors, select their specialists from a list of the most qualified specialists prepared by the Allocations Committee and is designed to be read in conjunction with Commentaries .02 and .03 thereto.

Commentaries .02 and .03 contain guidelines for communications between specialists and issuers or, in the case of ETFs and structured products, sponsors that have not yet listed a security on the Exchange, have applied to list a security on the Exchange and/or have a security that has been approved for listing on the Exchange.[3]

(i) Commentary .02

Commentary .02 prohibits equity specialists and other members from making direct or indirect contact with an issuer that has requested a listing qualification review[4] for the purpose of influencing the issuer's choice of a specialist. In addition, any communication between equity specialists and issuers is prohibited once an issuer has been approved for listing and the Allocations Committee has prepared the list of qualified specialists. The exception to such prohibition is Exchange-arranged interviews between an issuer approved for listing and any specialist(s) the issuer requests to interview.

The interviews are closely monitored by the Exchange and the Exchange will take appropriate action in the event an inappropriate communication is deemed by the Exchange to have occurred during the interview. The Exchange proposes to clarify that such appropriate action may include the disqualification of a specialist for the allocation. The proposed rule change will also make Commentary .02 more consistent with Commentary .03, which currently permits the Exchange to disqualify ETF and structured product specialists deemed to have made inappropriate representations.

The Exchange also proposes adding a provision to Commentary .02 addressing post-interview communications between specialists and issuers approved for listing on the Exchange. The proposed rule change would prohibit post-interview contacts between specialists and issuers and provide a means for issuers to obtain further information from the specialists

[3] *See* Securities Exchange Act Release Nos. 44972 (October 23, 2001), 66 FR 55031 (October 31, 2001) (SR–Amex–2001–19); and 45260 (January 9, 2002), 67 FR 2255 (January 16, 2002) (SR–Amex–2001–19).

[4] The listing qualification review is the process whereby an issuer undergoes review by the Exchange's Listing Qualifications Department. The listing qualification review will commence once the listing application is submitted to the Exchange.

through the Exchange's Equity Sales Group.

Finally, the Exchange proposes to simplify the description of the procedures set forth in Commentary .02 by adding defined terms and moving the provision concerning an issuer's ability to request specialists to be placed on the list of qualified specialists to paragraph (e)(i) of Rule 27. The Exchange believes that such changes will simplify Commentary .02 and avoid potential confusion for specialists and/or issuers engaged in the Amex listing process.

(ii) Commentary .03

Current Commentary .03, unlike Commentary .02, applies to ETFs and structured products and contains provisions governing contacts between specialists and other members and sponsors and issuers prior to such sponsor or issuer deciding to list a security on the Exchange. Pursuant to the current Commentary .03, specialists and other members must notify the Exchange in writing before any planned contact with a potential sponsor or issuer for the purpose of listing the ETFs or structured products of such sponsor or issuer on the Exchange, or within five (5) business days of unanticipated contact where discussions regarding the listing occur. Exchange approval of planned contact is required and the Exchange will grant such approval where it appears that the contact will assist rather than impede the Exchange's effort to list the new ETF or structured product.[5]

The Exchange does not believe that the communication restrictions set forth in Commentary .03 are necessary, in that it is unlikely that such contact would impede the Exchange's effort to list an issuer. As a result, the Exchange proposes to delete such restrictions. The Commission previously approved a rule change to Commentary .02 removing similar restrictions on equity specialists.[6]

ETF and structured product specialists are also currently required to promptly report to the Exchange any representations or commitments that they, or an individual acting on their behalf, have made to an employee of, or any individual acting on behalf of, an issuer or sponsor. The Exchange proposes to amend Commentary .03 to require specialists to only disclose in their applications to be allocated an ETF or structured product representations or commitments that relate to the prospective listing of the ETF or structured product and that are made within the six (6) months preceding the date allocation applications are solicited with respect to that ETF or structured product. The Exchange further proposes, in the event an ETF or structured product is not allocated within five (5) days of the allocation application, to require specialists and other members to update their applications accordingly to report all representations or commitments since last reported to the Exchange.

While the disclosure requirement is intended to ensure the integrity of the allocation process, the Exchange believes that if it is interpreted too broadly, it could impair such process by requiring specialists to disclose every representation or commitment that they, or an individual acting on their behalf, have ever made to an employee of, or any individual acting on behalf of, an issuer or sponsor. By narrowing the time frame of the disclosure requirement to six (6) months prior to listing, the Exchange believes that specialists will be able to provide more detailed disclosures of any representations and/or commitments they have made with regard to a particular listing, thereby enabling the Exchange to better monitor the appropriateness of such representations and/or commitments.

Commentary .03 also includes procedures related to the interview process. The Exchange proposes to clarify that such procedures apply to issuers and sponsors whose securities have been approved for listing on the Exchange in accordance with Rule 27(e)(i).

(iii) Other Changes

Finally, the Exchange proposes to make technical revisions to paragraphs (c) and (e)(i) of Rule 27 in order to consistently use the term ''issuer'' as opposed to ''company'', clarify the applicability of the provisions to equity, ETF and structured product listings[7] and, in general, to simplify the reading of the text.

The Exchange believes that the proposed rule change will enhance the clarity of and provide additional transparency to the Amex's allocation policy and procedures. Such additional clarity and transparency to the provisions governing specialist-issuer communications will facilitate uniform application and ease administration of Rule 27.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[8] in general, and furthers the objectives of Section 6(b)(5) of the Act,[9] 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, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the 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

[5] *See supra* note 3.

[6] *See* Securities Exchange Act Release Nos. 47914 (May 23, 2003), 68 FR 32782 (June 2, 2003) (SR–Amex–2002–112); and 48132 (July 7, 2003), 68 FR 41665 (July 14, 2003) (SR–Amex–2002–112).

[7] *See supra* note 3.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

Number SR–Amex–2008–44 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–Amex–2008–44. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Amex. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Amex–2008–44 and should be submitted on or before July 9, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–13708 Filed 6–17–08; 8:45 am]

BILLING CODE 8010–01–P

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57946; File No. SR–CBOE–2008–26]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of Proposed Rule Change To List and Trade Options on the BXM Index (1/10th Value)

June 10, 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 June 2, 2008, the Chicago Board Options Exchange, Incorporated (''CBOE'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange hereby proposes to amend certain of its rules to provide for the listing and trading of options that overlie an index that is equal to 1/10th of the value of the CBOE S&P 500 BuyWrite Index (the ''BXM'' or the ''BXM Index''). BXM options will be cash-settled and will have European-style expiration. The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.org/Legal*), at the CBOE's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to permit the Exchange to list and trade cash-settled, European-style options on an index that is equal to 1/10th of the value of the CBOE S&P 500 BuyWrite Index (the ''BXM'' or the ''BXM Index'').[3]

Index Design

The BXM Index measures the total rate of return of a hypothetical ''covered call'' strategy applied to the S&P 500 Composite Price Index (the ''S&P 500 Index''). This strategy, referred to as the ''BXM covered call strategy,'' consists of a hypothetical portfolio consisting of a ''long'' position indexed to the S&P 500 Index on which are deemed sold a succession of one-month, at-the-money call options on the S&P 500 Index listed on the Exchange. This hypothetical portfolio is referred to as the ''covered S&P 500 Index portfolio.''

The BXM Index provides a benchmark measure of the total return performance of this hypothetical portfolio. Dividends paid on the component stocks underlying the S&P 500 Index and the dollar value of option premium deemed received from the sold call options are functionally ''re-invested'' in the covered S&P 500 Index portfolio. The BXM Index is based on the cumulative gross rate of return of the covered S&P 500 Index portfolio since the inception of the BXM Index on June 1, 1988, when it was set to an initial value of 100.00.

The BXM covered call strategy requires that each S&P 500 Index call option in the hypothetical portfolio be held to maturity, generally the third Friday of each month. The call option is settled against the Special Opening Quotation (''SOQ'') of the S&P 500 Index used as the final settlement price of S&P 500 Index call options.[4] The SOQ is a special calculation of the S&P 500 Index that is compiled from the opening prices of component stocks underlying the S&P 500 Index. The SOQ calculation is performed when all 500

[3] The Exchange is not currently proposing to list and trade options that overlie the full-value BXM Index, but may do so in the future. In that event, the Exchange will seek Commission approval.

CBOE Futures Exchange, LLC (''CFE'') currently lists and trades CBOE S&P 500 BuyWrite Index future contracts, which commenced trading on October 2, 2006.

[4] If the third Friday of the month is an exchange holiday, the call option will be settled against the SOQ on the previous business day and the new call option will be selected on that day as well.

stocks underlying the S&P 500 Index have opened for trading, and is usually determined before 10 a.m. Chicago time.[5] The final settlement price of the call option at maturity is the greater of 0 and the difference between the SOQ minus the strike price of the expiring call option.

Subsequent to the settlement of the expiring call option, a new at-the-money call option expiring in the next month is then deemed written, or sold, a transaction commonly referred to as a ''roll.'' The strike price of the new call option is the S&P 500 Index call option listed on CBOE with the closest strike price above the last value of the S&P 500 Index reported before 10 a.m. Chicago time.[6] For example, if the last S&P 500 Index value reported before 10 a.m. Chicago time is 901.10 and the closest listed S&P 500 Index call option strike price above 901.10 is 905, then the 905 strike S&P 500 Index call option is selected as the new call option to be incorporated into the BXM Index. The long S&P 500 Index component and the short call option component are held in equal notional amounts, *i.e.*, the short position in the call option is ''covered'' by the long S&P 500 Index component.

Once the strike price of the new call option has been identified, the new call option is deemed sold at a price equal to the volume-weighted average of the traded prices (''VWAP'') of the new call option during the half-hour period beginning at 10:30 a.m. Chicago time.[7] CBOE calculates the VWAP in a two-step process: first, CBOE excludes trades in the new call option between 10:30 a.m. and 11 a.m. Chicago time that are identified as having been executed as part of a ''spread,'' and then CBOE calculates the weighted average of all remaining transaction prices of the new call option between 10:30 a.m. and 11 a.m. Chicago time, with weights equal to the fraction of total non-spread volume transacted at each price during this period. The source of the transaction prices used in the calculation of the VWAP is CBOE's Market Data Retrieval (''MDR'') System.[8] If no transactions occur in the new call option between 10:30 a.m. and 11 a.m. Chicago time, then the new call option is deemed sold at the last bid price reported before 11 a.m. Chicago time. The value of option premium deemed received from the new call option is functionally ''reinvested'' in the portfolio.

Index Calculation

The BXM Index is calculated in real-time by CBOE every 15 seconds during each trading day, excluding roll dates (for the respective components of the covered S&P 500 Index portfolio). The BXM Index calculation is disseminated through OPRA and is publicly available through most price quote vendors.[9] The BXM Index is a chained index, *i.e.*, its value is equal to 100 times the cumulative product of gross daily rates of return of the covered S&P 500 Index portfolio since the inception date of the BXM Index. On any given day, the BXM Index is calculated as follows:

$$BXM_t = BXM_{t-1}\ (1 - R_t)$$

where R_t is the daily rate of return of the covered S&P 500 Index portfolio. This rate includes ordinary cash dividends paid on the stocks underlying the S&P 500 Index that trade ''ex-dividend'' on that date.

On each trading day excluding roll dates, the daily gross rate of return of the BXM equals the change in the value of the components of the covered S&P 500 Index portfolio, including the value of ordinary cash dividends payable on component stocks underlying the S&P 500 Index that trade ''ex-dividend'' on that date, as measured from the close in trading on the preceding trading day. The gross daily rate of return is equal to:

$$1 + R_t = (S_t + Div_t - C_t)/(S_{t-1} - C_{t-1})$$

In this equation, S_t is the closing value of the S&P 500 Index at date t, Div_t represents the ordinary cash dividends payable on the component stocks underlying the S&P 500 Index that trade ''ex-dividend'' at date t expressed in S&P 500 Index points, and C_t is the arithmetic average of the last bid and ask prices of the call option reported before 4 p.m. ET at date t. S_{t-1} is the closing value of the S&P 500 Index on the preceding trading day and C_{t-1} is the average of the last bid and ask prices of the call option reported before 4 p.m. ET on the preceding trading day.

On roll dates, the gross daily rate of return is compounded from three gross rates of return: the gross rate of return from the previous close to the time the SOQ is determined and the expiring call is settled; the gross rate of return from the SOQ to the initiation of the new call position; and the gross rate of return from the time the new call option is deemed sold to the close of trading on the roll date, expressed as follows:

$$1 + R_t = (1 + R_a) \times (1 + R_b) \times (1 + R_c)$$

where:

$1 + R_a = (S^{SOQ} + Div_t - C_{Settle})/(S_{t-1} - C_{t-1})$;

$1 + R_b = (S^{VWAV})/(S^{SOQ})$, and

$1 + R_c = (S_t - C_t)/(S^{VWAV} - C_{VWAP})$

In this equation, R_a is the rate of return of the covered S&P 500 Index portfolio from the previous close of trading through the settlement of the expiring call option. S^{SOQ} is the Special Opening Quotation used in determining the settlement price of the expiring call option. As previously defined, Div_t represents dividends on S&P 500 Index component stocks determined in the same manner as on non-roll dates, and C_{Settle} is the final settlement price of the expiring call option. S_{t-1} and C_{t-1} are determined in the same manner as on non-roll dates.

R_b is the rate of return of the uncovered S&P 500 Index portfolio from the settlement of the expiring option to the time the new call option is deemed sold. S^{VWAV} is the volume-weighted average value of the S&P Index based on the same time and weights used to calculate the VWAP in the new call option.

R_c is the rate of return of the covered S&P 500 Index portfolio from the time the new call option is deemed sold to the close of trading on the roll date. As defined above, S^{VWAV} is the volume-weighted average value of the S&P Index based on the same time and weights used to calculate the V_{WAP} in the new call option. C_{vwap} is the volume-weighted average trading price of the new call option between 10:30 a.m. and 11 a.m. Chicago time, and C_t refers to the average bid/ask quote of the new call option reported before 3 p.m. Chicago time on the roll date.

Options Trading

BXM options will be quoted in terms of the underlying BXM Index (1/10th value). Both options prices and cash index levels will be stated in decimal format and one point will equal $100. The minimum tick size for series trading below 3.00 will be 0.05 point ($5.00) and the minimum tick for series trading at and above 3.00 will be 0.10 point

[5] If one or more stocks in the S&P 500 Index do not open on the day the SOQ is calculated, the final settlement price for SPX options is determined in accordance with the Rules and By-Laws of The Options Clearing Corporation (''OCC'').

[6] If the last value of the S&P 500 Index reported before 10:00 a.m. Chicago time is exactly equal to a listed S&P 500 Index call option strike price, then the new call option is the S&P 500 Index call option with that exact at-the-money strike price.

[7] The timing of the roll and the price used to sell the new call has changed over time. The monthly roll originally occurred at the close of trading on the third Friday of the month, *i.e.* the strike price of the new call was determined at 3 p.m. Chicago time, and the new call was deemed to be sold at the last bid price before 3 p.m. Chicago time. Since October 16, 1992, the call has been rolled at 11 a.m. Chicago time instead, and starting on June 18, 2004, the new call began to be sold at the VWAP.

[8] Time and sales information from CBOE's MDR System is disseminated through the Options Price Reporting Authority (''OPRA'') and is publicly available through most price quote vendors.

[9] Information regarding the BXM Index may be found on CBOE's Web site at the following Internet address: *http://www.cboe.com/micro/bxm.*

($10.00). In accordance with Rule 24.9(a)(2), the Exchange will typically list three near-term expiration months and three additional expiration months from the March quarterly cycle (March, June, September and December).

The minimum strike price interval for BXM options will be 0.01 point ($1.00). CBOE believes that because the BXM Index is less volatile than other broad-based indexes (*e.g.*, S&P 500 Index), $1 strike price intervals in BXM option series will provide investors with greater flexibility by allowing them to establish positions that are better tailored to meet their investment objectives. This is consistent with existing Exchange rules and practices that allow the Exchange to list series at $1 (or lower) strike price intervals in similar options products. For example, Rule 24.9.01(b) allows the Exchange to list series on options based on one-one hundredth (1/100th) of the value of the Dow Jones Industrial Average Index at no less than $0.50 intervals.[10] Similarly, Rule 24.9.11 allows the Exchange to list strike price intervals at no less than $1 for the reduced-value version of the Standard & Poor's S&P 500 Stock Index option (''Mini-SPX option''), which is based on 1/10th the value of the S&P 500 Index.[11]

To address this, the Exchange is proposing to list series at $1 or greater strike price intervals on BXM options that overlie an index that is equal to 1/10th the value of the BXM Index. Initially, the Exchange will list at least two strike prices above and two strike prices below the current value of the BXM Index (1/10th value) at or about the time a series is opened for trading on the Exchange. As part of this initial listing, the Exchange will list strike prices that are within 5 points from the closing value of the BXM Index (1/10th value) on the preceding day.

As for additional series, the Exchange will be permitted to add additional series when the Exchange deems it necessary to maintain an orderly market, to meet customer demand, or when the underlying BXM Index (1/10th value) moves substantially from the initial exercise price or prices. To the extent that any additional strike prices are listed by the Exchange, such additional strike prices shall be within 30 percent above or below the closing value of the BXM Index (1/10th value). The Exchange will also be permitted to open additional strike prices that are more than 30 percent above or below the current BXM Index (1/10th value) provided that customer interest for such series is demonstrated and expressed by institutional, corporate or individual customers or their brokers. Market-Makers trading for their own account would not be considered when determining customer interest. In addition to the initial listed series, the Exchange may list up to 60 additional series per expiration month for each series in BXM options. In addition, the Exchange proposes that it shall not list LEAPS on BXM options at intervals less than $5.

The Exchange is also proposing to set forth a delisting policy with respect to BXM options. Specifically, the Exchange would, on a monthly basis, review series that are outside a range of five strikes above and five strikes below the current value of the BXM Index (1/10th value) and delist series with no open interest in both the put and the call series having a: (i) Strike higher than the highest strike price with open interest in the put and/or call series for a given expiration month; and (ii) strike lower than the lowest strike price with open interest in the put and/or call series for a given expiration month.

Notwithstanding the proposed delisting policy, customer requests to add strikes and/or maintain strikes in BXM options in series eligible for delisting shall be granted.

The Exchange also proposes to add new Interpretation and Policy .11 to Rule 5.5, *Series of Option Contracts Open for Trading*, which would be an internal cross reference stating that the intervals between strike prices for BXM option series would be determined in accordance with proposed new Interpretation and Policy .01(f) to Rule 24.9.

Exercise and Settlement

The proposed options will expire on the Saturday following the third Friday of the expiration month. Trading in the expiring contract month will normally cease at 3:15 p.m. Chicago time on the business day preceding the last day of trading (ordinarily the Thursday before expiration Saturday, unless there is an intervening holiday). When the last trading day is moved because of an Exchange holiday (such as when CBOE is closed on the Friday before expiration), the last trading day for expiring options will be Wednesday and the SOQ of the BXM Index will be calculated on Thursday.

Exercise will result in delivery of cash on the business day following expiration. BXM options will be A.M.-settled. As described above, the exercise settlement value of a BXM option shall be a SOQ of the BXM Index (1/10th value). The exercise-settlement amount is equal to the difference between the exercise-settlement value and the exercise price of the option, multiplied by $100.

If the exercise settlement value is not available or the normal settlement procedure cannot be utilized due to a trading disruption or other unusual circumstance, the settlement value will be determined in accordance with the rules and bylaws of the OCC.

Surveillance

The Exchange will use the same surveillance procedures currently utilized for each of the Exchange's other index options to monitor trading in BXM options. The Exchange further represents that these surveillance procedures shall be adequate to monitor trading in options on these option products. For surveillance purposes, the Exchange will have complete access to information regarding trading activity in the pertinent underlying securities (*i.e.*, S&P 500 Index component securities).

Position and Exercise Limits; Reporting of Positions

The Exchange is not proposing to establish any position and exercise limits for BXM options. Because the BXM Index (1/10th value) is calculated using values of the S&P 500 Index, the Exchange believes that the position and exercise limits for this new product should be the same as those for broad-based index options, *e.g.*, SPX, for which there are no position limits.

BXM options will be subject to the same reporting and other requirements triggered for other options dealt in on the Exchange.[12]

Exchange Rules Applicable

Except as modified herein, the rules in Chapters I through XIX, XXIV, XXIVA, and XXIVB will equally apply to BXM options.

BXM options will be margined as ''broad-based index'' options, and under CBOE rules, especially, Rule 12.3(c)(5)(A), the margin requirement for a short put or call shall be 100% of the current market value of the contract plus up to 15% of the respective

[10] *See* Securities Exchange Act Release No. 39011 (September 3, 1997), 62 FR 47840 (September 11, 1997) (SR–CBOE–1997–26).

[11] *See* Securities Exchange Act Release Nos. 52625 (October 18, 2005), 70 FR 61479 (October 24, 2005) (SR–CBOE–2005–81) and 57049 (December 27, 2007), 73 FR 528 (January 3, 2008) (SR–CBOE–2007–125).

[12] *See e.g.*, Rule 4.13, *Reports Related to Position Limits*. For purposes of calculating reportable positions, the Exchange has employed a contract factor of 10 for determining reporting and other requirements for BXM options. For example, the reporting requirements of Rule 24.4.03 for BXM options will be triggered when an end of day aggregate position exceeds 1 million contracts.

underlying indicator value. Additional margin may be required pursuant to Exchange Rule 12.10.

The Exchange hereby designates BXM options as eligible for trading as Flexible Exchange Options as provided for in Chapters XXIVA (Flexible Exchange Options) and XXIVB (FLEX Hybrid Trading System).

Capacity

CBOE has analyzed its capacity and represents that it believes the Exchange and the OPRA have the necessary systems capacity to handle the additional traffic associated with the listing of new series that would result from the introduction of BXM options.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act [13] in general, and furthers the objectives of Section 6(b)(5) of the Act [14] in particular, in that it will permit trading in options based on the index pursuant to rules designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade, and thereby will provide investors with the ability to invest in options that provide statistical measurements of market variability.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which CBOE consents, the Commission will:

(A) By order approve such proposed rule change; or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–CBOE–2008–26 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–CBOE–2008–26. 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 offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2008–26 and should be submitted on or before July 9, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–13703 Filed 6–17–08; 8:45 am]

BILLING CODE 8010–01–P

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57951; File No. SR–ISE–2008–42]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Payment for Order Flow Fees

June 11, 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 June 2, 2008, the International Securities Exchange, LLC (''ISE'' 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 prepared by the Exchange. The Exchange has designated this proposal as one establishing or changing a due, fee, or other charge imposed by ISE under Section 19(b)(3)(A)(ii) of the Act [3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

ISE proposes to amend its payment for order flow (''PFOF'') fees for issues that trade as part of the Penny Pilot (''Pilot'').[5] The text of the proposed rule

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] *See, e.g.*, Securities Exchange Act Release Nos. 54603 (October 16, 2006), 71 FR 62024 (October 20, 2006) (SR–ISE–2006–62) (Notice of Filing of Proposed Rule Change to Implement a Pilot Program To Quote and To Trade Options in Pennies); 56151 (July 26, 2007), 72 FR 42452 (August 2, 2007) (SR–ISE–2007–68) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to an Extension of the Penny Pilot Program); 56564 (September 27, 2007), 72 FR 56412 (October 3, 2007) (SR–ISE–2007–74) (Order Granting Accelerated Approval to a Proposed Rule Change Relating to an Extension and Expansion of the Penny Pilot Program); and 57508 (March 17, 2008), 73 FR 15243 (March 21, 2008) (SR–ISE–

change is available at the Exchange, the Commission's Public Reference Room, and *www.ise.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. ISE has substantially 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 amend its PFOF fees for issues that trade as part of the Pilot. Specifically, ISE proposes to increase the PFOF fee from $0.10 per contract to $0.25 per contract. As a result of this change, ISE believes that its PFOF fee in the Pilot options classes would be more competitive with the PFOF fee other options exchanges assess in these options classes, and allow ISE market makers to compete better for order flow in these options classes. ISE proposes to implement this change in its PFOF fee beginning on June 2, 2008. The Exchange is not amending its PFOF program in any other respect.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act [6] in general, and furthers the objectives of Section 6(b)(4) of the Act [7] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among ISE members. In particular, the Exchange believes increasing its PFOF fees in the Pilot options classes is reasonable and equitable in that it will allow ISE market makers to better compete for order flow in these options classes.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change has been designated as a fee change pursuant to Section 19(b)(3)(A)(ii) of the Act [8] and Rule 19b–4(f)(2) [9] thereunder, because it establishes or changes a due, fee, or other charge imposed by the Exchange. Accordingly, the proposal will take effect upon filing with the Commission. At any time within 60 days of the filing of such proposed rule change the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–ISE–2008–42 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–ISE–2008–42. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2008–42 and should be submitted on or before July 9, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–13707 Filed 6–17–08; 8:45 am]

BILLING CODE 8010–01–P

2008–27) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Implementing Phase II of the Penny Pilot Program Expansion).

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(4).

[8] 15 U.S.C. 78s(b)(3)(A)(ii).

[9] 17 CFR 240.19b–4(f)(2).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57950; File No. SR–NYSEArca–2008–57]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change Amending NYSE Arca Rule 5.3 and Rule 5.4 To Enable the Listing and Trading of Options on Index-Linked Securities

June 11, 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, NYSE Arca, Inc. (''NYSE Arca'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the Exchange. The Commission is publishing this notice to solicit comments on the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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 revise NYSE Arca Rules 5.3 and 5.4 to enable listing and trading on the Exchange of options on Index-Linked Securities. 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 states that the purpose of the proposed rule change is to revise NYSE Arca Rules 5.3 and 5.4 to enable the listing and trading of options on equity index-linked securities (''Equity Index-Linked Securities''), commodity-linked securities (''Commodity-Linked Securities''), currency-linked securities (''Currency-Linked Securities''), fixed income index-linked securities (''Fixed Income Index-Linked Securities''), futures-linked securities (''Futures-Linked Securities''), and multifactor index-linked securities (''Multifactor Index-Linked Securities''), collectively known as (''Index-Linked Securities'') (as defined in NYSE Arca Equities Rule 5.2(j)(6)) that are principally traded on a national securities exchange and an ''NMS stock'' (as defined in Rule 600 of Regulation NMS under the Act).

Index-Linked Securities are designed for investors who desire to participate in a specific market segment by providing exposure to one or more identifiable underlying securities, commodities, currencies, derivative instruments or market indexes of the foregoing (''Underlying Index'' or ''Underlying Indexes''). Index-Linked Securities are the non-convertible debt of an issuer that have a term of at least one year but not greater than thirty years. Despite the fact that Index-Linked Securities are linked to an underlying index, each trade as a single, exchange-listed security. Accordingly, rules pertaining to the listing and trading of standard equity options would apply to Index-Linked Securities. The Exchange does not propose any changes to rules pertaining to Stock Index Options.

Listing Criteria

The Exchange will consider listing and trading options on Index-Linked Securities provided the Index-Liked Securities meet the criteria for underlying securities set forth in NYSE Arca Rule 5.3(a)–(b).

The Exchange proposes that Index-Linked Securities deemed appropriate for options trading represent ownership of a security that provides for the payment at maturity, as described below:

- *Equity Index-Linked Securities* are securities that provide for the payment at maturity of a cash amount based on the performance of an underlying index or indexes of equity securities (''Equity Reference Asset'');
- *Commodity-Linked Securities* are securities that provide for the payment at maturity of a cash amount based on the performance of one or more physical commodities or commodity futures, options or other commodity derivatives or Commodity-Based Trust Shares or a basket or index of any of the foregoing (''Commodity Reference Asset'');[3]
- *Currency-Linked Securities* are securities that provide for the payment at maturity of a cash amount based on the performance of one or more currencies, or options or currency futures or other currency derivatives or Currency Trust Shares[4] or a basket or index of any of the foregoing (''Currency Reference Asset'');[5]
- *Fixed Income Index-Linked Securities* are securities that provide for the payment at maturity of a cash amount based on the performance of one or more notes, bonds, debentures or evidence of indebtedness that include, but are not limited to, U.S. Department of Treasury securities (''Treasury Securities''), government-sponsored entity securities (''GSE Securities''), municipal securities, trust preferred securities, supranational debt and debt of a foreign country or a subdivision thereof or a basket or index of any of the foregoing (''Fixed Income Reference Asset'');
- *Futures-Linked Securities* are securities that provide for the payment at maturity of a cash amount based on the performance of an index of (a) futures on Treasury Securities, GSE Securities, supranational debt and debt of a foreign country or a subdivision thereof, or options or other derivatives on any of the foregoing; or (b) interest rate futures or options or derivatives on the foregoing in this subparagraph (b) (''Futures Reference Asset''); and
- *Multifactor Index-Linked Securities* are securities that provide for the payment at maturity of a cash amount based on the performance of any combination of two or more Equity Reference Assets, Commodity Reference Assets, Currency Reference Assets, Fixed Income Reference Assets or Futures Reference Assets (''Multifactor Reference Asset'').

For the purposes of NYSE Arca Rule 5.3(j), Equity Reference Assets, Commodity Reference Assets, Currency Reference Assets, Fixed Income Reference Assets, Futures Reference Assets, and Multifactor Reference Assets, would be collectively referred to as ''Reference Assets,'' as defined in NYSE Arca Equities Rule 5.2(j)(6).

Index-Linked Securities must meet the criteria and guidelines for underlying securities set forth in NYSE Arca Rule 5.3(a), or the Index-Linked Securities must be redeemable at the option of the holder at least on a weekly basis through the issuer at a price related to the applicable underlying Reference Asset. In addition, the issuing company is obligated to issue or repurchase the securities in aggregation units for cash or cash equivalents satisfactory to the issuer of Index-Linked Securities which underlie the option as described in the Index-Linked Securities prospectus.

Continued Listing Requirements

Options on Index-Linked Securities would be subject to all Exchange rules governing the trading of equity options. The current continuing or maintenance listing standards for options traded on NYSE Arca would continue to apply.

[3] Telephone conversation between Glenn Gsell, Director, Options Regulation, Exchange, and Michou H.M. Nguyen and Brian Trackman, Special Counsels, Division of Trading and Markets, Commission, on June 10, 2008 (correcting the description of Index Linked Securities to conform to language in the proposed rule text stating that the payment at maturity is a cash amount) (''June 10 Teleconference'').

[4] *See* NYSE Arca Equities Rule 8.202(c). The term ''Currency Trust Shares'' is defined as a security that: (a) *Is* issued by a trust (''Trust'') that holds a specified non-U.S. currency deposited with the Trust; (b) when aggregated in some specified minimum number may be surrendered to the Trust by the beneficial owner to receive the specified non-U.S. currency; and (c) pays beneficial owners interest and other distributions on the deposited non-U.S. currency, if any, declared and paid by the Trust.

[5] *See* June 10 Teleconference *supra* note 3.

The Exchange proposes to establish NYSE Arca Rule 5.4(m) which would include criteria related to the continued listing of options on Index-Linked Securities.

Under the applicable continued listing criteria in proposed NYSE Arca Rule 5.4(m), options on Index Linked Securities initially approved for trading pursuant to proposed NYSE Arca Rule 5.3(j) may be subject to the suspension of opening transactions as follows: (1) Non-compliance with the terms of NYSE Arca Rule 5.3(j); (2) non-compliance with the terms of NYSE Arca Rule 5.4(b), except that in the case of options covering Index-Linked Securities approved pursuant to NYSE Arca Rule 5.3(j)(3)(B) that are redeemable at the option of the holder at least on a weekly basis, then option contracts of the class covering such Securities may only continue to be open for trading as long as the Securities are listed on a national securities exchange and are an ''NMS stock'' as defined in Rule 600 of Regulation NMS; [6] (3) in the case of any Index-Linked Security trading pursuant to NYSE Arca Rule 5.3(j), the value of the Reference Asset is no longer calculated or available; or (4) such other event shall occur or condition exist that in the opinion of the Exchange makes further dealing in such options on the Exchange inadvisable.

The Exchange represents that the listing and trading of options on Index-Linked Securities under proposed NYSE Arca Rule 5.3(j) will not have any effect on the rules pertaining to position and exercise limits [7] or margin.[8]

The Exchange states that it will implement surveillance procedures for options on Index-Linked Securities, including adequate comprehensive surveillance sharing agreements with markets trading in non-U.S. components, as applicable. NYSE Arca represents that these procedures will be adequate to properly monitor Exchange trading of options on these securities and to deter and detect violations of Exchange rules.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[9] in general, and furthers the objectives of Section 6(b)(5) of the Act,[10] in particular, in that it is designed to 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, and, in general, to protect investors and the public interest. The Exchange believes that the proposed rules applicable to trading pursuant to generic listing and trading criteria, together with the Exchange's surveillance procedures applicable to trading in the securities covered by the proposed rules, serve to foster investor protection.

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

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 reasons 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–2008–57 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–2008–57. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2008–57 and should be submitted on or before July 9, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–13705 Filed 6–17–08; 8:45 am]

BILLING CODE 8010–01–P

[6] *See* June 10 Teleconference, *supra* note 3 (correcting the description of Index Linked Securities to conform with proposed NYSE Arca Rule 5.4(m)(2)).

[7] *See* NYSE Arca Rules 6.8 and 6.9.

[8] *See* NYSE Arca Rule 5.25.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57957; File No. SR–NYSEArca–2008–60]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding Position and Exercise Limits for Options on the DIAMONDS Trust

June 12, 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 June 2, 2008, NYSE Arca, Inc. (''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. The Exchange has designated this proposal as non-controversial under Section 19(b)(3)(A)(iii) of the Act [3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its rules to increase the position and exercise limits applicable to options on the DIAMONDS Trust, Series 1 (''DIA''). The text of the proposed rule change is available on the Exchange's Web site (*http://www.nyse.com*), at the offices of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to amend NYSE Arca Rule 6.8, pertaining to position limits for options. The Exchange proposes to increase position limits for options on DIA to 300,000 contracts on the same side of the market. The Commission previously approved a similar proposal of the Chicago Board Options Exchange, Inc. (''CBOE'').[5]

Pursuant to NYSE Arca Rule 6.9, exercise limits for equity options are set at the same levels as the applicable position limits. Therefore, proposed changes to position limits for options on DIA, made pursuant to this filing, will also be applicable to the exercise limits for options on DIA.

The Exchange also recently made permanent its increased position and exercise limits for certain equity options on NYSE Arca, which were in effect on a pilot basis.[6] The Exchange stipulated, as part of its proposal for such permanent approval, that ''its surveillance procedures and options reporting procedures, in conjunction with the financial requirements and risk management review procedures generally in place at the clearing firms and the Options Clearing Corporation, will serve to adequately address any concerns the Commission may have with respect to account(s) engaging in any manipulative schemes or assuming too high a level of risk exposure.'' [7] These representations also apply to the current proposal to increase the position and exercise limits for options on DIA. The Exchange now seeks to increase the position and exercise limits for options on DIA on NYSE Arca to the level that such limits are in effect on CBOE and other option exchanges (300,000 contracts on the same side of the market).

The Exchange asserts that the justifications behind the Commission's approval of CBOE's proposal should support the same increased position and exercise limits on options on DIA on NYSE Arca. Specifically, the Exchange believes that the ''structure of the DIA options and the considerable liquidity of both the underlying cash and options market for DIA options lessen the opportunity for manipulation of this product and disruption in the underlying market that a lower position limit may protect against.'' [8]

The Exchange believes that the reporting requirements imposed under the Exchange's rules will help protect against potential manipulation.[9] Additionally, the Exchange believes that such an increase in position and exercise limits on options on DIA on NYSE Arca is also required for competitive purposes as well as for purposes of consistency and uniformity among the competing options exchanges. This, taken in conjunction with the permanent establishment of other increased position and exercise limits for certain equity options on NYSE Arca, supports the Exchange's proposal related to such increased position and exercise limits applicable to DIA.

2. Statutory Basis

The Exchange believes that its 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 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. Specifically, the Exchange believes that the structure of the DIA options and the considerable liquidity of the market for DIA options diminishes the opportunity for manipulation of this product and disruption in the underlying market that a lower position limit may protect against.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose

[5] *See* Securities Exchange Act Release No. 47346 (February 11, 2003), 68 FR 8316 (February 20, 2003) (SR–CBOE–2002–26) (approving an increase in the position limits and exercise limits to 300,000 for DIA options). The Commission stated that ''given the surveillance capabilities of the [CBOE] and the depth and liquidity in both the DIA options and the underlying cash market in DIAs, the Commission believes it is permissible to significantly raise position and exercise limits for DIA options without risk of disruption to the options or underlying cash markets.'' The Commission also stated that ''financial and reporting requirements * * * should allow [CBOE] to detect and deter trading abuses arising from the increased position and exercise limits, and will also allow [CBOE] to monitor large positions in order to identify instances of potential risk and to assess additional margin and/or capital charges, if deemed necessary.''

[6] *See* Securities Exchange Act Release No. 57417 (March 3, 2008), 73 FR 12788 (March 10, 2008) (SR–NYSEArca–2008–26).

[7] *Id.*

[8] *See* Securities Exchange Act Release No. 47346, *supra* note 5.

[9] *See* NYSE Arca Rule 6.6.

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received by the Exchange with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has designated the proposed rule change as one that: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. Therefore, the foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [12] and subparagraph (f)(6) of Rule 19b–4 thereunder.[13]

The Exchange has asked the Commission to waive the operative delay to permit the proposed rule change to become operative prior to the 30th day after filing. The Exchange believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because doing so will allow the Exchange to immediately increase its position and exercise limits applicable to DIA options, which will make NYSE Arca's limits consistent with those in effect on other option exchanges.

The Commission believes that waiving the 30-day operative delay of the Exchange's proposal is consistent with the protection of investors and the public interest.[14] Therefore, the Commission designates the proposal to be operative upon filing.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File No. SR–NYSEArca–2008–60 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 No. SR–NYSEArca–2008–60. 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 No. SR–NYSEArca–2008–60 and should be submitted on or before July 9, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Florence E. Harmon,

Acting Secretary.

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BILLING CODE 8010–01–P

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has fulfilled this requirement.

[14] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57954; File No. SR–NYSEArca–2008–59]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Elimination of Obsolete Rules Related to the PCX Plus System

June 11, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 2, 2008, NYSE Arca, Inc. (''NYSE Arca'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared substantially by NYSE Arca. NYSE Arca filed the proposed rule change as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act [3] and Rule 19b–4(f)(6) thereunder,[4] which renders 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

NYSE Arca proposes to amend or to eliminate several of its rules in order to remove obsolete and unnecessary rule text relating to terms or systems that are now obsolete. These changes are being made for administrative purposes only. The Exchange represents that by abolishing these out-dated references, the Exchange is not changing or altering any obligations, rights, policies or practices enumerated within its rules. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and *http://www.nyse.com.*

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NYSE Arca 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. NYSE Arca 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

NYSE Arca proposes to eliminate several of its rules relating to the PCX Plus system in order to remove confusing and unnecessary references to terms or systems that are now obsolete. By abolishing these out-dated references, the Exchange is not changing or altering any obligations, rights, policies or practices enumerated within its rules.

In August 2006, the Exchange implemented a new electronic order delivery, execution and reporting system known as the OX system.[5] At that time, there was a transitional period where the retired system, PCX Plus, and the new system, OX, were both in operation. This transition period allowed an orderly transition of options issues from the old to the new system. Due to the substantial differences between the systems the Exchange implemented, with the Commission's approval, several new rules defining the operation and use of the OX system. At the same time, since the change required a transition period, certain rules that specifically referenced the retired PCX Plus system were retained. These two sets of rules, one for each system, were at times redundant, but yet it was necessary, for the purposes of the transition, to retain these rules with their specific references to each system.

At the conclusion of the transition period, the PCX Plus system was decommissioned and is no longer a part of the NYSE Arca Options.[6] As a result, there are several rules pertaining specifically to the PCX Plus system, which are obsolete or irrelevant. Retaining these rules fosters unnecessary confusion. The Exchange now proposes eliminating these rules in their entirety.

In addition to the OX system in use at NYSE Arca, the Exchange also operates an options trading floor, for the purpose of conducting open out-cry trading. Rules related to options trading at NYSE Arca, both open-outcry trading and electronic trading, are contained in one rule set. While some rules are specific to the open-outcry floor based trading, and some are specific to electronic trading, there are others that are not necessarily platform specific and apply to Exchange options trading in general. In conjunction with the introduction of the OX system and the approval of the new rules for OX, some of these generic trading rules were labeled as ''PCX Plus'' rules. Even though certain rules did not necessarily deal specifically with the PCX Plus electronic trading system, the PCX Plus label was applied to differentiate them from the new OX specific rules. Some of these generic rules remain in effect today, although they may contain the out-dated reference to PCX Plus. The Exchange proposes amending those rules by eliminating the confusing and unnecessary reference.

The specific proposed changes are discussed in further detail below.

- *Rule 6.1:* This rule presently sets forth certain definitions and references that are in effect at NYSE Arca. By this proposal, the Exchange is eliminating obsolete terms and references associated with the PCX Plus system through Rule 6.1, as shown below.
- *Rule 6.1(a):* The Exchange is deleting the reference to PCX Plus. Rules related to PCX Plus are either being eliminated or amended.
- *Rule 6.1(b)(33):* The Exchange proposes to eliminate the reference to the PCX Plus system and replacing it with the OX electronic trading system.
- *Rule 6.1(c), References:* The Exchange no longer defines the terms Remote Market Makers, Supplemental Market Makers, or Floor Market Makers, as these were specific users of the PCX Plus system. As a result, the Exchange proposes eliminating references to these terms within this section.
- *Rule 6.2(c)(2)(F):* The Exchange is eliminating the obsolete reference to ''stools used by the market Quote Terminal Operator.'' A Quote Terminal was an Exchange owned and operated system associated with the PCX Plus system, that is no longer in use today.
- *Rule 6.32, Market Maker Defined—PCX Plus:* This rule defines Market Makers and other associated terms as they apply to transacting business either on the PCX Plus system, or in some cases, on the floor of the Exchange. By this proposal, the Exchange is deleting any obsolete references to PCX Plus, and any rules that are specific to trading on the PCX Plus system, while retaining still relevant rule text.
- *Rule 6.32(a):* The Exchange is replacing the outdated definition of Market Maker relating to PCX Plus with the current definition of Market Maker, as it relates to trading either on the floor of the Exchange or on the NYSE Arca OX electronic trading platform. The terms Remote Market Makers, Supplemental Market Maker, and Floor Market Maker were used to define certain users of the PCX Plus trading system. These classifications have been rendered obsolete as a result of the decommissioning of the PCX Plus system; therefore the Exchange proposes eliminating them.
- *Rule 6.32(c):* This rule contains a provision related to Remote Marker Makers. The term Remote Marker Maker, which was specific to the PCX Plus system, is no longer applicable to trading on NYSE Arca. Therefore, language regarding a Remote Market Maker, entering orders from off the floor, will be deleted.
- *Rule 6.36(a):* The terms Remote Marker Maker and Lead Market Maker are being deleted. Remote Market Maker was specific to the PCX Plus system, and Lead Market Markers are included as a subset of Market Makers under Rule 6.32(a).
- *Rule 6.37, Obligations of Market Makers—PCX Plus:* This rule defined the obligations and rights of Market Makers with respect to either the PCX Plus system or open out-cry trading. The Exchange proposes to remove the reference to PCX Plus in the rule title, and subsection (b)(1)(G). The Exchange also proposes to eliminate paragraphs (g) and (h) of Rule 6.37, as they are specific to trading on the PCX Plus system.
- *Commentary .03 to Rule 6.37:* The Exchange proposes eliminating text as it pertains to Remote Market Makers—a class of Market Makers that was specific to the PCX Plus system—and Lead Market Makers, as they are already included in the definition of Market Maker.
- *Commentary .07 to Rule 6.37:* The Exchange proposes to eliminate the reference to the PCX Plus system and replace it with a reference to the NYSE Arca OX electronic trading system.

[5] *See* Securities Exchange Act Release No. 54238 (July 28, 2006), 71 FR 44758 (August 7, 2006) (SR–NYSEArca–2006–13) (relating to the establishment of the OX trading rules).

[6] The OX system was rolled-out during a phase-in period in August and September 2006. The PCX Plus system was decommissioned in October 2006, after the OX system was fully operational.

• *Rule 6.40, Market Maker Risk Limitation Mechanism—PCX Plus, and Rule 6.40A, Market Maker Risk Limitation Mechanism—OX:* The Exchange is hereby eliminating the obsolete Rule 6.40, which pertains to the decommissioned PCX Plus system.

• *Rule 6.40A:* The Exchange is renumbering this as Rule 6.40.

• *Rule 6.41, Market Maker Marketing Reports:* The Exchange is eliminating the obsolete reference to PCX Plus.

• *Rule 6.64, Trading Rotations—PCX Plus:* The Exchange is eliminating this Rule, which pertains solely to trading on the decommissioned PCX Plus system.

• *Rule 6.64A, OX Trading Auctions:* The Exchange is renumbering this as new Rule 6.64.

• *Rule 6.67, Order Format and System Entry Requirements:* Presently, this rule refers to orders sent through the Exchange's Member Firm Interface. The Member Firm interface was also the gateway for orders sent to the PCX Plus system. The Exchange no longer uses a Member Firm Interface as a gateway. As a result, the Exchange is eliminating that reference. Instead, in recognition of the many ways Users can reach the Exchange, the Exchange will replace that outdated term by referencing ''orders submitted electronically through the Exchange's OX electronic trading system.'' The Exchange is also eliminating paragraphs (d)(1)(B) and (e) as they contain obsolete references to certain operative dates in 2005.

• *Rule 6.76, Priority and Order Allocation Procedures—PCX Plus:* The Exchange is eliminating this rule in its entirety, as it relates solely to the decommissioned PCX Plus system.

• *Rule 6.76A:* The Exchange is renumbering this as Rule 6.76.

• *Rule 6.76B:* The Exchange is renumbering this as Rule 6.76A.

• *Rule 6.82(c)(4):* The Exchange proposes changing a rule reference due to the renumbering of certain rules.

• *Rule 6.82(c)(8):* Lead Market Makers or ''LMMs'' were responsible for establishing the variables in the formula used to generate quotations that were then disseminated by the PCX Plus system. These quotations represented not only the market for the LMM, but also the market for the Market Makers in the Trading Crowd. All Market Makers on NYSE Arca now have the ability to send their own quotations to the Exchange's electronic trading system, via an electronic interface, and no longer rely on the LMM to set the variables used to establish quotations. The Exchange proposes deleting this rule in its entirety and reserving Rule number 6.82(c)(8) for possible future use.

• *Rule 6.82(d)(2):* The Exchange proposes to eliminate the outdated reference to the PCX Plus system and replace it with a reference to the OX electronic trading system.

• *Rule 6.89, Floor Broker Hand-Held Terminals:* The Exchange proposes to eliminate this rule in its entirety, as it is no longer descriptive of equipment in use, and it is not applicable to the manner in which the Exchange Floor operates. With the elimination of the PCX Plus system, the Floor Broker Hand-Held system was decommissioned. Neither Exchange Sponsored Hand-Held Terminals nor Proprietary Brokerage Routing Terminals are in use today at NYSE Arca. As part of the requirements for systematization of all orders received over the phone, and the requirement in Rule 6.67, proprietary brokerage order routing terminals no longer have an interface with the Exchange reporting or clearing systems, nor do they meet the Exchange's recordkeeping requirements under Rule 6.68. The Exchange proposes deleting this rule in its entirety and reserving rule number 6.89 for possible future use.

• *Rule 6.90, PCX Plus:* The Exchange proposes deleting this rule in its entirety, as it relates solely to the decommissioned PCX Plus system, and reserve rule number 6.90 for possible future use.

• *Rule 6.92(a)(7)(ii):* The Exchange is eliminating the specific reference to the PCX Plus system.

• *Rule 6.92, paragraphs (a) and (a)(7)(iii):* The Exchange proposes to change an incorrect rule reference. Both rules contain a reference to Rule 6.96, but due to a typographical error, they presently read as Rule 6.95. The rule reference cited in Rule 6.92(a) refers to all rules related to the Intermarket Linkage System, which includes Rule 6.96. Furthermore, Rule 6.92(a)(7)(iii) refers to limitations on principal order access, which is contained in Rule 6.96, not Rule 6.95. This change simply serves to correct these typographical errors.

• *Rule 7.1, Trading Sessions:* The Exchange is removing the references to Remote Market Makers, a class of Market Makers that was specific to the PCX Plus, and Lead Market Makers, as they are included as a subset of Market Makers in rule 6.32(a). The Exchange also proposes making one grammatical correction to the rule text.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(5) of the Act,[8] in particular, in that the proposal 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 the proposed changes will serve to clarify the rules of NYSE Arca by removing outdated and obsolete rule references.

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

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[9] and subparagraph (f)(6) of Rule 19b–4 thereunder.[10]

A proposed rule change filed under 19b–4(f)(6) normally may not become operative prior to 30 days after the date of filing.[11] However, Rule 19b–4(f)(6)(iii)[12] permits the Commission to designate a shorter time if such action is consistent with the protection of

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6).

[11] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has complied with this pre-filing requirement.

[12] *Id.*

investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay and designate the proposed rule change operative upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Waiving the 30-day operative delay ensures that the Exchange's rules will be updated without delay. The Commission believes that the proposed rule change will provide clarity and consistency to all market participants who may reference the Exchange's rules. Therefore, the Commission designates the proposal operative upon filing.[13]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File No. SR–NYSEArca–2008–59 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2008–59. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of NYSE Arca. 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–2008–59 and should be submitted on or before July 9, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Florence E. Harmon,

Acting Secretary.

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[13] For purposes only of waiving the 30-day operative delay of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57953; File No. SR–Phlx–2008–45]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Increasing the Maximum Number of Quoters in Options Overlying the SPDR Gold Trust

June 11, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 [2] thereunder, notice is hereby given that on June 6, 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, II, and III, below, which Items have been substantially prepared by the Phlx. The Exchange has designated this proposal as one constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule under Section 19(b)(3)(A)(i) of the Act,[3] and Rule 19b–4(f)(1) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx proposes to increase the Maximum Number of Quoters (''MNQ'') in options overlying the SPDR Gold Trust (''GLD''). The text of the proposed rule change is available on Phlx's Web site (*http://www.phlx.com*), at the Phlx's Office of the Secretary, 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 Phlx included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Phlx has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to enhance liquidity on the Exchange in options overlying GLD by setting the highest MNQ permissible under Exchange rules for such options.[5]

Exchange Rule 507, Commentary .04 provides a procedure by which the Exchange's Options Allocation, Evaluation and Securities Committee (''OAESC'') [6] may increase the MNQ for a particular product. Specifically, when exceptional circumstances warrant, the OAESC may increase the MNQ for an existing or new product. ''Exceptional circumstances'' refers to substantial trading volume, whether actual or expected (*e.g.*, in the case of a new

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(i).

[4] 17 CFR 240.19b–4(f)(1).

[5] Exchange Rule 507, Commentary .02 provides:

''The term 'MNQ' refers to the maximum number of participants that may be assigned in a particular equity option at any one time. The MNQ levels for options trading on the Exchange are as follows, based on the preceding month's national volumes:

(a) 22 for the 5% most actively traded options;

(b) 17 for the next 10% most actively traded options;

(c) 12 for all other options.''

[6] *See* Exchange By-Law Article X, Section 10–7.

product or a major news announcement or corporate event). Upon cessation of the exceptional circumstances, the OAESC, in its discretion, may determine to reduce the MNQ, provided, however, that any reduction must be undertaken in accordance with the procedure established in the Rule 507.

The effect of an increase in the MNQ is procompetitive in that it increases the number of market participants that may quote electronically in a product. The purpose of this filing is to increase the MNQ for options overlying GLD, which is a new product in which the Exchange expects substantial trading volume.

The Exchange proposes to increase the MNQ in GLD options from 12 quoters, the MNQ applicable to new products with no ''track record'' sufficient to determine whether such product falls within the top 5% most actively traded options, to 22 quoters, based on the Exchange's belief that options overlying GLD will eventually fall within this category.

Increasing the MNQ in GLD options will enable the Exchange to enhance the liquidity offered, thereby offering deeper and more liquid markets. The Exchange represents that it will comply with all of the requirements of Exchange Rule 507 in increasing the MNQ in GLD options and, if it determines subsequently to reduce such MNQ, in reducing the MNQ in GLD options. Changes to the MNQ will be announced to the membership via Exchange Circular.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act [7] in general, and furthers the objectives of Section 6(b)(5) of the Act [8] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by adding depth and liquidity to the Exchange's markets in GLD options.

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

The foregoing proposed rule change will take effect upon filing with the Commission pursuant to Section 19(b)(3)(A)(i) of the Act [9] and Rule 19b–4(f)(1) thereunder,[10] because it constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the 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–2008–45 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–2008–45. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the 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–2008–45 and should be submitted on or before July 9, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–13706 Filed 6–17–08; 8:45 am]

BILLING CODE 8010–01–P

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A)(i).

[10] 17 CFR 240.19b–4(f)(1).

[11] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice: 6264]

60-Day Notice of Proposed Information Collection: Exchange Visitor (J–1 Visa) Compliance Evaluation Program, SV–2008–0014, Secondary School Student; SV–2008–0015, Summer Work Travel; SV–2008–0016, Training Program; SV–2008–0017, Internship Program, New-OMB No. 1405–XXXX

ACTION: Notice of request for public comments.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. We are conducting this process in accordance with the Paperwork Reduction Act of 1995.

- *Title of Information Collection:* Exchange Visitor (J–1 Visa) Compliance Evaluation Program.
- *OMB Control Number:* None.
- *Type of Request:* New Collection.
- *Originating Office:* Bureau of Educational and Cultural Affairs (ECA), Office of Exchange Coordination and Designation (ECA/EC).

- *Form Numbers:* SV–2008–0014, SV–2008–0015, SV–2008–0016, SV–2008–0017.
- *Respondents:* Participants and hosts associated with the Exchange Visitor Program.
- *Estimated Number of Respondents:* 378.
- *Estimated Number of Responses:* 378.
- *Average Hours Per Response:* 30 minutes.
- *Total Estimated Burden:* 190 hours.
- *Frequency:* On occasion.
- *Obligation to Respond:* Voluntary.

DATES: The Department will accept comments from the public up to 60 days from June 18, 2008.

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

- E-mail: *jexchanges@state.gov*
- *Mail (paper, disk, or CD–ROM submissions):* Stanley S. Colvin, U.S. Department of State, Bureau of Educational and Cultural Affairs, Office of Exchange Coordination and Designation (ECA/EC), 301 4th Street, SW., Room 734 (SA–44), Washington, DC 20547.

You must include the DS form number (if applicable), information collection title, and OMB control number in any correspondence.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed information collection and supporting documents, to Stanley S. Colvin, U.S. Department of State, Bureau of Educational and Cultural Affairs, Office of Exchange Coordination and Designation (ECA/EC), 301 4th Street, SW., Room 734 (SA–44), Washington, DC 20547, who may be reached at *jexchanges@state.gov.*

SUPPLEMENTARY INFORMATION: We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper performance of our functions.
- Evaluate the accuracy of our estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of technology.

Abstract of proposed collection: The information collection will facilitate the Bureau of Educational and Cultural Affairs (ECA) ability to regularly collect feedback information and data from participants and hosts associated with ECA's Exchange Visitor (J–1 Visa) Program (EVP). This information will allow ECA to assess and improve the EVP program, ensure that sponsors comply with the appropriate statutes and regulations, and assess participant and host satisfaction with their EVP exchange experience.

Methodology: Data collected through the information collection will be derived primarily from respondent web-based surveys, and, secondarily, from personal interviews and/or focus groups, and site visits, as necessary.

Dated: April 8, 2008.

Sheldon Yuspeh, ECA–IIP/EX,

Executive Director, Bureau of Educational and Cultural Affairs (ECA), Department of State.

[FR Doc. E8–13782 Filed 6–17–08; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 6263]

Culturally Significant Objects Imported for Exhibition Determinations: ''Landscapes Clear and Radiant: The Art of Wang Hui (1632–1717)''

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.* ; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition ''Landscapes Clear and Radiant: The Art of Wang Hui (1632–1717),'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Metropolitan Museum of Art from on or about September 8, 2008, until on or about January 4, 2009, and at possible additional exhibitions or venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Carol B. Epstein, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (*telephone:* 202/453–8048). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: June 10, 2008.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E8–13775 Filed 6–17–08; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 6266]

Culturally Significant Objects Imported for Exhibition Determinations: ''Roy Lichtenstein's Girl With Tear III''

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.* ; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the object to be included in the exhibition ''Roy Lichtenstein's Girl with Tear III,'' imported from abroad for temporary exhibition within the United States, is of cultural significance. The object is imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit object at The Metropolitan Museum of Art, New York, NY, from on or about July 1, 2008, until on or about September 20, 2008, and at possible additional exhibitions or venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit object, contact Julie Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: (202) 453–8050). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: June 11, 2008.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E8–13770 Filed 6–17–08; 8:45 am]

BILLING CODE 4710–05–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 April 11, 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–2007–0124.

Date Filed: April 8, 2008.

Due Date for Answers, Conforming Applications, or Motion To Modify Scope: April 29, 2008.

Description: First amended application of Aerolineas Mesoamericanas, S.A. de C.V. requesting to include service from Culiacan to Las Vegas operating 3 weekly roundtrip flights to the previous foreign air carrier permit and exemption authority requested.

Docket Number: DOT–OST–2008–0130.

Date Filed: April 9, 2008.

Due Date for Answers, Conforming Applications, or Motion To Modify Scope: April 30, 20008.

Description: Application of Belair Airlines Ltd. \("Belair") requesting a foreign air carrier permit authorizing it to provide: (i) Scheduled foreign air transportation of persons, property and mail from points behind Switzerland via Switzerland and intermediate points to a point or points in the United States and beyond, as provided in Section 1 to Annex I of the Open Skies Agreement, together with all of the operational rights provided for in that annex; and (ii) charter foreign air transportation of persons, property and mail to the full extent permitted in Annex II of the Open Skies Agreement. In addition, Belair requests an amendment to its existing exemption authority to enable it engage in the above-described operations pending issuance of its foreign air carrier permit.

Docket Number: DOT–OST–2008–0133.

Date Filed: April 10, 2008.

Due Date for Answers, Conforming Applications, or Motion To Modify Scope: May 1, 2008.

Description: Joint Application of Arrow Air, Inc.(Arrow), ATA Airlines, Inc., North American Airlines, Inc., World Airways, Inc. and MatlinPatterson Global Advisers, LLC (MatlinPatterson) requesting any necessary approval for the de facto transfer of the certificate authority of Arrow in connection with the purchase by MatlinPatterson of a controlling interest in that company's voting stock.

Renee V. Wright,

Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. E8–13766 Filed 6–17–08; 8:45 am]

BILLING CODE 4910–9X–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 April 4, 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–2008–0125.

Date Filed: April 1, 2008.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: April 22, 2008.

Description: Application of Martinair Holland N.V. requesting an exemption and amendment to its foreign air carrier permit to engage in: (1) Foreign scheduled and charter air transportation of persons, property and mail between any point or points behind any member state of the European Union via any point or points in any member state and via intermediate points to any point or points in the United States or beyond; (2) foreign scheduled and 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 of the European Common Aviation Area; (3) foreign scheduled and charter cargo air transportation between any point or points in the United States and any other point or points; (4) other charters; and (5) transportation authorized by any additional route rights that may be made available to European Union carriers in the future.

Renee V. Wright,

Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. E8–13772 Filed 6–17–08; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly Notice of PFC Approvals and Disapprovals. In May 2008, there were 11 applications approved. Additionally, 16 approved amendments to previously approved applications are listed.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. No. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158). This notice is published pursuant to paragraph d of § 158.29.

PFC Applications Approved

Public Agency: Panama City-Bay County Airport and Industrial District, Panama City, Florida.

Application Number: 07–02–C–00–PFN.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $41,968,640.

Earliest Charge Effective Date: April 1, 2009.

Estimated Charge Expiration Date: July 1, 2039.

Class of Air Carriers Not Required To Collect PFC's: None.

Brief Description of Projects Approved for Collection and Use: Site development. Primary runway paving. Paving, lighting, and navigational aids. Terminal building. Utilities.

Brief Description of Project Partially Approved for Collection and Use: Facilities.

Determination: The FAA determined that two of the project elements were not eligible for PFC funding.

Decision Date: May 2, 2008.

FOR FURTHER INFORMATION CONTACT: Susan Moore, Orlando Airports District Office, (407) 812–6331, extension 120.

Public Agency: City of Rapid City, South Dakota.

Application Number: 08–05–C–00–RAP.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $729,192.

Earliest Charge Effective Date: September 1, 2008.

Estimated Charge Expiration Date: June 1, 2009.

Class of Air Carriers Not Required To Collect PFC's: None.

Brief Description of Projects Approved for Collection and Use: General aviation security and lighting upgrades. Midfield development and perimeter fencing. Access control/security upgrades. Acquire two snow removal equipment vehicles and deicing truck. Design and construct general aviation area/access road pavement rehabilitation. Master plan update phase 2. Acquisition and installation of boarding bridge. PFC application administration.

Decision Date: May 2, 2008.

FOR FURTHER INFORMATION CONTACT: Thomas Schauer, Bismarck Airport District Office, (701) 323–7380.

Public Agency: Central West Virginia Regional Airport Authority, Charleston, West Virginia.

Application Number: 08–11–C–00–CRW.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $1,582,686.

Earliest Charge Effective Date: September 1, 2011.

Estimated Charge Expiration Date: November 1, 2012.

Class of Air Carriers Not Required To Collect PFC's: None.

Brief Description of Projects Approved for Collection and Use: Runway 5 obstruction removal. Rehabilitate taxiways A and B. Update airport master plan. Fire hydrant system. Dynamic friction tester. Purchase emergency stairs. Main terminal expansion.

Decision Date: May 2, 2008.

FOR FURTHER INFORMATION CONTACT: Matthew DiGiulian, Beckley Airports District Office, (304) 252–6216.

Public Agency: Port of Bellingham, Bellingham, Washington.

Application Number: 08–09–C–00–BLI.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $2,548,830.

Earliest Charge Effective Date: September 1, 2012.

Estimated Charge Expiration Date: September 1, 2014.

Class of Air Carriers Not Required To Collect PFC's: Part 135 air taxi operators—nonscheduled/on-demand air carriers.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Bellingham International Airport.

Brief Description of Projects Approved for Collection and Use: Acquire interactive airport training equipment. Design and construction of hardstand. Terminal building modifications to support security changes. Plans and specifications for taxiway D rehabilitation. Design and construction of taxiway E. Plans and specifications—acquisition of snow removal equipment. Rehabilitate terminal apron, phase 2. Runway 16/34 crack/fog seal, phase 2. Taxilane construction, phase 2. Construct apron taxiway. Construct taxiway C, phase 2. Design and construction of aircraft rescue and firefighting building. Acquire security equipment.

Brief Description of Project Approved for Collection: Plans and specifications for terminal rehabilitation.

Decision Date: May 8, 2008.

FOR FURTHER INFORMATION CONTACT: Trang Tran, Seattle Airports District Office, (425) 227–1662.

Public Agency: City of Manhattan, Kansas.

Application Number: 08–02–C–00–MHK.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $601,007.

Earliest Charge Effective Date: April 1, 2009.

Estimated Charge Expiration Date: June 1, 2018.

Class of Air Carriers Not Required To Collect PFC's: On-demand air taxi/commercial operations.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Manhattan Regional Airport.

Brief Description of Projects Approved for Collection and Use: Taxiway A extension. Aircraft rescue and firefighting building. Acquire snow removal equipment. Replace deicer truck. Install wildlife fence. Replace mobile stairs. Environmental assessment. Contract air traffic control tower construction. Airfield lighting and electrical improvements. Acquire displacement plow.

Decision Date: May 9, 2008.

FOR FURTHER INFORMATION CONTACT: Mike Rottingham, Central Region Airports Division, (816) 329–2627.

Public Agency: Texarkana Airport Authority, Texarkana, Arkansas.

Application Number: 08–06–C–00–TXK.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $564,071.

Earliest Charge Effective Date: July 1, 2008.

Estimated Charge Expiration Date: April 1, 2010.

Class of Air Carriers Not Required To Collect PFC's: Air taxi commercial operators, air carriers operating under Part 135 and filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Texarkana Regional Airport.

Brief Description of Projects Approved for Collection and Use: Rehabilitate terminal building. PFC administrative costs.

Decision Date: May 19, 2008.

FOR FURTHER INFORMATION CONTACT: Paul Burns, Arkansas/Oklahoma Airports Development Office, (817) 222–5648.

Public Agency: Wichita Airport Authority, Wichita, Kansas.

Application Number: 08–06–C–00–ICT.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $3,630,000.

Earliest Charge Effective Date: October 1, 2008.

Estimated Charge Expiration Date: October 1, 2009.

Class of Air Carriers Not Required To Collect PFC's: None.

Brief Description of Project Approved for Collection and Use: Security improvements.

Decision Date: May 20, 2008.

FOR FURTHER INFORMATION CONTACT: Jeffrey Deitering, Central Region Airports Division, (816) 329–2637.

Public Agency: Lafayette Airport Commission, Lafayette, Louisiana.

Application Number: 08–06–C–00–LFT.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $3,950,000.

Earliest Charge Effective Date: August 1, 2008.

Estimated Charge Expiration Date: May 1, 2012.

Class of Air Carriers Not Required To Collect PFC's: Air taxi commercial operators or carriers filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Lafayette Regional Airport.

Brief Description of Projects Approved for Collection and Use: Airport security system upgrade. Replace precision approach path indicator systems, runways 4L, 4R, 22L, 22R, 11, and 29. PFC administrative fees.

Decision Date: May 20, 2008.

FOR FURTHER INFORMATION CONTACT: Ilia Quinones, Louisiana/New Mexico Airports Development Office, (817) 222–5646.

Public Agency: Detroit Metropolitan Wayne County Airport Authority, Detroit, Michigan.

Application Number: 08–07–C–00–DTW.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $257,020,320.

Earliest Charge Effective Date: October 1, 2032.

Estimated Charge Expiration Date: August 1, 2034.

Class of Air Carriers Not Required To Collect PFC's: All air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Detroit Metropolitan Wayne County Airport (DTW).

Brief Description of Project Approved for Collection at DTW and USE at DTW and Willow Run Airport at a $3.00 PFC Level: Airfield snow removal vehicles and equipment.

Brief Description of Projects Approved for Collection at DTW and Use at DTW at a $3.00 PFC Level: Master plan update. Runway surface monitor system on runway 4L/22R. McNamara terminal in-line explosive detection system.

Brief Description of Projects Approved for Collection at DTW and Use at DTW at a $4.50 PFC Level: Infill island at taxiway Y–10. Runway and taxiway improvements.

Brief Description of Project Approved for Collection at DTW and Use at DTW and Willow Run Airport at a $3.00 PFC Level: Rehabilitate terminal apron, phase 2. Runway 16/34 crack/fog seal, phase 2. Taxilane construction, phase 2. Construct apron taxiway. Construct taxiway C, phase 2. Design and construction of aircraft rescue and firefighting building. Acquire security equipment.

Brief Description of Project Approved for Collection at a $4.50 PFC Level: Reconstruct runway 4R/22L.

Decision Date: May 27, 2008.

FOR FURTHER INFORMATION CONTACT: Jason Watt, Detroit Airports District Office, (734) 229–2906.

Public Agency: Metropolitan Airports Commission, Minneapolis, Minnesota.

Application Number: 08–10–C–00–MSP.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $128,448,231.

Earliest Charge Effective Date: February 1, 2019.

Estimated Charge Expiration Date: August 1, 2020.

Class of Air Carriers Not Required To Collect PFC's: All air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Minneapolis–St. Paul International Airport.

Brief Description of Projects Approved for Collection and Use at a $3.00 PFC Level: Airside bituminous rehabilitation. Taxiway P reconstruction. Runway 12L/30R overlay. Miscellaneous airfield construction. Material storage building door replacement.

Brief Description of Projects Approved for Collection and Use at a $4.50 PFC Level: Taxiway C–D complex. Pavement rehabilitation—runway 12L/30R segment 2. Lindbergh terminal in-line bag screening handling. Lindbergh terminal jet bridge/luggage handling system.

Brief Description of Project Partially Approved for Collection and Use at a $3.00 PFC Level: Pavement rehabilitation 2007 and 2010.

Determination: The fuel hydrant system is not PFC eligible because it does not meet the requirements of § 158.15(b)((6). The approved PFC amount was reduced from that requested by the cost of this ineligible element.

Brief Description of Project Partially Approved for Collection and Use at a $4.50 PFCLevel: Concourse G site preparation.

Determination: The approved PFC amount was reduced from that requested due to updated cost estimates which show that the cost will be less than originally estimated.

Brief Description of Withdrawn Projects: North side storm sewer.

Date of Withdrawal: May 5, 2008.

Runway 12L snow melting pad expansion.

Date of Withdrawal: March 4, 2008.

Decision Date: May 28, 2008.

FOR FURTHER INFORMATION CONTACT: Nancy Nistler, Minneapolis Airports District Office, (612) 713–4353.

Public Agency: City of Albany, Georgia.

Application Number: 08–04–C–00–ABY.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $341,518.

Earliest Charge Effective Date: July 1, 2008.

Estimated Charge Expiration Date: August 1, 2010.

Class of Air Carriers Not Required To Collect PFC's: Air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Southwest Georgia Regional Airport.

Brief Description of Projects Approved for Collection and Use: Acquire aircraft rescue and firefighting suits. Construct cargo apron—phase II. Groove runway 16/34. Install runway distance-to-go

signs. Install runway visual guidance signs. Acquire equipment (precision approach path indicators and runway end identifier lights). Construct cargo apron—phase III. Rehabilitate taxiway (design). Reconstruct taxiway D. Improve access road. Replace security gates.

Decision Date: May 29, 2008.

FOR FURTHER INFORMATION CONTACT: Aimee McCormick, Atlanta Airports District Office, (404) 305–7143.

AMENDMENT TO PFC APPROVALS

Amendment no. city, state	Amendment approved date	Original approved net PFC revenue	Amended approved net PFC revenue	Original estimated charge exp. date	Amended estimated charge exp. date
05–05–C–01–LAX Los Angeles, CA	04/25/08	$267,249,968	$697,249,968	10/01/09	04/01/11
98–04–C–03–CLM Port Angeles, WA	05/02/08	100,428	85,444	12/01/99	08/01/99
00–05–C–02–LSE LaCrosse, WI	05/06/08	689,028	673,014	08/01/02	10/01/01
99–03–C–02–TYR Tyler, TX	05/08/08	1,123,700	1,113,032	08/01/08	08/01/08
98–02–C–02–ACT Waco, TX	05/08/08	2,081,400	1,857,193	12/01/08	01/01/08
02–09–C–05–MCO Orlando, FL	05/09/08	163,040,998	165,358,198	10/01/12	10/01/12
06–01–C–01–ITO Hilo, HI	05/14/08	781,000	467,293	07/01/11	10/01/08
06–02–C–01–HNL Honolulu, HI	05/14/08	78,050,000	46,699,392	07/01/11	10/01/08
06–02–C–01–OGG Kahalui, HI	05/14/08	15,000,000	9,573,226	07/01/11	10/01/08
06–02–C–01–KOA Kona, HI	05/14/08	6,281,000	3,758,090	07/01/11	10/01/08
06–02–C–01–LIH Lihue, HI	05/14/08	3,346,000	2,002,001	07/01/11	10/01/08
06–10–C–02–PHL Philadelphia, PA	05/14/08	198,950,000	238,950,000	09/01/17	04/01/18
05–01–C–02–PIE St. Petersburg, FL	05/15/08	3,357,639	4,051,039	02/01/09	02/01/09
98–04–C–02–MSP Minneapolis, MN	05/20/08	55,471,897	47,800,645	05/01/01	04/01/01
00–05–C–03–MSP Minneapolis, MN	05/20/08	122,873,838	112,533,104	07/01/03	02/01/03
97–02–C–04–DSM Des Moines, IA	05/23/08	9,874,583	9,694,565	05/01/02	05/01/02

Issued in Washington, DC on June 3, 2008.

Joe Hebert,

Manager, Financial Analysis and Passenger Facility Charge Branch.

[FR Doc. E8–13212 Filed 6–17–08; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2006–25756]

Commercial Driver's License (CDL) Standards; Volvo Trucks North America, Inc.'s Exemption Application

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition; granting of application for exemption.

SUMMARY: FMCSA announces its decision to grant Volvo Trucks North America, Inc.'s (Volvo) application for an exemption for three of its drivers to enable them to test-drive commercial motor vehicles (CMVs) in the United States without a commercial driver's license (CDL) issued by one of the States. Volvo had requested that the exemption cover three Swedish engineers and technicians who will test drive CMVs for Volvo within the U.S. They stated the exemption is needed to support a Volvo field test to meet future air quality standards and to test-drive Volvo prototype vehicles to verify results in ''real world'' environments. Each of these drivers holds a valid CDL issued in Sweden but lacks the U.S. residency necessary to obtain a CDL issued by one of the States in the U.S. FMCSA believes the knowledge and skills testing and training program that drivers must undergo to obtain a Swedish CDL ensures that these drivers will achieve a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption.

DATES: This decision is effective June 18, 2008. The exemption expires on June 18, 2010.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Clemente, Driver and Carrier Operations Division, Office of Bus and Truck Standards and Operations, MC–PSD, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590. Telephone: 202–366–4325. E-mail: *MCPSD@dot.gov.*

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31315 and 31136(e), FMCSA may grant an exemption from the CDL requirements in 49 CFR 383.23 for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption'' (49 CFR 381.305(a)). FMCSA has evaluated Volvo's application on its merits and decided to grant the exemption for three of Volvo's engineers and technicians for a 2-year period.

Volvo Application for an Exemption

Volvo applied for an exemption from the 49 CFR 383.23 requirement that the operator of a CMV obtain a CDL. This section of the Federal Motor Carrier Safety Regulations (FMCSRs) sets forth the standards that States must employ in issuing CDLs to drivers operating in commerce. In the U.S., an individual must be a resident of a State in order to qualify for a CDL [1]. The Volvo drivers-employees for whom this exemption is sought are all citizens and residents of Sweden; therefore, they cannot apply for a CDL in any State of the United States. A copy of the request for exemption from section 383.23 is in the docket identified at the beginning of this notice.

Swedish Drivers

This exemption enables the following drivers to test-drive in the U.S. Volvo CMVs that are assembled, sold or primarily used in the U.S.: Andreas Hamsten, Carl-Gustaf Theen and Therese Johansson.

Collectively, these drivers form a team of engineers and technicians. Volvo currently employs these drivers in Sweden, and wants them to be able to test-drive Volvo prototype vehicles at its test site and in the vicinity of Phoenix, Arizona, to verify vehicle results in ''real world'' environments. These drivers would test-drive Volvo CMVs that are assembled, sold or primarily used in the U.S. They are highly trained,

[1] Although 49 CFR 383.23 indicates that these drivers could obtain a Nonresident CDL, few States are currently issuing Nonresident CDLs.

experienced CMV operators with valid Swedish-issued CDLs. Because each of the drivers was required to satisfy strict CDL testing standards in Sweden to obtain a CDL and has extensive training and experience operating CMVs, Volvo believes that the exemption will maintain a level of safety equivalent to the level of safety that would be obtained absent the exemption.

Method To Ensure an Equivalent or Greater Level of Safety

According to Volvo, drivers applying for a Swedish-issued CDL must undergo a training program and pass knowledge and skills tests. Volvo believes the knowledge and skills tests and training program that these drivers undergo to obtain a Swedish CDL ensure the exemption would provide a level of safety that is equivalent to, or greater than, the level of safety obtained by complying with the U.S. requirement for a CDL. In addition, Volvo has submitted a copy of the Swedish driving record of each of these drivers, and each has a driving record free of violations.

FMCSA had previously determined that the process for obtaining a Swedish-issued CDL adequately assesses the driver's ability to operate CMVs in the U.S. Therefore, the process for obtaining a Swedish-issued CDL is considered to be comparable to, or as effective as, the requirements of 49 CFR part 383.

Comments

The Agency received one comment in response to its request for public comments on the Volvo Notice of Application for Exemption published in the **Federal Register** on March 14, 2008 (73 FR 13947). The commentor objected to the granting of the exemption for the three Swedish drivers, without stating any substantive reasons for the objection.

FMCSA Decision

FMCSA does not agree with the objection. The Agency decision to grant these drivers an exemption from section 383.23 is based on the merits of the application for exemption, and the rigorous knowledge and skills testing of Swedish drivers concerning the safe operation of CMVs.

Terms and Conditions for the Exemption

Based upon evaluation of the application for an exemption, FMCSA grants Volvo an exemption from the Federal CDL requirement in 49 CFR 383.23 for three drivers, identified under the ''Swedish Drivers'' heading above, to test-drive CMVs within the U.S., subject to the following terms and conditions: (1) That these drivers will be subject to drug and alcohol regulations, including testing, as provided in 49 CFR part 382, (2) that these drivers are subject to the same driver disqualification rules under 49 CFR parts 383 and 391 that apply to other CMV drivers in the U.S., (3) that these drivers keep a copy of the exemption on the vehicle at all times, (4) that Volvo notify FMCSA in writing of any accident, as defined in 49 CFR 390.5, involving one of the exempted drivers, and (5) that Volvo notify FMCSA in writing if any driver is convicted of a disqualifying offense described in section 383.51 or 391.15 of the FMCSRs.

In accordance with 49 U.S.C. 31315 and 31136(e), the exemption will be valid for 2 years unless revoked earlier by the FMCSA. The exemption will be revoked if: (1) The drivers for Volvo fail to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31315 and 31136.

Issued on: June 11, 2008.

Larry W. Minor,

Associate Administrator for Policy and Program Development.

[FR Doc. E8–13804 Filed 6–17–08; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration, DOT.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and its implementing regulations, the Federal Railroad Administration (FRA) hereby announces that it is seeking approval of the following information collection activities. Before submitting these information collection requirements for clearance by the Office of Management and Budget (OMB), FRA is soliciting public comment on specific aspects of the activities identified below.

DATES: Comments must be received no later than August 18, 2008.

ADDRESSES: Submit written comments on any or all of the following proposed activities by mail to either: Mr. Robert Brogan, Office of Safety, Planning and Evaluation Division, RRS–21.1, Federal Railroad Administration, 1200 New Jersey Ave., SE., Room Number W33–497, Washington, DC 20590, or Ms. Nakia Poston, Office of Information Technology, RAD–20, Federal Railroad Administration, 1200 New Jersey Ave., SE., Room Number W34–204, Washington, DC 20590. Commenters requesting FRA to acknowledge receipt of their respective comments must include a self-addressed stamped postcard stating, ''Comments on OMB control number 2130-New.'' Alternatively, comments may be transmitted via facsimile to (202) 493–6216 or (202) 493–6170, or via e-mail to Mr. Brogan at *robert.brogan@dot.gov,* or to Ms. Poston at *nakia.poston@dot.gov.* Please refer to the assigned OMB control number or information collection title in any correspondence submitted. FRA will summarize comments received in response to this notice in a subsequent notice and include them in its information collection submission to OMB for approval.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Brogan, Office of Planning and Evaluation Division, RRS–21.1, Federal Railroad Administration, 1200 New Jersey Ave., SE., Room Number W33–497, Washington, DC 20590 (telephone: (202) 493–6292) or Ms. Nakia Poston, Office of Information Technology, RAD–20, Federal Railroad Administration, 1200 New Jersey Ave., SE., Room Number W34–204, Washington, DC 20590 (telephone: (202) 493–6073). (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1995 (PRA), Public Law No. 104–13, § 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501–3520), and its implementing regulations, 5 CFR Part 1320, require Federal agencies to provide 60-days notice to the public for comment on information collection activities before seeking approval by OMB. 44 U.S.C. 3506(c)(2)(A); 5 CFR 1320.8(d)(1), 1320.10(e)(1), 1320.12(a). Specifically, FRA invites interested respondents to comment on the following summary of proposed information collection activities regarding (i) whether the information collection activities are necessary for FRA to properly execute its functions, including whether the activities will have practical utility; (ii) the accuracy of FRA's estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (iii) ways for

FRA to enhance the quality, utility, and clarity of the information being collected; and (iv) ways for FRA to minimize the burden of information collection activities on the public by automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (*e.g.*, permitting electronic submission of responses). *See* 44 U.S.C. 3506(c)(2)(A)(i)–(iv); 5 CFR 1320.8(d)(1)(i)–(iv). FRA believes that soliciting public comment will promote its efforts to reduce the administrative and paperwork burdens associated with the collection of information mandated by Federal regulations. In summary, FRA reasons that comments received will advance three objectives: (i) Reduce reporting burdens; (ii) ensure that it organizes information collection requirements in a ''user friendly'' format to improve the use of such information; and (iii) accurately assess the resources expended to retrieve and produce information requested. *See* 44 U.S.C. 3501.

Below is a brief summary of proposed new information collection activities that FRA will submit for clearance by OMB as required under the PRA:

Title: Factors for Selection of Railroads for Evaluation of Bridge Management Practices.

OMB Control Number: 2130-New.

Abstract: Abstract: The Federal Railroad Administration (FRA) has conducted a Railroad Bridge Safety Program at various levels of effort ever since the enactment of the Railroad Safety Act of 1970. FRA is authorized under that act to issue regulations addressing a wide variety of subjects regarding railroad safety, but FRA has found that bridge safety has been well served by a non-regulatory policy.

The resulting Statement of Agency Policy on the Safety of Railroad Bridges, published in the **Federal Register** in 2000, is based on the findings of a survey conducted by FRA in 1992 and 1993. That survey showed that a large majority of railroads were managing their bridges in a manner which promoted the immediate safety of those bridges. FRA therefore adopted that Bridge Safety Policy, which incorporates non-regulatory guidelines. The non-regulatory guidelines of the Bridge Safety Policy are promulgated as Appendix C of the Federal Track Safety Standards, Title 49 Code of Federal Regulations, Part 213.

Since the initial bridge management survey was completed, FRA has continued to conduct evaluations of the bridge management practices of the Nation's railroads. Regular, continuing contact has been in place between FRA and the larger railroads (Class I and major passenger carriers). However, the selection of smaller railroads (Class III short lines and smaller Class II regional railroads) has been on an ad hoc basis. FRA has based decisions to evaluate individual smaller railroads on recommendations from FRA regional staff, complaints from the public, and the small number of bridge-related train accidents.

The Government Accountability Office (GAO) in 2006 and 2007 conducted a study to evaluate the safety and serviceability of our Nation's railroad bridges and tunnels. GAO reported to the Congress on that study in August 2007. That report, ''RAILROAD BRIDGES AND TUNNELS—Federal Role in Providing Safety Oversight and Freight Infrastructure Investment Could Be Better Targeted'' includes the following recommendation:

> To enhance the effectiveness of its bridge and tunnel safety oversight function, we recommend that the Secretary of Transportation direct the Administrator of the Federal Railroad Administration to devise a systematic, consistent, risk-based methodology for selecting railroads for its bridge safety surveys to ensure that it includes railroads that are at higher risk of not following the FRA's bridge safety guidelines and of having bridge and tunnel safety issues.'' FRA agrees with that recommendation, and is implementing it.

A vital part of that methodology is the development of information on which to base the factors by which railroads will be selected for surveys and evaluations. The factors developed by FRA, in conjunction with the railroads themselves, include such statistics as the length of a railroad in miles, the number, types and total length of its bridges, its level of traffic, the presence of hazardous material traffic, the operation of passenger trains, and the railroad's record of train accidents. Several of those factors, particularly regarding the railroad's bridge population, are not found in data already held or collected by FRA.

An attempt to characterize the selection factors without incorporating that data on a railroad's bridge population would seriously compromise the accuracy and usefulness of the information. FRA has, therefore, determined that the effectiveness of its bridge safety program depends on this data, and has identified two options for collecting it. In one case, FRA inspectors could visit each railroad in turn, interview the managers of the railroad, and record the information presented. In the other case, FRA could request that each railroad provide its data to FRA in a convenient format.

FRA believes that the second option, self-reporting by the railroads, is more convenient for the responding universe, and that it represents the most efficient use of agency resources. Railroad managers will be able to gather the data on their own time schedules, within reason, and FRA would not have to devote employee time and travel expenses to visit the responding railroads.

FRA will use the data received in this project to rank individual railroads for scheduling bridge program evaluations by FRA's Bridge Safety Staff. The data will be analyzed against weighting factors, and railroads will be prioritized according to the resulting scores. The weighting factors are presently being reviewed by a committee of the American Short Line and Regional Railroad Association (ASLRRA). FRA will consider the recommendation of ASLRRA in this regard, and will make the weighting factors available to the respondent universe and the public as part of this project.

It should be noted that a high selection ranking of any railroad by FRA will not necessarily indicate that the railroad has a bridge safety problem. That determination, one way or the other, will only be made by FRA during its evaluation of that railroad's bridge management practices.

Form Number(s): FRA F 6180.129.

Affected Public: Railroads.

Respondent Universe: 567 Railroads.

Frequency of Submission: On occasion.

Reporting Burden:

Form No.	Respondent universe	Total annual responses	Average time per response	Total annual burden hours	Total annual burden cost
Form FRA F 6180.129	567 Railroads.	475 forms	3 hours	1,425	$57,000

Estimated Annual Burden: 1,425 hours.

Status: Regular Review.

Pursuant to 44 U.S.C. 3507(a) and 5 CFR 1320.5(b), 1320.8(b)(3)(vi), FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Authority: 44 U.S.C. 3501–3520.

Issued in Washington, DC on June 11, 2008.

D.J. Stadtler,

Director, Office of Financial Management, Federal Railroad Administration.

[FR Doc. E8–13690 Filed 6–17–08; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[FTA Docket No. FTA–2008–0033]

Agency Information Collection Activity Under OMB Review

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of request for comments.

SUMMARY: The Federal Transit Administration invites public comments about our intention to request the Office of Management and Budget's (OMB) approval to renew the following information collection:

49 U.S.C. 5309 and 5307 Capital Assistance Programs

The information to be collected ensures FTA's compliance with applicable federal laws, OMB Circular A–102, and 49 CFR Requirements for Grants and Cooperative Agreements with State and Local Governments. The **Federal Register** Notice with a 60-day comment period soliciting comments was published on March 31, 2008.

DATES: Comments must be submitted before July 18, 2008. A comment to OMB is most effective if OMB receives it within 30 days of publication.

FOR FURTHER INFORMATION CONTACT: Sylvia L. Marion, Office of Administration, Office of Management Planning, (202) 366–6680.

SUPPLEMENTARY INFORMATION:

Title: 49 U.S.C. Sections 5309 and 5307 Capital Assistance Programs, (*OMB Number:* 2132–0502).

Abstract: 49 U.S.C. 5309 Capital Program and section 5307 Urbanized Area Formula Program authorize the Secretary of Transportation to make grants to State and local governments and public transportation authorities for financing mass transportation projects. Grant recipients are required to make information available to the public and to publish a program of projects for affected citizens to comment on the proposed program and performance of the grant recipients at public hearings. Notices of hearings must include a brief description of the proposed project and be published in a newspaper circulated in the affected area. FTA also uses the information to determine eligibility for funding and to monitor the grantees' progress in implementing and completing project activities. The information submitted ensures FTA's compliance with applicable federal laws, OMB Circular A–102, and 49 CFR Part 18, ''Uniform Administrative Requirements for Grants and Cooperative Agreements with State and Local Governments.''

Estimated Total Annual Burden: 198,466 hours.

ADDRESSES: All written comments must refer to the docket number that appears at the top of this document and be submitted to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention: FTA Desk Officer.

Comments Are Invited On: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued On: June 12, 2008.

Ann M. Linnertz,

Associate Administrator for Administration.

[FR Doc. E8–13790 Filed 6–17–08; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[DOCKET NO. MARAD 2008 0053]

Information Collection Available for Public Comments and Recommendations

ACTION: Notice of intention to request extension of OMB approval and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Maritime Administration's (MARAD's) intention to request extension of approval (with modifications) for three years of a currently approved information collection.

DATES: Comments should be submitted on or before August 18, 2008.

FOR FURTHER INFORMATION CONTACT: Elizabeth Gearhart, Maritime Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590. Telephone: 202–366–1867; or E-MAIL: *beth.gearhart@dot.gov.* Copies of this collection also can be obtained from that office.

SUPPLEMENTARY INFORMATION:

Title of Collection: Shipbuilding Orderbook and Shipyard Employment.

Type of Request: Extension of currently approved information collection.

OMB Control Number: 2133–0029.

Form Numbers: MA–832.

Expiration Date of Approval: Three years from date of approval by the Office of Management and Budget.

Summary of Collection of Information: In compliance with the Merchant Marine Act of 1936, as amended, MARAD conducts this survey to obtain information from the shipbuilding and ship repair industry to be used primarily to determine, if an adequate mobilization base exists for national defense and for use in a national emergency.

Need and Use of the Information: This collection of information is necessary in order for MARAD to perform and carry out its duties required by Sections 210 and 211 of the Merchant Marine Act of 1936.

Description of Respondents: Owners of U.S. shipyards who agree to complete the requested information.

Annual Responses: 800 responses.

Annual Burden: 400 hours.

Comments: Comments should refer to the docket number that appears at the top of this document. Written comments may be submitted to the Docket Clerk, U.S. DOT Dockets, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590. Comments also may be submitted by electronic means via the Internet at *http://www.regulations.gov/search/index.jsp.* Specifically address whether this information collection is necessary for proper performance of the functions of the agency and will have practical utility, accuracy of the burden estimates, ways to minimize this burden, and ways to enhance the quality, utility, and clarity of the

information to be collected. All comments received will be available for examination at the above address between 10 a.m. and 5 p.m. EDT (or EST), Monday through Friday, except Federal Holidays. An electronic version of this document is available on the World Wide Web at *http://www.regulations.gov/search/index.jsp.*

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://www.regulations.gov/search/index.jsp.*

Authority: 49 CFR 1.66.

Dated: June 5, 2008.

By order of the Maritime Administrator.

Leonard Sutter,

Secretary, Maritime Administration.

[FR Doc. E8–13785 Filed 6–17–08; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2008–0054]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel LUNA III.

SUMMARY: As authorized by Public Law 105–383 and Public Law 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket MARAD–2008–0054 at *http://www.regulations.gov*. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Public Law 105–383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before July 18, 2008.

ADDRESSES: Comments should refer to docket number MARAD–2008–0054. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., e.t., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue, SE., Room W21–203, Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel LUNA III is:

Intended Use: ''We will only be using this vessel for private use and recreational charters mainly within the west sound waters of Puget Sound, for 2–3 hour private groups.''

Geographic Region: ''Within the Puget Sound waters of Seattle, WA, primarily in the west sound area, around Bremerton, WA and local environs.''

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

Dated: June 10, 2008.

By order of the Maritime Administrator.

Leonard Sutter,

Secretary, Maritime Administration.

[FR Doc. E8–13746 Filed 6–17–08; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2008–0058]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel FRAMED OUT.

SUMMARY: As authorized by Public Law 105–383 and Public Law 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket MARAD–2008–0058 at *http://www.regulations.gov*. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Public Law 105–383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before July 18, 2008.

ADDRESSES: Comments should refer to docket number MARAD–2008–0058. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE.,

Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., e.t., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue, SE., Room W21–203, Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION:

As described by the applicant the intended service of the vessel FRAMED OUT is:

Intended Use: ''Six Pack Vessel Chartering Operations.''

Geographic Region: ''Intended operations will be the west coast of the U.S. from San Diego, CA to Seattle, WA.''

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

Dated: June 12, 2008.

By order of the Maritime Administrator.

Leonard Sutter,

Secretary, Maritime Administration.

[FR Doc. E8–13776 Filed 6–17–08; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2008–0055]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel LUCKY HOOK.

SUMMARY: As authorized by Public Law 105–383 and Public Law 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket MARAD–2008–0055 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Public Law 105–383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before July 18, 2008.

ADDRESSES: Comments should refer to docket number MARAD–2008–0055. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., e.t., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue, SE., Room W21–203, Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel LUCKY HOOK is:

Intended Use: ''Charter Fishing.''

Geographic Region: ''RI, CT, NY, MA, ME, NJ.''

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

Dated: June 10, 2008.

By order of the Maritime Administrator.

Leonard Sutter,

Secretary, Maritime Administration.

[FR Doc. E8–13779 Filed 6–17–08; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2008–0059]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel WATER GREMLIN.

SUMMARY: As authorized by Public Law 105–383 and Public Law 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket MARAD–2008–0059 at *http://www.regulations.gov*. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Public Law 105–383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments.

Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before July 18, 2008.

ADDRESSES: Comments should refer to docket number MARAD–2008–0059. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., e.t., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT:

Joann Spittle, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue, SE., Room W21–203, Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION:

As described by the applicant the intended service of the vessel WATER GREMLIN is:

Intended Use: ''Coastal & Inland Rivers Charters.''

Geographic Region: ''Minnesota, Wisconsin, Iowa, Illinois, Tennessee, Kentucky, Mississippi, Ohio, Alabama, Louisiana, Florida, Georgia, South Carolina, North Carolina, Virginia, Maryland, Delaware, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, New Hampshire, and Maine.''

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

Dated: June 12, 2008.

By order of the Maritime Administrator.

Leonard Sutter,

Secretary, Maritime Administration.

[FR Doc. E8–13780 Filed 6–17–08; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2008–0057]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel REELENTLESS.

SUMMARY: As authorized by Public Law 105–383 and Public Law 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket MARAD–2008–0057 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Public Law 105–383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before July 18, 2008.

ADDRESSES: Comments should refer to docket number MARAD–2008–0057. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., e.t., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT:

Joann Spittle, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue, SE., Room W21–203, Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION:

As described by the applicant the intended service of the vessel REELENTLESS is:

Intended Use: ''Charter fishing.''

Geographic Region: ''CT, NY, RI.''

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

Dated: June 12, 2008.

By order of the Maritime Administrator.

Leonard Sutter,

Secretary, Maritime Administration.

[FR Doc. E8–13781 Filed 6–17–08; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2008–0056]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel GALILEO.

SUMMARY: As authorized by Pub. L. 105–383 and Pub. L. 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request

for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket MARAD–2008–0056 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR Part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

DATES: Submit comments on or before July 18, 2008.

ADDRESSES: Comments should refer to docket number MARAD–2008–0056. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue, SE., Room W21–203, Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel GALILEO is:

Intended Use: ''6-pak charter.''

Geographic Region: ''Boston Harbor.''

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

Dated: June 10, 2008.

By order of the Maritime Administrator.

Leonard Sutter,

Secretary, Maritime Administration.

[FR Doc. E8–13792 Filed 6–17–08; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–290 (Sub-No. 307X)]

Norfolk Southern Railway Company—Discontinuance of Service Exemption—in St. Joseph and LaPorte Counties, IN

Norfolk Southern Railway Company (NSR) has filed a verified notice of exemption under 49 CFR part 1152 Subpart F—*Exempt Abandonments and Discontinuances of Service* to discontinue service over a 4.40-mile line of railroad between milepost 131.60 and milepost 136.00 in St. Joseph and LaPorte Counties, IN. The line traverses United States Postal Service Zip Code 46574, and includes the station of Kankakee.

NSR has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) all overhead traffic has been rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements of 49 CFR 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the service discontinuance shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on July 18, 2008, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues and formal expressions of intent to file an OFA for continued rail service under 49 CFR 1152.27(c)(2),[1] must be filed by June 30, 2008.[2] Petitions to reopen must be filed by July 8, 2008, with: Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to NSR's representative: James R. Paschall, Three Commercial Place, Norfolk, VA 23510.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov*.

Decided: June 6, 2008.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Anne K. Quinlan,

Acting Secretary.

[FR Doc. E8–13312 Filed 6–12–08; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Departmental Offices/Federal Consulting Group; Proposed Collection: Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Federal Consulting Group within the Department of the Treasury is soliciting comments concerning the American Customer Satisfaction Index (ACSI) E–Government Web site Customer Satisfaction Survey.

DATES: Written comments should be received on or before August 18, 2008 to be assured of consideration.

ADDRESSES: Direct all written comments to the Federal Consulting Group, Attention: Ron Oberbillig, 799 9th

[1] Each OFA must be accompanied by the filing fee, which currently is set at $1,300. *See* 49 CFR 1002.2(f)(25).

[2] In discontinuance proceedings, trail use/rail banking and public use conditions are not appropriate. Likewise, no environmental or historical documentation is required here under 49 CFR 1105.6(c) and 1105.8(b), respectively.

Street, NW., 8th Floor, Washington, DC 20001, (202) 504–3656, *Ron.Oberbillig@bpd.treas.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to the Federal Consulting Group, Attention: Ron Oberbillig, 799 9th Street, NW., 8th Floor, Washington, DC 20001, (202) 504–3656, *Ron.Oberbillig@bpd.treas.gov.*

SUPPLEMENTARY INFORMATION:

Title: American Customer Satisfaction Index (ACSI) E–Government Web site Customer Satisfaction Survey.

OMB Number: 1505–0186.

Abstract: The proposed renewal of this information collection activity supports continued use of a proven methodology to measure and improve customer satisfaction with federal government agency Web sites. The Federal Consulting Group of the Department of the Treasury serves as the executive agent for this project and has contracted with ForeSee Results, Inc., to offer this assessment service to federal government agencies.

ForeSee Results is a leader in customer satisfaction and customer experience management on the Web. It utilizes the methodology of the most respected, credible, and well-known measure of customer satisfaction in the country, the American Customer Satisfaction Index (ACSI). This methodology combines survey data and a patented econometric model to precisely measure the customer satisfaction of Web site users, identify specific areas for improvement, and determine the impact of those improvements on customer satisfaction and future customer behaviors.

The ACSI is the only cross-industry, cross-agency methodology for obtaining comparable measures of customer satisfaction with federal government programs and/or Web sites. Along with other economic objectives, the quality of goods and services is a part of measuring living standards. The ACSI's ultimate purpose is to help improve the quality of goods and services available to the American people, including those provided by the federal government.

The ACSI E–Government Web site Customer Satisfaction Surveys will be completed subject to the Privacy Act of 1974, Public Law 93–579, December 31, 1974 (5 U.S.C. 522a). The agency information collection will be used solely for the purpose of the survey. The contractor will not be authorized to release any agency information obtained through surveys without first obtaining permission from the Federal Consulting Group and the participating agency. In no case shall any new system of records containing privacy information be developed by the Federal Consulting Group, participating agencies, or the contractor collecting the data. In addition, participating federal agencies may only provide information sufficient to randomly select Web site visitors as potential survey respondents.

This survey asks no questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

Current Actions: Proposed renewal of collection of information.

Type of Review: Renewal.

Affected Public: Individuals or households/business or other for-profit/not-for-profit institutions/farms/federal government/state, local or tribal government.

Estimated Number of Respondents: Usage by federal agencies of the Government Web site Customer Satisfaction Survey is expected to vary as new agency Web sites are added or deleted. However, projected estimates for fiscal years 2008 through 2010 are as follows:

Fiscal Year 2008—200 Customer Satisfaction Surveys

Respondents: 1,000,000; annual responses: 1,000,000; average minutes per response: 2.5; burden hours: 41,667.

Fiscal Year 2009—250 Customer Satisfaction Surveys

Respondents: 1,250,000; annual responses: 1,250,000; average minutes per response: 2.5; burden hours: 52,083.

Fiscal Year 2010—300 Customer Satisfaction Surveys

Respondents: 1,500,000; annual responses: 1,500,000; average minutes per response: 2.5; burden hours: 62,500.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: June 12, 2008.

Ron Oberbillig,

COO, Federal Consulting Group.

[FR Doc. E8–13716 Filed 6–17–08; 8:45 am]

BILLING CODE 4810–25–P

Corrections

Federal Register

Vol. 73, No. 118

Wednesday, June 18, 2008

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education; Office of Postsecondary Education; Office of Special Education and Rehabilitative Services; Overview Information; Grant Notices; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2008

Correction

1. In notice document E8–10106 beginning on page 25688 in the issue of Wednesday, May 7, 2008, in every instance ''4:30 p.m.'' appears, it should read ''4:30:00 p.m.''.

2. In notice document E8–10520 beginning on page 26970 in the issue of Monday, May 12, 2008, in every instance ''4:30 p.m.'' appears, it should read ''4:30:00 p.m.''.

3. In notice document E8–10669 beginning on page 27515 in the issue of Tuesday, May 13, 2008, in every instance ''4:30 p.m.'' appears, it should read ''4:30:00 p.m.''.

4. In notice document E8–10681 beginning on page 27518 in the issue of Tuesday, May 13, 2008, in every instance ''4:30 p.m.'' appears, it should read ''4:30:00 p.m.''.

5. In notice document E8–10680 beginning on page 27523 in the issue of Tuesday, May 13, 2008, in every instance ''4:30 p.m.'' appears, it should read ''4:30:00 p.m.''.

6. In notice document E8–10777 beginning on page 27812 in the issue of Wednesday, May 14, 2008, in every instance ''4:30 p.m.'' appears, it should read ''4:30:00 p.m.''.

7. In notice document E8–12118 beginning on page 31074 in the issue of Friday, May 30, 2008, in every instance ''4:30 p.m.'' appears, it should read ''4:30:00 p.m.''.

8. In notice document E8–12263 beginning on page 31442 in the issue of Monday, June 2, 2008, in every instance ''4:30 p.m.'' appears, it should read ''4:30:00 p.m.''.

9. In notice document E8–12511 beginning on page 31835 in the issue of Wednesday, June 4, 2008, in every instance ''4:30 p.m.'' appears, it should read ''4:30:00 p.m.''.

10. In notice document E8–12512 beginning on page 31840 in the issue of Wednesday, June 4, 2008, in every instance ''4:30 p.m.'' appears, it should read ''4:30:00 p.m.''.

11. In notice document E8–12633 beginning on page 32006 in the issue of Thursday, June 5, 2008, in every instance ''4:30 p.m.'' appears, it should read ''4:30:00 p.m.''.

12. In notice document E8–12634 beginning on page 32016 in the issue of Thursday, June 5, 2008, in every instance ''4:30 p.m.'' appears, it should read ''4:30:00 p.m.''.

[FR Doc. Z8–10106 etc. Filed 6–17–08; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Coopertave Research Group on Clean Diesel V

Correction

In notice document E8–12529 appearing on page 32051 in the issue of Thursday, June 5, 2008, make the following correction:

On page 32051, in the first column, in the first paragraph, in the twenty-first line, ''EP America'' should read ''BP America''.

[FR Doc. Z8–12529 Filed 6–17–08; 8:45 am]

BILLING CODE 1505–01–D

ENVIRONMENTAL PROTECTION AGENCY

[EPA-R09-OAR-2008-0378; FRL-8566-4]

Adequacy Status of Motor Vehicle Budgets in Submitted South Coast 8–Ozone and $PM_{2.5}$ Attainment and Reasonable Further Progress Plans for Transportation Conformity Purposes; California

Correction

In notice document E8–10901 beginning on page 28110 in the issue of Thursday, May 15, 2008, make the following correction:

On page 28111, in the table ''ADEQUATE 8–HOUR OZONE...'', in the third column, ''32'' should read ''232''.

[FR Doc. Z8–10901 Filed 6–17–08; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Wednesday,
June 18, 2008

Part II

Department of Labor

Delegation of Authority and Assignment of Responsibilities for Compliance Assistance Activities; Notice

DEPARTMENT OF LABOR

Office of the Secretary

[Secretary's Order—02–2008]

Delegation of Authority and Assignment of Responsibilities for Compliance Assistance Activities

1. *Purpose.* Delegation of authority and assignment of responsibilities for compliance assistance activities.

2. *Authority.* This Order is issued pursuant to 29 U.S.C. 551 *et seq.*; 5 U.S.C. 301; Reorganization Plan N. 6 of 1950 (5 U.S.C. Appendix 1); the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act [*see* 5 U.S.C. 601 *et seq.* and 15 U.S.C. 657]; Executive Order 12866, ''Regulatory Planning and Review'' (September 30, 1993), as amended by Executive Order 13258 (February 26, 2002) and Executive Order 13422 (January 23, 2007); and Executive Order 13272, ''Proper Consideration of Small Entities in Agency Rulemaking'' (August 13, 2002).

3. *Directives Affected.* This Order does not affect the authorities and responsibilities assigned by any other Secretary's Order, unless otherwise expressly so provided in this or another Order.

4. *Background.* As a complement to its enforcement responsibilities, the Department of Labor (DOL) is committed to providing compliance assistance to help the regulated community better understand and comply with DOL laws and regulations that protect the wages, health benefits, retirement security, safety and health of America's workforce.

The Department's regulatory agencies have a long history of providing compliance assistance and are continually finding innovative ways to assist employers, workers, labor union officers and members, retirees, and job applicants in understanding their rights and responsibilities under the laws and regulations within the Department's purview. DOL agencies use a variety of strategies, programs and tools to help educate the regulated community on these complex legal requirements. Examples of such initiatives include OSHA's office dedicated to assisting small businesses, MSHA's Small Mine Office which provides safety and health assistance to small mines, Wage and Hour's *YouthRules!* Campaign, cross-agency collaborations on EBSA's Health Benefits Education Campaign, and a myriad of targeted outreach, education and training programs. These agency efforts are complemented by the many Department-wide compliance assistance resources such as the *Employment Law Guide*; the confidential toll-free information line, 1–866–4–USA–DOL; the DOL compliance assistance Web site, *http://www.dol.gov/compliance*; and the *elaws* Advisors which cover many of DOL's most important employment laws. These easy-to-access compliance resources provide clear answers to questions about laws and regulations dealing with pay and leave, workplace safety, health and pension benefits, and veterans' reemployment rights.

DOL has long recognized that compliance assistance, along with strong enforcement, is a powerful tool that helps DOL fulfill its mission to foster and promote the welfare of the job seekers, wage earners, and retirees. The two-pronged strategy of strong enforcement coupled with compliance assistance has worked. For example, workplace injury and illness rates continue to decline and incentive programs like EBSA's Voluntary Fiduciary Correction Program, which has shown a significant impact on compliance and has benefited workers through the restoration of millions of dollars in plan assets and payment of additional benefits, have had a positive impact on compliance.

The Department also recognizes that compliance assistance does not replace, or in any way detract from, strong enforcement. Rather, compliance assistance complements enforcement efforts by allowing DOL to focus resources on those employers who endanger the safety and health of workers, jeopardize pension security, fail to pay the minimum wage or overtime, or engage in other unfair and illegal workplace practices.

Compliance assistance is an essential and integral part of how the Department conducts business and fulfills its mission. In order to prevent accidents and violations of wage, safety, employee benefits, and other laws, the Department must offer strong, effective compliance assistance programs. Workers, retirees, unions, employers and other organizations must have access to clear, accurate information on the laws enforced by DOL. The ultimate goal of the Department's compliance assistance activities is to protect America's workforce by improving compliance with employment laws and regulations.

Under this Order, the Assistant Secretary for Policy has been delegated the responsibility of assuring the full, effective, and resourceful implementation of the Department's compliance assistance programs.

5. *Delegation of Authority and Assignment of Responsibility.*

The Assistant Secretary for Policy is delegated authority and assigned responsibility for:

1. Advising and assisting the Secretary of Labor and the Deputy Secretary of Labor in the development and formulation of standards, policies, and programs related to compliance assistance. Also, with the assistance of the Director of the Office of Compliance Assistance Policy, the Assistant Secretary shall provide analysis and advice on policies and programs related to developing, coordinating, implementing and institutionalizing compliance assistance initiatives, and reviewing agency compliance assistance plans.

a. The Director shall develop, implement, manage and coordinate Departmental compliance assistance policies, initiatives and programs, including Department-wide cross-cutting initiatives. The Director shall also identify and promote best practices and provide leadership and coordination in creating Departmental compliance assistance tools such as small business guides and the *elaws* Advisors (Employment Laws Assistance for Workers and Small Businesses).

b. The Director shall work with DOL agencies' Compliance Assistance Liaisons to obtain their assistance in reviewing, developing, coordinating and advancing all major Department or agency compliance assistance initiatives.

c. The Director shall provide technical advice and assistance to agencies on planning, developing and implementing compliance assistance policies, tools, initiatives and programs.

2. Coordinating with other agencies having responsibilities affecting DOL-wide cross-cutting compliance assistance initiatives.

3. Keeping the Secretary and the Deputy Secretary fully informed on the results of DOL's compliance assistance efforts.

4. In coordination with the Office of Small Business Programs, acting as the Department's liaison with the Small Business Administration, including the Office of the National Ombudsman. The Director of Compliance Assistance Policy shall be the Department's point of contact between the Department and small businesses pursuant to the Small Business Paperwork Relief Act of 2002 (SBPRA) and shall be responsible for providing the list of DOL compliance assistance resources consistent with the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

5. Performing any additional duties that may be assigned by the Secretary.

B. DOL Agency heads are responsible for planning, developing and implementing compliance assistance initiatives, programs and policies relating to the mission of their respective agencies, including:

1. Developing annual compliance goals, timetables and objectives for their agencies and submitting their Annual Compliance Assistance Plans to the Policy Planning Board for review and approval, where applicable. These plans identify major programs or initiatives the agency will focus on during the coming fiscal year.

2. Planning and developing compliance assistance tools (such as *elaws* Advisors), programs or activities to inform the public about the agency's laws, policies, programs and activities.

3. Planning, preparing and producing a wide range of informational materials designed to effectively and efficiently inform the public about the agency's responsibilities and functions, as well as the public's rights and responsibilities; and producing all such materials in accordance with established policies, procedures, guidelines and standards.

4. Coordinating with the Office of the Assistant Secretary for Policy (OASP) on compliance assistance policies, programs and activities and appointing one or more Compliance Assistance Liaisons to work with the Office of the Compliance Assistance Policy to implement and institutionalize DOL compliance assistance initiatives, identify and promote best practices, and participate in DOL-wide compliance assistance programs.

5. Ensuring that reports requested by OASP concerning the achievement of the objectives of this order are accurate and submitted in a timely manner.

6. In consultation with the Office of the Solicitor and OASP, fulfilling the requirements of the Regulatory Flexibility Act, as amended by SBREFA and related laws, including appropriate coordination with small entities in the development of rules, production of plain language compliance guides, and responding to requests for information.

C. The Assistant Secretary for Administration and Management is responsible for promoting and assisting the agencies with agency and individual performance elements related to compliance assistance initiatives, programs and policies appropriate to the agencies' respective missions.

D. The Solicitor of Labor is assigned responsibility for providing legal advice and assistance to all Department of Labor officials relating to implementation and administration of all aspects of this Order.

E. The Assistant Secretary for Public Affairs is assigned responsibility for:

1. Assisting agencies in planning, preparing and producing informational materials designed to inform the public about each agency's responsibilities and functions, as well as the public's rights and responsibilities.

2. Working with OASP to educate the public about DOL-wide compliance assistance programs, initiatives and tools.

6. *Redelegation of Authority.* The authorities delegated in this Order may be redelegated.

7. *Effective Date.* This Order is effective immediately.

Dated: June 12, 2008.

Elaine L. Chao,

Secretary of Labor.

[FR Doc. E8–13751 Filed 6–17–08; 8:45 am]

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