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FEDERAL LABOR RELATIONS AUTHORITY

5 CFR Part 2423

Unfair Labor Practice Proceedings

AGENCY: Office of the General Counsel, Federal Labor Relations Authority.

ACTION: Final rule.

SUMMARY: The General Counsel of the Federal Labor Relations Authority (FLRA) revises portions of its regulations regarding unfair labor practice (ULP) proceedings (Part 2423, subpart A). The purpose of the revisions is to clarify the Office of the General Counsel's (OGC) role during the investigatory stage of processing ULP charges consistent with the policies of the General Counsel, and to clarify certain administrative matters relating to the filing and investigation of ULP charges. Implementation of the final rule confirms and enhances the neutrality of the OGC before a ULP merit determination is made and returns the OGC to its core mission.

DATES: *Effective Date:* February 19, 2008.

FOR FURTHER INFORMATION CONTACT: Jill Crumpacker, Executive Director, at (202) 218–7945, *FLRAexecutivedirector@flra.gov.*

SUPPLEMENTARY INFORMATION: On December 21, 2007, the OGC of the FLRA published proposed modifications to the existing rules and regulations in subpart A of title 5 of the Code of Federal Regulations regarding the processing and investigation of ULP charges (72 FR 72632) (December 21, 2007). The revisions clarify the neutral fact-finding role of the OGC in the investigation of ULP charges. The revisions encourage parties involved in a ULP dispute to work collaboratively to resolve the dispute, and consistent with the General Counsel's Settlement policy, clarify that the OGC will not be involved in any way in resolving parties' disputes until after a determination has been made that a charge is meritorious. At that time, the OGC will strongly encourage the use of Alternative Dispute Resolution (ADR) to work to resolve parties' ULP disputes and to avoid protracted litigation of ULP complaints. Should those efforts fail, the OGC will aggressively litigate any ULP complaint.

In the Notice of Proposed Rulemaking published in the **Federal Register**, the OGC solicited public comment on the proposed rule for a period of more than 30 days. All comments have been carefully considered prior to publishing the final rule, although all comments are not specifically addressed below.

Sectional Analyses

Sectional analyses of the revisions to Part 2423—Unfair Labor Practice Proceedings are as follows:

Part 2423—Unfair Labor Practice Proceedings

Section 2423.0

This section is amended to provide that this part is applicable to any charge of an alleged ULP pending or filed with the Authority on or after February 19, 2008. The provision regarding applicability of this part to any complaint is deleted.

Subpart A—Filing, Investigating, Resolving, and Acting on Charges

Section 2423.1

A majority of the comments received concern sections 2423.1, 2423.2, 2423.7, and 2423.12 of the proposed rule and the role of the OGC in the resolution of ULP disputes prior to and after the filing of a charge and up until a merit determination is made by a Regional Director.

Nearly all commenters stated that parties to a ULP dispute are best served by the resolution of their dispute at the earliest practicable opportunity, and that resolving ULP disputes early effectuates the purposes and policies of the Federal Service Labor-Management Relations Statute (Statute). Two commenters responded favorably to the regulatory revision. One commenter asserted that the rule change will result in more thorough investigations and, therefore, a better understanding of the parties' positions prior to attempting to use ADR processes. The commenter stated that this will result in better discussions when parties are initially contacted regarding settlement by the OGC after a decision to issue complaint has been made. Numerous commenters objected to limiting the OGC involvement in the resolution of ULP disputes until only after a decision is made that the issuance of a ULP complaint is warranted.

As set forth in the Statute, the General Counsel's role is to ''investigate alleged unfair labor practices'' under the Statute, ''file and prosecute complaints'' under the Statute, and ''exercise such other powers of the Authority as the Authority may prescribe.'' 5 U.S.C. 7104(f)(2). Consistent with this statutory mandate, with respect to alleged ULPs, the OGC has an investigatory role and a prosecutorial role in the enforcement of the Statute. This mandate governs the policy of the OGC in the processing of ULPs. Consistent with this mandate, the OGC's role should be focused on its core investigatory and prosecutorial responsibilities. That role should not, contrary to the suggestion of some commenters, be to bring about a ''win-win'' resolution during the processing of every ULP dispute regardless of whether the allegations are meritorious.

Although the OGC has an investigatory and prosecutorial role under the Statute, consistent with the comments set forth above, the OGC recognizes the value in parties resolving their own labor-management disputes at the earliest stages. As stated in the final rule, parties are encouraged to meet and resolve ULP disputes prior to and even after filing ULP charges. Contrary to some of the commenters' assertions, the final rule does not prohibit the use of ADR prior to a merit determination; the final rule encourages the use of ADR by parties who are always free to resolve their dispute on their own or with the assistance of a third party. Nothing in the final rule prohibits or impedes the ability of parties to enter into a settlement prior to filing or during the processing of a ULP charge. Further, nothing prohibits or impedes parties from including requirements in their collective bargaining agreements that would mandate parties to make attempts to resolve their disputes prior to filing ULP charges—i.e., a negotiated pre-filing requirement. As stated in the final rule, and as noted by many of the

commenters, the purposes and policies of the Statute can best be achieved by parties to a ULP dispute working collaboratively.

A few commenters asserted that OGC involvement in facilitating ULP disputes prior to and during the investigation of a ULP charge greatly assists parties in resolving their disputes. To the extent that the involvement of a third-party enhances the ability of parties to resolve their dispute, there are a number of resources available to parties, including the services of the Federal Mediation and Conciliation Service (FMCS), which offers labor-management dispute resolution mediation by skilled facilitators as well as programs to improve labor-management relationships generally. The final rule urges the parties to a ULP dispute to be responsible for their relationship and the resolution of their disputes. This is consistent with the statement of a number of commenters that ADR works best when parties mutually agree to utilize such services to resolve their dispute.

Through vigorous enforcement of the Statute, the OGC protects the rights of employees to organize, bargain collectively, and participate through labor organizations of their own choosing in decisions which affect them. In addition, the OGC encourages the amicable settlement of disputes between employees and their employers by urging parties to work collaboratively to resolve their ULP disputes prior to filing a ULP charge and throughout the processing of a ULP charge after it is filed. In addition, once a determination is made that the Statute has been violated, the OGC will actively work with the parties using ADR processes to resolve the parties' ULP dispute and actively pursue litigation where appropriate. These actions are wholly consistent with the Statute, and accordingly, the final rule as promulgated is the same as the proposed rule.

Section 2423.2

The comments concerning this section are addressed in connection with section 2423.1 above. The final rule as promulgated is the same as the proposed rule.

Section 2423.3

The final rule as promulgated is the same as the proposed rule.

Section 2423.4

Numerous commenters responded favorably to the regulatory revision that provides for the inclusion of e-mail addresses in charges for all of the parties and witnesses. One commenter suggested modifying the e-mail requirement to reflect that e-mail addresses for the Charged Party and the Charged Party's point of contact be provided only ''if known.'' This suggestion has been incorporated into the final regulation because, as noted by the commenter, not all Charging Parties will know the e-mail address of the Charged Parties.

One commenter suggested inserting a requirement that a charge include the particular agent of the Charged Party that allegedly committed the ULP, as well as the specific setting—e.g., division, section, or department within an agency—where the alleged ULP took place, if the Charged Party is an agency. The commenter notes that at times the general nature of the information set forth in a charge against a large agency is insufficient for the Charged Party to take a proactive approach and conduct its own investigation into the allegations, and resolve the issue. The final rule adopts this suggestion.

One commenter claims that this section now adds a new requirement that a party explain how the facts alleged violate the specific paragraphs of the Statute. It is noted that the requirement set forth in 5 CFR 2423.4(a)(5) is not a new requirement and was not revised in the proposed rule.

Section 2423.5

This section is reserved.

Section 2423.6

All of the comments on this section were favorable and pertained to the elimination of the 2-page limitation on charges filed by facsimile transmission. The final rule as promulgated is the same as the proposed rule.

Section 2423.7

A number of comments were received regarding the role of the OGC in the resolution of a ULP charge prior to a merit determination. As addressed fully in connection with section 2423.1 above, under 5 U.S.C. 7104(f)(2), the OGC has an investigatory and prosecutorial role in the enforcement of the Statute, and as such, it is consistent with the Statute to limit the OGC's efforts to fulfilling that role—i.e., turning the focus back to the core mission.

As noted above, to the extent that the involvement of a third-party enhances the ability of parties to resolve their dispute, there are a number of resources available to parties, including the services of the FMCS, which offers programs, training and mediation involving labor-management disputes and relationships. Under the final rule, the parties to a ULP dispute are always encouraged to work collaboratively to resolve their own dispute, taking a problem-solving approach, rather than filing a ULP charge. Once a ULP charge is filed, parties are also encouraged on their own to attempt to resolve their dispute while the OGC conducts its investigation of the facts and determines the merits of the charge. The final rule as promulgated is the same as the proposed rule.

Section 2423.8

A number of commenters stated that the rule should include a sanction for the Charged Party in the event that a Charged Party does not cooperate in an investigation. Two commenters stated that the definition of what constitutes cooperation is too narrow. The final rule clarifies the long-standing practice that the failure of a party to cooperate during an investigation may result in a dismissal of the ULP charge by the Regional Director. To the extent that a Charged Party fails to cooperate in an investigation, the final rule continues to set forth that the General Counsel may issue a subpoena under 5 U.S.C. 7132 for the attendance and testimony of witnesses and the production of documentary or other evidence. The final rule as promulgated is the same as the proposed rule.

Section 2423.9

The final rule as promulgated is the same as the proposed rule.

Section 2423.10

One comment was received regarding this section. The commenter did not oppose the revisions to this section. The final rule as promulgated is the same as the proposed rule.

Section 2423.11

Some commenters favored the revision to § 2423.11(a) providing that the Regional Director will notify all parties to a dispute of a decision to dismiss a ULP charge upon completion of the investigation. One commenter stated that this is a positive rule change that promotes neutrality and employs parties to take responsibility for their actions.

A number of commenters expressed concern regarding informing a Charged Party of an OGC decision to dismiss a charge even where a Charging Party may withdraw the charge. These commenters uniformly claimed that this will disadvantage the Charging Party and will have a chilling effect on any settlement discussion that the parties

may be engaged in over the pending ULP charge. In this respect, one commenter stated that the proposed rule will remove the impetus of the Charged Party to enter into a settlement. According to one commenter, the current practice of allowing a Charging Party to withdraw a charge without notifying the Charged Party of a Regional Director's decision to dismiss the charge is a ''face-saving'' measure for the Charging Party. A few commenters also questioned whether the basis for the dismissal will be communicated to the Charged Party.

The final rule ensures that both parties to the dispute are apprised of the result of the investigation, including the basis for the decision where requested, and maintains the neutrality of the OGC, as it is a neutral fact-finding investigator reporting the results of its investigation. As discussed above, the OGC's role is limited to investigating and prosecuting alleged violations of the Statute. In cases where an alleged violation of the Statute is not found, the OGC's processes and procedures are not intended to be a tool for parties to bring about a settlement of their underlying non-meritorious dispute or to provide either party with the opportunity to ''save face.'' It is recognized that labor-management disputes which do not rise to the level of a ULP are still serious, and that their resolution is critical to good labor-management relations and to an effective and efficient Government. These regulations, however, place the responsibility for resolving such disputes in the hands of the parties where they are more appropriately addressed.

Some commenters expressed concern that if a decision is made to dismiss an otherwise meritorious charge on procedural grounds, then the parties may have a false sense that unlawful conduct is in fact lawful. As set forth above, parties will be apprised of the basis for a dismissal where requested. In addition, under the ULP processes and procedures, a party is always free to file a new charge once all procedural matters are resolved and where all of the other filing requirements, such as timeliness, etc, are met.

The final rule as promulgated is modified as set forth above.

Section 2423.12

A number of comments were received regarding the use of ADR after a decision to issue complaint has been made. One commenter asserted that waiting to address settlement of ULP charges until after a merit decision is made will result in more thorough investigations and, therefore, a better understanding of the parties' positions prior to attempting to use ADR. The commenter stated that this will result in better settlement discussions when parties are contacted regarding settlement.

A few commenters expressed concern that the proposed rule providing for the use of ADR prior to the issuance of complaint will result in all meritorious ULP charges being settled even over the objections of the Charging Party, and that the OGC will no longer issue complaint and litigate such cases. The OGC will actively work with the parties using ADR processes to reach a satisfactory resolution that is consistent with the Statute, resolves the parties' ULP dispute, and obtains the same types of remedies and relief as would be appropriate if the complaint was litigated. The OGC will also continue to vigorously enforce the Statute, prosecuting unresolved violations through litigation. The final rule as promulgated is the same as the proposed rule with a minor editorial clarification.

Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the General Counsel of the FLRA has determined that this regulation, as amended, will not have a significant impact on a substantial number of small entities, because this rule applies to federal employees, federal agencies, and labor organizations representing federal employees.

Unfunded Mandates Reform Act of 1995

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

Small Business Regulatory Enforcement Fairness Act of 1996

This action is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Paperwork Reduction Act of 1995

The amended regulations contain no additional information collection or record keeping requirements under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501, *et seq.*

List of Subjects in 5 CFR Part 2423

Administrative practice and procedure, Government employees, Labor management relations.

■ For these reasons, the General Counsel of the Federal Labor Relations Authority, amends 5 CFR Part 2423 as follows:

PART 2423—UNFAIR LABOR PRACTICE PROCEEDINGS

■ 1. The authority citation for part 2423 continues to read as follows:

Authority: 5 U.S.C. 7134.

■ 2. Section 2423.0 and subpart A of Part 2423 are revised to read as follows:

Sec.
2423.0 Applicability of this part.

Subpart A—Filing, Investigating, Resolving, and Acting on Charges

2423.1 Resolution of unfair labor practice disputes prior to a Regional Director determination whether to issue a complaint.
2423.2 Alternative Dispute Resolution (ADR) services.
2423.3 Who may file charges.
2423.4 Contents of the charge; supporting evidence and documents.
2423.5 [Reserved]
2423.6 Filing and service of copies.
2423.7 [Reserved]
2423.8 Investigation of charges.
2423.9 Amendment of charges.
2423.10 Action by the Regional Director.
2423.11 Determination not to issue complaint; review of action by the Regional Director.
2423.12 Settlement of unfair labor practice charges after a Regional Director determination to issue a complaint but prior to issuance of a complaint.
2423.13–2423.19 [Reserved]

§ 2423.0 Applicability of this part.

This part is applicable to any charge of alleged unfair labor practices pending or filed with the Authority on or after February 19, 2008.

Subpart A—Filing, Investigating, Resolving, and Acting on Charges

§ 2423.1 Resolution of unfair labor practice disputes prior to a Regional Director determination whether to issue a complaint.

The purposes and policies of the Federal Service Labor-Management Relations Statute can best be achieved

by the collaborative efforts of all persons covered by that law. The General Counsel encourages all persons on their own to meet, and in good faith, attempt to settle unfair labor practice disputes. To maintain complete neutrality, the General Counsel may not be involved with such settlement discussions with the parties prior to a Regional Director determination on the merits. Attempts by the parties to resolve unfair labor practice disputes prior to filing an unfair labor practice charge do not toll the time limitations for filing a charge set forth at 5 U.S.C. 7118(a)(4).

§ 2423.2 Alternative Dispute Resolution (ADR) services.

The General Counsel provides ADR services under § 2423.12(a) after a Regional Director has determined to issue a complaint.

§ 2423.3 Who may file charges.

(a) *Filing charges.* Any person may charge an activity, agency or labor organization with having engaged in, or engaging in, any unfair labor practice prohibited under 5 U.S.C. 7116.

(b) *Charging Party.* Charging Party means the individual, labor organization, activity or agency filing an unfair labor practice charge with a Regional Director.

(c) *Charged Party.* Charged Party means the activity, agency or labor organization charged with allegedly having engaged in, or engaging in, an unfair labor practice.

§ 2423.4 Contents of the charge; supporting evidence and documents.

(a) *What to file.* The Charging Party may file a charge alleging a violation of 5 U.S.C. 7116 by completing a form prescribed by the General Counsel, or on a substantially similar form, that contains the following information:

(1) The name, address, telephone number, facsimile number (where facsimile equipment is available), and e-mail address of the Charging Party;

(2) The name, address, telephone number, facsimile number (where facsimile equipment is available), and e-mail address (where known) of the Charged Party;

(3) The name, address, telephone number, facsimile number (where facsimile equipment is available), and e-mail address of the Charging Party's point of contact;

(4) The name, address, telephone number, facsimile number (where facsimile equipment is available), and e-mail address (where known) of the Charged Party's point of contact;

(5) A clear and concise statement of the facts alleged to constitute an unfair labor practice, a statement of how those facts allegedly violate specific section(s) and paragraph(s) of the Federal Service Labor-Management Relations Statute and the date and place of occurrence of the particular acts, which includes the identity (name and title) of the all the individuals involved, as well as the specific agency entity (if applicable) within which the events took place; and

(6) A statement whether the subject matter raised in the charge:

(i) Has been raised previously in a grievance procedure;

(ii) Has been referred to the Federal Service Impasses Panel, the Federal Mediation and Conciliation Service, the Equal Employment Opportunity Commission, the Merit Systems Protection Board, or the Office of the Special Counsel for consideration or action;

(iii) Involves a negotiability issue raised by the Charging Party in a petition pending before the Authority pursuant to part 2424 of this subchapter; or

(iv) Has been the subject of any other administrative or judicial proceeding.

(7) A statement describing the result or status of any proceeding identified in paragraph (a)(6) of this section.

(b) *When to file.* Under 5 U.S.C. 7118 (a)(4), a charge alleging an unfair labor practice must normally be filed within six (6) months of its occurrence.

(c) *Declarations of truth and statement of service.* A charge shall be in writing and signed, and shall contain a declaration by the individual signing the charge, under the penalties of the Criminal Code (18 U.S.C. 1001), that its contents are true and correct to the best of that individual's knowledge and belief.

(d) *Statement of service.* A charge shall also contain a statement that the Charging Party served the charge on the Charged Party, and shall list the name, title and location of the individual served, and the method of service.

(e) *Self-contained document.* A charge shall be a self-contained document describing the alleged unfair labor practice without a need to refer to supporting evidence and documents submitted under paragraph (f) of this section.

(f) *Submitting supporting evidence and documents and identifying potential witnesses.* When filing a charge, the Charging Party shall submit to the Regional Director, any supporting evidence and documents, including, but not limited to, correspondence and memoranda, records, reports, applicable collective bargaining agreement clauses, memoranda of understanding, minutes of meetings, applicable regulations, statements of position and other documentary evidence. The Charging Party also shall identify potential witnesses with contact information (telephone number, e-mail address, and facsimile number) and shall provide a brief synopsis of their expected testimony.

§ 2423.5 [Reserved]

§ 2423.6 Filing and service of copies.

(a) *Where to file.* A Charging Party shall file the charge with the Regional Director for the region in which the alleged unfair labor practice has occurred or is occurring. A charge alleging that an unfair labor practice has occurred or is occurring in two or more regions may be filed with the Regional Director in any of those regions.

(b) *Filing date.* A charge is deemed filed when it is received by a Regional Director. A charge received in a Region after the close of the business day will be deemed received and docketed on the next business day. The business hours for each of the Regional Offices are set forth at *http://www.FLRA.gov.*

(c) *Method of filing.* A Charging Party may file a charge with the Regional Director in person or by commercial delivery, first class mail, facsimile or certified mail. If filing by facsimile transmission, the Charging Party is not required to file an original copy of the charge with the Region. A Charging Party assumes responsibility for receipt of a charge. Supporting evidence and documents must be submitted to the Regional Director in person, by commercial delivery, first class mail, certified mail, or by facsimile transmission.

(d) *Service of the charge.* The Charging Party shall serve a copy of the charge (without supporting evidence and documents) on the Charged Party. Where facsimile equipment is available, the charge may be served by facsimile transmission in accordance with paragraph (c) of this section.

§ 2423.7 [Reserved]

§ 2423.8 Investigation of charges.

(a) *Investigation.* The Regional Director, on behalf of the General Counsel, conducts an unbiased, neutral investigation of the charge as the Regional Director deems necessary. During the course of the investigation, all parties involved are afforded an opportunity to present their evidence and views to the Regional Director.

(b) *Cooperation.* The purposes and policies of the Federal Service Labor-Management Relations Statute can best be achieved by the full cooperation of all parties involved and the timely

submission of all potentially relevant information from all potential sources during the course of the investigation. All persons shall cooperate fully with the Regional Director in the investigation of charges. The failure of a Charging Party to cooperate during an investigation may provide grounds for a Regional Director to dismiss the charge for failure to produce evidence supporting the charge. Cooperation includes any of the following actions, when deemed appropriate by the Regional Director:

(1) Making union officials, employees, and agency supervisors and managers available to give sworn/affirmed testimony regarding matters under investigation;

(2) Producing documentary evidence pertinent to the matters under investigation; and

(3) Providing statements of position on the matters under investigation.

(c) *Investigatory subpoenas.* If a person fails to cooperate with the Regional Director in the investigation of a charge, the General Counsel, upon recommendation of a Regional Director, may decide in appropriate circumstances to issue a subpoena under 5 U.S.C. 7132 for the attendance and testimony of witnesses and the production of documentary or other evidence. However, no subpoena shall be issued under this section which requires the disclosure of intramanagement guidance, advice, counsel or training within an agency or between an agency and the Office of Personnel Management.

(1) A subpoena shall be served by any individual who is at least 18 years old and who is not a party to the proceeding. The individual who served the subpoena must certify that he or she did so:

(i) By delivering it to the witness in person;

(ii) By registered or certified mail; or

(iii) By delivering the subpoena to a responsible individual (named in the document certifying the delivery) at the residence or place of business (as appropriate) of the person for whom the subpoena was intended. The subpoena shall show on its face the name and address of the Regional Director and the General Counsel.

(2) Any person served with a subpoena who does not intend to comply shall, within 5 days after the date of service of the subpoena upon such person, petition in writing to revoke the subpoena. A copy of any petition to revoke shall be served on the General Counsel.

(3) The General Counsel shall revoke the subpoena if the witness or evidence, the production of which is required, is not material and relevant to the matters under investigation or in question in the proceedings, or the subpoena does not describe with sufficient particularity the evidence the production of which is required, or if for any other reason sufficient in law the subpoena is invalid. The General Counsel shall state the procedural or other grounds for the ruling on the petition to revoke. The petition to revoke, shall become part of the official record if there is a hearing under subpart C of this part.

(4) Upon the failure of any person to comply with a subpoena issued by the General Counsel, the General Counsel shall determine whether to institute proceedings in the appropriate district court for the enforcement of the subpoena. Enforcement shall not be sought if to do so would be inconsistent with law, including the Federal Service Labor-Management Relations Statute.

(d) *Confidentiality.* It is the General Counsel's policy to protect the identity of individuals who submit statements and information during the investigation, and to protect against the disclosure of documents obtained during the investigation, as a means of ensuring the General Counsel's continuing ability to obtain all relevant information. After issuance of a complaint and in preparation for a hearing, however, identification of witnesses, a synopsis of their expected testimony and documents proposed to be offered into evidence at the hearing may be disclosed as required by the prehearing disclosure requirements in § 2423.23.

§ 2423.9 Amendment of charges.

Prior to the issuance of a complaint, the Charging Party may amend the charge in accordance with the requirements set forth in § 2423.6.

§ 2423.10 Action by the Regional Director.

(a) *Regional Director action.* The Regional Director, on behalf of the General Counsel, may take any of the following actions, as appropriate:

(1) Approve a request to withdraw a charge;

(2) Dismiss a charge;

(3) Approve a written settlement agreement in accordance with the provisions of § 2423.12;

(4) Issue a complaint; or

(5) Withdraw a complaint.

(b) *Request for appropriate temporary relief.* Parties may request the General Counsel to seek appropriate temporary relief (including a restraining order) under 5 U.S.C. 7123(d). The General Counsel may initiate and prosecute injunctive proceedings under 5 U.S.C. 7123(d) only upon approval of the Authority. A determination by the General Counsel not to seek approval of the Authority to seek such appropriate temporary relief is final and shall not be appealed to the Authority.

(c) *General Counsel requests to the Authority.* When a complaint issues and the Authority approves the General Counsel's request to seek appropriate temporary relief (including a restraining order) under 5 U.S.C. 7123(d), the General Counsel may make application for appropriate temporary relief (including a restraining order) in the district court of the United States within which the unfair labor practice is alleged to have occurred or in which the party sought to be enjoined resides or transacts business. Temporary relief may be sought if it is just and proper and the record establishes probable cause that an unfair labor practice is being committed. Temporary relief shall not be sought if it would interfere with the ability of the agency to carry out its essential functions.

(d) *Actions subsequent to obtaining appropriate temporary relief.* The General Counsel shall inform the district court which granted temporary relief pursuant to 5 U.S.C. 7123(d) whenever an Administrative Law Judge recommends dismissal of the complaint, in whole or in part.

§ 2423.11 Determination not to issue complaint; review of action by the Regional Director.

(a) *Opportunity to withdraw a charge.* If, upon the completion of an investigation under § 2423.8, a decision is made to dismiss the charge, the Regional Director will notify the parties of the decision, including the basis of the decision, if requested, and the Charging Party will be advised of an opportunity to withdraw the charge(s).

(b) *Dismissal letter.* If the Charging Party does not withdraw the charge within a reasonable period of time, the Regional Director will, on behalf of the General Counsel, dismiss the charge and provide the parties with a written statement of the reasons for not issuing a complaint.

(c) *Appeal of a dismissal letter.* The Charging Party may obtain review of the Regional Director's decision not to issue a complaint by filing an appeal with the General Counsel within 25 days after service of the Regional Director's decision. A Charging Party shall serve a copy of the appeal on the Regional Director. The General Counsel shall serve notice on the Charged Party that an appeal has been filed.

(d) *Extension of time.* The Charging Party may file a request, in writing, for

an extension of time to file an appeal, which shall be received by the General Counsel not later than 5 days before the date the appeal is due. A Charging Party shall serve a copy of the request for an extension of time on the Regional Director.

(e) *Grounds for granting an appeal.* The General Counsel may grant an appeal when the appeal establishes at least one of the following grounds:

(1) The Regional Director's decision did not consider material facts that would have resulted in issuance of a complaint;

(2) The Regional Director's decision is based on a finding of a material fact that is clearly erroneous;

(3) The Regional Director's decision is based on an incorrect statement or application of the applicable rule of law;

(4) There is no Authority precedent on the legal issue in the case; or

(5) The manner in which the Region conducted the investigation has resulted in prejudicial error.

(f) *General Counsel action.* The General Counsel may deny the appeal of the Regional Director's dismissal of the charge, or may grant the appeal and remand the case to the Regional Director to take further action. The General Counsel's decision on the appeal states the grounds listed in paragraph (e) of this section for denying or granting the appeal, and is served on all the parties. Absent a timely motion for reconsideration, the decision of the General Counsel is final.

(g) *Reconsideration.* After the General Counsel issues a final decision, the Charging Party may move for reconsideration of the final decision if it can establish extraordinary circumstances in its moving papers. The motion shall be filed within 10 days after the date on which the General Counsel's final decision is postmarked. A motion for reconsideration shall state with particularity the extraordinary circumstances claimed and shall be supported by appropriate citations. The decision of the General Counsel on a motion for reconsideration is final.

§ 2423.12 Settlement of unfair labor practice charges after a Regional Director determination to issue a complaint but prior to issuance of a complaint.

(a) *Alternative Dispute Resolution (ADR).* After a merit determination to issue a complaint, the Regional Director will work with the parties to settle the dispute using ADR, to avoid costly and protracted litigation where possible.

(b) *Bilateral informal settlement agreement.* Prior to issuing a complaint but after a merit determination by the Regional Director, the Regional Director may afford the Charging Party and the Charged Party a reasonable period of time to enter into an informal settlement agreement to be approved by the Regional Director. When a Charged Party complies with the terms of an informal settlement agreement approved by the Regional Director, no further action is taken in the case. If the Charged Party fails to perform its obligations under the approved informal settlement agreement, the Regional Director may institute further proceedings.

(c) *Unilateral informal settlement agreement.* If the Charging Party elects not to become a party to a bilateral settlement agreement which the Regional Director concludes effectuates the policies of the Federal Service Labor-Management Relations Statute, the Regional Director may choose to approve a unilateral settlement between the General Counsel and the Charged Party. The Regional Director, on behalf of the General Counsel, shall issue a letter stating the grounds for approving the settlement agreement and declining to issue a complaint. The Charging Party may obtain review of the Regional Director's action by filing an appeal with the General Counsel in accordance with § 2423.11(c) and (d). The General Counsel shall take action on the appeal as set forth in § 2423.11(e)–(g).

§§ 2423.13–2423.19 [Reserved]

Dated: February 13, 2008.

Colleen Duffy Kiko,

General Counsel, Federal Labor Relations Authority.

[FR Doc. E8–3013 Filed 2–15–08; 8:45 am]

BILLING CODE 6727–01–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 982

[Docket No. AMS–FV–07–0150; FV08–982–1 IFR]

Hazelnuts Grown in Oregon and Washington; Establishment of Interim Final and Final Free and Restricted Percentages for the 2007–2008 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule establishes interim final and final free and restricted percentages for domestic inshell hazelnuts for the 2007–2008 marketing year under the Federal marketing order for hazelnuts grown in Oregon and Washington. The interim final free and restricted percentages are 8.1863 and 91.8137 percent, respectively, and the final free and restricted percentages are 9.2671 and 90.7329 percent, respectively. The percentages allocate the quantity of domestically produced hazelnuts which may be marketed in the domestic inshell market (free) and the quantity of domestically produced hazelnuts that must be disposed of in outlets approved by the Board (restricted). Volume regulation is intended to stabilize the supply of domestic inshell hazelnuts to meet the limited domestic demand for such hazelnuts with the goal of providing producers with reasonable returns. This rule was recommended unanimously by the Hazelnut Marketing Board (Board), the agency responsible for local administration of the marketing order.

DATES: Effective February 20, 2008. This interim final rule applies to all 2007–2008 marketing year restricted hazelnuts until they are properly disposed of in accordance with marketing order requirements. Comments received by April 21, 2008 will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; *Fax:* (202) 720–8938; or *Internet: http://www.regulations.gov.* All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Barry Broadbent or Gary Olson, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1220 SW. Third Avenue, Suite 385, Portland, OR 97204; *Telephone:* (503) 326–2724, *Fax:* (503) 326–7440, or *E-mail: Barry.Broadbent@usda.gov* or *GaryD.Olson@usda.gov.*

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; *Telephone:* (202) 720–

2491, *Fax:* (202) 720–8938, or *E-mail: Jay.Guerber@usda.gov.*

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 115 and Marketing Order No. 982, both as amended (7 CFR Part 982), regulating the handling of hazelnuts grown in Oregon and Washington, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is intended that this action apply to all merchantable hazelnuts handled during the 2007–2008 marketing year beginning July 1, 2007. This action applies to all 2007–2008 marketing year restricted hazelnuts until they are properly disposed of in accordance with marketing order requirements. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule establishes free and restricted percentages which allocate the quantity of domestically produced hazelnuts that may be marketed in domestic inshell markets (free) and hazelnuts that must be exported, shelled, or otherwise disposed of by handlers (restricted). The Board met and, after determining that volume regulation would tend to effectuate the declared policy of the Act, developed a marketing policy to be employed for the duration of the 2007–2008 marketing year.

Volume regulation is intended to stabilize the supply of domestic inshell hazelnuts to meet the limited domestic demand for such hazelnuts, with the goal of providing producers with reasonable returns. Based on an estimate of the domestic inshell trade demand and total supply of domestically produced hazelnuts available for the 2007–2008 marketing year, the Board voted unanimously at their November 15, 2007, meeting to recommend to USDA that the interim final free and restricted percentages for the 2007–2008 marketing year be established at 8.1863 percent and 91.8137 percent, respectively. Additionally, the Board unanimously voted to set the final free and restricted percentages, effective May 1, 2008, at 9.2671 and 90.7329 percent, respectively.

The Board's authority to recommend volume regulation and use computations to determine the allocation of hazelnuts to individual markets is specified in § 982.40 of the order. Under the order's provisions, free and restricted market allocations of hazelnuts are expressed as percentages of the total hazelnut supply subject to regulation. The percentages are derived by dividing the estimated domestic inshell trade demand (computed by formula) by the Board's estimate of the total domestically produced supply of hazelnuts that are expected to be available over the course of the marketing year.

Inshell trade demand, the key component of the marketing policy, is the estimated quantity of inshell hazelnuts necessary to adequately supply the domestic inshell hazelnut market for the duration of the marketing year. The Board determines the domestic inshell trade demand for each year and uses that estimate as the basis for setting the percentage of the available supply of domestically produced hazelnuts that handlers may ship to the domestic inshell market throughout the marketing season. The order specifies that inshell trade demand be computed by averaging the preceding three years' trade acquisitions of inshell hazelnuts, allowing adjustments for abnormal crop or marketing conditions. In addition, the Board may increase the computed inshell trade demand by up to 25 percent, if market conditions warrant an increase.

As required by the order, prior to September 20 of each marketing year, the Board meets to establish its marketing policy for that year. If the Board determines that volume control would tend to effectuate the declared policy of the Act, the Board then follows a procedure, specified by the order, to compute and announce preliminary free and restricted percentages. The preliminary free percentage releases 80 percent of the adjusted inshell trade demand that handlers may ship to the domestic market. The purpose of releasing only 80 percent of the inshell trade demand under the preliminary stage of regulation is to guard against any potential underestimate of crop size. The preliminary free percentage is expressed as a percentage of the total hazelnut supply subject to regulation, where total supply is the sum of the estimated crop production less the three-year average disappearance plus the undeclared carry-in from the previous marketing year.

On August 21, 2007, the National Agricultural Statistics Service (NASS) released an estimate of 2007 hazelnut production for the Oregon and Washington area at 33,000 dry orchard-run tons. NASS uses an objective yield survey method to estimate hazelnut production which has historically been very accurate.

On August 23, 2007, the Board met for the purpose of (1) determining if volume control regulation would tend to effectuate the declared policy of the Act; (2) estimating the total available supply and the domestic inshell trade demand for hazelnuts; (3) establishing preliminary free and restricted marketing percentages for the 2007–2008 marketing year; and (4) authorizing market outlets for restricted hazelnuts.

After discussion, the Board unanimously determined that volume regulation would be necessary to effectively market the industry's 2007 crop and would tend to effectuate the declared policy of the Act. The determination was based on (1) the size of the 2007 hazelnut crop; (2) the inability of the domestic inshell market to absorb such a large crop; (3) the projected large size of the world hazelnut crop and the probability of an oversupplied world market; and (4) the average price paid to Oregon-Washington growers has not exceeded the parity price in any one of the past 18 years.

The Board then estimated the total available supply for the 2007 crop year to be 33,603 tons. The Board arrived at that quantity by using the crop estimate compiled by NASS (33,000 tons) and then adjusting that estimate to account for disappearance and carry-in. The order requires the Board to reduce the crop estimate by the average disappearance over the preceding three years (1,426 tons) and to increase it by the amount of undeclared carry-in from previous years' production (2,029 tons).

In the calculation, disappearance is defined as the difference between the estimated orchard-run production and the actual supply of merchantable product available for sale by handlers. Disappearance can consist of (1) unharvested hazelnuts; (2) culled product (nuts that are delivered to handlers but later discarded); (3) product used on the farm, sold locally, or otherwise disposed of by producers; and (4) statistical error in the orchard-run production estimate.

Undeclared carry-in is defined as hazelnuts that were produced in a previous marketing year but were not subject to regulation because they were not shipped during that marketing year. Undeclared carry-in is subject to regulation during the current marketing year and is accounted for as such by the Board.

Additionally, the Board estimated domestic inshell trade demand for the 2007–2008 marketing year to be 2,478 tons. The Board arrived at this estimate by taking the average of the domestic inshell trade acquisitions for the 2003/2004, 2004/2005, and the 2006/2007 marketing years (2,649 tons), increasing that amount by 5 percent (133 tons) to encourage sales (as allowed by the order), and then reducing that quantity by the declared carry-in from last year's crop (304 tons). The trade acquisition data for the 2005–2006 marketing year was omitted from the Board's calculations, as allowed by the order, after it was determined to be abnormal due to crop and marketing conditions. The Board is also allowed to increase the average domestic inshell trade acquisitions in their calculation by up to 25 percent, if market conditions justify such an increase. At this stage in the establishment of the marketing policy, the Board voted unanimously that a 5 percent increase would be sufficient to encourage new sales without risking oversupply of the market.

The declared carry-in represents product regulated under the order during a preceding marketing year but not shipped during that year. This inventory must be accounted for when estimating the quantity of product to make available to adequately supply the market.

After establishing estimates for total available hazelnut supply and domestic inshell trade demand, the Board used those estimates to compute and announce preliminary free and restricted percentages of 5.8983 percent and 94.1017 percent, respectively. The Board computed the preliminary free percentage by multiplying the adjusted inshell trade demand by 80 percent and dividing the result by the estimate of the total available supply subject to regulation (2,478 tons × 80 percent/33,603 tons = 5.8983 percent). The preliminary free percentage initially released 1,982 tons of hazelnuts from the 2007–2008 supply for domestic inshell use. The Board authorized the preliminary restricted percentage (31,621 tons) to be exported or shelled for the domestic kernel markets.

Under the order, the Board must meet again on or before November 15 to review and revise the preliminary estimate of the total available supply of hazelnuts and to recommend interim final and final free and restricted percentages. As indicated earlier, when establishing preliminary free and restricted percentages, the Board utilizes a pre-harvest objective yield survey, compiled by NASS on behalf of the Board, to estimate the upcoming crop size. After the hazelnut harvest has concluded, usually sometime in October, information is available directly from handlers to more accurately estimate crop size. The Board may use this information to amend their preliminary estimate of total available supply before calculating the interim final and final percentages. At this meeting, the Board may also amend the percentage increase included in the computation of inshell trade demand to encourage increased sales.

Interim final percentages are calculated in the same way as the preliminary percentages but release 100 percent of the inshell trade demand, effectively releasing the additional 20 percent held back at the preliminary stage. Final free and restricted percentages may release up to an additional 15 percent of the average trade acquisitions of inshell hazelnuts for desirable carryout, to provide an adequate carryover of product into the following season. The order requires that final free and restricted percentages be effective 30 days prior to the end of the marketing year, or earlier, if recommended by the Board and approved by USDA. The Board is allowed to combine the interim final and the final stages of the marketing policy, if marketing conditions so warrant, by recommending final percentages which immediately release 100 percent of the inshell trade demand (the preliminary percentage plus the additional 20 held back) plus any percentage increase the Board determines for desirable carryout. Revisions in the marketing policy can be made until February 15 of each marketing year, but the inshell trade demand can only be revised upward, consistent with § 982.40(e).

The Board met, as required by the order, on November 15, 2007, to review and approve an amended marketing policy and to recommend the establishment of interim final and final free and restricted percentages. At that time, the Board revised the crop estimate in the marketing policy to 36,270 tons (from 33,000 tons) after considering the results of post-harvest handler survey information compiled by the Board. The Board also revised the percentage increase meant to encourage sales that is included in the inshell trade demand computation from 5 percent to 25 percent, effectively allocating another 529 tons of inshell hazelnuts that may be marketed in the domestic market.

Using the revised crop estimate and the increased inshell trade demand, the Board then computed interim final free and restricted percentages. The percentages release the remaining 20 percent of the estimated inshell trade demand that was withheld during the preliminary stage of the marketing policy, as well as take into account the amendments made by the Board to the marketing policy computations (revising the total supply estimate and increasing the inshell trade demand). The interim final free and restricted percentages were therefore set at 8.1863 and 91.8137 percent, respectively. The interim final free percentage immediately releases a total 3007 tons of inshell hazelnuts from the 2007–2008 supply that may be marketed in domestic markets.

During the meeting, the Board decided that market conditions were such that the industry would benefit from the release of an additional 15 percent of the three year average trade acquisitions to allow for desirable carryout and that the increase would not adversely affect the 2007–2008 domestic inshell market. The final free and restricted percentages were set at 9.2671 and 90.7329 percent, respectively. The final percentages are to become effective May 1, 2008. The final free percentage releases 3,404 tons of inshell hazelnuts from the 2007–2008 supply for domestic use, which includes 397 tons released late in the marketing year for desirable carryout.

The final marketing percentages are based on the Board's final production estimate and the following supply and demand information for the 2007–2008 marketing year:

		Tons
Total Available Supply		
(1) Production forecast (11/15/07 crop estimate)		36,270
(2) Minus: Disappearance (three year average—4.32 percent of Item 1)		-1,567
(3) Merchantable production (Item 1 minus Item 2)		34,703
(4) Plus: Undeclared carry-in as of July 1, 2007 (subject to 2007–2008 regulation)		+ 2,029
(5) Available supply subject to regulation (Item 3 plus Item 4)		36,732
Inshell Trade Demand		
(6) Average trade acquisition (ATA) of inshell hazelnuts (three prior years domestic sales)		2,649
(7) Plus: Increase to encourage increased sales (25% of average trade acquisitions)		+ 662
(8) Minus: Declared carry-in as of July 1, 2007 (not subject to 2007–2008 regulation)		-304
(9) Adjusted inshell trade demand (Item 6 plus Item 7 minus Item 8)		3,007
Percentages	Free	Restricted
(10) Interim final percentages (Item 9 divided by Item 5) × 100	8.1863	91.8137
(11) Interim final free tonnage (Item 9)	3,007	.....
(12) Interim final restricted in tons (Item 5 minus Item 9)	.....	33,725
(13) Final percentages (Item 14 divided by Item 5) × 100	9.2671	90.7329
(14) Final free tonnage (Interim final free tonnage (Item 11) plus 15% of ATA (397))	3,404	.....
(15) Final restricted tonnage (Item 5 minus Item 11)	.....	33,328

In addition to complying with the provisions of the order, the Board also considered USDA's 1982 ''Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders'' (Guidelines) when making its computations in the marketing policy. This volume control regulation provides a method to collectively limit the supply of inshell hazelnuts available for sale in domestic markets. The Guidelines provide that the domestic inshell market has available a quantity equal to 110 percent of prior years' shipments before allocating supplies for the export inshell, export kernel, and domestic kernel markets. This provides for a plentiful supply of inshell hazelnuts for consumers and for market expansion, while retaining the mechanism for dealing with oversupply situations. The established final percentages make available approximately 755 additional tons to encourage increased sales. The total free supply for the 2007–2008 marketing year is estimated to be 3,404 tons of hazelnuts, which is 137 percent of the average of the last three prior years' sales (2,478 tons) and exceeds the goal of the Guidelines.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $750,000, and small agricultural service firms are defined as those having annual receipts of less than $6,500,000. There are approximately 650 producers of hazelnuts in the production area and approximately 19 handlers subject to regulation under the order. Using statistics compiled by NASS, the average value of production received by producers in 2004–2006 was $54,088,000. Using those estimates, the average annual hazelnut revenue per producer would be approximately $77,300. The level of sales of other crops by hazelnut producers is not known. In addition, based on records maintained by the Board, approximately 83 percent of the handlers ship under $6,500,000 worth of hazelnuts on an annual basis. In view of the foregoing, it can be concluded that the majority of hazelnut producers and handlers may be classified as small entities.

Board meetings are widely publicized in advance of the meetings and are held in a location central to the production area. The meetings are open to all industry members and other interested persons who are encouraged to participate in the deliberations and voice their opinions on topics under discussion. Thus, Board recommendations can be considered to represent the interests of small business entities in the industry.

Currently, U.S. hazelnut production is allocated among three main market outlets: domestic inshell, export inshell, and kernel markets. Handlers and growers receive the highest return for sales in the domestic inshell market. They receive less for product going to export inshell, and the least for kernels. Based on Board records of average shipments for 1997–2006, the percentage going to each of these markets was 10 percent (domestic inshell), 53 percent (export inshell), and 36 percent (kernels). Other minor market outlets make up the remaining 1 percent.

The inshell hazelnut market can be characterized as having limited and inelastic demand with a very short primary marketing period. On average, 80 percent of domestic inshell hazelnut shipments occur between October 1 and November 30, primarily to supply holiday nut demand. The inshell market is, therefore, prone to oversupply and correspondingly low grower prices in the absence of supply restrictions. This volume control regulation provides a method for the U.S. hazelnut industry to limit the supply of domestic inshell hazelnuts available for sale in the continental U.S. and thereby mitigate market oversupply conditions.

Many years of marketing experience led to the development of the current volume control procedures. These procedures have helped the industry solve its marketing problems by keeping inshell supplies in balance with domestic needs. Volume controls ensure that the domestic inshell market is fully

supplied while protecting the market from the negative effects of oversupply.

Although the domestic inshell market is a relatively small portion of total hazelnut sales (averaging 10 percent of total shipments for 1997–2006), it remains a profitable market segment. The volume control provisions of the order are designed to avoid oversupplying this particular market segment, because that would likely lead to substantially lower grower prices. The other market segments, export inshell and kernels, are expected to continue to provide good outlets for U.S. hazelnut production into the future.

Adverse climatic conditions that negatively impacted hazelnut production in the other hazelnut producing regions of the world in 2004 and 2005 have corrected and the total world supply in 2007–2008 is predicted to be near the historically high levels seen in 2006. Product prices in the world market have trended downward in the expectation of the large available supply. While the U.S. hazelnut industry continues to experience high demand for their large sized and high quality product, the prices that producers receive are tied to the global market. In light of the anticipated world supply situation, regulation of the domestic inshell market is important to the U.S. hazelnut industry to insulate that specialty market from the supply related challenges of the global hazelnut market.

In Oregon and Washington, lower hazelnut production years typically follow higher production years (a historically consistent cyclical pattern), and such was the case in 2007. The 2006 crop of 43,000 tons was 20 percent above the 10-year average (34,000 tons for 1997–2006) for hazelnut production. The 2007 crop (36,720 tons, according to the survey of handlers conducted by the Board) is estimated to be 16 percent below the previous year. Using the NASS estimate of 33,000 tons, the crop is 23 percent lower. It is predicted that the 2008 crop will follow the recent production pattern and will be larger than the current crop year. This cyclical trait also leads to an inversely corresponding cyclical price pattern for hazelnuts. The intrinsic cyclical nature of the hazelnut industry lends credibility to the volume control measures enacted by the Board under the marketing order.

Recent production and price data reflect the stabilizing effect of volume control regulations. Industry statistics show that total hazelnut production has varied widely over the 10-year period between 1997 and 2006, from a low of 15,500 tons in 1998 to a high of 49,500 tons in 2001. Production in the smallest crop year and the largest crop year were 48 percent and 145 percent, respectively, of the 10-year average of 34,000 tons. Grower price, however, has not fluctuated to the extent of production. Prices in the lowest price year and the highest price year were 63 percent and 200 percent, respectively, of the 10-year average price of $1,114 per ton. If the extraordinarily high price for the 2005 crop year is excluded as an aberration that stems from a global production crisis, the percentage variation in price drops to 70 percent and 145 percent of a $988 per ton average price, respectively.

The lower level of variability of price versus the variability of production provides an illustration of the order's price-stabilizing impact. The coefficient of variation (a standard statistical measure of variability; ''CV'') for hazelnut production over the 10-year period is 0.33. In contrast, the coefficient of variation for hazelnut grower prices, excluding the 2005 price, is only 0.20, dramatically lower than the CV for production. The lower level of variability of price versus the variability of production provides an illustration of the order's price-stabilizing impact.

Comparing grower revenue to cost is useful in highlighting the impact on growers of recent product and price levels. A recent hazelnut production cost study from Oregon State University estimated cost-of-production per acre to be approximately $1,340 for a typical 100-acre hazelnut enterprise. Average grower revenue per bearing acre (based on NASS acreage and value of production data) equaled or exceeded that typical cost level only four times from 1997 to 2006. Average grower revenue was below typical costs in the other years. Without the stabilizing influence of the order, growers may have lost more money. While crop size has fluctuated, volume regulations contribute to orderly marketing and market stability by moderating the variation in returns for all producers and handlers, both large and small.

While the level of benefits of this rulemaking is difficult to quantify, the stabilizing effects of volume regulation impact both small and large handlers positively by helping them maintain and expand markets even though hazelnut supplies fluctuate widely from season to season. This regulation provides equitable allotment of the most profitable market, the domestic inshell market. That market is available to all handlers, regardless of size.

As an alternative to this regulation, the Board discussed not regulating the marketing of the 2007 hazelnut crop. However, without any regulation in effect, the Board believes that the industry would tend to oversupply the inshell domestic market. The 2007 hazelnut crop is smaller than last year's crop but is still 7 percent above the ten-year average. The unregulated release of 36,732 tons on the domestic inshell market could easily oversupply the small, but lucrative domestic inshell market. The Board believes that any oversupply would completely disrupt the market, causing producer returns to decrease dramatically.

Section 982.40 of the order establishes a procedure and computations for the Board to follow in recommending to USDA establishment of preliminary, interim final, and final percentages of hazelnuts to be released to the free and restricted markets each marketing year. The program results in a plentiful supply of hazelnuts for consumers and for market expansion while retaining the mechanism for dealing with oversupply situations.

Hazelnuts produced under the order comprise virtually all of the hazelnuts produced in the U.S. This production represents, on average, less than 3 percent of total U.S. production of all tree nuts, and less than 5 percent of the world's hazelnut production.

Last season, 73 percent of the domestically produced hazelnut kernels were marketed in the domestic market and 27 percent were exported. Domestically produced kernels generally command a higher price in the domestic market than imported kernels. The industry is continuing its efforts to develop and expand other markets with emphasis on the domestic kernel market. Small business entities, both producers and handlers, benefit from the expansion efforts resulting from this program.

Inshell hazelnuts produced under the order compete well in export markets because of their high quality. Based on Board statistics, Europe has historically been the primary export market for U.S. produced inshell hazelnuts. Shipments have also been relatively consistent, not varying much from the 10-year average of 4,906 tons. Recent years, though, have seen a significant increase in export destinations. Last season, inshell shipments to Europe totaled 4,401 tons, representing just 16 percent of exports, with the largest share going to Germany. Inshell shipments to Southwest Pacific countries, Hong Kong in particular, have increased dramatically in the past few years, rising to 79 percent of total inshell exports of 27,259 tons for the 2006–2007 marketing year. The industry

continues to pursue export opportunities.

There are some reporting, recordkeeping, and other compliance requirements under the order. The reporting and recordkeeping burdens are necessary for compliance purposes and for developing statistical data for maintenance of the program. The information collection requirements have been previously approved by the Office of Management and Budget under OMB No. 0581–0178, Vegetable and Specialty Crops. The forms require information which is readily available from handler records and which can be provided without data processing equipment or trained statistical staff. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. This rule does not change those requirements.

The AMS is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

In addition, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

Further, the Board's meetings were widely publicized throughout the hazelnut industry and all interested persons were invited to attend the meetings and participate in Board deliberations. Like all Board meetings, those held on August 23, 2007, and November 15, 2007, were public meetings and all entities, both large and small, were able to express their views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/fv/moab.html*. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

This rule invites comments on the establishment of interim final and final free and restricted percentages for the 2007–2008 marketing year under the hazelnut marketing order. Any comments received will be considered prior to finalization of this rule.

After consideration of all relevant material presented, including the Board's recommendation, and other information, it is found that this interim final rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) The 2007–2008 marketing year began July 1, 2007, and the percentages established herein apply to all merchantable hazelnuts handled from the beginning of the crop year; (2) the percentages make the full trade demand available so handlers can take advantage of inshell marketing opportunities; (3) handlers are aware of this rule, which was recommended at an open Board meeting, and need no additional time to comply with this rule; and (4) interested persons are provided a 60-day comment period in which to respond, and all comments timely received will be considered prior to finalization of this action.

List of Subjects in 7 CFR Part 982

Filberts, Hazelnuts, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, 7 CFR Part 982 is amended as follows:

PART 982—HAZELNUTS GROWN IN OREGON AND WASHINGTON

■ 1. The authority citation for 7 CFR Part 982 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. A new section 982.255 is added to read as follows:

§ 982.255 Free and restricted percentages—2007–2008 marketing year.

(a) The interim final free and restricted percentages for merchantable hazelnuts for the 2007–2008 marketing year shall be 8.1863 and 91.8137 percent, respectively.

(b) On May 1, 2008, the final free and restricted percentages for merchantable hazelnuts for the 2007–2008 marketing year shall be 9.2671 and 90.7329 percent, respectively.

Dated: February 12, 2008.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. 08–739 Filed 2–15–08; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 989

[Docket No. AMS–FV–07–0130; FV08–989–1 IFR]

Raisins Produced from Grapes Grown in California; Final Free and Reserve Percentages for 2007–08 Crop Natural (sun-dried) Seedless Raisins

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule establishes final volume regulation percentages for 2007–08 crop Natural (sun-dried) Seedless (NS) raisins covered under the Federal marketing order for California raisins (order). The order regulates the handling of raisins produced from grapes grown in California and is locally administered by the Raisin Administrative Committee (Committee). The volume regulation percentages are 85 percent free and 15 percent reserve. The percentages are intended to help stabilize raisin supplies and prices, and strengthen market conditions.

DATES: Effective February 20, 2008. The volume regulation percentages apply to acquisitions of NS raisins from the 2007–08 crop until the reserve raisins from that crop are disposed of under the marketing order. Comments received by April 21, 2008, will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938; or Internet: *http://www.regulations.gov.* All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Rose M. Aguayo, Marketing Specialist, or Kurt J. Kimmel, Regional Manager, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA; Telephone: (559) 487–5901; Fax: (559) 487–5906; or E-mail: *Rose.Aguayo@usda.gov* or *Kurt.Kimmel@usda.gov.*

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491; Fax: (202) 720–8938; or E-mail: *Jay.Guerber@usda.gov.*

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 989, both as amended (7 CFR part 989), regulating the handling of raisins produced from grapes grown in California, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the order provisions now in effect, final free and reserve percentages may be established for raisins acquired by handlers during the crop year. This rule establishes final free and reserve percentages for NS raisins for the 2007–08 crop year, which began August 1, 2007, and ends July 31, 2008. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule establishes final volume regulation percentages for 2007–08 crop NS raisins covered under the order. The volume regulation percentages are 85 percent free and 15 percent reserve. Free tonnage raisins may be sold by handlers to any market. Reserve raisins must be held in a pool for the account of the Committee and are disposed of through various programs authorized under the order. For example, reserve raisins may be sold by the Committee to handlers for free use or to replace part of the free tonnage raisins they exported; used in diversion programs; carried over as a hedge against a short crop; or disposed of in other outlets not competitive with those for free tonnage raisins, such as government purchase, distilleries, or animal feed.

The volume regulation percentages are intended to help stabilize raisin supplies and prices, and strengthen market conditions. The Committee unanimously recommended final percentages for NS raisins on October 4, 2007, and October 11, 2007.

Computation of Trade Demands

Section 989.54 of the order prescribes procedures and time frames to be followed in establishing volume regulation. This includes methodology used to calculate free and reserve percentages. Pursuant to § 989.54(a) of the order, the Committee met on August 14, 2007, to review shipment and inventory data, and other matters relating to the supplies of raisins of all varietal types. The Committee computed a trade demand for each varietal type for which a free tonnage percentage might be recommended. Trade demand is computed using a formula specified in the order and, for each varietal type, is equal to 90 percent of the prior year's shipments of free tonnage and reserve tonnage raisins sold for free use into all market outlets, adjusted by subtracting the carryin on August 1 of the current crop year, and adding the desirable carryout at the end of that crop year. As specified in § 989.154(a), the desirable carryout for NS raisins shall equal the total shipments of free tonnage during August and September for each of the past 5 crop years, converted to a natural condition basis, dropping the high and low figures, and dividing the remaining sum by three, or 60,000 natural condition tons, whichever is higher. For all other varietal types, the desirable carryout shall equal the total shipments of free tonnage during August, September and one-half of October for each of the past 5 crop years, converted to a natural condition basis, dropping the high and low figures, and dividing the remaining sum by three. In accordance with these provisions, the Committee computed and announced the 2007–08 trade demand for NS raisins at 232,822 tons as shown below.

COMPUTED TRADE DEMAND

[Natural condition tons]

	NS raisins
Prior year's shipments	309,169
Multiplied by 90 percent	0.90
Equals adjusted base	278,252
Minus carryin inventory	105,430
Plus desirable carryout	60,000
Equals computed NS trade demand	232,822

Computation of Volume Regulation Percentages

Section 989.54(b) of the order requires that the Committee announce crop estimates and determine whether volume regulation is warranted for the varietal types for which it computed a trade demand. If the Committee determines that volume regulation is warranted, it must also compute and announce preliminary free and reserve percentages. Section 989.54(c) provides that the Committee may modify the preliminary free and reserve percentages prior to February 15 by announcing interim percentages which release less than the trade demand. Section 989.54(d) requires the Committee to recommend final percentages no later than February 15 which will tend to release the full trade demand. Final percentages are established by USDA through informal rulemaking.

The Committee met on October 4 and October 11, 2007, and announced a 2007–08 crop estimate of 273,908 tons for NS raisins pursuant to § 989.54(b). NS raisins are the major varietal type of California raisin. The crop estimate of 273,908 tons is significantly higher than the computed trade demand of 232,822 tons. Thus, the Committee determined that volume regulation for NS raisins was warranted. The Committee therefore announced preliminary volume regulation percentages of 72 percent free and 28 percent reserve for NS raisins. As required by the order, these percentages would release 85 percent of the computed trade demand. The Committee also announced interim volume regulation percentages of 84.75 percent free and 15.25 percent reserve, and recommended final volume regulation percentages of 85 percent free and 15 percent reserve pursuant to § 989.54(d).

The Committee has historically recommended interim and final volume regulation percentages later in the season. However, the Committee determined it was in the best interest of producers and handlers to establish interim and final percentages as soon as possible for the 2007–08 crop year. Rains during the harvest period this

season while grapes were lying on the ground to dry caused a problem with embedded sand particles on a portion of the crop. To remedy this situation, growers must subject the raisins to a process known as reconditioning to remove the sand in order for the raisins to be acceptable for acquisition by handlers. This process results in additional costs to growers. Establishing interim and final percentages early in the season will allow growers to be paid on a higher percentage of their crop earlier in the season. This will help growers meet the costs of reconditioning, and the reconditioned product will then be suitable for acquisition and processing by handlers.

Pursuant to § 989.54(d), the Committee's calculations and determinations to arrive at final percentages for NS raisins are shown in the table below:

FINAL VOLUME REGULATION PERCENTAGES

[Natural condition tons]

	NS raisins
Trade demand	232,822
Divided by crop estimate	273,908
Equals the free percentage	85.00
100 minus free percentage equals the reserve percentage	15.00

USDA's ''Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders'' (Guidelines) specify that 110 percent of recent years' sales should be made available to primary markets each season for marketing orders utilizing reserve pool authority. This goal is expected to be met for NS raisins for the 2007–08 crop year. Application of the final percentages will make 232,822 tons of raisins available to handlers if the crop estimate is realized. In addition, handlers will be offered additional reserve raisins for sale under the ''10 plus 10 offers.'' As specified in § 989.54(g), the 10 plus 10 offers are two offers of reserve pool raisins which are made available to handlers during each season. For each such offer, a quantity of reserve raisins equal to 10 percent of the prior year's shipments is made available to handlers for free use. Handlers may sell their 10 plus 10 raisins to any market.

Based on 2006–07 NS shipments of 309,169 natural condition tons, 61,833.8 tons should be made available in the 10 plus 10 offers. However, based on the 273,908-ton crop estimate and the 232,822-ton trade demand, only 41,086 tons of 2007–08 reserve raisins would be available. This tonnage combined with the 6,064 tons of remaining 2006–07 reserve raisins should be available for the 10 plus 10 offers (a total of 47,150 tons). Thus, all available reserve pool raisins should be offered to handlers for free use through the 10 plus 10 offers.

In addition to these anticipated 10 plus 10 purchases, 14,793 tons of 2006–07 reserve raisins were sold to handlers through 10 plus 10 offers in July 2007 and released to handlers in the 2007–08 crop year (August 2007). Finally, 105,430 tons of free tonnage raisins were carried in to the 2007–08 crop year in handler's inventories. Combining all the raisins available to handlers for use as free tonnage for the 2007–08 crop year (including the 232,822-ton trade demand) results in a total supply of 400,195 tons of natural condition raisins, or 376,195 packed tons. This equates to 129 percent of the 2006–07 shipments of 309,169 natural condition tons or 290,628 packed tons.

In addition to the 10 plus 10 offers, § 989.67(j) of the order provides authority for sales of reserve raisins to handlers under certain conditions such as a national emergency, crop failure, change in economic or marketing conditions, or if free tonnage shipments in the current crop year exceed shipments during a comparable period of the prior crop year. Such reserve raisins may be sold by handlers to any market. When implemented, the additional offers of reserve raisins make even more raisins available to primary markets, which is consistent with USDA's Guidelines.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 23 handlers of California raisins who are subject to regulation under the order and approximately 4,000 raisin producers in the regulated area. Small agricultural firms are defined by the Small Business Administration (SBA)(13 CFR 121.201) as those having annual receipts of less than $6,500,000, and small agricultural producers are defined as those having annual receipts of less than $750,000. No more than 10 handlers and a majority of producers of California raisins may be classified as small entities.

Since 1949, the California raisin industry has operated under a Federal marketing order. The order contains authority to, among other things, limit the portion of a given year's crop that can be marketed freely in any outlet by raisin handlers. This volume regulation mechanism is used to stabilize supplies and prices and strengthen market conditions. If the primary market (the normal domestic market) is oversupplied with raisins, grower prices decline substantially.

Pursuant to § 989.54(d) of the order, this rule establishes final volume regulation percentages for 2007–08 crop NS raisins. The volume regulation percentages are 85 percent free and 15 percent reserve. Free tonnage raisins may be sold by handlers to any market. Reserve raisins must be held in a pool for the account of the Committee and are disposed of through certain programs authorized under the order.

Volume regulation is warranted this season because the crop estimate of 273,908 tons is significantly higher than the 232,822 ton trade demand.

The volume regulation procedures have helped the industry address its marketing problems by keeping supplies in balance with domestic and export market needs, and strengthening market conditions. The volume regulation procedures fully supply the domestic and export markets, provide for market expansion, and help reduce the burden of oversupplies in the domestic market.

Raisin grapes are a perennial crop, so production in any year is dependent upon plantings made in earlier years. The sun-drying method of producing raisins involves considerable risk because of variable weather patterns.

Even though the product and the industry are viewed as mature, the industry has experienced considerable change over the last several decades. Before the 1975–76 crop year, more than 50 percent of the raisins were packed and sold directly to consumers. Now, about 64 percent of raisins are sold in bulk. This means that raisins are now sold to consumers mostly as an ingredient in another product such as cereal and baked goods. In addition, for a few years in the early 1970's, over 50 percent of the raisin grapes were sold to the wine market for crushing. Since then, the percent of raisin-variety grapes sold to the wine industry has decreased.

California's grapes are classified into three groups—table grapes, wine grapes, and raisin-variety grapes. Raisin-variety grapes are the most versatile of the three types. They can be marketed as fresh grapes, crushed for juice in the production of wine or juice concentrate, or dried into raisins. Annual fluctuations in the fresh grape, wine, and concentrate markets, as well as weather-related factors, cause fluctuations in raisin supply. This type of situation introduces a certain amount of variability into the raisin market. Although the size of the crop for raisin-variety grapes may be known, the amount dried for raisins depends on the demand for crushing. This makes the marketing of raisins a more difficult task. These supply fluctuations can result in producer price instability and disorderly market conditions.

Volume regulation is helpful to the raisin industry because it lessens the impact of such fluctuations and contributes to orderly marketing. For example, producer prices for NS raisins remained fairly steady between the 1993–94 through the 1997–98 seasons, although production varied. As shown in the table below, during those years, production varied from a low of 272,063 tons in 1996–97 to a high of 387,007 tons in 1993–94.

According to Committee data, the total producer return per ton during those years, which includes proceeds from both free tonnage plus reserve pool raisins, has varied from a low of $904.60 in 1993–94 to a high of $1,049.20 in 1996–97. Producer prices for the 1998–99 and 1999–2000 seasons increased significantly due to back-to-back short crops during those years. Record large crops followed and producer prices dropped dramatically for the 2000–01 through 2003–04 crop years, as inventories grew while demand stagnated. However, producer prices were higher for the 2004–05, 2005–06, and 2006–07 crop years, as noted below:

NATURAL SEEDLESS PRODUCER PRICES

Crop year	Deliveries (natural condition tons)	Producer prices (per ton)
2006–07	282,999	[1] $1,089.00
2005–06	319,126	[1] 998.25
2004–05	265,262	[2] 1,210.00
2003–04	296,864	567.00
2002–03	388,010	491.20
2001–02	377,328	650.94
2000–01	432,616	603.36
1999–2000	299,910	1,211.25
1998–99	240,469	[2] 1,290.00
1997–98	382,448	946.52

NATURAL SEEDLESS PRODUCER PRICES—Continued

Crop year	Deliveries (natural condition tons)	Producer prices (per ton)
1996–97	272,063	1,049.20
1995–96	325,911	1,007.19
1994–95	378,427	928.27
1993–94	387,007	904.60

[1] Return-to-date, reserve pool still open.
[2] No volume regulation.

There are essentially two broad markets for raisins—domestic and export. Domestic shipments have been generally increasing in recent years. Although domestic shipments decreased from a high of 204,805 packed tons during the 1990–91 crop year to a low of 156,325 packed tons in 1999–2000, they increased from 174,117 packed tons during the 2000–01 crop year to 188,944 tons during the 2006–07 crop year. Export shipments ranged from a high of 107,931 packed tons in 1991–92 to a low of 91,599 packed tons in the 1999–2000 crop year. Since that time, export shipments increased to 106,755 tons of raisins during the 2004–05 crop year, but fell to 101,684 tons in 2006–07.

The per capita consumption of raisins has declined from 2.07 pounds in 1988 to 1.44 pounds in 2005. This decrease is consistent with the decrease in the per capita consumption of dried fruits in general, which is due to the increasing availability of most types of fresh fruit throughout the year.

While the overall demand for raisins has increased in three of the last four years (as reflected in increased commercial shipments), production has been decreasing. Deliveries of NS dried raisins from producers to handlers reached an all-time high of 432,616 tons in the 2000–01 crop year. This large crop was preceded by two short crop years; deliveries were 240,469 tons in 1998–99 and 299,910 tons in 1999–2000. Deliveries for the 2000–01 crop year soared to a record level because of increased bearing acreage and yields. Deliveries for the 2001–02 crop year were at 377,328 tons, 388,010 tons for the 2002–03 crop year, 296,864 for the 2003–04 crop year, and 265,262 tons for the 2004–05 crop year. After three crop years of high production and a large 2001–02 carryin inventory, the industry diverted raisin production to other uses or removed bearing vines. Diversions/removals totaled 38,000 acres in 2001; 27,000 acres in 2002; and 8,000 acres of vines in 2003. These actions resulted in declining deliveries of 296,864 tons for the 2003–04 crop year and 265,262 tons for the 2004–05 crop year. Although deliveries increased in 2005–06 to 319,126 tons, this may have been because fewer growers opted to contract with wineries, as raisin variety grapes crushed in 2005–06 decreased by 161,000 green tons, the equivalent of over 40,000 tons of raisins. In 2006–07, raisin deliveries were again less than 300,000 tons, at 282,999 tons.

The order permits the industry to exercise volume regulation provisions, which allow for the establishment of free and reserve percentages, and establishment of a reserve pool. One of the primary purposes of establishing free and reserve percentages is to equilibrate supply and demand. If raisin markets are over-supplied with product, producer prices will decline.

Raisins are generally marketed at relatively lower price levels in the more elastic export market than in the more inelastic domestic market. This results in a larger volume of raisins being marketed and enhances producer returns. In addition, this system allows the U.S. raisin industry to be more competitive in export markets.

The reserve percentage limits what handlers can market as free tonnage. Based on the 2007–08 crop estimate of 273,908 tons, the 15 percent reserve would limit the total free tonnage to 232,822 natural condition tons (.85 × the 273,908 ton crop). Adding the 232,822 ton figure to the carryin of 105,430 tons, plus 41,086 tons of 2007–08 of reserve raisins anticipated for sale to handlers during the 2006–07 crop year under the 10 plus 10 offers, and 20,857 tons of 2006–07 reserve raisins available to handlers in the 2007–08 crop year results in a total free supply of 400,195 natural condition tons.

With volume regulation, producer prices are expected to be higher than without volume regulation. This price increase is beneficial to all producers regardless of size and enhances producers' total revenues in comparison to no volume regulation. Establishing a reserve allows the industry to help stabilize supplies in both domestic and export markets, while improving returns to producers.

Free and reserve percentages are established by varietal type, and usually in years when the supply exceeds the trade demand by a large enough margin that the Committee believes volume regulation is necessary to maintain market stability. Accordingly, in assessing whether to apply volume regulation or, as an alternative, not to apply such regulation, it was determined that volume regulation is warranted this season for only one of

the nine raisin varietal types defined under the order.

The free and reserve percentages established by this rule release the full trade demand and apply uniformly to all handlers in the industry, regardless of size. For NS raisins, with the exception of the 1998–99 and 2004–05 crop years, small and large raisin producers and handlers have been operating under volume regulation percentages every year since 1983–84. There are no known additional costs incurred by small handlers that are not incurred by large handlers. While the level of benefits of this rulemaking are difficult to quantify, the stabilizing effects of the volume regulations impact small and large handlers positively by helping them maintain and expand markets even though raisin supplies fluctuate widely from season to season. Likewise, price stability positively impacts small and large producers by allowing them to better anticipate the revenues their raisins will generate.

There are some reporting, recordkeeping and other compliance requirements under the order. The reporting and recordkeeping requirements are necessary for compliance purposes and for developing statistical data for maintenance of the program. The requirements are the same as those applied in past seasons. Thus, this action imposes no additional reporting or recordkeeping requirements on either small or large raisin handlers. The forms require information which is readily available from handler records and which can be provided without data processing equipment or trained statistical staff. The information collection and recordkeeping requirements have been previously approved by the Office of Management and Budget (OMB) under OMB Control No. 0581–0178, Vegetable and Specialty Crops. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

AMS is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

In addition, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

Further, the Committee's meetings were widely publicized throughout the raisin industry and all interested persons were invited to attend the meetings and participate in the Committee's deliberations. Like all Committee meetings, the August 14, 2007, October 4, 2007, and October 11, 2007, meetings were public meetings and all entities, both large and small, were able to express their views on this issue.

Also, the Committee has a number of appointed subcommittees to review certain issues and make recommendations to the Committee. The Committee's Reserve Sales and Marketing Subcommittee met on August 14, 2007, and October 4, 2007, and discussed these issues in detail. Those meetings were also public meetings and both large and small entities were able to participate and express their views. Finally, interested persons are invited to submit comments on this interim final rule, including the regulatory and informational impacts of this action on small businesses.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/fv/moab.html.* Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

This rule invites comments on the establishment of final volume regulation percentages for 2007–08 crop NS raisins covered under the order. Any comments received will be considered prior to finalization of this rule.

After consideration of all relevant material presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) The relevant provisions of this part require that the percentages designated herein for the 2007–08 crop year apply to all NS raisins acquired during the crop year; (2) handlers are aware of this action, which was unanimously recommended at a public meeting, and need no additional time to comply with these percentages; and (3) this interim final rule provides a 60-day comment period, and all comments timely received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 989

Grapes, Marketing agreements, Raisins, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, 7 CFR part 989 is amended to read as followed:

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

■ 1. The authority citation for 7 CFR part 989 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Section 989.257 is revised to read as follows:

§ 989.257 Final free and reserve percentages.

(a) The final percentages for the respective varietal type(s) of raisins acquired by handlers during the crop year beginning August 1, which shall be free tonnage and reserve tonnage, respectively, are designated as follows:

Crop year	Varietal type	Free percentage	Reserve percentage
2003–04	Natural (sun-dried) Seedless	70	30
2005–06	Natural (sun-dried) Seedless	82.50	17.50
2006–07	Natural (sun-dried) Seedless	90	10
2007–08	Natural (sun-dried) Seedless	85	15

(b) The volume regulation percentages apply to acquisitions of the varietal type of raisins for the applicable crop year until the reserve raisins for that crop are disposed of under the marketing order.

Dated: February 12, 2008.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E8–2960 Filed 2–15–08; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

8 CFR Part 274

19 CFR Part 162

[USCBP–2006–0122]

RIN 1651–AA58

Administrative Process for Seizures and Forfeitures Under the Immigration and Nationality Act and Other Authorities

AGENCY: Office of the Secretary, DHS.

ACTION: Interim rule with request for comments.

SUMMARY: This interim rule amends Department of Homeland Security regulations, to consolidate the procedures for administrative seizure and forfeiture process. The interim rule also permits earlier consideration of petitions for the remission of seized assets in cases that would otherwise be brought under the procedures in title 8 of the Code of Federal Regulations. The interim rule also makes technical and conforming changes to update the regulations.

DATES: This interim rule is effective February 19, 2008. Written comments must be submitted on or before April 21, 2008.

ADDRESSES: You may submit comments, identified by *docket number,* by *one* of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments via docket number USCBP–2006–0122.
- Mail: Border Security Regulations Branch, Office of Regulations and Rulings, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW. (Mint Annex), Washington, DC 20229.

Instructions: All submissions received must include the agency name and document number for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

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 on regular business days between the hours of 9 a.m. and 4:30 p.m. at the Office of Regulations and Rulings, U.S. Customs and Border Protection, 799 9th Street, NW., 5th Floor, Washington, DC. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark, U.S. Customs and Border Protection, at (202) 572–8768.

FOR FURTHER INFORMATION CONTACT: Jeremy Baskin, Office of Regulations and Rulings, U.S. Customs and Border Protection (202) 572–8700.

SUPPLEMENTARY INFORMATION:

Public Participation

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of the interim rule. DHS also invites comments that relate to the economic, environmental, or federalism effects that might result from this interim rule. Comments that will provide the most assistance to the Department of Homeland Security (DHS) in developing these procedures will reference a specific portion of the interim rule, explain the reason for any recommended change, and include data, information, and authority that support such recommended change.

Background

On November 25, 2002, the President signed into law the Homeland Security Act of 2002, Public Law 107–296, 116 Stat. 2135 (HSA). Accordingly, as of March 1, 2003, the former Immigration and Nationalization Service (INS) of the Department of Justice and the former U.S. Customs Service of the Department of the Treasury were transferred to DHS and reorganized to become U.S. Customs and Border Protection (CBP), U.S. Immigration and Customs Enforcement (ICE), and U.S. Citizenship and Immigration Services (USCIS).

After passage of the HSA, both CBP and ICE retained authority to perform asset seizures and forfeitures under the provisions of 8 CFR part 274 and 19 CFR parts 162 and 171. DHS, for the purpose of improved efficiency, has consolidated the processing of asset forfeitures into CBP's operations. The regulations in Titles 8 and 19, however, currently provide two different procedures. This interim rule consolidates the procedures for administrative seizure and forfeiture process by altering the text of 8 CFR 274.1 to refer to 19 CFR parts 162 and 171. This rule also makes technical conforming changes to update references from INS and U.S. Customs Service to CBP and ICE where applicable.

Interim Rule Changes

Pursuant to the provisions of section 618 of the Tariff Act of 1930, as amended (19 U.S.C. 1618), petitions for remission of forfeitures were accepted by the former U.S. Customs Service, and now accepted by CBP, prior to initiation of any administrative or judicial forfeiture process. Under the regulations adopted under section 274(b) of the Immigration and Nationality Act of 1952, as amended (8 U.S.C. 1324(b) (INA)), the remission or mitigation of such forfeitures could occur only after completion of the forfeiture process. No statute, however, requires this restriction. Under this interim rule, the procedures previously used for immigration-related forfeitures will be eliminated and all asset forfeiture proceedings will be conducted under a consolidated procedure. This interim rule revises 8 CFR part 274 in its entirety to bring seizures and forfeitures effected under section 274(b) of the INA, as amended, and other forfeiture authorities, into conformity with procedures under 19 CFR parts 162 and 171. This change permits CBP to entertain petitions for remission and return of seized property prior to completing the forfeiture process, whether the seizure was effected under the customs laws or the immigration laws, and whether the seizure was made by CBP or ICE.

Accordingly, 8 CFR part 274 is amended to reference Title 19 administrative seizure and forfeiture processes. This is the only significant difference between the provisions and DHS through this interim rule adopts the procedure that provides greater flexibility and is more favorable to petitioners for remission.

Other Changes

The provisions of current 19 CFR 162.21 reference the former U.S. Customs Service and U.S. Customs Officers. The interim rule updates these references to reflect U.S. Customs and Border Protection and CBP Officers as applicable.

Currently, 19 CFR 162.22(d) references retention of vessels or vehicles pending penalty payment and specifically references section 460 of the Tariff Act of 1930, as amended (19

U.S.C. 1460). Section 460 of the Tariff Act of 1930 was repealed by Public Law 99–570, title III, section 3115(b), Oct. 27, 1986, 100 Stat. 3207–82. Accordingly, this interim rule removes 19 CFR 162.22(d) and redesignates paragraph (e) as paragraph (d).

This rule also updates certain delegations of authority to reflect the current organizational structures. Title 19 CFR 162.92(d)(1) currently empowers the Customs Assistant Commissioner, Investigations, or his designee, to extend the period for sending notices for any seizure under the Civil Asset Forfeiture Reform Act of 2000, Public Law 106–185, 114 Stat. 202, (CAFRA). Currently, the Assistant Commissioner, Investigations, is the official designated by CBP to grant time extensions for sending notices of seizure as authorized by 18 U.S.C. 983(a)(1)(B). 67 FR 9188 (Feb. 28, 2002). Inasmuch as a reorganization plan under the HSA moved the investigative functions previously performed by Customs agents to ICE, DHS is changing the regulation to reflect this change in authority. In addition, an official within CBP must retain the authority for certain seizures effected by CBP officers or Border Patrol agents. Accordingly, this interim rule amends 19 CFR 162.92(d)(1) to designate the Assistant Secretary of ICE, or his or her designee, and the Commissioner of CBP, or his or her designee, as the officials authorized to grant such an extension.

Administrative Procedure Act

This rule is procedural in nature and does not alter the substantive rights of the affected parties. Therefore, this rule is exempt from the notice and comment rulemaking requirements under the Administrative Procedure Act (5 U.S.C. 553(b)(A)). In addition, the delayed effective date requirement of 5 U.S.C. 553(d) does not apply to this rule. DHS, however, is interested in public comments on this rule and will consider all timely comments in the preparation of a final rule.

The interim rule may benefit entities whose property is seized under 8 CFR part 274. Under the interim regulations, entities whose property is seized under 8 CFR part 274 may take advantage of pre-forfeiture administrative processing and request return of their property prior to the conclusion of forfeiture processing. Prior to this interim rule, owners of property seized under 8 CFR part 274 were required to wait for their petitions to be acted upon until after forfeiture processing was complete. There will be no increased costs to either private companies or individuals as a result of this interim rule. The interim rule may also yield cost savings for the government if seized items can leave government storage areas more quickly under the earlier petitioning provision.

Regulatory Requirements

Executive Order 12866

This interim rule is not a significant regulatory action under Executive Order 12866.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 603(b)), as amended by the Small Business Regulatory Enforcement and Fairness Act of 1996 (SBREFA), requires an agency to prepare and make available to the public a regulatory flexibility analysis that describes the effect of a proposed rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions) when the agency is required ''to publish a general notice of proposed rulemaking for any proposed rule.'' Because this rule is being issued as an interim rule, on the grounds set forth above, a regulatory flexibility analysis is not required under the RFA.

Paperwork Reduction Act

DHS has determined that the collection of information required by this interim rule falls under the ''administrative exception'' to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*). The ''administrative exception,'' applies because any such collection is made during the conduct of administrative action taken by an agency against specific individuals or entities. 5 CFR 1320.4(a)(2).

List of Subjects

8 CFR Part 274

Administrative practice and procedure, Seizures and forfeitures, Conveyances.

19 CFR Part 162

Administrative practice and procedure, Customs duties and inspection, Law enforcement, Penalties, Prohibited merchandise, Reporting and recordkeeping requirements, Seizures and forfeitures.

Amendments to Title 8 of the Code of Federal Regulations

■ For the reasons stated above, 8 CFR part 274 is amended as set forth below.

PART 274—SEIZURE AND FORFEITURE OF CONVEYANCES

■ 1. The authority citation for part 274 is revised to read as follows:

Authority: 8 U.S.C. 1103, 1324(b); 18 U.S.C. 983, 19 U.S.C. 66, 1600, 1618, 1619, 1624; 22 U.S.C. 401; 31 U.S.C. 5321; 49 U.S.C. 80304.

■ 2. Section 274.1 is revised to read as follows:

§ 274.1 Seizure and forfeiture authority.

Any officer of Customs and Border Protection or Immigration and Customs Enforcement may seize and forfeit any property that has been or is being used in the commission of a violation of any statutory authority involving the unlawful introduction of aliens, contraband or proceeds of such introduction, pursuant to, but not limited to, section 274(a) of the Act (8 U.S.C. 1324(a)). All seizures and forfeitures in such cases will be administered in accordance with 19 CFR parts 162 and 171.

■ 3. Section 274.2 is revised to read as follows:

§ 274.2 Delegation of authority.

All powers provided to Fines, Penalties and Forfeitures Officers in 19 CFR parts 162 and 171 are provided to the Chief, Office of Border Patrol or his designees, for purposes of administering seizures and forfeitures made by Border Patrol Officers.

■ 4. Sections 274.3 through 274.20 are removed.

Amendments to Title 19 of the Code of Federal Regulations

■ For the reasons set forth above, 19 CFR part 162 is amended as set forth below.

PART 162—INSPECTION, SEARCH, AND SEIZURE

■ 1. The general authority citation for part 162 and specific authority citation for § 162.22 is revised, and the specific authority citations for §§ 162.21 and 162.91 through 162.96 continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1592, 1593a, 1624, 6 U.S.C. 101, 8 U.S.C. 1324(b).

* * * * *

Section 162.21 also issued under 19 U.S.C. 482, 1581, 1582, 1602;

Section 162.22 also issued under 18 U.S.C. 546; 19 U.S.C. 1459, 1594, 1595a, 1701, 1703–1708;

* * * * *

Sections 162.91 through 162.96 also issued under 18 U.S.C. 983.

§ 162.21 [Amended]

■ 2. Section 162.21(a) is amended by removing the phrase ''the Customs Service'' and replacing it with the

phrase ''Customs and Border Protection or Immigration and Customs Enforcement''.

§ 162.22 [Amended]

■ 3. In section 162.22:

■ a. The last sentence of paragraph (a) is amended by removing the period at the end of the last sentence and adding the phrase ''and section 274(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1324(b)(1)).''

■ b. Paragraph (d) is removed and current paragraph (e) is redesignated as paragraph (d).

§ 162.91 [Amended]

■ 4. The first sentence of section 162.91 is amended by removing the term ''Customs'' and replacing it with the term ''Customs and Border Protection or Immigration and Customs Enforcement''.

§ 162.92 [Amended]

■ 5. In section 162.92:

■ a. The heading of paragraph (d) is amended by removing the phrase ''by Customs''.

■ b. Paragraph (d)(1) is amended by removing the phrase ''Assistant Commissioner, Investigations, or his designee'' and replacing it with the term ''Assistant Secretary, Immigration and Customs Enforcement or the Commissioner of Customs and Border Protection for cases within their respective agencies, or their successors or designees''.

Date: January 28, 2008.

Michael Chertoff,

Secretary.

[FR Doc. E8–2965 Filed 2–15–08; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 8

[Docket No. OCC–2008–0001]

RIN 1557–AD06

Assessment of Fees

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Interim final rule with request for comment.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is amending its assessment regulation to add two new asset-size categories to the table in 12 CFR 8.2(a) used to calculate each national bank's semiannual assessment. The addition of these categories is warranted to take account of significant structural changes in the national banking system since 1992, when the table was last revised, and will enable the OCC to realign our assessments to better reflect industry structure and OCC's corresponding expenses of operations. The OCC is issuing this rule as an interim rule with a request for comment so that such a realignment can occur promptly.

DATES: *Effective Date:* This rule is effective on February 19, 2008.

Comment Date: Comments must be received by March 20, 2008.

ADDRESSES: Because paper mail in the Washington, DC area and at the OCC is subject to delay, commenters are encouraged to submit comments by e-mail, if possible. Please use the title ''Assessment of Fees'' to facilitate the organization and distribution of the comments. You may submit comments by any of the following methods:

- *Federal eRulemaking Portal—''Regulations.gov''*: Go to *http://www.regulations.gov*, under the ''More Search Options'' tab click next to the ''Advanced Docket Search'' option where indicated, select ''Comptroller of the Currency'' from the agency drop-down menu, then click ''Submit.'' In the ''Docket ID'' column, select ''OCC–2008–0001'' to submit or view public comments and to view supporting and related materials for this interim final rule. The ''How to Use This Site'' link on the Regulations.gov home page provides information on using Regulations.gov, including instructions for submitting or viewing public comments, viewing other supporting and related materials, and viewing the docket after the close of the comment period.
- *E-mail: regs.comments@occ.treas.gov*.
- *Mail:* Office of the Comptroller of the Currency, 250 E Street, SW., Mail Stop 1–5, Washington, DC 20219.
- *Fax:* (202) 874–4448.
- *Hand Delivery/Courier:* 250 E Street, SW., *Attn:* Public Information Room, Mail Stop 1–5, Washington, DC 20219.

Instructions: You must include ''OCC'' as the agency name and ''Docket Number OCC–2008–0001'' in your comment. In general, OCC will enter all comments received into the docket and publish them on the Regulations.gov Web site without change, including any business or personal information that you provide such as name and address information, e-mail addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

You may review comments and other related materials that pertain to this interim final rule by any of the following methods:

- *Viewing Comments Electronically:* Go to *http://www.regulations.gov*, under the ''More Search Options'' tab click next to the ''Advanced Document Search'' option where indicated, select ''Comptroller of the Currency'' from the agency drop-down menu, then click ''Submit.'' In the ''Docket ID'' column, select ''OCC–2008–0001'' to view public comments for this rulemaking action.
- *Viewing Comments Personally:* You may personally inspect and photocopy comments at the OCC's Public Information Room, 250 E Street, SW., Washington, DC. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 874–5043. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to security screening in order to inspect and photocopy comments.
- *Docket:* You may also view or request available background documents and project summaries using the methods described above.

FOR FURTHER INFORMATION CONTACT: Mitchell Plave, Counsel, Legislative and Regulatory Activities Division, (202) 874–5090; Stuart Feldstein, Assistant Director, Legislative and Regulatory Activities Division, (202) 874–5090; or Colette Baylson, Accounting Operations Manager, Financial Management, (202) 874–4403, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

Background

The National Bank Act authorizes the OCC to fund the expenses of its operations through assessments on national banks.[1] Under this authority, the OCC collects semiannual assessments from national banks in accordance with part 8 of our regulations and with the OCC's Notice of the Comptroller of the Currency Fees (Notice of Fees).[2]

Part 8 currently establishes ten categories, or brackets, each of which

[1] 12 U.S.C. 482.

[2] Under part 8, the OCC also collects assessments from Federal branches and Federal agencies. The changes provided for in this interim rule will also apply to assessments of Federal branches and Federal agencies.

comprises a range of size values for a national bank's total assets. Each national bank's assessment is the sum of a base amount, which is the same for every national bank in that asset-size bracket, plus a marginal amount, which is computed by applying a marginal assessment rate to the amount of total assets in excess of the lower boundary of the asset-size bracket.[3] The marginal assessment rate declines as asset size increases, reflecting economies of scale in bank examination and supervision, which factor into the OCC's overall cost of operations. Both the base amounts and the marginal rates applicable to each asset-size bracket are published at least once a year in the OCC's Notice of Fees.[4]

The current asset-size brackets, which were adopted in 1992[5] no longer reflect the structure and distribution of assets in the national banking system as a whole. For example, since 1992, there has been a significant increase not only in the amount of assets held by the largest banks, but also in the assets held by national banks in other asset-size brackets, resulting in a general upward shift in the distribution of the population of national banks on the asset-size bracket table in 12 CFR 8.2(a). The growth in the average assets held by national banks reflect the consolidation in the banking industry that has occurred since 1992.

Given these developments, the existing asset-size brackets do not reflect the structure of the national banking system. Updating the asset-size brackets therefore enables the OCC to adjust the assessment framework to better reflect industry structure and the OCC's corresponding expenses of operations.

Description of the Interim Rule

For these reasons, the interim rule expands the number of asset-size assessment brackets in the table at 12 CFR 8.2(a) by revising the current top bracket, presently $40 billion and above, to cover banks with assets between $40 billion and $250 billion. In addition, the interim rule creates a new top bracket that will apply to banks with assets in excess of $250 billion.

The OCC also is making a conforming change to delete the word ''ten'' from the description of the asset-size brackets in § 8.2(a)(1) of the assessment rules since it no longer accurately describes the number of brackets.

Effective Date; Solicitation of Comments

This interim rule will become effective immediately upon publication in the **Federal Register**. Pursuant to the Administrative Procedure Act, at 5 U.S.C. 553(b)(B), notice and an opportunity for public comment are not required prior to the issuance of a final rule if an agency, for good cause, finds that ''notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.''[6] Similarly, there is good cause to publish a rule with an immediate effective date if the rule ''grants or recognizes an exemption or relieves a restriction.'' 5 U.S.C. 553(d)(1) 553(d)(3).

As we have described, the asset brackets in the assessments table in 12 CFR 8.2(a), which were last revised in 1992, do not reflect the structure of the national banking industry, and therefore the framework for assessing national banks for the expenses of OCC's operations is no longer current. Completion of notice and comment rulemaking procedures prior to issuing this interim rule would require delaying implementation of the new asset brackets beyond the next scheduled assessment date, which is March 31, 2008. Such a delay is inconsistent with the public interest since it would result in national banks' continued payment of assessments under a framework that the OCC has determined is no longer representative of current industry structure and the OCC's corresponding expenses of operation. Issuance of this interim rule furthers the public interest and reduces regulatory burden because it will allow the OCC, as appropriate, to issue an amended Notice of Fees that better reflects the structure of the national banking system and allocates the OCC's expenses of operation on that basis. For the same reasons, the OCC finds good cause to publish this rule with an immediate effective date. *See* 5 U.S.C. 553(d)(1), 553(d)(3).

Although notice and comment are not required prior to the effective date of this rule, the OCC invites comments on all aspects of this interim rule and intends to revise the interim rule if necessary or appropriate in light of the comments received.

Solicitation of Comments on Use of Plain Language

The OCC also requests comment on whether the interim rule is written clearly and is easy to understand. On June 1, 1998, the President issued a memorandum directing each agency in the Executive branch to write its rules in plain language. This directive applies to all new proposed and interim rulemaking documents issued on or after January 1, 1999. In addition, Public Law 106–102 requires each Federal agency to use plain language in all proposed and interim rules published after January 1, 2000. The OCC invites comments on how to make this rule clearer. For example, you may wish to discuss:

(1) Whether we have organized the material to suit your needs;

(2) Whether the requirements of the rule are clear; or

(3) Whether there is something else we could do to make the rule easier to understand.

Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act (Pub. L. 96–354, Sept. 19, 1980) (RFA) applies only to rules for which an agency publishes a general notice of proposed rulemaking pursuant to 5 U.S.C. 553(b).[7] Because the OCC has determined for good cause that the Administrative Procedure Act does not require public notice and comment on this interim rule, we are not publishing a general notice of proposed rulemaking. Thus, the RFA does not apply to this interim rule.

Executive Order 12866

The OCC has determined that this interim rule is not a significant regulatory action under Executive Order 12866.

Unfunded Mandates Reform Act of 1995 Determinations

Section 202 of the Unfunded Mandates Reform Act of 1995[8] (Unfunded Mandates Act) requires that an agency prepare a budgetary impact statement before promulgating any rule likely to result in a Federal mandate that may result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires the agency to identify and consider a reasonable number of regulatory alternatives before promulgating the rule. The OCC has determined that this interim rule will not result in expenditures by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year.

[3] *See* 12 CFR 8.2(a) (listing the asset-size brackets).

[4] *See, e.g.*, OCC Bulletin 2007–46, ''Notice of the Comptroller of the Currency Fees for Year 2008'' (December 1, 2007). The OCC's regulations provide for the annual publication of the Notice of Fees and also authorize the publication of interim, or amended, notices of fees ''from time to time throughout the year as necessary.'' 12 CFR 8.8.

[5] 57 FR 22413 (May 28, 1992).

[6] 5 U.S.C. 553(b)(B).

[7] 5 U.S.C. 601(2).

[8] 2 U.S.C. 1532.

Accordingly, the OCC has not prepared a budgetary impact statement or specifically addressed the regulatory alternatives considered.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506; 5 CFR Part 1320 Appendix A.1), we have reviewed the interim rule to assess any information collections. There are no collections of information as defined by the Paperwork Reduction Act in the interim rule.

Lists of Subjects in 12 CFR Part 8

Assessment of fees.

Authority and Issuance

■ For the reasons set forth in the preamble, part 8 of chapter I of title 12 of the Code of Federal Regulations is amended as follows:

PART 8—ASSESSMENT OF FEES

■ 1. The authority citation for part 8 continues to read as follows:

Authority: 12 U.S.C. 93a, 481, 482, 1867, 3102, and 3108; and 15 U.S.C. 78c and 78l.

■ 2. Section 8.2 is amended by:
■ a. Revising paragraph (a) introductory text, including the table; and
■ b. Removing the word ''ten'' in paragraph (a)(1) in the first sentence, to read as follows:

§ 8.2 Semiannual assessment.

(a) Each national bank shall pay to the Comptroller of the Currency a semiannual assessment fee, due by March 31 and September 30 of each year, for the six month period beginning on January 1 and July 1 before each payment date. The Comptroller of the Currency will calculate the amount due under this section and provide a notice of assessments to each national bank no later than 7 business days prior to March 31 and September 30 of each year. The semiannual assessment will be calculated as follows:

If the bank's total assets (consolidated domestic and foreign subsidiaries) are:		The semiannual assessment is:		
Over—	But not over—	This amount—base amount	Plus marginal rates	Of excess over—
Column A Million	Column B Million	Column E	Column C	Column D Million
$0	$2	$X1	0	
2	20	X2	Y1	$2
20	100	X3	Y2	20
100	200	X4	Y3	100
200	1,000	X5	Y4	200
1,000	2,000	X6	Y5	1,000
2,000	6,000	X7	Y6	2,000
6,000	20,000	X8	Y7	6,000
20,000	40,000	X9	Y8	20,000
40,000	250,000	X10	Y9	40,000
250,000	.....	X11	Y10	250,000

* * * * *

Dated: February 11, 2008.

John C. Dugan,

Comptroller of the Currency.

[FR Doc. E8–3004 Filed 2–15–08; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. 384; Notice No. 25–370–SC]

Special Conditions: Boeing Model 787 Series Airplanes; Seats With Non-Traditional, Large, Non-Metallic Panels

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are for Boeing Model 787 series airplanes. These airplanes will have a novel or unusual design feature(s) associated with seats that include non-traditional, large, non-metallic panels that would affect survivability during a post-crash fire event. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: The effective date of these special conditions is March 20, 2008.

FOR FURTHER INFORMATION CONTACT: Alan Sinclair, FAA, Airframe/Cabin Safety Branch, ANM–115, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2195; facsimile (425) 227–1232; electronic mail *alan.sinclair@faa.gov*.

SUPPLEMENTARY INFORMATION:

Change to Special Condition Number 4

The FAA previously notified the public of our intent to issue special conditions for seats with non-traditional, large, non-metallic panels on various airplane makes and models. Notice of Proposed Special Conditions No. 25–06–13–C, applicable to Boeing Model 737 series airplanes, was published in the **Federal Register** on November 9, 2006 (71 FR 65761). The special conditions were issued on June 29, 2007 (Docket No. NM 359, Special Conditions No. 25–358–SC), published in the **Federal Register** on July 10, 2007 (72 FR 37425), and became effective on August 9, 2007. Both the Notice and the Final Special Conditions contained these words:

> We anticipate that seats with non-traditional, large, non-metallic panels will be installed in other makes and models of airplanes. We have made the determination to require special conditions for all applications requesting the installation of seats with non-traditional, large, non-metallic panels until the airworthiness requirements can be revised to address this issue. Having the same standards across the range of airplane makes and models will ensure a level playing field for the aviation industry.

Special condition number 4 in the 737 special conditions limits the applicability of the special conditions to new seat certification programs applied for after the effective date of the special conditions. In these special conditions the FAA changed the applicability to

make the special conditions applicable to new seat certification programs that are approved after the effective date of the special conditions. This change could affect pending as well as future project applications. The rationale behind this change is that these seat installations affect survivability during a post-crash fire event and should be implemented as soon as possible. Additionally, the public has been previously notified of the FAA's intent to issue similar special conditions on other airplane makes and models.

Background

On August 8, 2005, Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124, applied for a type certificate for a new Boeing Model 787 airplane. The Boeing Model 787 series airplanes will be all new, twin-engine, jet transport airplanes with a two-aisle cabin. The maximum takeoff weight will be 476,000 pounds, with a maximum passenger count of 381 passengers.

The applicable regulations to airplanes currently approved under part 25 do not require seats to meet the more stringent flammability standards required of large, non-metallic panels in the cabin interior. At the time the applicable rules were written, seats were designed with a metal frame covered by fabric, not with large, non-metallic panels. Seats also met the then recently adopted standards for flammability of seat cushions. With the seat design being mostly fabric and metal, the contribution to a fire in the cabin had been minimized and was not considered a threat. For these reasons, seats did not need to be tested to heat release and smoke emission requirements.

Seat designs have now evolved to occasionally include non-traditional, large, non-metallic panels. Taken in total, the surface area of these panels is on the same order as the sidewall and overhead stowage bin interior panels. To provide the level of passenger protection intended by the airworthiness standards, these non-traditional, large, non-metallic panels in the cabin must meet the standards of Title 14 Code of Federal Regulations (CFR), part 25, Appendix F, parts IV and V, heat release and smoke emission requirements.

Type Certification Basis

Under provisions of 14 CFR 21.17, Boeing must show that Model 787–8 airplanes (hereafter referred to as ''the Model 787'') meet the applicable provisions of 14 CFR part 25, as amended by Amendments 25–1 through 25–117, except §§ 25.809(a) and 25.812, which will remain at Amendment 25–115. If the Administrator finds that the applicable airworthiness regulations do not contain adequate or appropriate safety standards for the Model 787 airplane because of a novel or unusual design feature, special conditions are prescribed under provisions of 14 CFR 21.16.

In addition to the applicable airworthiness regulations and special conditions, the Model 787 airplanes must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of part 36. In addition, the FAA must issue a finding of regulatory adequacy pursuant to section 611 of Public Law 92–574, the ''Noise Control Act of 1972.''

Special conditions, as defined in § 11.19, are issued in accordance with § 11.38 and become part of the type certification basis in accordance with § 21.17(a)(2).

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same or similar novel or unusual design feature, the special conditions would also apply to the other model under the provisions of § 21.101.

Novel or Unusual Design Features

The Boeing Model 787 series airplanes will incorporate the following novel or unusual design features: These models offer interior arrangements that include passenger seats that incorporate non-traditional, large, non-metallic panels in lieu of the traditional metal frame covered by fabric. The flammability properties of these panels have been shown to significantly affect the survivability of the cabin in the case of fire. These seats are considered a novel design for transport category airplanes that include Amendment 25–61 and Amendment 25–66 in the certification basis, and were not considered when those airworthiness standards were established.

The existing regulations do not provide adequate or appropriate safety standards for seat designs that incorporate non-traditional, large, non-metallic panels in their designs. In order to provide a level of safety that is equivalent to that afforded to the balance of the cabin, additional airworthiness standards, in the form of special conditions, are necessary. These special conditions supplement § 25.853. The requirements contained in these special conditions consist of applying the identical test conditions required of all other large panels in the cabin, to seats with non-traditional, large, non-metallic panels.

Definition of ''Non-Traditional, Large, Non-Metallic Panel''

A non-traditional, large, non-metallic panel, in this case, is defined as a panel with exposed-surface areas greater than 1.5 square feet installed per seat place. The panel may consist of either a single component or multiple components in a concentrated area. Examples of parts of the seat where these non-traditional panels are installed include, but are not limited to: seat backs, bottoms and leg/foot rests, kick panels, back shells, credenzas and associated furniture. Examples of traditional exempted parts of the seat include: arm caps, armrest close-outs such as end bays and armrest-styled center consoles, food trays, video monitors, and shrouds.

Clarification of ''Exposed''

''Exposed'' is considered to include panels that are directly exposed to the passenger cabin in the traditional sense, and panels that are enveloped, such as by a dress cover. Traditional fabrics or leathers currently used on seats are excluded from these special conditions. These materials must still comply with § 25.853(a) and § 25.853(c) if used as a covering for a seat cushion, or § 25.853(a) if installed elsewhere on the seat. Non-traditional, large, non-metallic panels covered with traditional fabrics or leathers will be tested without their coverings or covering attachments.

Discussion

In the early 1980s the FAA conducted extensive research on the effects of post-crash flammability in the passenger cabin. As a result of this research and service experience, we adopted new standards for interior surfaces associated with large surface area parts. Specifically, the rules require measurement of heat release and smoke emission (part 25, Appendix F, parts IV and V) for the affected parts. Heat release has been shown to have a direct correlation with post-crash fire survival time. Materials that comply with the standards (i.e., § 25.853 entitled ''Compartment interiors'' as amended by Amendment 25–61 and Amendment 25–66) extend survival time by approximately 2 minutes over materials that do not comply.

At the time these standards were written the potential application of the requirements of heat release and smoke emission to seats was explored. The seat frame itself was not a concern because it was primarily made of aluminum and there were only small amounts of non-

metallic materials. It was determined that the overall effect on survivability was negligible, whether or not the food trays met the heat release and smoke requirements. The requirements therefore did not address seats. The preambles to both the Notice of Proposed Rule Making (NPRM), Notice No. 85–10 (50 FR 15038, April 16, 1985) and the Final Rule at Amendment 25–61 (51 FR 26206, July 21, 1986), specifically note that seats were excluded ''because the recently-adopted standards for flammability of seat cushions will greatly inhibit involvement of the seats.''

Subsequently, the Final Rule at Amendment 25–83 (60 FR 6615, March 6, 1995) clarified the definition of minimum panel size: ''It is not possible to cite a specific size that will apply in all installations; however, as a general rule, components with exposed-surface areas of one square foot or less may be considered small enough that they do not have to meet the new standards. Components with exposed-surface areas greater than two square feet may be considered large enough that they do have to meet the new standards. Those with exposed-surface areas greater than one square foot, but less than two square feet, must be considered in conjunction with the areas of the cabin in which they are installed before a determination could be made.''

In the late 1990s, the FAA issued Policy Memorandum 97–112–39, *Guidance for Flammability Testing of Seat/Console Installations*, October 17, 1997 (*http://rgl.faa.gov*). That memo was issued when it became clear that seat designs were evolving to include large, non-metallic panels with surface areas that would impact survivability during a cabin fire event, comparable to partitions or galleys. The memo noted that large surface area panels must comply with heat release and smoke emission requirements, even if they were attached to a seat. If the FAA had not issued such policy, seat designs could have been viewed as a loophole to the airworthiness standards that would result in an unacceptable decrease in survivability during a cabin fire event.

In October of 2004, an issue was raised regarding the appropriate flammability standards for passenger seats that incorporated non-traditional, large, non-metallic panels in lieu of the traditional metal covered by fabric. The Seattle Aircraft Certification Office and Transport Standards Staff reviewed this design and determined that it represented the kind and quantity of material that should be required to pass the heat release and smoke emissions requirements. We have determined that special conditions would be promulgated to apply the standards defined in 14 CFR 25.853(d) to seats with large, non-metallic panels in their design.

Discussion of Comments

Notice of proposed special conditions No. 25–07–16–SC, pertaining to Boeing Model 787 series airplanes, was published in the **Federal Register** on October 29, 2007 (72 FR 61082). We only received comments from Boeing.

Change ''Approved'' to ''Applied for'' in Special Condition Number 4

Boeing requested that the word ''approved'' in the following sentence be changed to ''applied for.''

Only airplanes associated with new seat certification programs approved after the effective date of these special conditions will be affected by the requirements in these special conditions.

Boeing also requested clarification regarding what is meant by ''approved.''

FAA Response: Special condition number 4 was revised from what was issued for the final special conditions applicable to Model 737 airplanes. The Model 737 final special conditions contained the phrase ''applied for.'' That phrase was changed to ''approved'' in these final special conditions to ensure that these special conditions are applicable to as many Model 787 certification projects as possible. The 737 special conditions, in effect, notified Boeing that the flammability issue regarding seats with non-traditional, large, non-metallic panels must be addressed. The FAA discussed this issue with Boeing and stated that all subsequent special conditions related to this matter would be based on the project approval date.

To clarify what we mean by the approval date, the approval date is the date of approval of the affected amended type certificate or supplemental type certificate.

These Special Conditions Are Not Being Applied to Other Airplane Manufacturers

Boeing did not request a specific change in this comment, but did draw attention to the fact that the standards promulgated by these special conditions have not yet achieved a ''level playing field for the aviation industry.'' Boeing stated that it agreed with the FAA's goals to ensure that all parties in the industry are treated fairly, and the new standards are applied uniformly. However, Boeing noted that it is not apparent that those goals have yet been met.

FAA Response: As projects are identified that include seats with large, non-metallic panels, the FAA will issue special conditions for the affected airplane makes and models. We are currently working on several other special condition packages for airplanes produced by other manufacturers. In addition, we are considering rulemaking to revise § 25.853 to address this issue.

These special conditions are adopted as proposed.

Applicability

As discussed above, these special conditions are applicable to Boeing Model 787 series airplanes. Because the heat release and smoke testing requirements of § 25.853 are part of the type certification basis for the Model 787, these special conditions are applicable to all Model 787 series airplanes. Should Boeing apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well.

Conclusion

This action affects only certain novel or unusual design features on one model series of airplanes. It is not a rule of general applicability.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

■ The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Boeing Model 787 series airplanes.

1. Except as provided in paragraph 3 of these special conditions, compliance with Title 14 CFR part 25, Appendix F, parts IV and V, heat release and smoke emission, is required for seats that incorporate non-traditional, large, non-metallic panels that may either be a single component or multiple components in a concentrated area in their design.

2. The applicant may designate up to and including 1.5 square feet of non-traditional, non-metallic panel material per seat place that does not have to comply with special condition Number

1, above. A triple seat assembly may have a total of 4.5 square feet excluded on any portion of the assembly (e.g., outboard seat place 1 square foot, middle 1 square foot, and inboard 2.5 square feet).

3. Seats do not have to meet the test requirements of Title 14 CFR part 25, Appendix F, parts IV and V, when installed in compartments that are not otherwise required to meet these requirements. Examples include:

a. Airplanes with passenger capacities of 19 or less, and

b. Airplanes exempted from § 25.853, Amendment 25–61 or later.

4. Only airplanes associated with new seat certification programs approved after the effective date of these special conditions will be affected by the requirements in these special conditions. Previously certificated interiors on the existing airplane fleet and follow-on deliveries of airplanes with previously certificated interiors are not affected.

Issued in Renton, Washington, on February 7, 2008.

Kevin Hull,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 08–701 Filed 2–15–08; 8:45 am]

BILLING CODE 4910–13–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0, 1, 2, 61, 64, and 80

[DA–08–122]

Amendment of the Commission's Rules, Concerning Commission Organization, Practice and Procedure, Frequency Allocations and Radio Treaty Matters; General Rules and Regulations, and Stations in the Maritime Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission's (FCC) Office of Managing Director adopts final rules that change the addresses that regulatees, applicants and licensees use to submit, or file, certain applications and payments to the Commission. These non-substantive, non-controversial rule amendments are necessary to reflect a recent change by the Commission in the bank providing the Commission's lockbox service, ensuring continued processing of future applications and fees. This Order also makes several non-substantive changes to the Commission's fee provisions.

DATES: Effective February 19, 2008.

FOR FURTHER INFORMATION CONTACT: Warren Firschein, Office of the Managing Director, (202) 418–0844.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order, DA–08–122, adopted January 24, 2008 and released January 25, 2008. The full text of the Report and Order is available for public inspection on the Commission's Internet site at *http://www.fcc.gov*. It is also available for inspection and copying during regular business hours in the FCC Reference Center (Room CY–A257), 445 12th Street, SW., Washington, DC 20554. The full text of this document also may be purchased from the Commission's duplication contractor, Best Copy and Printing Inc., Portals II, 445 12th St., SW., Room CY–B402, Washington, DC 20554; telephone (202) 488–5300; fax (202) 488–5563; e-mail *FCC@BCPIWEB.COM*.

Final Paperwork Reduction Act of 1995 Analysis

The rules contained herein have been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or recordkeeping, labeling, disclosure, or record retention requirements, and will not increase or decrease burden hours imposed on the public. Finally, because these amendments to our rules are adopted without notice and comment, no regulatory flexibility analysis is required.

Congressional Review Act

Because the adopted rules are rules of agency organization, procedure, or practice that do not ''substantially affect the rights or obligations of non-agency parties,'' the Commission will not send a copy of the Report and Order in a report to Congress and the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

Synopsis of the Notice of Proposed Rulemaking

Amendment of Parts 0, 1, 2, 61, 64, and 80 of the Commission's Rules, Concerning Commission Organization, Practice and Procedure, Frequency Allocations and Radio Treaty Matters; General Rules and Regulations, and Stations in the Maritime Services.

This Order amends the Commission's rules to change the name and address that regulatees, applicants and licensees use to submit, or file, certain applications and payments to the Commission. These non-substantive, non-controversial rule amendments are necessary to reflect a recent change by the Commission in the bank providing the Commission's lockbox service, ensuring continued processing of future applications and fees. The changes affect rules governing Commission Organization (47 CFR Part 0), Practice and Procedure (47 CFR Part 1), Frequency Allocations and Radio Treaty Matters; General Rules and Regulations (47 CFR Part 2), Tariffs (47 CFR Part 61), Miscellaneous Rules Relating to Common Carriers (47 CFR Part 64), Radio Broadcast Services (47 CFR Part 73), and Stations in the Maritime Services (47 CFR Part 80). Specifically, this Order corrects bank addresses in several provisions of sections 0.401(b), 0.482, 1.80(h), 1.227(b), 1.907, 1.1102, 1.1103, 1.1104, 1.1105, 1.1106, 1.1107, 1.1152, 1.1153, 1.1154, 1.1155, 1.1156, 1.1166(d), 1.10001, 1.10009, 2.913(b), 61.14(b), 61.17(b), 61.20(b), 61.32(b), 61.153(b), 64.709(d), and 80.59(c) of the Commission's Rules, 47 CFR 0.401(b), 0.482, 1.80(h), 1.227(b), 1.907, 1.1102, 1.1103, 1.1104, 1.1105, 1.1106, 1.1107, 1.1152, 1.1153, 1.1154, 1.1155, 1.1156, 1.1166(d), 1.10001, 1.10009, 2.913(b), 61.14, 61.17, 61.20, 61.32, 61.153, 64.709, and 80.59(c). This Order also makes several non-substantive changes to the Commission's fee provisions to correct inadvertent errors to payment codes.

In order to provide a fair and sufficient transition period to allow filers to become familiar with the address changes in the rules, we provide that for forty-five days after publication in the **Federal Register**, fees, applications, and other filings erroneously submitted by parties to the former lockbox bank shall be forwarded automatically to the new bank at the address listed in the rules. In addition, during this transition period, the date that such fees, applications, and other filings are date-stamped as received by the former lockbox bank shall be deemed to be the official filing date of such submissions.

The rule amendments set forth in the attached Appendix relate to agency practice and procedure, and make minor, non-controversial procedural changes that do not raise issues upon which public notice and comment is necessary or would serve any useful purpose. Furthermore, since these amendments merely reflect procedural changes in the bank and addresses to which filings must be submitted, and the Commission has provided by rule the 45-day transition period to allow filers to become aware of the procedural change, good cause exists for adoption of these rule amendments without affording notice and comment.

Authority for this action is set forth in the Administrative Procedure Act, 5 U.S.C. 553(b)(A) and (B).[1]

Finally, because the Commission has provided a 45-day transition period before a filer will be penalized for not using the correct address, good cause has been shown for these rule changes to become effective February 19, 2008 on the date of publication in the **Federal Register**. *See* 5 U.S.C. 553(d)(3); 47 CFR 1.427(b). This will allow parties who are aware of the new address to begin using it without delay, while avoiding any prejudice to those who learn of the change when it is published in the **Federal Register**.

Ordering Clauses

Accordingly, *It is hereby ordered that*, pursuant to the authority contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r), and section 0.231(b) of the Commission's regulations, 47 CFR 0.231(b), Parts 0, 1, 2, 61, 64, 73, and 80 of the Commission's rules *are amended* as set forth in the attached Appendix.

It is further ordered that these amendments are effective February 19, 2008. *See* section 553(d)(3) of the Administrative Procedure Act, 5 U.S.C. 553(d)(3).

It is further ordered that the Secretary shall cause a copy of this Order to be published in the **Federal Register**.

List of Subjects

47 CFR Part 0

Organization and functions (Government agencies).

47 CFR Part 1

Administrative practice and procedure, Penalties.

47 CFR Part 2

Telecommunications.

47 CFR Part 61

Communications common carriers, Telephone.

47 CFR Part 64

Communications common carriers, Telecommunications, Telephone.

47 CFR Part 80

Radio, Television.

[1] *See also* 47 CFR 1.412(b)(5), (c) (stating that prior notice is not required for amendments to rules relating to Commission organization, procedure, or practice, or ''in any situation in which the Commission for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest'').

Federal Communications Commission.

Anthony Dale,

Managing Director.

Final Rules

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 0, 1, 2, 61, 64, and 80 as follows:

PART 0—COMMISSION ORGANIZATION

■ 1. The authority citation for part 0 continues to read as follows:

Authority: Sec. 5, 48 Stat. 1068, as amended; 47 U.S.C. 155, 225, unless otherwise noted.

■ 2. Section 0.401 is amended by revising the first sentence of paragraph (b) introductory text, the first sentence of paragraph (b)(1), and the first and second sentences of paragraph (b)(2) to read as follows:

§ 0.401 Location of Commission offices.

* * * * *

(b) Applications or filings requiring the fees set forth at part 1, subpart G of the rules must be delivered to the Commission's lockbox bank in St. Louis, Missouri with the correct fee and completed Fee Form attached to the application or filing, unless otherwise directed by the Commission. * * *

* * * * *

(1) Applications and filings submitted by mail shall be addressed to the U.S. Bank in St. Louis, Missouri. * * *

* * * * *

(2) Applications and other filings may also be hand carried, in person or by courier, to the U.S. Bank, Government Lockbox, 1005 Convention Plaza, St. Louis, Missouri. All applications and filings delivered in this manner must be in an envelope clearly marked for the ''Federal Communications Commission,'' and identified with the appropriate Post Office Box address as set out in the fee schedule (§§ 1.1102 through 1.1109 of this Chapter). * * *

* * * * *

■ 3. Section 0.482 is amended by revising the first sentence to read as follows:

§ 0.482 Applications For Waiver.

All requests for waiver of the rules (*see* § 1.925 of this Chapter) governing the Wireless Radio Services (*see* § 1.907 of this Chapter) that require a fee (*see* § 1.1102 of this Chapter) shall be submitted via the Universal Licensing System or to the U.S. Bank, St. Louis, Missouri at the address set forth in § 1.1102. * * *

PART 1—PRACTICE AND PROCEDURE

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

Authority: 15 U.S.C. 79 *et seq.*; 47 U.S.C. 151, 154(i), 154(j), 155, 157, 225, 303(r), and 309.

Subpart A—General Rules of Practice and Procedure

■ 5. Section 1.80 is amended by revising the third sentence of paragraph (h) to read as follows:

§ 1.80 Forfeiture Proceeding.

* * * * *

(h) * * * The check or money order should be mailed to: Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197–9000.

* * * * *

Subpart B—Hearing Proceedings

■ 6. Section 1.227 is amended by revising the second sentence of paragraph (b)(4) to read as follows:

§ 1.227 Consolidations.

* * * * *

(b) * * *

(4) * * * Except for applications filed under part 101, subparts H and O, Private Operational Fixed Microwave Service, and applications for high seas public coast stations (see §.§ 80.122(b)(1) (first sentence), 80.357, 80.361, 80.363(a)(2), 80.371(a), (b), and (d), and § 80.374 of this chapter) mutual exclusivity will occur if the later application or applications are received by the Commission's offices in Gettysburg, PA (or St. Louis, Missouri for applications requiring the fees set forth at part 1, subpart G of the rules) in a condition acceptable for filing within 30 days after the release date of public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing or within such other period as specified by the Commission. * * *

* * * * *

Subpart F—Wireless Radio Services Applications and Proceedings

■ 7. Section 1.907 is amended by revising the first sentence of the definition of ''Receipt date'' to read as follows:

§ 1.907 Definitions.

* * * * *

Receipt date. The date an electronic or paper application is received at the

appropriate location at the Commission or U.S. Bank. * * *

* * * * *

Subpart G—Schedule of Statutory Charges and Procedures for Payment

■ 8. Section 1.1102 is revised to read as follows:

§ 1.1102 Schedule of charges for applications and other filings in the wireless telecommunications services.

Those services designated with an asterisk in the payment type code column have associated regulatory fees that must be paid at the same time the application fee is paid. Please refer to § 1.1152 for the appropriate regulatory fee that must be paid for this service.

Remit manual filings and/or payment for these services to the: Federal Communications Commission, Wireless Bureau Applications, P.O. Box 979097, St. Louis, MO 63197–9000.

Service	FCC form No.	Fee amount	Payment type code
1. Marine Coast			
a. New; Renewal/Modification	601 & 159	$115.00	PBMR*
b. Modification; Public Coast CMRS; Non-Profit	601 & 159	115.00	PBMM
c. Assignment of Authorization	603 & 159	115.00	PBMM
d. Transfer of Control	603 & 159	60.00	PATM
Spectrum Leasing for Public Coast	603–T/608** & 159		
e. Duplicate License	601 & 159	60.00	PADM
f. Special Temporary Authority	601 & 159	160.00	PCMM
g. Renewal Only	601 & 159	115.00	PBMR*
h. Renewal (Electronic Filing)	601 & 159	115.00	PBMR*
i. Renewal Only (Non-Profit; CMRS)	601 & 159	115.00	PBMM
j. Renewal (Electronic Filing) Non-profit, CMRS	601 & 159	115.00	PBMM
k. Rule Waiver	601, 603 or 603–T/608** & 159	170.00	PDWM
l. Modification for Spectrum Leasing for Public Coast Stations	608** & 159	115.00	PBMM
2. Aviation Ground			
a. New; Renewal/Modification	601 & 159	115.00	PBVR*
b. Modification; Non-Profit	601 & 159	115.00	PBVM
c. Assignment of Authorization	603 & 159	115.00	PBVM
d. Transfer of Control	603 & 159	60.00	PATM
e. Duplicate License	601 & 159	60.00	PADM
f. Special Temporary Authority	601 & 159	160.00	PCVM
g. Renewal Only	601 & 159	115.00	PBVR*
h. Renewal (Electronic Filing)	601 & 159	115.00	PBVR*
i. Renewal Only; Non-Profit	601 & 159	115.00	PBVM
j. Renewal;.			
Non-Profit (Electronic Filing)	601 & 159	115.00	PBVM
k. Rule Waiver	601 or 603 & 159	170.00	PDWM
3. Ship			
a. New; Renewal/Modification; Renewal Only	605 & 159	60.00	PASR*
b. New; Renewal/Modification; Renewal Only (Electronic Filing)	605 & 159	60.00	PASR*
c. Renewal Only; Non-profit	605 & 159	60.00	PASM
d. Renewal Only; Non-profit (Electronic Filing)	605 & 159	60.00	PASM
e. Modification; Non-profit	605 & 159	60.00	PASM
f. Modification; Non-profit (Electronic Filing)	605 & 159	60.00	PASM
g. Duplicate License	605 & 159	60.00	PADM
h. Duplicate License (Electronic Filing)	605 & 159	60.00	PADM
i. Exemption from Ship Station Requirements	605 & 159	170.00	PDWM
j. Rule Waiver	605 & 159	170.00	PDWM
k. Exemption from Ship Station Requirements (Electronic Filing)	605 & 159	170.00	PDWM
l. Rule Waiver (Electronic Filing)	605 & 159	170.00	PDWM
4. Aircraft			
a. New; Renewal/Modification	605 & 159	60.00	PAAR*
b. New; Renewal/Modification (Electronic Filing)	605 & 159	60.00	PAAR*
c. Modification; Non-Profit	605 & 159	60.00	PAAM
d. Modification Non-Profit (Electronic Filing)	605 & 159	60.00	PAAM
e. Renewal Only	605 & 159	60.00	PAAR*
f. Renewal (Electronic Filing)	605 & 159	60.00	PAAR*
g. Renewal Only; Non-Profit	605 & 159	60.00	PAAM
h. Renewal; Renewal/Modification Non-Profit (Electronic Filing)	605 & 159	60.00	PAAM
i. Duplicate License	605 & 159	60.00	PADM
j. Duplicate License (Electronic Filing)	605 & 159	60.00	PADM
k. Rule Waiver	605 & 159	170.00	PDWM
l. Rule Waiver (Electronic Filing)	605 & 159	170.00	PDWM
5. Private Operational Fixed Microwave and Private DEMS			
a. New; Renewal/Modification	601 & 159	245.00	PEOR*
b. New; Renewal/Modification (Electronic Filing)	601 & 159	245.00	PEOR*
c. Modification; Consolidate Call Signs; Non-Profit	601 & 159	245.00	PEOM
d. Modification; Consolidate Call Signs; Non-Profit (Electronic Filing)	601 & 159	245.00	PEOM
e. Renewal Only	601 & 159	245.00	PEOR*
f. Renewal (Electronic Filing)	601 & 159	245.00	PEOR*
g. Renewal Only; Non-Profit	601 & 159	245.00	PEOM
h. Renewal Non-Profit (Electronic Filing)	601 & 159	245.00	PEOM
i. Assignment	603 & 159	245.00	PEOM

Service	FCC form No.	Fee amount	Payment type code
j. Assignment (Electronic Filing)	603 & 159	245.00	PEOM
k. Transfer of Control;	603 & 159	60.00	PATM
Spectrum Leasing	603–T/608** & 159		
l. Transfer of Control;	603 & 159	60.00	PATM
Spectrum Leasing (Electronic Filing)	603–T/608** & 159		
m. Duplicate License	601 & 159	60.00	PADM
n. Duplicate License (Electronic Filing)	601 & 159	60.00	PADM
o. Special Temporary Authority	601 & 159	60.00	PAOM
p. Special Temporary Authority (Electronic Filing)	601 & 159	60.00	PAOM
q. Rule Waiver	601, 603 or 603–T/608** & 159	170.00	PDWM
r. Rule Waiver (Electronic Filing)	601, 603 or 603–T/608** & 159	170.00	PDWM
s. Modification for Spectrum Leasing	608** & 159	245.00	PEOM
t. Modification for Spectrum Leasing (Electronic Filing)	608** & 159	245.00	PEOM
6. Land Mobile PMRS; Intelligent Transportation Service			
a. New or Renewal/Modification (Frequencies below 470 MHz (except 220 MHz)) 902–928 MHz & RS.	601 & 159	60.00	PALR*
b. New; Renewal/Modification (Frequencies below 470 MHz (except 220 MHz)) (Electronic Filing).	601 & 159	60.00	PALR*
c. New; Renewal/Modification (Frequencies 470 MHz and above and 220 MHz Local).	601 & 159	60.00	PALS*
d. New; Renewal/Modification (Frequencies 470 MHz and above and 220 MHz Local) (Electronic Filing).	601 & 159	60.00	PALS*
e. New; Renewal/Modification (220 MHz Nationwide)	601 & 159	60.00	PALT*
f. New; Renewal/Modification (220 MHz Nationwide) (Electronic Filing)	601 & 159	60.00	PALT*
g. Modification; Non-Profit; For Profit Special Emergency and Public Safety; and CMRS.	601 & 159	60.00	PALM
h. Modification; Non-Profit; For Profit Special Emergency and Public Safety; and CMRS (Electronic Filing).	601 & 159	60.00	PALM
i. Renewal Only	601 & 159	60.00	PALR*
		60.00	PALS*
		60.00	PALT*
j. Renewal (Electronic Filing)	601 & 159	60.00	PALR*
		60.00	PALS*
		60.00	PALT*
k. Renewal Only (Non-Profit; CMRS; For-Profit Special Emergency and Public Safety).	601 & 159	60.00	PALM
l. Renewal (Non-Profit; CMRS; For-Profit Special Emergency and Public Safety) (Electronic Filing).	601 & 159	60.00	PALM
m. Assignment of Authorization (PMRS & CMRS)	603 & 159	60.00	PALM
n. Assignment of Authorization (PMRS & CMRS) (Electronic Filing)	603 & 159	60.00	PALM
o. Transfer of Control (PMRS CMRS);	603 & 159	60.00	PATM
Spectrum Leasing	603–T/608** & 159	60.00	PATM
p. Transfer of Control (PMRS CMRS);	603 & 159	60.00	PATM
Spectrum Leasing (Electronic Filing)	603–T/608** & 159	60.00	PATM
q. Duplicate License	601 & 159	60.00	PADM
r. Duplicate License (Electronic Filing)	601 & 159	60.00	PADM
s. Special Temporary Authority	601 & 159	60.00	PALM
t. Special Temporary Authority (Electronic Filing)	601 & 159	60.00	PALM
u. Rule Waiver	601, 603 or 603–T/608** & 159	170.00	PDWM
v. Rule Waiver (Electronic Filing)	601, 603 or 603–T/608** & 159	170.00	PDWM
w. Consolidate Call Signs	601 & 159	60.00	PALM
x. Consolidate Call Signs (Electronic Filing)	601 & 159	60.00	PALM
y. Modification for Spectrum Leasing	608** & 159	60.00	PALM
z. Modification for Spectrum Leasing (Electronic Filing)	608** & 159	60.00	PALM
7. 218–219 MHz (previously IVDS)			
a. New; Renewal/Modification	601 & 159	60.00	PAIR*
b. New; Renewal/Modification (Electronic Filing)	601 & 159	60.00	PAIR*
c. Modification; Non-Profit	601 & 159	60.00	PAIM
d. Modification; Non-Profit (Electronic Filing)	601 & 159	60.00	PAIM
e. Renewal Only	601 & 159	60.00	PAIR*
f. Renewal (Electronic Filing)	601 & 159	60.00	PAIR*
g. Assignment of Authorization	603 & 159	60.00	PAIM
h. Assignment of Authorization (Electronic Filing)	603 & 159	60.00	PAIM
i. Transfer of Control;	603 & 159	60.00	PATM
Spectrum Leasing	603–T/608** & 159	60.00	PATM
j. Transfer of Control;	603 & 159	60.00	PATM
Spectrum Leasing (Electronic Filing)	603–T/608** & 159	60.00	PATM
k. Duplicate License	601 & 159	60.00	PADM
l. Duplicate License (Electronic Filing)	601 & 159	60.00	PADM
m. Special Temporary Authority	601 & 159	60.00	PAIM
n. Special Temporary Authority (Electronic Filing)	601 & 159	60.00	PAIM
o. Modification for Spectrum Leasing	608** & 159	60.00	PAIM
p. Modification for Spectrum Leasing (Electronic Filing)	608** & 159	60.00	PAIM

Service	FCC form No.	Fee amount	Payment type code
8. General Mobile Radio (GMRS)			
a. New; Renewal/Modification	605 & 159	60.00	PAZR*
b. New; Renewal/Modification (Electronic Filing)	605 & 159	60.00	PAZR*
c. Modification	605 & 159	60.00	PAZM
d. Modification (Electronic Filing)	605 & 159	60.00	PAZM
e. Renewal Only	605 & 159	60.00	PAZR*
f. Renewal (Electronic Filing)	605 & 159	60.00	PAZR*
g. Duplicate License	605 & 159	60.00	PADM
h. Duplicate License (Electronic Filing)	605 & 159	60.00	PADM
i. Special Temporary Authority	605 & 159	60.00	PAZM
j. Special Temporary Authority (Electronic Filing)	605 & 159	60.00	PAZM
k. Rule Waiver	605 & 159	170.00	PDWM
l. Rule Waiver (Electronic Filing)	605 & 159	170.00	PDWM
9. Restricted Radiotelephone			
a. New (Lifetime Permit)	605 & 159	60.00	PARR
New (Limited Use)	605 & 159	.....	
b. Duplicate/Replacement Permit	605 & 159	60.00	PADM
Duplicate/Replacement Permit (Limited Use)	605& 159	60.00	PADM
10. Commercial Radio Operator			
a. Renewal Only; Renewal/Modification	605 & 159	60.00	PACS
b. Duplicate	605 & 159	60.00	PADM
11. Hearing	Corres & 159	10,680.00	PFHM
12. Common Carrier Microwave (Pt. To Pt., Local TV Trans. & Millimeter Wave Service)			
a. New; Renewal/Modification (Electronic Filing Required)	601 & 159	245.00	CJPR*
b. Major Modification; Consolidate Call Signs (Electronic Filing Required).	601 & 159	245.00	CJPM
c. Renewal (Electronic Filing Required)	601 & 159	245.00	CJPR*
d. Assignment of Authorization; Transfer of Control;	603 & 159	90.00	CCPM
Spectrum Leasing	603–T/608** & 159	90.00	CCPM
Additional Stations (Electronic Filing Required)	603 or 603–T/608** & 159	60.00	CAPM
e. Duplicate License (Electronic Filing Required)	601 & 159	60.00	PADM
f. Extension of Construction Authority (Electronic Filing Required)	601 & 159	90.00	CCPM
g. Special Temporary Authority	601 & 159	115.00	CEPM
h. Special Temporary Authority (Electronic Filing)	601 & 159	115.00	CEPM
i. Major Modification for Spectrum Leasing (Electronic Filing Required)	608** & 159	245.00	CJPM
13. Common Carrier Microwave (DEMS)			
a. New; Renewal/Modification (Electronic Filing Required)	601 & 159	245.00	CJLR*
b. Major Modification; Consolidate Call Signs (Electronic Filing Required).	601 & 159	245.00	CJLM
c. Renewal (Electronic Filing Required)	601 & 159	245.00	CJLR*
d. Assignment of Authorization; Transfer of Control;	603 & 159	90.00	CCLM
Spectrum Leasing	603–T/608** & 159	90.00	CCLM
Additional Stations (Electronic Filing Required)	603 or 603–T/608** & 159	60.00	CALM
e. Duplicate License (Electronic Filing Required)	601 & 159	60.00	PADM
f. Extension of Construction Authority (Electronic Filing Required)	601 & 159	90.00	CCLM
g. Special Temporary Authority	601 & 159	115.00	CELM
h. Special Temporary Authority (Electronic Filing)	601 & 159	115.00	CELM
i. Major Modification for Spectrum Leasing (Electronic Filing Required)	608** & 159	90.00	CJLM
14. Broadcast Auxiliary (Aural and TV Microwave)			
a. New; Modification; Renewal/Modification	601 & 159	135.00	MEA
b. New; Modification; Renewal/Modification (Electronic Filing)	601 & 159	135.00	MEA
c. Special Temporary Authority	601 & 159	160.00	MGA
d. Special Temporary Authority (Electronic Filing)	601 & 159	160.00	MGA
e. Renewal Only	601 & 159	60.00	MAA
f. Renewal (Electronic Filing)	601 & 159	60.00	MAA
15. Broadcast Auxiliary (Remote and Low Power)			
a. New; Modification; Renewal/Modification	601 & 159	135.00	MEA
b. New; Modification; Renewal/Modification (Electronic Filing)	601 & 159	135.00	MEA
c. Renewal Only	601 & 159	60.00	MAA
d. Renewal (Electronic Filing)	601 & 159	60.00	MAA
e. Special Temporary Authority	601 & 159	160.00	MGA
f. Special Temporary Authority (Electronic Filing)	601 & 159	160.00	MGA
16. Pt 22 Paging & Radiotelephone			
a. New; Major Mod; Additional Facility; Major Amendment; Major Renewal/Mod; Fill in Transmitter (Per Transmitter) (Electronic Filing Required).	601 & 159	365.00	CMD
b. Minor Mod; Renewal; Minor Renewal/Mod; (Per Call Sign) 900 MHz Nationwide Renewal Net Organ; New Operator (Per Operator/Per City) Notice of Completion of Construction or Extension of Time to Construct (Per Application) (Electronic Filing Required).	601 & 159	60.00	CAD
c. Auxiliary Test (Per Transmitter); Consolidate Call Signs (Per Call Sign) (Electronic Filing Required).	601 & 159	320.00	CLD

Service	FCC form No.	Fee amount	Payment type code
d. Special Temporary Authority (Per Location/Per Frequency)	601 & 159	320.00	CLD
e. Special Temporary Authority (Per Location/Per Frequency) (Electronic Filing).	601 & 159	320.00	CLD
f. Assignment of License or Transfer of Control;	603 & 159	365.00	CMD
Spectrum Leasing (Full or Partial) (Per First Call Sign);	603–T/608** & 159	365.00	CMD
Additional Call Signs (Per Call Signs) (Electronic Filing Required)	603 or 603–T/608** & 159	60.00	CAD
g. Subsidiary Comm. Service (Per Request) (Electronic Filing Required).	601 & 159	160.00	CFD
h. Major Modification for Spectrum Leasing (Electronic Filing Required).	608** & 159	365.00	CMD
i. Minor Modification for Spectrum Leasing (Electronic Filing Required)	608** & 159	60.00	CAD
17. Cellular			
a. New; Major Mod; Additional Facility; Major Renewal/Mod (Per Call Sign) (Electronic Filing Required).	601 & 159	365.00	CMC
b. Minor Modification; Minor Renewal/Mod (Per Call Sign) (Electronic Filing Required).	601 & 159	95.00	CDC
c. Assignment of License; Transfer of Control (Full or Partial) (Per Call Sign).	603 & 159	365.00	CMC
Spectrum Leasing (Electronic Filing Required)	603–T/608** & 159		
d. Notice of Extension of Time to Complete Construction; (Per Request) Renewal (Per Call Sign) (Electronic Filing Required).	601 & 159	60.00	CAC
e. Special Temporary Authority (Per Request)	601 & 159	320.00	CLC
f. Special Temporary Authority (Per Request) (Electronic Filing)	601 & 159	320.00	CLC
g. Combining Cellular Geographic Areas (Per Area) (Electronic Filing Required).	601 & 159	80.00	CBC
h. Major Modification for Spectrum Leasing (Electronic Filing Required).	608** & 159	365.00	CMC
i. Minor Modification for Spectrum Leasing (Electronic Filing Required)	608** & 159	95.00	CDC
18. Rural Radio			
a. New; Major Renew/Mod; Additional Facility (Per Transmitter) (Electronic Filing Required).	601 & 159	170.00	CGRR*
b. Major Mod; Major Amendment (Per Transmitter) (Electronic Filing Required).	601 & 159	170.00	CGRM
c. Minor Modification; (Per Transmitter) (Electronic Filing Required)	601 & 159	60.00	CARM
d. Assignment of License; Transfer of Control (Full or Partial) (Per Call Sign).	603 & 159	170.00	CGRM
Spectrum Leasing	603–T/608** & 159	170.00	CGRM
Additional Calls (Per Call Sign) (Electronic Filing Required)	603 or 603–T/608** & 159	60.00	CARM
e. Renewal (Per Call Sign); Minor Renewal/Mod (Per Transmitter) (Electronic Filing Required).	601 & 159	60.00	CARR*
f. Notice of Completion of Construction or Extension of Time to Construct (Per Application) (Electronic Filing Required).	601 & 159	60.00	CARM
g. Special Temporary Authority (Per Transmitter)	601 & 159	320.00	CLRM
h. Special Temporary Authority (Per Transmitter) (Electronic Filing)	601 & 159	320.00	CLRM
i. Combining Call Signs (Per Call Sign) (Electronic Filing Required)	601 & 159	320.00	CLRM
j. Auxiliary Test Station (Per Transmitter) (Electronic Filing Required)	601 & 159	320.00	CLRM
k. Major Modification for Spectrum Leasing (Electronic Filing Required).	608** & 159	170.00	CGRM
l. Minor Modification for Spectrum Leasing (Electronic Filing Required)	608** & 159	60.00	CARM
19. Offshore Radio			
a. New; Major Mod; Additional Facility; Major Amendment; Major Renew/Mod; Fill in Transmitters (Per Transmitter) (Electronic Filing Required).	601 & 159	170.00	CGF
b. Consolidate Call Signs (Per Call Sign); Auxiliary Test (Per Transmitter) (Electronic Filing Required).	601 & 159	320.00	CLF
c. Minor Modification; Minor Renewal/Modification (Per Transmitter); Notice of Completion of Construction or Extension of Time to Construct (Per Application); Renewal (Per Call Sign) (Electronic Filing Required).	601 & 159	60.00	CAF
d. Assignment of License; Transfer of Control (Full or Partial)	603 & 159	170.00	CGF
Spectrum Leasing	603–T/608** & 159	170.00	CGF
Additional Calls (Electronic Filing Required)	603 or 603–T/608** & 159	60.00	CAF
e. Special Temporary Authority (Per Transmitter)	601 & 159	320.00	CLF
f. Special Temporary Authority (Per Transmitter) (Electronic Filing)	601 & 159	320.00	CLF
g. Major Modification for Spectrum Leasing (Electronic Filing Required).	608** & 159	170.00	CGF
h. Minor Modification for Spectrum Leasing (Electronic Filing Required).	608** & 159	60.00	CAF
20. Broadband Radio Service (Previously Multipoint Distribution Service)			
a. New station (Electronic Filing Required)	601 & 159	245.00	CJM
b. Major Modification of Licenses (Electronic Filing Required)	601 & 159	245.00	CJM
c. Certification of Completion of Construction (Electronic Filing Required).	601 & 159	720.00	CPM*

Service	FCC form No.	Fee amount	Payment type code
d. License Renewal (Electronic Filing Required)	601 & 159	245.00	CJM
e. Assignment of Authorization; Transfer of Control (first station) (Electronic Filing Required).	603 & 159	90.00	CCM
Spectrum Leasing (first station)	603–T/608** & 159	90.00	CCM
Additional Station	603–T/608** & 159	60.00	CAM
f. Extension of Construction Authorization (Electronic Filing Required)	601 & 159	210.00	CHM
g. Special Temporary Authority or Request for Waiver of Prior Construction Authorization (Electronic Filing).	601 & 159	115.00	CEM
h. Special Temporary Authority	601 & 159	115.00	CEM
i. Major Modification for Spectrum Leasing (Electronic Filing Required)	608** & 159	245.00	CJM
21. Communications Assistance for Law Enforcement (CALEA) Petitions	Correspondence & 159	5,605.00	CALA

**FCC Form 608, which is pending OMB approval, will upon its effective date replace FCC Form 603–T, as noted in § 1.1102, above.

■ 9. Section 1.1103 is revised to read as follows:

§ 1.1103 Schedule of charges for equipment approval, experimental radio services (or service).

Remit manual filings and/or payment for these services to the: Federal Communications Commission, OET Services, P.O. Box 979095, St. Louis, MO 63197–9000.

Service	FCC form No.	Fee amount	Payment type code
Equipment Approval Service(s)			
1. Certification			
a. Receivers (except TV and FM) (Electronic Filing Only)	731 & 159	455.00	EEC
b. Devices Under Parts 11, 15 & 18 (except receivers) (Electronic Filing Only)	731 & 159	1,165.00	EGC
c. All Other Devices (Electronic Filing Only)	731 & 159	585.00	EFT
d. Modifications and Class II Permissive Changes (Electronic Filing Only)	731 & 159	60.00	EAC
e. Request for Confidentiality under Certification (Electronic Filing Only)	731 & 159	170.00	EBC
f. Class III Permissive Changes (Electronic Filing Only)	731 & 159	585.00	ECC
2. Advance Approval of Subscription TV Systems	Corres & 159	3,565.00	EIS
a. Request for Confidentiality For Advance Approval of Subscription TV Systems	Corres & 159	170.00	EBS
3. Assignment of Grantee Code			
a. For all Application Types, except Subscription TV (Electronic Filing Only—Optional Electronic Payment).	Electronic Assignment & Form 159 or Optional Electronic Payment.	60.00	EAG
4. Experimental Radio Service(s)			
a. New Station Authorization	442 & 159	60.00	EAE
b. Modification of Authorization	442 & 159	60.00	EAE
c. Renewal of Station Authorization	405 & 159	60.00	EAE
d. Assignment of License or Transfer of Control	702 & 159 or 703 & 159.	60.00	EAE
e. Special Temporary Authority	Corres & 159	60.00	EAE
f. Additional fee required for any of the above applications that request withholding from public inspection.	Corres & 159	60.00	EAE

■ 10. Section 1.1104 is revised to read as follows:

§ 1.1104 Schedule of charges for applications and other filings for media services.

Remit manual filings and/or payment for these services to the: Federal Communications Commission, Media Bureau Services, P.O. Box 979089, St. Louis, MO 63197–9000.

Service	FCC form No.	Fee amount	Payment type code
1. Commercial TV Services			
a. New and Major Change Construction Permits (per application) (Electronic Filing).	301 & 159	$4,005.00	MVT
b. Minor Change (per application) (Electronic Filing)	301 & 159	895.00	MPT
c. Main Studio Request	Corres & 159	895.00	MPT
d. New License (per application) (Electronic Filing)	302–TV & 159 302–DTV & 159	270.00	MJT
e. License Renewal (per application) (Electronic Filing)	303–S & 159	160.00	MGT
f. License Assignment (i) Long Form (Electronic Filing)	314 & 159	895.00	MPT*
(ii) Short Form (Electronic Filing)	316 & 159	130.00	MDT*
g. Transfer of Control (i) Long Form (Electronic Filing)	315 & 159	895.00	MPT*
(ii) Short Form (Electronic Filing)	316 & 159	130.00	MDT*
h. Call Sign (Electronic Filing)	380 & 159	90.00	MBT
i. Special Temporary Authority	Corres & 159	160.00	MGT

Service	FCC form No.	Fee amount	Payment type code
j. Petition for Rulemaking for New Community of License (Electronic Filing).	301 & 159 302–TV & 159	2,475.00	MRT
k. Ownership Report (Electronic Filing)	323 & 159 Corres & 159	60.00	MAT*
2. Commercial AM Radio Stations			
a. New or Major Change Construction Permit (Electronic Filing)	301 & 159	3,565.00	MUR
b. Minor Change (per application) (Electronic Filing)	301 & 159	895.00	MPR
c. Main Studio Request (per request)	Corres & 159	895.00	MPR
d. New License (per application) (Electronic Filing)	302–AM & 159	585.00	MMR
e. AM Directional Antenna (per application) (Electronic Filing)	302–AM & 159	675.00	MOR
f. AM Remote Control (per application) (Electronic Filing)	301 & 159	60.00	MAR
g. License Renewal (per application) (Electronic Filing)	303–S & 159	160.00	MGR
h. License Assignment (i) Long Form (Electronic Filing)	314 & 159	895.00	MPR*
(ii) Short Form (Electronic Filing)	316 & 159	130.00	MDR*
i. Transfer of Control (i) Long Form (Electronic Filing)	315 & 159	895.00	MPR*
(ii) Short Form (Electronic Filing)	316 & 159	130.00	MDR*
j. Call Sign (Electronic Filing)	380 & 159	90.00	MBR
k. Special Temporary Authority	Corres & 159	160.00	MGR
l. Ownership Report (Electronic Filing)	323 & 159 or Corres & 159	60.00	MAR
3. Commercial FM Radio Stations			
a. New or Major Change Construction Permit (Electronic Filing)	301 & 159	3,210.00	MTR
b. Minor Change (Electronic Filing)	301 & 159	895.00	MPR
c. Main Studio Request (per request)	Corres & 159	895.00	MPR
d. New License (Electronic Filing)	302–FM & 159	185.00	MHR
e. FM Directional Antenna (Electronic Filing)	302–FM & 159	565.00	MLR
f. License Renewal (per application) (Electronic Filing)	303–S &159	160.00	MGR
g. License Assignment (i) Long Form (Electronic Filing)	314 & 159	895.00	MPR*
(ii) Short Form (Electronic Filing)	316 & 159	130.00	MDR*
h. Transfer of Control (i) Long Form (Electronic Filing)	315 & 159	895.00	MPR*
(ii) Short Form (Electronic Filing)	316 & 159	130.00	MDR*
i. Call Sign (Electronic Filing)	380 & 159	90.00	MBR
j. Special Temporary Authority	Corres & 159	160.00	MGR
k. Petition for Rulemaking for New Community of License or Higher Class Channel (Electronic Filing).	301 & 159 or 302–FM & 159	2,475.00	MRR
l. Ownership Report (Electronic Filing)	323 & 159 or Corres & 159	60.00	MAR
4. FM Translators			
a. New or Major Change Construction Permit (Electronic Filing)	349 & 159	675.00	MOF
b. New License (Electronic Filing)	350 & 159	135.00	MEF
c. License Renewal (Electronic Filing)	303–S & 159	60.00	MAF
d. Special Temporary Authority	Corres & 159	160.00	MGF
e. License Assignment (Electronic Filing)	345 & 159 314 & 159 316 & 159	130.00	MDF*
f. Transfer of Control (Electronic Filing)	345 & 159 315 & 159 316 & 159	130.00	MDF*
5. TV Translators and LPTV Stations			
a. New or Major Change Construction Permit (per application) (Electronic Filing).	346 & 159	675.00	MOL
b. New License (per application) (Electronic Filing)	347 & 159	135.00	MEL
c. License Renewal (Electronic Filing)	303–S & 159	60.00	MAL*
d. Special Temporary Authority	Corres & 159	160.00	MGL
e. License Assignment (Electronic Filing)	345 & 159 314 & 159 316 & 159	130.00	MDL*
f. Transfer of Control (Electronic Filing)	345 & 159 315 & 159 316 & 159	130.00	MDL*
g. Call Sign (Electronic Filing)	380 & 159	90.00	MBT
6. FM Booster Stations			
a. New or Major Change Construction Permit (Electronic Filing)	349 & 159	675.00	MOF
b. New License (Electronic Filing)	350 & 159	135.00	MEF
c. Special Temporary Authority	Corres & 159	160.00	MGF
7. TV Booster Stations			
a. New or Major Change (Electronic Filing)	346 & 159	675.00	MOF
b. New License (Electronic Filing)	347 & 159	135.00	MEFI
c. Special Temporary Authority	Corres & 159	160.00	MGF
8. Class A TV Services			
a. New and Major Change Construction Permits (per application) (Electronic Filing).	301–CA & 159	4,005.00	MVT
b. New License (per application) (Electronic Filing)	302-CA & 159	270.00	MJT
c. License Renewal (per application) (Electronic Filing)	303S & 159	160.00	MGT
d. Special Temporary Authority	Corres & 159	160.00	MGT
e. License Assignment (i) Long Form (Electronic Filing)	314 & 159	895.00	MPT*
(ii) Short Form (Electronic Filing)	316 & 159	130.00	MDT
f. Transfer of Control (i) Long Form (Electronic Filing)	315 & 159	895.00	MPT*
(ii) Short Form (Electronic Filing)	316 & 159	130.00	MDT*
g. Main Studio Request	Corres & 159	895.00	MPT
h. Call Sign (Electronic Filing)	380 & 159	90.00	MBT
9. Cable Television Services			
a. CARS License	327 & 159	245.00	TIC
b. CARS Modifications	327 & 159	245.00	TIC

Service	FCC form No.	Fee amount	Payment type code
c. CARS License Renewal (Electronic Filing)	327 & 159	245.00	TIC
d. CARS License Assignment	327 & 159	245.00	TIC
e. CARS Transfer of Control	327 & 159	245.00	TIC
f. Special Temporary Authority	Corres & 159	160.00	TGC
g. Cable Special Relief Petition	Corres & 159	1,250.00	TQC
h. Cable Community Registration (Electronic Filing)	322 & 159	60.00	TAC
i. Aeronautical Frequency Usage Notifications (Electronic Filing)	321 & 159	60.00	TAC

■ 11. Section 1.1105 is revised to read as follows:

§ 1.1105 Schedule of charges for applications and other filings for the wireline competition services.

Remit manual filings and/or payment for these services to the: Federal Communications Commission, Wireline Competition Bureau Applications, P.O. Box 979091, St. Louis, MO 63197–9000.

Service	FCC form No.	Fee amount	Payment type code
1. Domestic 214 Applications			
a. Domestic Cable Construction	Corres & 159	$965.00	CUT
b. Other	Corres & 159	965.00	CUT
2. Tariff Filings			
a. Filing Fees (per transmittal or cover letter)	Corres & 159	775.00	CQK
b. Application for Special Permission Filing (request for waiver of any rule in Part 61 of the Commission's Rules) (per request).	Corres & 159	775.00	CQK
c. Waiver of Part 69 Tariff Rules (per request)	Corres & 159	775.00	CQK
3. Accounting			
a. Review of Depreciation Update Study (single state)	Corres & 159	32,680.00	BKA
(i) Each Additional State	Corres & 159	1,075.00	CVA
b. Petition for Waiver (per petition) Waiver of Part 69 Accounting Rules & Part 32 Accounting Rules, Part 36 Separation Rules, Part 43 Reporting Requirements, Part 64 Allocation of Costs Rules, Part 65 Rate of Return & Rate Base Rules.	Corres & 159	7,365.00	BEA

■ 12. Section 1.1106 is revised to read as follows:

§ 1.1106 Schedule of charges for applications and other filings for the enforcement services.

Remit manual filings and/or payment for these services to the: Federal Communications Commission, Enforcement Bureau, P.O. Box 979094, St. Louis, MO 63197–9000 with the exception of Accounting and Audits, which will be invoiced. Carriers should follow invoice instructions when making payment.

Service	FCC form No.	Fee amount	Payment type code
1. Formal Complaints	Corres & 159	$190.00	CIZ
2. Accounting and Audits			
a. Field Audit	Carriers will be invoiced for the amount due.	98,400.00	BMA
b. Review of Attest Audit	Carriers will be invoiced for the amount due.	53,710.00	BLA
3. Development and Review of Agreed upon—Procedures Engagement	Corres & 159	53,710.00	BLA
4. Pole Attachment Complaint	Corres & 159	240.00	TPC

■ 13. Section 1.1107 is revised to read as follows:

§ 1.1107 Schedule of charges for applications and other filings for the international services.

Remit manual filings and/or payment for these services to the: Federal Communications Commission, International Bureau Applications, P.O. Box 979093, St. Louis, MO 63197–9000.

Service	FCC form No.	Fee amount	Payment type code
1. International Fixed Public Radio (Public & Control Stations)			
a. Initial Construction Permit (per station)	407 & 159	$810.00	CSN
b. Assignment or Transfer (per Application)	702 & 159 or 704 & 159	810.00	CSN
c. Renewal (per license)	405 & 159	585.00	CON

Service	FCC form No.	Fee amount	Payment type code
d. Modification (per station)	403 & 159	585.00	CON
e. Extension of Construction Authorization (per station)	701 & 159	295.00	CKN
f. Special Temporary Authority or request for Waiver (per request)	Corres & 159	295.00	CKN
2. Section 214 Applications			
a. Overseas Cable Construction	Corres & 159	14,415.00	BIT
b. Cable Landing License (i) Common Carrier	Corres & 159	1,620.00	CXT
(ii) Non-Common Carrier	Corres & 159	16,035.00	BJT
c. All other International 214 Applications	Corres & 159	965.00	CUT
d. Special Temporary Authority (all services)	Corres & 159	965.00	CUT
e. Assignments or transfers (all services)	Corres & 159	965.00	CUT
3. Fixed Satellite Transmit/Receive Earth Stations			
a. Initial Application (per station)	312 Main & Schedule B & 159	2,410.00	BAX
b. Modification of License (per station)	312 Main & Schedule B & 159	170.00	CGX
c. Assignment or Transfer (i) First Station	312 Main & Schedule A & 159	475.00	CNX
(ii) Each Additional Station	Attachment to 312—Schedule A	160.00	CFX
d. Renewal of License (per station)	312–R & 159	170.00	CGX
e. Special Temporary Authority (per request)	312 Main & Corres & 159	170.00	CGX
f. Amendment of Pending Application (per station)	312 Main & Schedule B & 159	170.00	CGX
g. Extension of Construction Permit (modification) (per station)	312 Main & 159	170.00	CGX
4. Fixed Satellite transmit/receive Earth Stations (2 meters or less operating in the 4/6 GHz frequency band)			
a. Lead Application	312 Main & Schedule B & 159	5,340.00	BDS
b. Routine Application (per station)	312 Main & Schedule B & 159	60.00	CAS
c. Modification of License (per station)	312 Main & Schedule B & 159	170.00	CGS
d. Assignment or Transfer (i) First Station	312 Main & Schedule A & 159	475.00	CNS
(ii) Each Additional Station	Attachment to 312—Schedule A	60.00	CAS
e. Renewal of License (per station)	312–R & 159	170.00	CGS
f. Special Temporary Authority (per request)	312 Main & 159	170.00	CGS
g. Amendment of Pending Application (per station)	312 Main & Schedule A or B & 159	170.00	CGS
h. Extension of Construction Permit (modification) (per station)	312 & 159	170.00	CGS
5. Receive Only Earth Stations			
a. Initial Applications for Registration or License (per station)	312 Main & Schedule B & 159	365.00	CMO
b. Modification of License or Registration (per station)	312 Main & Schedule B & 159	170.00	CGO
c. Assignment or Transfer (i) First Station	312 Main & Schedule A & 159	475.00	CNO
(ii) Each Additional Station	Attachment to 312—Schedule A	160.00	CFO
d. Renewal of License (per station)	312–R & 159	170.00	CGO
e. Amendment of Pending Application (per station)	312 Main & Schedule A or B & 159	170.00	CGO
f. Extension of Construction Permit (modification) (per station)	312 Main & 159	170.00	CGO
g. Waivers (per request)	Corres & 159	170.00	CGO
6. Fixed Satellite Very Small Aperture Terminal (VSAT) Systems			
a. Initial Application (per station)	312 Main & Schedule B & 159	8,895.00	BGV
b. Modification of License (per system)	312 Main & Schedule B & 159	170.00	CGV
c. Assignment or Transfer of System	312 Main & Schedule A & 159	2,380.00	CZV
d. Renewal of License (per system)	312–R & 159	170.00	CGV
e. Special Temporary Authority (per request)	312 & 159	170.00	CGV
f. Amendment of Pending Application (per system)	312 Main & Schedule A or B & 159	170.00	CGV
g. Extension of Construction Permit (modification) (per system)	312 & 159	170.00	CGV
7. Mobile Satellite Earth Stations			
a. Initial Applications of Blanket Authorization	312 Main & Schedule B & 159	8,895.00	BGB
b. Initial Application for Individual Earth Station	312 Main & Schedule B & 159	2,135.00	CYB
c. Modification of License (per system)	312 Main & Schedule B & 159	170.00	CGB
d. Assignment or Transfer (per system)	312 Main & Schedule A & 159	2,380.00	CZB
e. Renewal of License (per system)	312–R & 159	170.00	CGB
f. Special Temporary Authority (per request)	312 & 159	170.00	CGB
g. Amendment of Pending Application (per system)	312 Main & Schedule B & 159	170.00	CGB
h. Extension of Construction Permit (modification) (per system)	312 & 159	170.00	CGB
8. Space Stations (Geostationary)			
a. Application for Authority to Launch & Operate (per satellite) (i) Initial Application.	312 Main & Schedule S & 159	110,580.00	BNY
(ii) Replacement Satellite	312 Main & Schedule S & 159	110,580.00	BNY
b. Assignment or Transfer (per satellite)	312 Main & Schedule A & 159	7,900.00	BFY
c. Modification (per satellite)	312 Main & Schedule S (if needed) & 159.	7,900.00	BFY
d. Special Temporary Authority (per satellite)	312 & 159	790.00	CRY
e. Amendment of Pending Application (per satellite)	312 Main & Schedule S (if needed) & 159.	1,580.00	CWY
f. Extension of Launch Authority (per satellite)	312 Main & Corres & 159	790.00	CRY
9. Space Stations (NGSO)			
a. Application for Authority to Launch & Operate (per system of technically identical satellites) satellites.	312 Main & Schedule S & 159	380,835.00	CLW
b. Assignment or Transfer (per system)	312 Main & Schedule A & 159	10,885.00	CZW
c. Modification (per system)	312 Main & Schedule S (if needed) & 159.	27,205.00	CGW

Service	FCC form No.	Fee amount	Payment type code
d. Special Temporary Authority (per request)	Corres & 159	2,725.00	CXW
e. Amendment of Pending Application (per request)	312 Main & Schedule S & 159	5,445.00	CAW
f. Extension of Launch Authority (per system)	312 Main & 159	2,725.00	CXW
10. Direct Broadcast Satellites			
a. Authorization to Construct or Major Modification (per satellite)	312 Main & Schedule S & 159	3,210.00	MTD
b. Construction Permit and Launch Authority (per satellite)	312 Main & Schedule S & 159	31,140.00	MXD
c. License to Operate (per satellite)	312 Main & Schedule S & 159	895.00	MPD
d. Special Temporary Authority (per satellite)	312 Main & 159	160.00	MGD
11. International Broadcast Stations			
a. New Station & Facilities Change Construction Permit (per application).	309 & 159	2,695.00	MSN
b. New License (per application)	310 & 159	610.00	MNN
c. License Renewal (per application)	311 & 159	155.00	MFN
d. License Assignment or Transfer of Control (per station license)	314 & 159 or 315 & 159 or 316 & 159	95.00	MCN
e. Frequency Assignment & Coordination (per frequency hour)	Corres & 159	60.00	MAN
f. Special Temporary Authorization (per application)	Corres & 159	160.00	MGN
12. Permit to Deliver Programs to Foreign Broadcast Stations (per application)			
a. Commercial Television Stations	308 & 159	90.00	MBT
b. Commercial AM or FM Radio Stations	308 & 159	90.00	MBR
13. Recognized Operating Agency (per application)	Corres & 159	965.00	CUG

■ 14. Section 1.1108 is revised to read as follows:

§ 1.1108 Schedule of charges for applications and other filings for the international telecommunication services.

Remit payment (along with a copy of invoice) for these services to the: Federal Communications Commission, International Telecommunication Fees, P.O. Box 979096, St. Louis, MO 63197–9000

1. Administrative Fee	99 & 99A	$2.00	IAT
2. Telecommunication Charges	99 & 99A		ITTS

■ 15. Section 1.1109 is revised to read as follows:

§ 1.1109 Schedule of charges for applications and other filings for the Homeland services.

Remit manual filings and/or payment for these services to the: Federal Communications Commission, Homeland Bureau Applications, P.O. Box 979092, St. Louis, MO 63197–9000.

1. Communication Assistance for Law Enforcement (CALEA) Petitions	Corres & 159	$5,605.00	CLEA

■ 16. Section 1.1152 is revised to read as follows:

§ 1.1152 Schedule of annual regulatory fees and filing locations for all Bureaus and services (except those fees for the small wireless services which are paid at the time of renewal).

Remit FCC Form 159 and payment to Federal Communications Commission, P.O. Box 979084, St. Louis, MO 63197–9000.

Exclusive use services (per license)	Fee amount [2]
1. Land Mobile (Above 470 MHz and 220 MHz Local, Base Station & SMRS) (47 CFR, Part 90)	
(a) New, Renew/Mod (FCC 601 & 159)	$35.00
(b) New, Renew/Mod (Electronic Filing) (FCC 601 & 159)	35.00
(c) Renewal Only (FCC 601 & 159)	35.00
(d) Renewal Only (Electronic Filing) (FCC 601 & 159)	35.00
220 MHz Nationwide	
(a) New, Renew/Mod (FCC 601 & 159)	35.00
(b) New, Renew/Mod (FCC 601 & 159)	35.00
(c) Renewal Only (FCC 601 & 159)	35.00
(d) Renewal Only (Electronic Filing) (FCC 601 & 159)	35.00
2. Microwave (47 CFR Pt. 101) (Private)	
(a) New, Renew/Mod (FCC 601 & 159)	40.00
(b) New, Renew/Mod (Electronic Filing) (FCC 601 & 159)	40.00

Exclusive use services (per license)	Fee amount [2]
(c) Renewal Only (FCC 601 & 159)	40.00
(d) Renewal Only (Electronic Filing) (FCC 601 & 159)	40.00
3. 218–219 MHz Service	
(a) New, Renew/Mod (FCC 601 & 159)	55.00
(b) New, Renew/Mod (Electronic Filing) (FCC 601 & 159)	55.00
(c) Renewal Only (FCC 601 & 159)	55.00
(d) Renewal Only (Electronic Filing) (FCC 601 & 159)	55.00
4. Shared Use Services Land Mobile (Frequencies Below 470 MHz—except 220 MHz)	
(a) New, Renew/Mod (FCC 601 & 159)	15.00
(b) New, Renew/Mod (Electronic Filing) (FCC 601 & 159)	15.00
(c) Renewal Only (FCC 601 & 159)	15.00
(d) Renewal Only (Electronic Filing) (FCC 601 & 159)	15.00
General Mobile Radio Service	
(a) New, Renew/Mod (FCC 605 & 159)	5.00
(b) New, Renew/Mod (Electronic Filing) (FCC 605 & 159)	5.00
(c) Renewal Only (FCC 605 & 159)	5.00
(d) Renewal Only (Electronic Filing) (FCC 605 & 159)	5.00
Rural Radio (Part 22)	
(a) New, Additional Facility, Major Renew/Mod (Electronic Filing) (FCC 601 & 159)	15.00
(b) Renewal, Minor Renew/Mod (Electronic Filing) (FCC 601 & 159)	15.00
Marine Coast	
(a) New Renewal/Mod (FCC 601 & 159)	30.00
(b) New, Renewal/Mod P.O. Box 358994 (FCC 601 & 159)	30.00
(c) Renewal Only (FCC 601 & 159)	30.00
(d) Renewal Only (Electronic Filing) (FCC 601 & 159)	30.00
Aviation Ground	
(a) New, Renewal/Mod (FCC 601 & 159)	10.00
(b) New, Renewal/Mod (Electronic Filing) (FCC 601 & 159)	10.00
(c) Renewal Only (FCC 601 & 159)	10.00
(d) Renewal Only (Electronic Only) (FCC 601 & 159)	10.00
Marine Ship	
(a) New, Renewal/Mod (FCC 605 & 159)	10.00
(b) New, Renewal/Mod (Electronic Filing) (FCC 605 & 159)	10.00
(c) Renewal Only (FCC 605 & 159)	10.00
(d) Renewal Only (FCC 605 & 159).	
Aviation Aircraft	10.00
(a) New, Renew/Mod (FCC 605 & 159)	5.00
(b) New, Renew/Mod (Electronic Filing) (FCC 605 & 159)	5.00
(c) Renewal Only (FCC 605 & 159)	5.00
(d) Renewal Only (Electronic Filing) (FCC 605 & 159)	5.00
5. Amateur Vanity Call Signs	
(a) Initial or Renew (FCC 605 & 159)	1.17
(b) Initial or Renew (Electronic Filing) (FCC 605 & 159)	1.17
6. CMRS Mobile Services (per unit)	
(FCC 159)	[3].18
7. CMRS Messaging Services (per unit)	
(FCC 159)	[4].08
8. Broadband Radio Service (formerly MMDS and MDS)	325
9. Local Multipoint Distribution Service	325

[2] Note that ''small fees'' are collected in advance for the entire license term. Therefore, the annual fee amount shown in this table that is a small fee (categories 1 through 5) must be multiplied by the 5- or 10-year license term, as appropriate, to arrive at the total amount of regulatory fees owed. It should be further noted that application fees may also apply as detailed in § 1.1102 of this chapter.

[3] These are standard fees that are to be paid in accordance with § 1.1157(b) of this chapter.

[4] These are standard fees that are to be paid in accordance with § 1.1157(b) of this chapter.

■ 17. Section 1.1153 is revised to read as follows:

§ 1.1153 Schedule of annual regulatory fees for mass media services.

Radio [AM and FM] (47 CFR, part 73)	Fee amount
1. AM Class A	
<=25,000 population	$625
25,001–75,000 population	1,225
75,001–150,000 population	1,825
150,001–500,000 population	2,750
500,001–1,200,000 population	3,950
1,200,001–3,000,000 population	6,075
>3,000,000 population	7,275
2. AM Class B	
<=25,000 population	475
25,001–75,000 population	925
75,001–150,000 population	1,150
150,001–500,000 population	1,950
500,001–1,200,000 population	2,975
1,200,001–3,000,000 population	4,575
>3,000,000 population	5,475
3. AM Class C	
<=25,000 population	400
25,001–75,000 population	600
75,001–150,000 population	800
150,001–500,000 population	1,200
500,001–1,200,000 population	2,000
1,200,001–3,000,000 population	3,000
>3,000,000 population	3,800
4. AM Class D	
<=25,000 population	475
25,001–75,000 population	725
75,001–150,000 population	1,200
150,001–500,000 population	1,425
500,001–1,200,000 population	2,375
1,200,001–3,000,000 population	3,800
>3,000,000 population	4,750
5. AM Construction Permit	400

Radio [AM and FM] (47 CFR, part 73)	Fee amount
6. FM Classes A, B1 and C3	
<=25,000 population	575
25,001–75,000 population	1,150
75,001–150,000 population	1,600
150,001–500,000 population	2,475
500,001–1,200,000 population	3,900
1,200,001–3,000,000 population	6,350
>3,000,000 population	8,075
7. FM Classes B, C, C0, C1 and C2	
<=25,000 population	725
25,001–75,000 population	1,250
75,001–150,000 population	2,300
150,001–500,000 population	3,000
500,001–1,200,000 population	4,400
1,200,001–3,000,000 population	7,025
>3,000,000 population	9,125
8. FM Construction Permits	575
TV (47 CFR, Part 73) VHF Commercial	
1. Markets 1 thru 10	64,300
2. Markets 11 thru 25	46,350
3. Markets 26 thru 50	31,075
4. Markets 51 thru 100	20,000
5. Remaining Markets	5,125
6. Construction Permits	5,125
UHF Commercial	
1. Markets 1 thru 10	19,650
2. Markets 11 thru 25	19,450
3. Markets 26 thru 50	10,800
4. Markets 51 thru 100	6,300
5. Remaining Markets	1,750
6. Construction Permits	1,750
Satellite UHF/VHF Commercial	
1. All Markets	1,100
2. Construction Permits	550
Low Power TV, Class A TV, TV/FM Translator, & TV/FM Booster (47 CFR Part 74)	345
Broadcast Auxiliary	10

■ 18. Section 1.1154 is revised to read as follows:

§ 1.1154 Schedule of annual regulatory charges for common carrier services.

Radio facilities	Fee amount
1. Microwave (Domestic Public Fixed) (Electronic Filing) (FCC Form 601 & 159)	$40.00
Carriers	
1. Interstate Telephone Service Providers (per interstate and international end-user revenues (see FCC Form 499–A)	.00266

■ 19. Section 1.1155 is revised to read as follows:

§ 1.1155 Schedule of regulatory fees for cable television services.

	Fee amount
1. Cable Television Relay Service	$185
2. Cable TV System (per subscriber)	.75

■ 20. Section 1.1156 is revised to read as follows:

§ 1.1156 Schedule of regulatory fees for international services.

Radio facilities	Fee amount
1. International (HF) Broadcast	$795
2. International Public Fixed	1,875
Space Stations (Geostationary Orbit)	109,200
Space Stations (Non-Geostationary Orbit)	116,475
Earth Stations	
Transmit/Receive & Transmit Only (per authorization or registration)	185
Carriers	
International Bearer Circuits (per active 64KB circuit or equivalent)	1.05

■ 21. Section 1.1166 is amended by revising the second sentence of paragraph (d) to read as follows:

§ 1.1166 Waivers, reductions and deferrals of regulator fees.

* * * * *

(d) * * * Petitions for reduction accompanied by a fee payment must be addressed to the Federal Communications Commission, Attention: Petitions, Post Office Box 979084, St. Louis, Missouri, 63197–9000. * * *

■ 22. Section 1.10001 is amended by revising the table in the definition of ''All Other Applications'' and placing it in alphabetical order to read as follows:

§ 1.1001 Definitions.

All Other Applications. * * *

1. You file your Satellite Space Station Application (other than DBS and DARS) or your Application for Earth Stations to Access a Non-U.S. Satellite Not Currently Authorized to provide the Proposed Service in the Proposed Frequencies in the United States in IBFS.	Your official filing date is the date and time (to the millisecond) you file your application and receive a confirmation of filing and submission ID.
2. You file all other applications in IBFS and then do one of the following:	Your official filing date is:
Send your payment (via check, bank draft, money order, credit card, or wire transfer) and FCC Form 159 to U.S. Bank.	The date U.S. Bank stamps your payment as received.
Pay by online credit card (through IBFS)	The date your online credit card payment is approved. (Note: You will receive a remittance ID and an authorization number if your transaction is successful).
Determine your application type is fee-exempt or your application qualifies for exemption to charges as provided in Part 1 of the Commission's Rules.	The date you file in IBFS and receive a confirmation of filing and submission ID.

* * * * *

■ 23. Revise § 1.10009 to read as follows:

§ 1.10009 What are the steps for electronic filing?

(a) Step 1: Register for an FCC Registration Number (FRN). (See Subpart W, §§ 1.8001 through 1.8004.)

(1) If you already have an FRN, go to Step 2.

(2) In order to process your electronic application, you must have an FRN. You may obtain an FRN either directly from the Commission Registration System (CORES) at *http://www.fcc.gov/e-file/*, or through IBFS as part of your filing process. If you need to know more about who needs an FRN, visit CORES at *http://www.fcc.gov/e-file/.*

(3) If you are a(n):

(i) Applicant,

(ii) Transferee and assignee,

(iii) Transferor and assignor,

(iv) Licensee/Authorization Holder, or

(v) Payer, you are required to have and use an FRN when filing applications and/or paying fees through IBFS.

(4) We use your FRN to give you secured access to IBFS and to pre-fill the application you file.

(b) *Step 2: Register with IBFS.*

(1) If you are already registered with IBFS, go to Step 3.

(2) In order to complete and file your electronic application, you must register in IBFS, located at *http://www.fcc.gov/ibfs.*

(3) You can register your account in:

(i) Your name,

(ii) Your company's name, or

(iii) Your client's name.

(4) IBFS will issue you an account number as part of the registration process. You will create your own password.

(5) If you forget your password, send an e-mail to the IBFS helpline at *ibfsinfo@fcc.gov* or contact the helpline at (202) 418–2222 for assistance.

(c) *Step 3: Log into IBFS, select the application you want to file, provide the required FRN(s) and password(s) and fill out your application.* You must completely fill out forms and provide all requested information as provided in parts 1, 25, 63 and 64 of this chapter.

(1) You must provide an address where you can receive mail delivery by the United States Postal Service. You are also encouraged to provide an e-mail address. This information is used to contact you regarding your application and to request additional documentation, if necessary.

(2) *Reference to material on file.* You must answer questions on application forms that call for specific technical data, or that require yes or no answers or other short answers. However, if documents or other lengthy showings are already on file with us and contain the required information, you may incorporate the information by reference, as long as:

(i) The referenced information is filed in IBFS or, if manually filed, the information is more than one ''8½ inch by 11 inch'' page.

(ii) The referenced information is current and accurate in all material respects; and

(iii) The application states where we can find the referenced information as well as:

(A) The application file number, if the reference is to previously-filed applications

(B) The title of the proceeding, the docket number, and any legal citation, if the reference is to a docketed proceeding.

(d) *Step 4: File your application.* If you file your application successfully through IBFS, a confirmation screen will appear showing you the date and time of your filing and your submission ID. Print this verification for your records as proof of online filing.

(e) *Step 5: Pay for your application.*

(1) Most applications require that you pay a fee to us before we can begin processing your application. You can determine the amount of your fee in three ways:

(i) You can refer to § 1.1107,

(ii) You can refer to the International and Satellite Services fee guide located at *http://www.fcc.gov/fees/appfees.html,* or

(iii) You can run a draft Form 159 through IBFS, in association with a filed application, and the system will automatically enter your required fee on the form.

(2) A complete FCC Form 159 must accompany all fee payments. You must provide the FRN for both the applicant and the payer. You also must include your IBFS Submission ID number on your FCC Form 159 in the box labeled ''FCC Code 2.'' In addition, for applications for transfer of control or assignment of license, call signs involved in the transaction must be entered into the ''FCC Code 1'' box on the FCC Form 159. (This may require the use of multiple rows on the FCC Form 159 for a single application where more than one call sign is involved.)

(i) You may use a paper version of FCC Form 159, or

(ii) You can generate a pre-filled FCC Form 159 from IBFS using your IBFS Submission ID. For specific instructions on using IBFS to generate your FCC Form 159, go to the IBFS Web site (*http://www.fcc.gov/ibfs*) and click on the ''Getting Started'' button.

(3) You have 3 payment options:

(i) Pay by credit card (through IBFS or by regular mail),

(ii) Pay by check, bank draft or money order, or

(iii) Pay by wire transfer or other electronic payments.

(4) You have 14 calendar days from the date you file your application in IBFS to submit your fee payment to U.S. Bank. Your FCC Form 159 must be stamped ''received'' by U.S. Bank by the 14th day. If not, we will dismiss your application.

(5) If you send your Form 159 and payment to U.S. Bank in paper form, you should mail your completed Form 159 and payment to the address specified in § 1.1107 of the Commission's rules. If you file electronically, do not send copies of your application with your payment and Form 159.

(6) For more information on fee payments, refer to Payment Instructions found on the IBFS Internet site at *http://www.fcc.gov/ibfs.*

(7) Step 5 is not applicable if your application is fee exempt.

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

■ 24. The authority citation for Part 2 continues to read as follows:

Authority: 47 U.S.C. 154, 302(a), 303, and 336, unless otherwise noted.

Subpart J—Equipment Authorization Procedures

■ 25. Section 2.913 is amended by revising the second and third sentences of paragraph (b) to read as follows:

§ 2.913 Submittal of equipment authorization application or information to the Commission.

* * * * *

(b) * * * The address for fees submitted by mail is: Federal Communications Commission, Equipment Approval Services, P.O. Box 979095, St. Louis, MO 63197–9000. If the applicant chooses to make use of an air courier/package delivery service, the following address must appear on the outside of the package/envelope: Federal Communications Commission, c/o Lockbox 979095, SL–MO–C2–GL, 1005 Convention Plaza, St. Louis, MO 63101.

* * * * *

PART 61—TARIFFS

■ 28. The authority citation for part 61 continues to read as follows:

Authority: Secs. 1, 4(i), 4(j), 201–205 and 403 of the Communications Act of 1934, as amended; 47 U.S.C. 151, 154(i), 154(j), 201–205 and 403, unless otherwise noted.

Subpart B—Rules for Electronic Filing

■ 27. Section 61.14 is amended by revising paragraph (b)(1) and (b)(2)(i) to read as follows:

§ 61.14 Method of filing publications.

* * * * *

(b)(1) In addition, except for issuing carriers filing tariffing fees electronically, for all tariff publications requiring fees as set forth in part 1, subpart G of this chapter, issuing carriers must submit the original of the cover letter (without attachments), FCC Form 159, and the appropriate fee to the U.S. Bank, St. Louis, Missouri at the address set forth in § 1.1105 of this chapter.

(2) * * *

(i) Issuing carriers submitting tariffing fees electronically may submit a paper copy of the Form 159, and the original transmittal letter to the Secretary of the Commission in lieu of the U.S. Bank, or;

* * * * *

■ 28. Section 61.17 is amended by revising the first two sentences of paragraph (b) to read as follows:

§ 61.17 Method of filing applications for special permission.

* * * * *

(b) In addition, except for issuing carriers filing tariffing fees electronically, for special permission applications requiring fees as set forth in part 1, subpart G of this chapter, issuing carriers must submit the original of the application letter (without attachments), FCC Form 159, and the

appropriate fee to the U.S. Bank, St. Louis, Missouri, at the address set forth in § 1.1105 of this chapter. Issuing carriers submitting tariffing fees electronically should submit a copy of the Form 159 and the original application letter to the Secretary of the Commission in lieu of the U.S. Bank.
* * *
* * * * *

Subpart C—General Rules for Nondominant Carriers

■ 29. Section 61.20 is amended by revising the first two sentences of paragraph (b)(1) to read as follows:

§ 61.20 Method of filing publications.
* * * * *

(b)(1) In addition, except for issuing carriers filing tariffing fees electronically, for all tariff publications requiring fees as set forth in part 1, subpart G of this chapter, issuing carriers must submit the original of the cover letter (without attachments), FCC Form 159, and the appropriate fee to the U.S. Bank, St. Louis, Missouri at the address set forth in § 1.1105 of this chapter. Issuing carriers submitting tariffing fees electronically should submit the Form 159 and the original cover letter to the Secretary of the Commission in lieu of the U.S. Bank.
* * *
* * * * *

Subpart D—General Tariff Rules for International Dominant Carriers

■ 30. Section 61.32 is amended by revising the first two sentences of paragraph (b) to read as follows:

§ 61.32 Method of filing publications.
* * * * *

(b) In addition, except for issuing carriers filing tariffing fees electronically, for all tariff publications requiring fees as set forth in part 1, subpart G of this chapter, issuing carriers must submit the original of the transmittal letter (without attachments), FCC Form 159, and the appropriate fee to the U.S. Bank, St. Louis, Missouri, at the address set forth in § 1.1105 of this chapter. Issuing carriers submitting tariffing fees electronically should submit the Form 159 and the original cover letter to the Secretary of the Commission in lieu of the U.S. Bank.
* * *
* * * * *

Subpart H—Applications for Special Permission

■ 31. Section 61.153 is amended by revising the first two sentences of paragraph (b) to read as follows:

§ 61.153 Method of filing applications.
* * * * *

(b) In addition, except for issuing carriers filing tariffing fees electronically, for all special permission applications requiring fees as set forth in part 1, subpart G of this chapter, the issuing carrier must submit the original of the application letter (without attachments), FCC Form 159, and the appropriate fee to the U.S. Bank, St. Louis, Missouri at the address set forth in § 1.1105 of this chapter. Issuing carriers submitting tariffing fees electronically should submit the Form 159 and the original cover letter to the Secretary of the Commission in lieu of the U.S. Bank. * * *
* * * * *

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

■ 32. The authority citation for part 64 continues to read as follows:

Authority: 47 U.S.C. 154, 254(k); secs. 403(b)(2)(B), (c), Pub. L. 104–104, 110 Stat. 56. Interpret or apply 47 U.S.C. 201, 218, 222, 225, 226, 228, and 254(k) unless otherwise noted.

Subpart G—Furnishing of Enhanced Services and Customer-Premises Equipment by Communications Common Carriers; Telephone Operator Services

■ 33. Section 64.709 is amended by revising paragraph (d)(1) to read as follows:

§ 64.709 Informational tariffs.
* * * * *

(d) * * *

(1) The original of the cover letter shall be submitted to the Secretary without attachments, along with FCC Form 159, and the appropriate fee to the U.S. Bank, St. Louis, Missouri.
* * * * *

PART 80—STATIONS IN THE MARITIME SERVICES

■ 34. The authority citation for part 80 continues to read as follows:

Authority: secs. 4, 303, 307(e), 309, and 332, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, 307(e), 309, and 332, unless otherwise noted. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 301–609; 3 UST 3450, 3 UST 4726, 12 UST 2377.

Subpart B—Applications and Licenses

■ 35. Section 80.59 is amended by revising the first sentence of paragraph (c)(2) to read as follows:

§ 80.59 Compulsory ship inspections.
* * * * *

(c) * * *

(2) Feeable applications for exemption must be filed with U.S. Bank, P.O. Box 979097, St. Louis, MO 63197–9000 at the address set forth in § 1.1102. * * *
* * * * *

[FR Doc. E8–2940 Filed 2–15–08; 8:45 am]
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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CG Docket 03–123; DA 07–5098; DA 08–45]

Telecommunications Relay Services and Speech-to-Speech Services for Individuals With Hearing and Speech Disabilities

AGENCY: Federal Communications Commission.

ACTION: Final rule; extension of waiver.

SUMMARY: In this document, the Consumer and Governmental Affairs Bureau (Bureau) extends for an additional year waivers of certain Telecommunications Relay Services (TRS) mandatory minimum standards for Video Relay Service (VRS) and Internet Protocol Relay (IP Relay). The waived TRS mandatory minimum standards are: One-line voice carry over (VCO); VCO-to-teletypewriter (TTY); VCO-to-VCO; one-line hearing carry over (HCO); HCO-to-TTY; HCO-to-HCO; call release; speech-to-speech (STS); pay-per-call (900) calls; types of calls; equal access to interexchange carriers; and speed dialing. The Bureau extends the waivers for one year (four months in the case of speed dialing for VRS) because the record demonstrates that it is technologically infeasible for VRS and IP Relay providers to offer these services at this time.

DATES: The Bureau allowed the waivers of three-way calling for VRS and IP Relay to expire on January 1, 2008. The waivers of certain TRS mandatory minimum standards for VRS and IP Relay will expire on January 1, 2009, except the wavier of the speed dialing requirement for VRS, which will expire on April 30, 2008.

ADDRESSES: Parties may submit waiver reports identified by [CG Docket No. 03–

123 and/or DA 07–5098 and DA 08–45] by any of the following methods:

• *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instruction for submitting waiver reports.

• *Federal Communications Commission's Web Site: http://www.fcc.gov/cgb/ecfs/*. Follow the instructions for submitting waiver reports.

• *Mail:* Dana Wilson, Consumer and Governmental Affairs Bureau, Disability Rights Office, 445 12th Street, SW., Room 3–C418, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Thomas Chandler, Consumer and Governmental Affairs Bureau, Disability Rights Office at (202) 418–1475 (voice), (202) 418–0597 (TTY), or e-mail *Thomas.Chandler@fcc.gov*.

SUPPLEMENTARY INFORMATION: On December 31, 2001, the Commission's Common Carrier Bureau released Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, VRS Waiver Order, CC Docket No. 98–67, 17 FCC Rcd 157 (2001), granting VRS providers a waiver until December 31, 2003, of certain TRS mandatory minimum standards as applied to the provision of VRS. In subsequent Orders, the Commission extended these waivers ultimately through January 1, 2008, and applied them also to IP Relay. This is a summary of the Bureau Orders, document DA 07–5098, adopted and released December 26, 2007, and document DA 08–45, adopted and released January 8, 2008, extending certain waivers from TRS mandatory minimum standards to January 1, 2009, and extending waiver of the speed dialing requirement of VRS through April 30, 2008, while allowing waivers of three-way calling for VRS and IP Relay to expire on January 1, 2008.

The full text of documents DA 07–5098 and DA 08–45, and copies of any subsequently filed documents in these matters, will be available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. Documents DA 07–5098 and DA 08–45, and copies of subsequently filed documents in these matters, also may be purchased from the Commission's duplicating contractor at Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. Customers may contact the Commission's duplicating contractor at its Web site *http://www.bcpiweb.com* or by calling 1–800–378–3160. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice) or (202) 418–0432 (TTY). Documents DA 07–5098 and DA 08–45 also can be downloaded in Word and Portable Document Format (PDF) at *http://www.fcc.gov/cgb/dro/trs.html*.

Synopsis

1. The Commission, in various orders, has waived several TRS mandatory minimum standards for VRS and IP Relay either because, as Internet-based services, it is not technologically feasible to meet the requirement or, in the case of VRS, because VRS is a video-based service and the communication is via sign language and not text. Since 2004, the Commission has conditioned these waivers on the filing of annual reports, due each April 16, addressing whether it is necessary for the waivers to remain in effect. See Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CC Docket Nos. 90–571 and 98–67, CG Docket No. 03–123, Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking, 19 FCC Rcd 12475 (2004). Pursuant to this condition, all VRS and IP Relay providers have filed reports detailing their progress in meeting the waived requirements. The Bureau has reviewed these reports in reaching the conclusions below.

2. One-line VCO, VCO-to-TTY, and VCO-to-VCO. One-line VCO is a type of traditional TTY-based TRS that can be used by persons with a hearing disability but who can speak. See 47 CFR 64.601(18); 47 CFR 64.604(a)(3)(v). The Commission waived this requirement for IP Relay providers because the voice leg of a VCO call could not be supported over the Internet. The Commission similarly waived this requirement for VRS. A VCO-to-TTY call allows a relay conversation to take place between a VCO user and a TTY user; a VCO-to-VCO call allows a relay conversation to take place between two VCO users. Consistent with its treatment of the VCO requirement, the Commission waived these requirements for VRS and IP Relay.

3. The Bureau extends the waivers of these requirements for one year. The Bureau notes that the most recent annual waiver reports reflect that VRS and IP Relay providers cannot provide these services because the Internet cannot support the voice leg of a VCO call with the necessary call quality. These waivers are again conditioned on the filing of reports, due April 16, 2008, addressing whether it is necessary for the waivers to remain in effect.

4. One-line HCO, HCO-to-TTY, and HCO-to-HCO. One-line HCO is a type of traditional TTY-based TRS that can be used by persons with a speech disability but who can hear. See 47 CFR 64.604(8); 47 CFR 64.604(a)(3)(v). For the same reason the Commission waived the VCO requirement for IP Relay, it did so with respect to the HCO requirement. The Commission similarly waived this requirement for VRS. An HCO-to-TTY call allows a relay conversation to take place between an HCO user and a TTY user; an HCO-to-HCO call allows a relay conversation to take place between two HCO users. Consistent with its treatment of the HCO requirement, the Commission waived these requirements for VRS and IP Relay.

5. Consistent with the Bureau's treatment of VCO, and for the same reasons, the Bureau extends the waivers of these requirements for one year. The Bureau also notes that the most recent annual waiver reports reflect that VRS and IP Relay providers cannot provide these services. These waivers are also conditioned on the filing of reports, due April 16, 2008, addressing whether it is necessary for the waivers to remain in effect.

6. Call Release. Call release allows a communications assistant (CA) to set up a TTY-to-TTY call that, once established, does not require the CA to relay the conversation. See 47 CFR 64.604(a)(3)(vi). The Commission waived this requirement for VRS and IP Relay. The Bureau extends the waivers of this requirement for one year due to technological infeasibility. This conclusion is supported by the providers' annual waiver reports, which reflect that the Internet leg of the call (via video or text) cannot support call release functionality. These waivers are also conditioned on the filing of reports, due April 16, 2008, addressing whether it is necessary for the waivers to remain in effect.

7. Pay-Per-Call (900) calls. Pay-per-call (900) calls are calls that the person making the call pays for at a charge greater than the basic cost of the call. See 47 CFR 64.604(a)(3)(iv). The Commission waived this requirement for VRS and IP Relay. The Bureau extends the waivers of this requirement for VRS and IP Relay for one year. The providers' annual waiver reports reflect that there is still no billing mechanism available to handle the charges associated with pay-per-calls. These waivers are also conditioned on the

filing of reports, due April 16, 2008, addressing whether it is necessary for the waivers to remain in effect.

8. Types of Calls (Operated Assisted Calls and Long Distance Calls). Commission rules require TRS providers to handle any type of call normally handled by common carriers. See 47 CFR 64.604(a)(3). The Common Carrier Bureau waived the requirement that VRS providers offer operator-assisted calls and bill certain types of calls to the end user, noting that it was not possible to determine if a VRS call is local or long distance. The providers' annual waiver reports reflect that it remains technologically infeasible for VRS providers to offer operator-assisted calls and to bill for certain types of long distance calls because one leg of the VRS call is transmitted over the Internet. Based on the record, the Bureau therefore extends waivers of this requirement for VRS for one year as long as providers allow calls to be placed using calling cards and/or provide free long distance calls. This waiver is also conditioned on the filing of a report, due April 16, 2008, addressing whether it is necessary for the waiver to remain in effect. Although this issue has not been raised, the Commission understands that IP Relay providers, for the same reasons as VRS providers, cannot provide these services. Therefore, to avoid any future uncertainty or compliance issues, the Commission waives on its own motion this requirement for IP Relay as long as the providers allow calls to be placed using calling cards and/or provide free long distance calls.

9. Equal Access to Interexchange Carriers. The TRS rules require that providers offer TRS users their interexchange carrier of choice to the same extent that such access is provided to voice users. See 47 CFR 64.604(b)(3). The Commission waived this requirement for VRS providers, noting that it was not possible to determine if a call is long distance and, in any event, the providers could not automatically route the calls to the caller's long distance carrier of choice. The Commission also noted that this waiver was contingent on VRS providers providing long distance services free of charge to the caller. The Commission waived this requirement for IP Relay indefinitely.

10. The Bureau extends the waiver of this requirement for VRS for one year. The providers' annual waiver reports reflect that because they cannot determine whether a particular call is local or long distance, they cannot offer carrier of choice but instead do not charge consumers for long distance. Based on the record, the Bureau therefore extends this waiver for VRS for one year as long as the providers provide free long distance calls. This waiver is also conditioned on the filing of a report, due April 16, 2008, addressing whether it is necessary for the waiver to remain in effect.

11. Speech-to-Speech. In 2000, the Commission recognized STS as a form of TRS and required that it be offered as a mandatory service. The Commission waived this requirement indefinitely for VRS and, until January 1, 2008, for IP Relay. The Commission noted that STS is speech-based service, whereas VRS is a visual service using interpreters to interpret in sign language over a video connection. With respect to IP Relay, the Commission noted the technical difficulties with respect to voice-initiated calls and the Internet. The Bureau extends the waiver of this requirement for IP Relay for one year. Providers continue to report that this service, like the VCO and HCO services, cannot be provided via IP Relay because of erratic voice quality. The waiver is also conditioned on the filing of a report, due April 16, 2008, addressing whether it is necessary for the waiver to remain in effect.

12. Speed Dialing. Speed dialing allows a TRS user to give the CA a ''short-hand'' name or number (e.g., ''call Mom'') for the user's most frequently called telephone numbers. See 47 CFR 64.604(a)(3)(vi). This feature permits a person making a TRS call through a CA to place the call without having to remember or locate the number he or she desires to call.

13. In DA 07–5098, the Bureau allowed the waiver of the speed dialing requirement for VRS to expire on January 1, 2008. In response, on December 31, 2007, Snap Telecommunications, Inc. (Snap) and Verizon each filed requests to extend temporarily waiver of the speed dialing requirement for VRS. Upon reviewing Snap's and Verizon's 2007 Annual Reports on their progress towards meeting waived requirements, the Bureau finds that it erroneously concluded in DA 07–5098 that all VRS providers could offer the speed dialing feature by the end of 2007. The Bureau therefore extends the waiver of the speed dialing requirement for VRS providers through April 30, 2008. Because the speed dialing waiver will terminate at the end of April 2008, the Bureau does not require that VRS providers address this feature in their annual waiver reports that are due on April 16, 2008.

14. With respect to IP Relay, because there is conflicting evidence in the record on whether providers can provide this feature, the Bureau extends the waiver of this requirement for IP Relay for one year. In light of the fact that some providers report that they are offering this service, however, the Bureau anticipates that there will be no further extensions of this waiver. The Bureau believes that this additional one year waiver is adequate to address any remaining technical or implementation concerns. This waiver is also conditioned on the filing of a report, due on April 16, 2008, providing updated information on the status of providing this service.

15. Three-way calling. The three-way calling feature allows more than two parties to be on the telephone line at the same time with the CA. See 47 CFR 64.604(a)(3)(vi). The Commission waived this requirement for VRS and IP Relay.

16. In Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CC Docket No. 98–67 and CG Docket No. 03–123, Order, 20 FCC Rcd 3689 (CGB 2005) (Three-way Calling Clarification Order), published at 70 FR 14568, March 23, 2005, the Bureau clarified the manner in which TRS providers could comply with this rule. The Bureau stated that TRS providers will satisfy the three-way calling requirement if they ''ensure that the TRS facility or CA facilitates or handles a three-way call, as the CA would handle any TRS call, where and to the extent the three-way call has been arranged by any one of the parties to the call, e.g., using a party's local exchange carrier provided custom calling service (CCS), by bridging two telephone lines via customer terminal equipment, or by some other means.'' The Bureau further clarified ''that TRS providers are not required to be able to arrange, initiate, or set up a three-way call (but they may do so)* * * so long as the provider is able to handle or facilitate a three-way call, in some manner, whether initiated by one of the parties to the call or set up by the provider.''

17. VRS and IP Relay providers have reported that they are providing three-way calling in accordance with the Three-way Calling Clarification Order. Because the record therefore demonstrates that it is technically feasible to offer this service, the Bureau concludes that these waivers are no longer necessary and therefore will allow these waivers to expire on January 1, 2008.

Ordering Clauses

18. Pursuant to section 225 of the Communications Act of 1934, as

amended, 47 U.S.C. 225, and Sections 0.141, 0.361, and 1.3 of the Commission's rules, 47 CFR 0.141, 0.361, and 1.3, documents DA 07–5098 and DA 08–45 are adopted. For VRS, the waivers of the one-line VCO, VCO-to-TTY, and VCO-to-VCO; one-line HCO, HCO-to-TTY, and HCO-to-HCO; call release; pay-per-call (900) calls, types of calls, and equal access to interexchange carrier requirements are hereby extended for one year, i.e., until January 1, 2009, conditioned on the filing of a report, due April 16, 2008, addressing whether it is necessary for the waivers to remain in effect. The waiver of the speed dialing requirement for VRS is extended through April 30, 2008.

19. For IP Relay, the waivers of the one-line VCO, VCO-to-TTY, and VCO-to-VCO; one-line HCO, HCO-to-TTY, and HCO-to-HCO; call release; pay-per-call (900) calls; STS; and speed dialing requirements are hereby extended for one year, i.e., until January 1, 2009, conditioned on the filing of a report, due April 16, 2008, addressing whether it is necessary for the waivers to remain in effect.

20. The waivers of the three-way calling requirements (for VRS and IP Relay) expired on January 1, 2008.

Federal Communications Commission.

Nicole McGinnis,

Deputy Bureau Chief, Consumer and Governmental Affairs Bureau.

[FR Doc. E8–3024 Filed 2–15–08; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 070213033–7033–01]

RIN 0648–XD68

Fisheries of the Exclusive Economic Zone Off Alaska; Atka Mackerel in the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; closures and openings.

SUMMARY: NMFS is announcing the opening and closing dates of the Atka mackerel directed fishery within the harvest limit area (HLA) in Statistical Area 542 for the vessel participating in the Amendment 80 cooperative. This action is necessary to fully use the 2008 A season HLA limit established for the vessel participating in the Amendment 80 cooperative.

DATES: Effective 1200 hrs, A.l.t., February 13, 2008, until 1200 hrs, A.l.t., February 27, 2008.

Written comments must be received by February 28, 2008.

ADDRESSES: Send comments to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Sebastian. You may submit comments, identified by 0648–XD68, by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal website at *http://www.regulations.gov*;
- Mail: P.O. Box 21668, Juneau, AK 99802;
- Fax: (907) 586–7557; or
- Hand delivery to the Federal Building: 709 West 9th Street, Room 420A, Juneau, AK.

Instructions: All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments. Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Jennifer Hogan, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

In accordance with the 2007 and 2008 final harvest specifications for groundfish in the BSAI (72 FR 9451, March 2, 2007) and revision (72 FR 71802, December 19, 2007), and § 679.20(a)(8)(ii)(C)(*1*), the HLA limit of the A season allowance of the 2008 Atka mackerel TACs is 2,294 mt in the Central Aleutian District (area 542) for the Amendment 80 cooperative. The HLA directed fishery for the vessel participating in the Amendment 80 cooperative were previously opened and closed (73 FR 4494, January 25, 2008) based on the HLA apportionments of the 2007 and 2008 final harvest specifications for groundfish in the BSAI (72 FR 9451, March 2, 2007) and revision (72 FR 71802, December 19, 2007).

NMFS has determined that approximately 1,139 mt remain in the Atka mackerel A season HLA limit in area 542 for the vessel participating in the Amendment 80 cooperative. Therefore, in accordance with § 679.25(a)(1)(i), (a)(2)(i)(C), and (a)(2)(iii)(D), and to fully utilize the 2008 A season HLA limit in area 542 for the vessel participating in the Amendment 80 cooperative, NMFS is reopening the directed fishery effective 1200 hrs, A.l.t., February 13, 2008.

In accordance with § 679.20(a)(8)(iii)(E), the Regional Administrator has established the closure date of the Atka mackerel directed fishery in the HLA for area 542 based on the amount of the harvest limit and the estimated fishing capacity of the vessel participating in the Amendment 80 cooperative. Consequently, NMFS is prohibiting directed fishing for Atka mackerel in the HLA of area 542 for the vessel participating in the Amendment 80 cooperative effective 1200 hrs, A.l.t., February 27, 2008.

After the effective dates of these closures, the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA) finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such a requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the opening and closing of the fishery for the HLA limit established in area 542 for the vessel participating in the Amendment 80 cooperative. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of February 8, 2008.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C.

553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

Without this inseason adjustment, NMFS could not allow the Atka mackerel fishery in the HLA for area 542 to be harvested in an expedient manner and in accordance with the regulatory schedule. Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until February 28, 2008.

This action is required by § 679.20 and § 679.25 and is exempt from review under Executive Order 12866.

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

Dated: February 12, 2008.

Emily H. Menashes

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 08–741 Filed 2–13–08; 12:16 pm]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 070711313–8014–02]

RIN 0648–AV62

Fisheries of the Exclusive Economic Zone Off Alaska; Groundfish, Crab, Scallop, and Salmon Fisheries of the Bering Sea and Aleutian Islands Management Area

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

ACTION: Final rule.

SUMMARY: NMFS issues a final rule that implements Amendment 88 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area. This amendment revises the Aleutian Islands Habitat Conservation Area (AIHCA) boundary to allow nonpelagic trawling in an area historically fished and to prohibit nonpelagic trawling in an area of known coral and sponge occurrence. This action is necessary to ensure the AIHCA protects areas of coral and sponge habitat from the potential effects of nonpelagic trawling and allows nonpelagic trawling in areas historically fished and with unknown occurrence of corals and sponges.

DATES: Effective March 20, 2008.

ADDRESSES: Copies of the map of the AIHCA and the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) and Final Regulatory Flexibility Analysis for this action may be obtained from NMFS Alaska Region, P. O. Box 21668, Juneau, AK 99802 or from the Alaska Region NMFS website at *http://www.fakr.noaa.gov*.

FOR FURTHER INFORMATION CONTACT: Melanie Brown, 907–586–7228 or email at *melanie.brown@noaa.gov*.

SUPPLEMENTARY INFORMATION: The groundfish fisheries in the Bering Sea and Aleutian Islands Management Area (BSAI) are managed under the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP). The North Pacific Fishery Management Council (Council) prepared the FMP under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Regulations implementing the FMP appear at 50 CFR parts 679 and 680. General regulations governing U.S. fisheries also appear at 50 CFR part 600. The groundfish fishery restrictions for the AIHCA described in the FMP are implemented by regulations at 50 CFR part 679.

Background

In 2006, NMFS implemented essential fish habitat (EFH) protection measures for the Aleutian Islands subarea and adjacent State of Alaska (State) waters (71 FR 36694, June 28, 2006, and corrected at 72 FR 63500, November 9, 2007). The background on the development of the EFH protection measures is available in the proposed rule for that action (71 FR 14470, March 22, 2006). The revisions to the AIHCA required amendments to the groundfish, crab, scallop, and salmon fishery management plans for the Alaska fisheries. These amendments (88, 23, 12, and 9, respectively) were described in the notice of availability published in the **Federal Register** (72 FR 63871, November 13, 2007), which provides the details of these amendments. Only Amendment 88 to the groundfish FMP requires regulatory changes, which are implemented by this final rule. The Secretary of Commerce approved all of the fishery management plan amendments for the AIHCA revisions on February 4, 2008.

The EFH protection measures prohibited nonpelagic trawling within the AIHCA. The AIHCA is the Aleutian Islands subarea and adjacent State waters except for specific sites that remain open to nonpelagic trawling. Locations open to nonpelagic trawling in the AIHCA include areas without known occurrences of coral and sponge habitat and where nonpelagic trawling previously occurred. A map of the AIHCA is available from the NMFS Alaska Region website at *http://www.fakr.noaa.gov/habitat/efh/aihca.pdf*.

In March 2007, the Council recommended two revisions to the boundaries of the AIHCA. These revisions were developed in response to information provided by the nonpelagic trawl industry regarding correct fishing locations and additional information on coral and sponge occurrence in the Aleutian Islands. The two revisions change the AIHCA boundaries near Agattu Island and Buldir Island. A figure showing the revisions is in the proposed rule for this action (72 FR 65539, November 21, 2007) and in the EA/RIR/IRFA (see **ADDRESSES**). The final rule prohibits nonpelagic trawling in an area west of Buldir Island and permits nonpelagic trawling in an area north of Agattu Island.

The area near Agattu Island is opened to nonpelagic trawling because no known occurrence of coral or sponge habitat exists in this area, and nonpelagic trawling historically has occurred in this location. The area near Buldir Island is closed to nonpelagic trawling because NMFS surveys show corals and sponges occur in this area. Anecdotal information from the fishing industry also indicated that fishermen using nonpelagic trawl gear avoid the Buldir Island closure area to protect fishing gear from damage by bottom structures. Details of the fishing history and biological features of these sites are available in the EA/RIR/IRFA for this action (see **ADDRESSES**).

The final rule revises the coordinates for the boundaries of the AIHCA near Agattu Island and Buldir Island. Table 24 to 50 CFR part 679 contains coordinates for sites where nonpelagic trawling is permitted in the AIHCA. Table 24 is revised to specify the new coordinates near Agattu and Buldir Islands that are necessary to adjust the boundaries of the AIHCA. These new boundaries will allow for nonpelagic trawling near Agattu Island and prohibit nonpelagic trawling near Buldir Island. The final rule modifies the coordinates for the Buldir and Semichi areas listed on Table 24. The Semichi area includes the waters near Agattu Island opened to nonpelagic trawling. Because the final rule divides the Buldir Island open area into two areas to allow for the closure area, the final rule adds the West Buldir site to Table 24. The final rule also removes the site number for each site because the site number serves no additional purpose in the identification

of the site beyond that provided by the site name. The final rule also removes from Table 24 two redundant sets of coordinates for the Buldir site because they are not necessary to accurately describe the boundaries.

Comments and Responses

NMFS received one comment from an individual on the proposed rule (72 FR 65539, November 21, 2007) and no comments on the notice of availability for the fishery management plan amendments. No changes were made in the final rule from the proposed rule. The following summarizes and responds to the comment.

Comment: Ban all nonpelagic trawling in both areas. Trawling turns the ocean bottom into desert wasteland, and no recovery is possible for 40 years. No reason exists to allow trawling.

Response: Trawling can have various effects on bottom habitat depending on the type of trawl gear and the bottom features where fishing is occurring. Recovery times for an area can vary depending on the type of bottom habitat impacted. More information about the impacts of trawling on bottom habitat is available in the EA/RIR/IRFA for this action (see **ADDRESSES**). The decision to open and close areas in the AIHCA is based on the best scientific information available. NMFS has determined that the Buldir Island closure in this final rule is appropriate based on the occurrence of corals and sponges that may be impacted by nonpelagic trawling. The opening of waters near Agattu Island also is appropriate because of no known impact of nonpelagic trawling on corals and sponges. Trawl gear effectively harvests a number of target species in the groundfish fisheries. The Council and NMFS have implemented the EFH protection measures to reduce the potential impact of this gear on bottom habitat in the Aleutian Islands subarea and in the Gulf of Alaska.

In June 2007, the Council also recommended Amendment 89 to the FMP to implement bottom habitat protection measures for the Bering Sea subarea. This amendment is intended to address the potential effects of nonpelagic trawling on bottom habitat in the Bering Sea. More information regarding Amendment 89 is available from the Council's website at *http://www.fakr.noaa.gov/npfmc/current_issues/BSHC/BSHC.htm*. If approved, this amendment is scheduled for implementation in late 2008.

Classification

The Administrator, Alaska Region, NMFS, determined that Amendments 88, 23, 12, and 9 and the implementing final rule for Amendment 88 are necessary for the conservation and management of the groundfish, salmon, scallop, and crab fisheries and that they are consistent with the Magnuson-Stevens Act and other applicable laws.

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

NMFS prepared a final regulatory flexibility analysis (FRFA), as required by section 604 of the Regulatory Flexibility Act (RFA). The FRFA describes the economic impact of this final rule on small entities. Descriptions of the action, the reasons it is under consideration, and its objectives and legal basis, are included earlier in the preamble and in the SUMMARY section of the preamble. A summary of the analysis follows. A copy of this analysis is available from NMFS (see **ADDRESSES**).

NMFS prepared an Initial Regulatory Flexibility Analysis (IRFA) to accompany the proposed rule for this action. This was described in the classification section to the proposed rule and the public was notified how to obtain a copy. The public comment period ended on January 7, 2008. No comments were received on the IRFA or on the economic impacts of the rule.

Vessels were considered small, according to the Small Business Administration (SBA) criteria, if they had estimated 2004 gross revenues less than or equal to $4 million, and were not known to be affiliated with other firms whose combined receipts exceeded $4 million. Ten vessels that qualify as small entities under SBA criteria are directly regulated by this action. Six of these vessels are catcher vessels, and four are catcher/processors. Average gross revenues in 2005 were about $1,400,000 for the catcher vessels and about $2,200,000 for the catcher/processors.

This regulation does not impose new recordkeeping and reporting requirements on the regulated small entities.

The Council considered one alternative (Alternative 1, no action) to the preferred alternative for this action. The boundaries of the opened and closed areas were based on information provided by the fishing industry regarding historical fishing activity and on NMFS survey information regarding coral and sponge location. This is the method of boundary identification used in the original EFH rule for the AIHCA. Because this is a correction to that rule, the identification of boundaries for the opened and closed areas for this action is based on the same method. No other alternatives were identified because the action is an adjustment to the AIHCA boundaries based on corrected information from the fishing industry and NMFS survey information. No other boundaries of the opened or closed areas for the AIHCA were considered because no additional information was available to support other boundary alternatives.

The status quo condition of the fishery should be based on the 2006 fishery because of the recent implementation of the EFH protection measures (71 FR 36694, June 28, 2006), but 2006 data were not yet available for the analysis. Therefore, 2001 through 2005 data were used as a proxy for status quo. Vessel monitoring system (VMS) and NMFS inseason catch data were used to analyze the catches in the Agattu and Buldir Islands opened and closed areas. These types of data allowed for determining the fine scale location of fishing activities in combination with the estimated harvest from the opened and closed areas.

The no action alternative would not meet the objectives of this action. The status quo alternative would allow fishing in an area of known coral and sponge occurrence and would prohibit fishing in an area that had historical fishing activity. This would not meet the intent of the Council for the AIHCA and does not meet the objectives of the action to provide continued fishing where historical fishing activity has occurred and to prohibit fishing where coral and sponges occur. The opening of the area near Agattu provides mitigation for possible impacts associated with the closure of the area near Buldir. The FRFA did not identify adverse impacts to small entities from the action alternative.

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule, or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule and shall designate such publications as ''small entity compliance guides.'' The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, NMFS Alaska Region has developed a website that provides easy access to details of this final rule, including links to the final rule, maps of closure areas, and frequently asked questions regarding EFH. The relevant information available on the website is the Small Entity

Compliance Guide. The website address is *http://www.fakr.noaa.gov/habitat/efh.htm*. Copies of this final rule are available upon request from the NMFS, Alaska Regional Office (see **ADDRESSES**).

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: February 11, 2008.

Samuel D. Rauch III

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

■ For reasons set out in the preamble, NMFS amends 50 CFR part 679 as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*; 1801 *et seq.*; 3631 *et seq.*; Pub. L. 108–447.

■ 2. Revise Table 24 to part 679 to read as follows:

BILLING CODE 3510–22–S

Table 24 to Part 679--Except as Noted, Locations in the Aleutian Islands Habitat Conservation Area Open to Nonpelagic Trawl Fishing

Name	Latitude			Longitude			Footnotes
1. Islands of 4 Mountains North	52	54.00	N	170	18.00	W	
	52	54.00	N	170	24.00	W	
	52	42.00	N	170	24.00	W	
	52	42.00	N	170	18.00	W	
2. Islands of 4 Mountains West	53	12.00	N	170	0.00	W	
	53	12.00	N	170	12.00	W	
	53	6.00	N	170	12.00	W	
	53	6.00	N	170	30.00	W	
	53	0.00	N	170	30.00	W	
	53	0.00	N	170	48.00	W	
	52	54.00	N	170	48.00	W	
	52	54.00	N	170	54.00	W	
	52	48.00	N	170	54.00	W	
	52	48.00	N	170	30.00	W	
	52	54.00	N	170	30.00	W	
	52	54.00	N	170	24.00	W	
	53	0.00	N	170	24.00	W	
	53	0.00	N	170	0.00	W	
3. Yunaska I. South	52	24.00	N	170	30.00	W	
	52	24.00	N	170	54.00	W	
	52	12.00	N	170	54.00	W	
	52	12.00	N	170	30.00	W	
4. Amukta I. North	52	54.00	N	171	6.00	W	
	52	54.00	N	171	30.00	W	
	52	48.00	N	171	30.00	W	
	52	48.00	N	171	36.00	W	
	52	42.00	N	171	36.00	W	
	52	42.00	N	171	12.00	W	
	52	48.00	N	171	12.00	W	
	52	48.00	N	171	6.00	W	
5. Amukta Pass North	52	42.00	N	171	42.00	W	
	52	42.00	N	172	6.00	W	

Name	Latitude			Longitude			Footnotes
	52	36.00	N	172	6.00	W	
	52	36.00	N	171	42.00	W	
6. Amlia North/Seguam	52	42.00	N	172	12.00	W	
	52	42.00	N	172	30.00	W	
	52	30.00	N	172	30.00	W	
	52	30.00	N	172	36.00	W	
	52	36.00	N	172	36.00	W	
	52	36.00	N	172	42.00	W	
	52	39.00	N	172	42.00	W	
	52	39.00	N	173	24.00	W	
	52	36.00	N	173	30.00	W	
	52	36.00	N	173	36.00	W	
	52	30.00	N	173	36.00	W	
	52	30.00	N	174	0.00	W	
	52	27.00	N	174	0.00	W	
	52	27.00	N	174	6.00	W	
	52	23.93	N	174	6.00	W	1
	52	13.71	N	174	6.00	W	
	52	12.00	N	174	6.00	W	
	52	12.00	N	174	0.00	W	
	52	9.00	N	174	0.00	W	
	52	9.00	N	173	0.00	W	
	52	6.00	N	173	0.00	W	
	52	6.00	N	172	45.00	W	
	51	54.00	N	172	45.00	W	
	51	54.00	N	171	48.00	W	
	51	48.00	N	171	48.00	W	
	51	48.00	N	171	42.00	W	
	51	54.00	N	171	42.00	W	
	52	12.00	N	171	42.00	W	
	52	12.00	N	171	48.00	W	
	52	18.00	N	171	48.00	W	
	52	18.00	N	171	42.00	W	
	52	30.00	N	171	42.00	W	
	52	30.00	N	171	54.00	W	
	52	24.00	N	171	54.00	W	
	52	24.00	N	172	0.00	W	

Name	Latitude			Longitude			Footnotes
	52	12.00	N	172	0.00	W	
	52	12.00	N	172	42.00	W	
	52	18.00	N	172	42.00	W	
	52	18.00	N	172	37.13	W	2
	52	18.64	N	172	36.00	W	
	52	24.00	N	172	36.00	W	
	52	24.00	N	172	12.00	W	6
7. Amlia North/Seguam donut	52	33.00	N	172	42.00	W	5
	52	33.00	N	173	6.00	W	5
	52	30.00	N	173	6.00	W	5
	52	30.00	N	173	18.00	W	5
	52	24.00	N	173	18.00	W	5
	52	24.00	N	172	48.00	W	5
	52	30.00	N	172	48.00	W	5
	52	30.00	N	172	42.00	W	5,7
8. Atka/Amlia South	52	0.00	N	173	18.00	W	
	52	0.00	N	173	54.00	W	
	52	3.08	N	173	54.00	W	2
	52	6.00	N	173	58.00	W	
	52	6.00	N	174	6.00	W	
	52	0.00	N	174	18.00	W	
	52	0.00	N	174	12.00	W	
	51	54.00	N	174	12.00	W	
	51	54.00	N	174	18.00	W	
	52	6.00	N	174	18.00	W	
	52	6.00	N	174	21.86	W	1
	52	4.39	N	174	30.00	W	
	52	3.09	N	174	30.00	W	1
	52	2.58	N	174	30.00	W	
	52	0.00	N	174	30.00	W	
	52	0.00	N	174	36.00	W	
	51	54.00	N	174	36.00	W	
	51	54.00	N	174	54.00	W	
	51	48.00	N	174	54.00	W	
	51	48.00	N	173	24.00	W	
	51	54.00	N	173	24.00	W	

Name	Latitude			Longitude			Footnotes
	51	54.00	N	173	18.00	W	
9. Atka I. North	52	30.00	N	174	24.00	W	
	52	30.00	N	174	30.00	W	
	52	24.00	N	174	30.00	W	
	52	24.00	N	174	48.00	W	
	52	18.00	N	174	48.00	W	
	52	18.00	N	174	54.00	W	
	52	12.00	N	174	54.00	W	
	52	12.00	N	175	18.00	W	
	52	1.14	N	175	18.00	W	1
	52	2.19	N	175	12.00	W	
	52	6.00	N	175	12.00	W	
	52	6.00	N	174	55.51	W	1
	52	6.00	N	174	54.04	W	
	52	6.00	N	174	48.00	W	
	52	12.00	N	174	48.00	W	
	52	12.00	N	174	26.85	W	1
	52	12.94	N	174	18.00	W	
	52	16.80	N	174	18.00	W	1
	52	17.06	N	174	18.00	W	
	52	17.64	N	174	18.00	W	1
	52	18.00	N	174	19.12	W	
	52	18.00	N	174	20.04	W	1
	52	19.37	N	174	24.00	W	
10. Atka I. South	52	0.68	N	175	12.00	W	2
	52	0.76	N	175	18.00	W	
	52	0.00	N	175	18.00	W	
	52	0.00	N	175	12.00	W	
11. Adak I. East	52	12.00	N	176	36.00	W	
	52	12.00	N	176	0.00	W	
	52	2.59	N	176	0.00	W	1
	52	1.79	N	176	0.00	W	
	52	0.00	N	176	0.00	W	
	52	0.00	N	175	48.00	W	
	51	57.74	N	175	48.00	W	1
	51	55.48	N	175	48.00	W	
	51	54.00	N	175	48.00	W	

Name	Latitude			Longitude			Footnotes
	51	54.00	N	176	0.00	W	1
	51	53.09	N	176	6.00	W	
	51	51.40	N	176	6.00	W	1
	51	49.67	N	176	6.00	W	
	51	48.73	N	176	6.00	W	1
	51	48.00	N	176	6.36	W	
	51	48.00	N	176	9.82	W	1
	51	48.00	N	176	9.99	W	
	51	48.00	N	176	16.19	W	1
	51	48.00	N	176	24.71	W	
	51	48.00	N	176	25.71	W	1
	51	45.58	N	176	30.00	W	
	51	42.00	N	176	30.00	W	
	51	42.00	N	176	33.92	W	1
	51	41.22	N	176	42.00	W	
	51	30.00	N	176	42.00	W	
	51	30.00	N	176	36.00	W	
	51	36.00	N	176	36.00	W	
	51	36.00	N	176	0.00	W	
	51	42.00	N	176	0.00	W	
	51	42.00	N	175	36.00	W	
	51	48.00	N	175	36.00	W	
	51	48.00	N	175	18.00	W	
	51	51.00	N	175	18.00	W	
	51	51.00	N	175	0.00	W	
	51	57.00	N	175	0.00	W	
	51	57.00	N	175	18.00	W	
	52	0.00	N	175	18.00	W	
	52	0.00	N	175	30.00	W	
	52	3.00	N	175	30.00	W	
	52	3.00	N	175	36.00	W	
12. Cape Adagdak	52	6.00	N	176	12.44	W	
	52	6.00	N	176	30.00	W	
	52	3.00	N	176	30.00	W	
	52	3.00	N	176	42.00	W	
	52	0.00	N	176	42.00	W	
	52	0.00	N	176	46.64	W	

Name	Latitude			Longitude			Footnotes
	51	57.92	N	176	46.51	W	1
	51	54.00	N	176	37.07	W	
	51	54.00	N	176	18.00	W	
	52	0.00	N	176	18.00	W	
	52	0.00	N	176	12.00	W	
	52	2.85	N	176	12.00	W	1
	52	4.69	N	176	12.44	W	
13. Cape Kiguga/Round Head	52	0.00	N	176	53.00	W	
	52	0.00	N	177	6.00	W	
	51	56.06	N	177	6.00	W	1
	51	54.00	N	177	2.84	W	
	51	54.00	N	176	54.00	W	
	51	48.79	N	176	54.00	W	1
	51	48.00	N	176	50.35	W	
	51	48.00	N	176	43.14	W	1
	51	55.69	N	176	48.59	W	
	51	55.69	N	176	53.00	W	
14. Adak Strait South	51	42.00	N	176	55.77	W	
	51	42.00	N	177	12.00	W	
	51	30.00	N	177	12.00	W	
	51	36.00	N	177	6.00	W	
	51	36.00	N	177	3.00	W	
	51	39.00	N	177	3.00	W	
	51	39.00	N	177	0.00	W	
	51	36.00	N	177	0.00	W	
	51	36.00	N	176	57.72	W	3
15. Bay of Waterfalls	51	38.62	N	176	54.00	W	
	51	36.00	N	176	54.00	W	
	51	36.00	N	176	55.99	W	3
16. Tanaga/Kanaga North	51	54.00	N	177	12.00	W	
	51	54.00	N	177	19.93	W	
	51	51.71	N	177	19.93	W	
	51	51.65	N	177	29.11	W	
	51	54.00	N	177	29.11	W	
	51	54.00	N	177	30.00	W	
	51	57.00	N	177	30.00	W	

Name	Latitude			Longitude			Footnotes
	51	57.00	N	177	42.00	W	
	51	54.00	N	177	42.00	W	
	51	54.00	N	177	54.00	W	
	51	50.92	N	177	54.00	W	1
	51	48.00	N	177	46.44	W	
	51	48.00	N	177	42.00	W	
	51	42.59	N	177	42.00	W	1
	51	45.57	N	177	24.01	W	
	51	48.00	N	177	24.00	W	
	51	48.00	N	177	14.08	W	4
17. Tanaga/Kanaga South	51	43.78	N	177	24.04	W	1
	51	42.37	N	177	42.00	W	
	51	42.00	N	177	42.00	W	
	51	42.00	N	177	50.04	W	1
	51	40.91	N	177	54.00	W	
	51	36.00	N	177	54.00	W	
	51	36.00	N	178	0.00	W	
	51	38.62	N	178	0.00	W	1
	51	42.52	N	178	6.00	W	
	51	49.34	N	178	6.00	W	1
	51	51.35	N	178	12.00	W	
	51	48.00	N	178	12.00	W	
	51	48.00	N	178	30.00	W	
	51	42.00	N	178	30.00	W	
	51	42.00	N	178	36.00	W	
	51	36.26	N	178	36.00	W	1
	51	35.75	N	178	36.00	W	
	51	27.00	N	178	36.00	W	
	51	27.00	N	178	42.00	W	
	51	21.00	N	178	42.00	W	
	51	21.00	N	178	24.00	W	
	51	24.00	N	178	24.00	W	
	51	24.00	N	178	12.00	W	
	51	30.00	N	178	12.00	W	
	51	30.00	N	177	24.00	W	
18. Amchitka Pass East	51	42.00	N	178	48.00	W	
	51	42.00	N	179	18.00	W	

Name	Latitude			Longitude			Footnotes
	51	45.00	N	179	18.00	W	
	51	45.00	N	179	36.00	W	
	51	42.00	N	179	36.00	W	
	51	42.00	N	179	39.00	W	
	51	30.00	N	179	39.00	W	
	51	30.00	N	179	36.00	W	
	51	18.00	N	179	36.00	W	
	51	18.00	N	179	24.00	W	
	51	30.00	N	179	24.00	W	
	51	30.00	N	179	0.00	W	
	51	25.82	N	179	0.00	W	
	51	25.85	N	178	59.00	W	
	51	24.00	N	178	58.97	W	
	51	24.00	N	178	54.00	W	
	51	30.00	N	178	54.00	W	
	51	30.00	N	178	48.00	W	
	51	32.69	N	178	48.00	W	1
	51	33.95	N	178	48.00	W	
19. Amatignak I.	51	18.00	N	178	54.00	W	
	51	18.00	N	179	5.30	W	1
	51	18.00	N	179	6.75	W	
	51	18.00	N	179	12.00	W	
	51	6.00	N	179	12.00	W	
	51	6.00	N	179	0.00	W	
	51	12.00	N	179	0.00	W	
	51	12.00	N	178	54.00	W	
20. Amchitka Pass Center	51	30.00	N	179	48.00	W	
	51	30.00	N	180	0.00	W	
	51	24.00	N	180	0.00	W	
	51	24.00	N	179	48.00	W	
21. Amchitka Pass West	51	36.00	N	179	54.00	E	
	51	36.00	N	179	36.00	E	
	51	30.00	N	179	36.00	E	
	51	30.00	N	179	45.00	E	
	51	27.00	N	179	48.00	E	
	51	24.00	N	179	48.00	E	

Name	Latitude			Longitude			Footnotes
	51	24.00	N	179	54.00	E	
22. Petrel Bank	52	51.00	N	179	12.00	W	
	52	51.00	N	179	24.00	W	
	52	48.00	N	179	24.00	W	
	52	48.00	N	179	30.00	W	
	52	42.00	N	179	30.00	W	
	52	42.00	N	179	36.00	W	
	52	36.00	N	179	36.00	W	
	52	36.00	N	179	48.00	W	
	52	30.00	N	179	48.00	W	
	52	30.00	N	179	42.00	E	
	52	24.00	N	179	42.00	E	
	52	24.00	N	179	36.00	E	
	52	12.00	N	179	36.00	E	
	52	12.00	N	179	36.00	W	
	52	24.00	N	179	36.00	W	
	52	24.00	N	179	30.00	W	
	52	30.00	N	179	30.00	W	
	52	30.00	N	179	24.00	W	
	52	36.00	N	179	24.00	W	
	52	36.00	N	179	18.00	W	
	52	42.00	N	179	18.00	W	
	52	42.00	N	179	12.00	W	
23. Rat I./Amchitka I. South	51	21.00	N	179	36.00	E	
	51	21.00	N	179	18.00	E	
	51	18.00	N	179	18.00	E	
	51	18.00	N	179	12.00	E	
	51	23.77	N	179	12.00	E	1
	51	24.00	N	179	10.20	E	
	51	24.00	N	179	0.00	E	
	51	36.00	N	178	36.00	E	
	51	36.00	N	178	24.00	E	
	51	42.00	N	178	24.00	E	
	51	42.00	N	178	6.00	E	
	51	48.00	N	178	6.00	E	
	51	48.00	N	177	54.00	E	

Name	Latitude			Longitude			Footnotes
	51	54.00	N	177	54.00	E	
	51	54.00	N	178	12.00	E	
	51	48.00	N	178	12.00	E	
	51	48.00	N	178	17.09	E	1
	51	48.00	N	178	20.60	E	
	51	48.00	N	178	24.00	E	
	52	6.00	N	178	24.00	E	
	52	6.00	N	178	12.00	E	
	52	0.00	N	178	12.00	E	
	52	0.00	N	178	11.01	E	1
	52	0.00	N	178	5.99	E	
	52	0.00	N	177	54.00	E	
	52	9.00	N	177	54.00	E	
	52	9.00	N	177	42.00	E	
	52	0.00	N	177	42.00	E	
	52	0.00	N	177	48.00	E	
	51	54.00	N	177	48.00	E	
	51	54.00	N	177	30.00	E	
	51	51.00	N	177	30.00	E	
	51	51.00	N	177	24.00	E	
	51	45.00	N	177	24.00	E	
	51	45.00	N	177	30.00	E	
	51	48.00	N	177	30.00	E	
	51	48.00	N	177	42.00	E	
	51	42.00	N	177	42.00	E	
	51	42.00	N	178	0.00	E	
	51	39.00	N	178	0.00	E	
	51	39.00	N	178	12.00	E	
	51	36.00	N	178	12.00	E	
	51	36.00	N	178	18.00	E	
	51	30.00	N	178	18.00	E	
	51	30.00	N	178	24.00	E	
	51	24.00	N	178	24.00	E	
	51	24.00	N	178	36.00	E	
	51	30.00	N	178	36.00	E	
	51	24.00	N	178	48.00	E	

Name	Latitude			Longitude			Footnotes
	51	18.00	N	178	48.00	E	
	51	18.00	N	178	54.00	E	
	51	12.00	N	178	54.00	E	
	51	12.00	N	179	30.00	E	
	51	18.00	N	179	30.00	E	
	51	18.00	N	179	36.00	E	
24. Amchitka I. North	51	42.00	N	179	12.00	E	
	51	42.00	N	178	57.00	E	
	51	36.00	N	178	56.99	E	
	51	36.00	N	179	0.00	E	
	51	33.62	N	179	0.00	E	2
	51	30.00	N	179	5.00	E	
	51	30.00	N	179	18.00	E	
	51	36.00	N	179	18.00	E	
	51	36.00	N	179	12.00	E	
25. Pillar Rock	52	9.00	N	177	30.00	E	
	52	9.00	N	177	18.00	E	
	52	6.00	N	177	18.00	E	
	52	6.00	N	177	30.00	E	
26. Murray Canyon	51	48.00	N	177	12.00	E	
	51	48.00	N	176	48.00	E	
	51	36.00	N	176	48.00	E	
	51	36.00	N	177	0.00	E	
	51	39.00	N	177	0.00	E	
	51	39.00	N	177	6.00	E	
	51	42.00	N	177	6.00	E	
	51	42.00	N	177	12.00	E	
27. Buldir	52	6.00	N	177	12.00	E	
	52	6.00	N	177	0.00	E	
	52	12.00	N	177	0.00	E	
	52	12.00	N	176	54.00	E	
	52	9.00	N	176	54.00	E	
	52	9.00	N	176	48.00	E	
	52	0.00	N	176	48.00	E	
	52	0.00	N	176	36.00	E	
	52	6.00	N	176	36.00	E	
	52	6.00	N	176	24.00	E	

Name	Latitude			Longitude			Footnotes
	52	12.00	N	176	24.00	E	
	52	12.00	N	176	12.00	E	
	52	18.00	N	176	12.00	E	
	52	18.00	N	176	30.00	E	
	52	24.00	N	176	30.00	E	
	52	24.00	N	176	0.00	E	
	52	18.00	N	176	0.00	E	
	52	18.00	N	175	54.00	E	
	52	6.00	N	175	54.00	E	
	52	6.00	N	175	48.00	E	
	52	0.00	N	175	48.00	E	
	52	0.00	N	175	54.00	E	
	51	54.00	N	175	54.00	E	
	51	54.00	N	175	36.00	E	
	51	42.00	N	175	36.00	E	
	51	42.00	N	175	30.00	E	
	51	36.00	N	175	30.00	E	
	51	36.00	N	175	36.00	E	
	51	30.00	N	175	36.00	E	
	51	30.00	N	175	42.00	E	
	51	36.00	N	175	42.00	E	
	51	36.00	N	176	0.00	E	
	52	0.00	N	176	0.00	E	
	52	0.00	N	176	6.00	E	
	52	6.00	N	176	6.00	E	
	52	6.00	N	176	12.00	E	
	52	0.00	N	176	12.00	E	
	52	0.00	N	176	30.00	E	
	51	54.00	N	176	30.00	E	
	51	54.00	N	177	0.00	E	
	52	0.00	N	177	0.00	E	
	52	0.00	N	177	12.00	E	
28. Buldir donut	51	48.00	N	175	48.00	E	5
	51	48.00	N	175	42.00	E	5
	51	45.00	N	175	42.00	E	5
	51	45.00	N	175	48.00	E	5,7

Name	Latitude			Longitude			Footnotes
29. Buldir Mound	51	54.00	N	176	24.00	E	
	51	54.00	N	176	18.00	E	
	51	48.00	N	176	18.00	E	
	51	48.00	N	176	24.00	E	
30. Buldir West	52	30.00	N	175	48.00	E	
	52	30.00	N	175	36.00	E	
	52	36.00	N	175	36.00	E	
	52	36.00	N	175	24.00	E	
	52	24.00	N	175	24.00	E	
	52	24.00	N	175	30.00	E	
	52	18.00	N	175	30.00	E	
	52	18.00	N	175	36.00	E	
	52	24.00	N	175	36.00	E	
	52	24.00	N	175	48.00	E	
31. Tahoma Canyon	52	0.00	N	175	18.00	E	
	52	0.00	N	175	12.00	E	
	51	42.00	N	175	12.00	E	
	51	42.00	N	175	24.00	E	
	51	54.00	N	175	24.00	E	
	51	54.00	N	175	18.00	E	
32. Walls Plateau	52	24.00	N	175	24.00	E	
	52	24.00	N	175	12.00	E	
	52	18.00	N	175	12.00	E	
	52	18.00	N	175	0.00	E	
	52	12.00	N	175	0.00	E	
	52	12.00	N	174	42.00	E	
	52	6.00	N	174	42.00	E	
	52	6.00	N	174	36.00	E	
	52	0.00	N	174	36.00	E	
	52	0.00	N	174	42.00	E	
	51	54.00	N	174	42.00	E	
	51	54.00	N	174	48.00	E	
	52	0.00	N	174	48.00	E	
	52	0.00	N	174	54.00	E	
	52	6.00	N	174	54.00	E	
	52	6.00	N	175	18.00	E	
	52	12.00	N	175	24.00	E	

Name	Latitude			Longitude			Footnotes
33. Semichi I.	52	30.00	N	175	6.00	E	
	52	30.00	N	175	0.00	E	
	52	36.00	N	175	0.00	E	
	52	36.00	N	174	48.00	E	
	52	42.00	N	174	48.00	E	
	52	42.00	N	174	33.00	E	
	52	36.00	N	174	33.00	E	
	52	36.00	N	174	24.00	E	
	52	39.00	N	174	24.00	E	
	52	39.00	N	174	0.00	E	
	52	42.00	N	173	54.00	E	
	52	45.16	N	173	54.00	E	1
	52	46.35	N	173	54.00	E	
	52	54.00	N	173	54.00	E	
	52	54.00	N	173	30.00	E	
	52	48.00	N	173	30.00	E	
	52	48.00	N	173	36.00	E	
	52	40.00	N	173	36.00	E	
	52	40.00	N	173	25.00	E	
	52	30.00	N	173	25.00	E	
	52	33.00	N	173	40.00	E	
	52	33.00	N	173	54.00	E	
	52	18.00	N	173	54.00	E	
	52	18.00	N	174	30.00	E	
	52	30.00	N	174	30.00	E	
	52	30.00	N	174	48.00	E	
	52	24.00	N	174	48.00	E	
	52	24.00	N	175	6.00	E	
34. Agattu South	52	18.00	N	173	54.00	E	
	52	18.00	N	173	24.00	E	
	52	9.00	N	173	24.00	E	
	52	9.00	N	173	36.00	E	
	52	6.00	N	173	36.00	E	
	52	6.00	N	173	54.00	E	
35. Attu I. North	53	3.00	N	173	24.00	E	
	53	3.00	N	173	6.00	E	
	53	0.00	N	173	6.00	E	

Name	Latitude			Longitude			Footnotes
	53	0.00	N	173	24.00	E	
36. Attu I. West	52	54.00	N	172	12.00	E	
	52	54.00	N	172	0.00	E	
	52	48.00	N	172	0.00	E	
	52	48.00	N	172	12.00	E	
37. Stalemate Bank	53	0.00	N	171	6.00	E	
	53	0.00	N	170	42.00	E	
	52	54.00	N	170	42.00	E	
	52	54.00	N	171	6.00	E	

Note: Unless otherwise footnoted, each area is delineated by connecting in order the coordinates listed by straight lines. Except for the Amlia North/Seguam donut and the Buldir donut, each area delineated in the table is open to nonpelagic trawl gear fishing. The remainder of the entire Aleutian Islands subarea and the areas delineated by the coordinates for the Amlia North/Seguam and Buldir donuts are closed to nonpelagic trawl gear fishing, as specified at § 679.22. Unless otherwise noted, the last set of coordinates for each area is connected to the first set of coordinates for the area by a straight line. The projected coordinate system is North American Datum 1983, Albers.

[1]The connection of these coordinates to the next set of coordinates is by a line extending in a clockwise direction from these coordinates along the shoreline at mean lower-low water to the next set of coordinates.

[2]The connection of these coordinates to the next set of coordinates is by a line extending in a counter clockwise direction from these coordinates along the shoreline at mean lower-low water to the next set of coordinates.

[3]The connection of these coordinates to the first set of coordinates for this area is by a line extending in a clockwise direction from these coordinates along the shoreline at mean lower-low water to the first set of coordinates.

[4]The connection of these coordinates to the first set of coordinates for this area is by a line extending in a counter clockwise direction from these coordinates along the shoreline at mean lower-low water to the first set of coordinates.

[5] The area specified by this set of coordinates is closed to fishing with non-pelagic trawl gear.

[6] This set of coordinates is connected to the first set of coordinates listed for the area by a straight line.

[7]The last coordinate for the donut is connected to the first set of coordinates for the donut by a straight line.

[FR Doc. 08–707 Filed 2–15–08; 8:45 am]
BILLING CODE 3510–22–C

Proposed Rules

Federal Register
Vol. 73, No. 33
Tuesday, February 19, 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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0178; Directorate Identifier 2007–NM–366–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model DHC–8–400 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

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

> Bombardier Aerospace has completed a system safety review of the aircraft fuel system against fuel tank safety standards * * *.
>
> [A]ssessment showed that supplemental maintenance tasks [inspections of various fuel system components such as shields, harnesses, sleeves, and sealant] are required to prevent potential ignition sources inside the fuel system, which could result in a fuel tank explosion. * * *

The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

DATES: We must receive comments on this proposed AD by March 20, 2008.

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

- Federal eRulemaking Portal: Go to *http://www.regulations.gov*. Follow the instructions for submitting comments.
- Fax: (202) 493–2251.
- Mail: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- Hand Delivery: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–40, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

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

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

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2008–0178; Directorate Identifier 2007–NM–366–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2007–33, dated December 17, 2007 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> Bombardier Aerospace has completed a system safety review of the aircraft fuel system against fuel tank standards introduced in Chapter 525 of the Airworthiness Manual through Notice of Proposed Amendment (NPA) 2002–043. The identified non-compliances were then assessed using Transport Canada Policy Letter No. 525–001, to determine if mandatory corrective action is required.
>
> The assessment showed that supplemental maintenance tasks [inspections of various fuel system components such as shields, harnesses, sleeves, and sealant] are required to prevent potential ignition sources inside the fuel system, which could result in a fuel tank explosion. Revision has been made to Part 2 ''Airworthiness Limitation Items'' of the DHC–8–400 Maintenance Requirements Manual to introduce the required maintenance tasks.

The corrective action is revising the Airworthiness Limitations Section of the Instructions for Continued Airworthiness to incorporate new limitations for fuel tank systems. You may obtain further information by examining the MCAI in the AD docket.

The FAA has examined the underlying safety issues involved in fuel tank explosions on several large transport airplanes, including the adequacy of existing regulations, the service history of airplanes subject to those regulations, and existing maintenance practices for fuel tank systems. As a result of those findings, we issued a regulation titled ''Transport Airplane Fuel Tank System Design Review, Flammability Reduction and Maintenance and Inspection Requirements'' (66 FR 23086, May 7, 2001). In addition to new airworthiness standards for transport airplanes and new maintenance requirements, this rule included Special Federal Aviation Regulation No. 88 (''SFAR 88,'' Amendment 21–78, and subsequent Amendments 21–82 and 21–83).

Among other actions, SFAR 88 requires certain type design (i.e., type certificate (TC) and supplemental type certificate (STC)) holders to substantiate that their fuel tank systems can prevent ignition sources in the fuel tanks. This requirement applies to type design holders for large turbine-powered transport airplanes and for subsequent modifications to those airplanes. It requires them to perform design reviews and to develop design changes and

maintenance procedures if their designs do not meet the new fuel tank safety standards. As explained in the preamble to the rule, we intend to adopt airworthiness directives to mandate any changes found necessary to address unsafe conditions identified as a result of these reviews.

In evaluating these design reviews, we have established four criteria intended to define the unsafe conditions associated with fuel tank systems that require corrective actions. The percentage of operating time during which fuel tanks are exposed to flammable conditions is one of these criteria. The other three criteria address the failure types under evaluation: Single failures, single failures in combination with a latent condition(s), and in-service failure experience. For all four criteria, the evaluations included consideration of previous actions taken that may mitigate the need for further action.

We have determined that the actions identified in this AD are necessary to reduce the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

Relevant Service Information

Bombardier has issued Temporary Revision ALI–69, dated February 9, 2007, to Section 4, ''Fuel System Limitations,'' of Part 2, ''Airworthiness Limitations Items,'' (AWL) of the Bombardier Dash 8 Q400 Maintenance Requirements Manual Product Support Manual (PSM) 1–84–7. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

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

This proposed AD would also allow accomplishing the AWL revision in accordance with later revisions of the Maintenance Requirements Manual as an acceptable method of compliance if the limit or interval is part of a later approved Maintenance Requirements Manual revision or the limit or interval is approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (g) of this proposed AD.

In most ADs, we adopt a compliance time allowing a specified amount of time after the AD's effective date. In this case, however, the FAA has already issued regulations that require operators to revise their maintenance/inspection programs to address fuel tank safety issues. The compliance date for these regulations is December 16, 2008. To provide for coordinated implementation of these regulations and this proposed AD, we are using this same compliance date in this proposed AD.

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 38 products of U.S. registry. We also estimate that it would take about 1 work-hour per product to comply with the basic requirements of this proposed AD. The average labor rate is $80 per work-hour. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $3,040, or $80 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Bombardier, Inc. (Formerly de Havilland, Inc.): Docket No. FAA–2008–0178; Directorate Identifier 2007–NM–366–AD.

Comments Due Date

(a) We must receive comments by March 20, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Bombardier Model DHC–8–400, DHC–8–401, and DHC–8–402 airplanes, certificated in any category, all serial numbers.

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

Subject

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

Reason

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

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

The assessment showed that supplemental maintenance tasks [inspections of various fuel system components such as shields, harnesses, sleeves, and sealant] are required to prevent potential ignition sources inside the fuel system, which could result in a fuel tank explosion. Revision has been made to Part 2 ''Airworthiness Limitation Items'' of the DHC–8–400 Maintenance Requirements Manual to introduce the required maintenance tasks.

The corrective action is revising the Airworthiness Limitations Section of the Instructions for Continued Airworthiness to incorporate new limitations for fuel tank systems.

Actions and Compliance

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

(1) Within 60 days after the effective date of this AD, or before December 16, 2008, whichever occurs first, revise the ALS of the Instructions for Continued Airworthiness to incorporate the inspection requirements of Bombardier Temporary Revision ALI–69, dated February 9, 2007, to Section 4, ''Fuel System Limitations,'' of Part 2, ''Airworthiness Limitations Items,'' of the Bombardier Dash 8 Q400 Maintenance Requirements Manual Product Support Manual (PSM) 1–84–7 (''the TR to the MRM''). For all fuel system limitations tasks contained in the TR to the MRM, the initial compliance times start from the later of the times specified in paragraphs (f)(1)(i) and (f)(1)(ii) of this AD, and the repetitive inspections must be accomplished thereafter at the interval specified in the TR to the MRM, except as provided by paragraphs (f)(2) and (g)(1) of this AD.

Note 2 : The actions required by paragraph (f)(1) of this AD may be done by inserting a copy of Bombardier TR ALI–69 into the Airworthiness Limitations section of the Dash 8 Q400 MRM 1–84–7. When this TR has been included in general revisions of the MRM, the general revisions may be inserted in the PSM, provided the relevant information in the general revision is identical to that in Bombardier TR ALI–69.

(i) The effective date of this AD.

(ii) The date of issuance of the original Canadian standard airworthiness certificate or the date of issuance of the original Canadian export certificate of airworthiness.

(2) After accomplishing the actions specified in paragraph (f)(1) of this AD, no alternative inspections or inspection intervals may be used unless the inspections or inspection intervals are part of a later revision of Bombardier Dash 8 Q400 MRM, PSM 1–84–7, Revision 4, dated October 30, 2003, that is approved by the Manager, New York Aircraft Certification Office (ACO), FAA, or Transport Canada Civil Aviation (TCCA) (or its delegated agent); or unless the inspections or inspection intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (g)(1) of this AD.

FAA AD Differences

Note 3: This AD differs from the MCAI and/or service information as follows: No differences.

Other FAA AD Provisions

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

(1) Alternative Methods of Compliance (AMOCs): The Manager, New York ACO, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Rocco Viselli, Aerospace Engineer, Airframe and Propulsion Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7331; fax (516) 794–5531. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

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

Related Information

(h) Refer to MCAI Canadian Airworthiness Directive CF–2007–33, dated December 17, 2007, and Temporary Revision ALI–69, dated February 9, 2007, to Section 4, ''Fuel System Limitations,'' of Part 2, ''Airworthiness Limitations Items'' (AWL), of the Bombardier Dash 8 Q400 Maintenance Requirements Manual Product Support Manual (PSM) 1–84–7.

Issued in Renton, Washington, on February 11, 2008.

Stephen P. Boyd,

Assistant Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–2997 Filed 2–15–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0179; Directorate Identifier 2007–NM–367–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model DHC–8–102, DHC–8–103, DHC–8–106, DHC–8–201, DHC–8–202, DHC–8–301, DHC–8–311, and DHC–8–315 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

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

Bombardier Aerospace has completed a system safety review of the aircraft fuel system against fuel tank safety standards * * *.

[A]ssessment showed that supplemental maintenance tasks [inspections of fuel tank bonding jumpers, wiring harnesses, and drain valve components, among other items and actions; and applicable corrective actions] are required to prevent potential ignition sources inside the fuel system, which could result in a fuel tank explosion. * * *

The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

DATES: We must receive comments on this proposed AD by March 20, 2008.

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

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

- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–40, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

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

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

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2008–0179; Directorate Identifier 2007–NM–367–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2007–32, dated December 17, 2007 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> Bombardier Aerospace has completed a system safety review of the aircraft fuel system against fuel tank standards introduced in Chapter 525 of the Airworthiness Manual through Notice of Proposed Amendment (NPA) 2002–043. The identified non-compliances were then assessed using Transport Canada Policy Letter No. 525–001, to determine if mandatory corrective action is required.
>
> The assessment showed that supplemental maintenance tasks [inspections of fuel tank bonding jumpers, wiring harnesses, and drain valve components, among other items and actions; and applicable corrective actions] are required to prevent potential ignition sources inside the fuel system, which could result in a fuel tank explosion. Revisions have been made to Part 2 ''Airworthiness Limitations List'' of the DHC–8 Maintenance Program Manuals to introduce the required maintenance tasks.

The corrective action is revising the Airworthiness Limitations Section of the Instructions for Continued Airworthiness to incorporate new limitations for fuel tank systems. You may obtain further information by examining the MCAI in the AD docket.

The FAA has examined the underlying safety issues involved in fuel tank explosions on several large transport airplanes, including the adequacy of existing regulations, the service history of airplanes subject to those regulations, and existing maintenance practices for fuel tank systems. As a result of those findings, we issued a regulation titled ''Transport Airplane Fuel Tank System Design Review, Flammability Reduction and Maintenance and Inspection Requirements'' (66 FR 23086, May 7, 2001). In addition to new airworthiness standards for transport airplanes and new maintenance requirements, this rule included Special Federal Aviation Regulation No. 88 (''SFAR 88,'' Amendment 21–78, and subsequent Amendments 21–82 and 21–83).

Among other actions, SFAR 88 requires certain type design (i.e., type certificate (TC) and supplemental type certificate (STC)) holders to substantiate that their fuel tank systems can prevent ignition sources in the fuel tanks. This requirement applies to type design holders for large turbine-powered transport airplanes and for subsequent modifications to those airplanes. It requires them to perform design reviews and to develop design changes and maintenance procedures if their designs do not meet the new fuel tank safety standards. As explained in the preamble to the rule, we intended to adopt airworthiness directives to mandate any changes found necessary to address unsafe conditions identified as a result of these reviews.

In evaluating these design reviews, we have established four criteria intended to define the unsafe conditions associated with fuel tank systems that require corrective actions. The percentage of operating time during which fuel tanks are exposed to flammable conditions is one of these criteria. The other three criteria address the failure types under evaluation: Single failures, single failures in combination with a latent condition(s), and in-service failure experience. For all four criteria, the evaluations included consideration of previous actions taken that may mitigate the need for further action.

We have determined that the actions identified in this AD are necessary to reduce the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

Relevant Service Information

Bombardier (de Havilland) has issued temporary revisions (TRs) to Part 2 ''Airworthiness Limitations List'' (AWL) of the de Havilland Dash 8 Series Maintenance Program Manuals (MPMs). The TRs are listed in the table titled ''TRs to the DHC–8 MPMs.''

TRs to the DHC–8 MPMs

MPM	TR Nos.	TR date
Dash 8 Series 100 Product Support Manual 1–8–7	AWL–110	August 31, 2007.
Dash 8 Series 200 Product Support Manual 1–82–7	AWL 2–43	August 31, 2007.
Dash 8 Series 300 Product Support Manual 1–83–7	AWL 3–109	August 31, 2007.

The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

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

This proposed AD would also allow accomplishing the AWL revision in accordance with later revisions of the Maintenance Program Manual (MPM) as an acceptable method of compliance if the limit or interval is part of a later approved MPM revision or the limit or interval is approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (g) of this proposed AD.

In most ADs, we adopt a compliance time allowing a specified amount of time after the AD's effective date. In this case, however, the FAA has already issued regulations that require operators to revise their maintenance/inspection programs to address fuel tank safety issues. The compliance date for these regulations is December 16, 2008. To provide for coordinated implementation of these regulations and this proposed AD, we are using this same compliance date in this proposed AD.

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 122 products of U.S. registry. We also estimate that it would take about 1 work-hour per product to comply with the basic requirements of this proposed AD. The average labor rate is $80 per work-hour. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $9,760, or $80 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Bombardier, Inc. (Formerly de Havilland, Inc.): Docket No. FAA–2008–0179; Directorate Identifier 2007–NM–367–AD.

Comments Due Date

(a) We must receive comments by March 20, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Bombardier Model DHC–8–102, DHC–8–103, DHC–8–106, DHC–8–201, DHC–8–202, DHC–8–301, DHC–8–311, and DHC–8–315 airplanes, certificated in any category, all serial numbers.

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

Subject

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

Reason

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

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

The assessment showed that supplemental maintenance tasks [inspections of fuel tank bonding jumpers, wiring harnesses, and drain valve components, among other items and actions; and applicable corrective actions] are required to prevent potential

ignition sources inside the fuel system, which could result in a fuel tank explosion. Revisions have been made to Part 2 ''Airworthiness Limitations List'' of the DHC–8 Maintenance Program Manuals to introduce the required maintenance tasks.

The corrective action is revising the Airworthiness Limitations Section of the Instructions for Continued Airworthiness to incorporate new limitations for fuel tank systems.

Actions and Compliance

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

(1) Within 60 days after the effective date of this AD, or before December 16, 2008, whichever occurs first, revise the Airworthiness Limitations Section (ALS) of the Instructions for Continued Airworthiness to incorporate the fuel system limitations tasks identified in the de Havilland temporary revisions (TRs) to Part 2 ''Airworthiness Limitations List'' of the Dash 8 Series Maintenance Program Manuals (''the MPMs''). The TRs are listed in Table 1 of this AD. For the tasks identified in the TRs, the initial compliance times start from the later of the times specified in paragraphs (f)(1)(i) and (f)(1)(ii) of this AD, and the repetitive inspections must be accomplished thereafter at the interval specified in the TRs to the MPM, except as provided by paragraphs (f)(2), (f)(3), (f)(4), and (g)(1) of this AD.

(i) The effective date of this AD.

(ii) The date of issuance of the original Canadian standard airworthiness certificate or the date of issuance of the original Canadian export certificate of airworthiness.

TABLE 1.—TEMPORARY REVISIONS

Model	de Havilland TR	Maintenance Program Manual (MPM)
DHC–8–102, DHC–8–103, and DHC–8–106 airplanes.	AWL–110, dated August 31, 2007	Dash 8 Series 100 MPM, Product Support Manual (PSM) 1–8–7, Part 2, ''Airworthiness Limitations List''.
DHC–8–201, and DHC–8–202 airplanes	AWL 2–43, dated August 31, 2007	Dash 8 Series 200 MPM, PSM 1–82–7, Part 2, ''Airworthiness Limitations List''.
DHC–8–301, DHC–8–311, and DHC–8–315 airplanes.	AWL 3–109, dated August 31, 2007	Dash 8 Series 300 MPM, PSM 1–83–7, Part 2, ''Airworthiness Limitations List''.

Note 2: The actions required by paragraph (f)(1) of this AD may be done by inserting a copies of the applicable TR listed in Table 1 of this AD into the Airworthiness Limitations section of the applicable MPM listed in Table 1 of this AD. When the applicable TR has been included in general revisions of the applicable MPM, the general revisions may be inserted in the MPM, provided the relevant information in the general revision is identical to that in the applicable TR.

(2) For airplanes that have accumulated 4,000 total flight hours, or 24 months since new as of the effective date of this AD: For those tasks with 6,000 flight hours/36 month inspection intervals, do the initial inspection within 2,000 flight hours or 12 months after the effective date of this AD, whichever occurs first. Thereafter, repeat the inspection at intervals not to exceed 6,000 flight hours or 36 months, whichever occurs first.

(3) For airplanes that have accumulated 12,000 total flight hours, or 72 months since new as of the effective date of this AD: For those tasks with 18,000 flight hours/108 month inspection intervals, do the initial inspection within 6,000 flight hours or 36 months after the effective date of this AD, whichever occurs first. Thereafter, repeat the inspection at intervals not to exceed 18,000 flight hours or 108 months, whichever occurs first.

(4) After accomplishing the actions specified in paragraphs (f)(1), (f)(2), and (f)(3) of this AD, no alternative inspections or inspection intervals may be used unless the inspections or inspection intervals are part of a later revision of Part 2 ''Airworthiness Limitations List'' of the applicable de Havilland Dash 8 Series MPM listed in Table 2 of this AD, that is approved by the Manager, New York Aircraft Certification Office (ACO), FAA, or the Transport Canada Civil Aviation (TCCA) (or its delegated agent); or unless inspections or inspection intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (g)(1) of this AD.

TABLE 2.—MPMS

Model	Maintenance Program Manual (MPM)
.....	
DHC–8–102, DHC–8–103, and DHC–8–106 airplanes.	Dash 8 Series 100 MPM, Product Support Manual (PSM) 1–8–7, Part 2, ''Airworthiness Limitations List,'' Revision 17, dated April 19, 2005.
DHC–8–201, and DHC–8–202 airplanes.	Dash 8 Series 200 MPM, PSM 1–82–7, Part 2, ''Airworthiness Limitations List,'' Revision 5, dated August 15, 2001.
DHC–8–301, DHC–8–311, and DHC–8–315 airplanes.	Dash 8 Series 300 MPM, PSM 1–83–7, Part 2, ''Airworthiness Limitations List,'' Revision 16, dated August 15, 2001.

FAA AD Differences

Note 3: This AD differs from the MCAI and/or service information as follows: No differences.

Other FAA AD Provisions

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

(1) Alternative Methods of Compliance (AMOCs): The Manager, New York ACO, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Rocco Viselli, Aerospace Engineer, Airframe and Propulsion Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7331; fax (516) 794–5531. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

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

Related Information

(h) Refer to MCAI Canadian Airworthiness Directive CF–2007–32, dated December 17, 2007, and the temporary revisions listed in Table 1 of this AD.

Issued in Renton, Washington, on February 11, 2008.

Stephen P. Boyd,

Assistant Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–3000 Filed 2–15–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2008–0111; Airspace Docket No. 08–AAL–2]

Proposed Establishment of Class E Airspace; White Hills, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to establish Class E airspace at White Hills, AK. Two Special Instrument Approach Procedures (IAPs) are being developed for the White Hills Airstrip at White Hills, AK. Additionally, a Special textual Obstacle Departure Procedure (ODP) is being developed. These Special procedures will be for use by the company that has paid for their publication. Adoption of this proposal would result in establishment of Class E airspace upward from 700 feet (ft.) and 1,200 ft. above the surface at the White Hills Airstrip, White Hills, AK.

DATES: Comments must be received on or before April 4, 2008.

ADDRESSES: Send comments on the proposal to the Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. You must identify the docket number FAA–2008–0111/ Airspace Docket No. 08–AAL–2, at the beginning of your comments. You may also submit comments on the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

An informal docket may also be examined during normal business hours at the office of the Manager, Safety, Alaska Flight Service Operations, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2008–0111/Airspace Docket No. 08–AAL–2.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of Notice of Proposed Rulemakings (NPRMs)

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov* or the Superintendent of Document's Web page at *http://www.access.gpo.gov/nara/index.html.*

Additionally, any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration, Office of Air Traffic Airspace Management, ATA–400, 800 Independence Avenue, SW., Washington, DC 20591 or by calling (202) 267–8783. Communications must identify both docket numbers for this notice. Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking, (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

The FAA is considering an amendment to the Code of Federal Regulations (14 CFR Part 71), which would establish Class E airspace at the White Hills Airstrip, in White Hills, AK. The intended effect of this proposal is to establish Class E airspace upward from 700 ft. and 1,200 ft. above the surface to contain Instrument Flight Rules (IFR) operations at the White Hills Airstrip, White Hills, AK.

The FAA Instrument Flight Procedures Production and Maintenance Branch has developed two Special IAPs and a Special ODP for the White Hills Airstrip. The new Special approaches are (1) the Area Navigation (RNAV) Global Positioning System (GPS) Runway (RWY) 04, Original (Orig) and (2) the RNAV (GPS) RWY 22, Orig. Textual ODPs are unnamed and are typically published in the front of the U.S. Terminal Procedures for Alaska. In this case because the procedures have been funded by a private entity, they will not be published. Class E controlled airspace is still required, and would extend upward from 700 ft. and 1,200 ft. above the surface in the White Hills Airstrip area, and would be established by this action. The proposed airspace is sufficient in size to contain aircraft executing the Special IAPs at the White Hills Airstrip, White Hills, AK.

The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 in FAA Order 7400.9R, *Airspace Designations and Reporting Points,* signed August 15, 2007, and effective September 15, 2007, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document would be published subsequently in the Order.

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

only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

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

* * * * *

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

* * * * *

AAL AK E5 White Hills, AK [New]

White Hills, White Hills Airstrip, AK

(Lat. 69°42′15″ N., long. 149°53′56″ W.)

That airspace extending upward from 700 feet above the surface within a 4.5-mile radius of the White Hills Airstrip, and within 1.0 mile either side of the 246°(T) 268°(M) bearing from the White Hills Airstrip, extending from the 4.5-mile radius to 7.0 miles southwest of the White Hills Airstrip, and within 1.0 mile either side of the 067°(T)/089°(M) bearing from the White Hills Airstrip, extending from the 4.5-mile radius to 7.0 miles northeast of the White Hills Airstrip; and that airspace extending upward from 1,200 feet above the surface within a 72-mile radius of the White Hills Airstrip.

* * * * *

Issued in Anchorage, AK, on February 8, 2008.

Derril D. Bergt,

Acting Manager, Alaska Flight Services Information Area Group.

[FR Doc. E8–2976 Filed 2–15–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2008–0037; Airspace Docket No. 07–AWP–6]

Proposed Establishment of Low Altitude Area Navigation Routes (T-Routes); Sacramento and San Francisco, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish four low altitude Area Navigation (RNAV) routes, designated T–257, T–259, T–261 and T–263 in the Sacramento and San Francisco, CA, terminal areas. T-routes are low altitude Air Traffic Service (ATS) routes, based on RNAV, for use by aircraft having instrument flight rules (IFR)-approved Global Positioning System (GPS)/Global Navigation Satellite System (GNSS) equipment. The FAA is proposing this action to enhance safety and improve the efficient use of the navigable airspace in the Sacramento and San Francisco, CA, terminal areas.

DATES: Comments must be received on or before April 4, 2008.

ADDRESSES: Send comments on this proposal to the Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001; *telephone:* (202) 366–9826. You must identify FAA Docket No. FAA Docket No. FAA–2008–0037 and Airspace Docket No. 07–AWP–6 at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Ken McElroy, Airspace and Rules Group, Office of System Operations Airspace and AIM, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; *telephone:* (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA Docket No. FAA–2008–0037 and Airspace Docket No. 07–AWP–6) and be submitted in triplicate to the Docket Management Facility (see ''**ADDRESSES**'' section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA Docket No. FAA–2008–0037 and Airspace Docket No. 07–AWP–6.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the

Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *http://www.faa.gov* or the Federal Register's web page at *http://www.gpoaccess.gov/fr/index.html.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Western Service Center, Air Traffic Organization, Federal Aviation Administration, 1601 Lind Avenue, 15000 SW., Renton, WA 98055.

Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

History

Low Altitude RNAV Route Identification and Charting

Low altitude RNAV routes are identified by the letter ''T'' prefix followed by a three digit number. The ''T'' prefix is one of several International Civil Aviation Organization designators used to identify domestic RNAV routes. The FAA has been allocated the letter ''T'' prefix and the number block 200 to 500 for use in naming these routes. The FAA uses the ''T'' prefix for RNAV routes in the low altitude en route structure of the National Airspace System.

T-routes are depicted in blue on the appropriate IFR en route low altitude chart(s). Each route depiction includes a GNSS minimum en route altitude to ensure obstacle clearance and communications reception.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 to establish four low altitude RNAV routes in the Sacramento and San Francisco, CA, terminal areas. The routes would be designated T–257, T–259, T–261 and T–263, and would be depicted on the appropriate IFR En Route Low Altitude charts. T-routes are low altitude RNAV ATS routes, similar to Very High Frequency Omnidirectional Range Federal airways, but based on GNSS navigation. RNAV-equipped aircraft capable of filing flight plan equipment suffix ''G'' may file for these routes.

The T-routes described in this notice are being proposed to enhance safety, and to facilitate the more flexible and efficient use of the navigable airspace for en route IFR operations transitioning through and around the Sacramento and San Francisco, CA, terminal areas.

Low altitude RNAV routes are published in paragraph 6011 of FAA Order 7400.9R signed August 15, 2007 and effective September 15, 2007, which is incorporated by reference in 14 CFR 71.1. The low altitude RNAV routes listed in this document would be published subsequently in the Order.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle 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.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes RNAV T-Routes at Sacramento and San Francisco, CA.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures,'' paragraph 311a, 311b, and 311k. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

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

Paragraph 6011—Contiguous United States Area Navigation Routes

* * * * *

T–257 Big Sur, CA (BSR) to Point Reyes (PYE) [New]

Big Sur, CA (BSR)	VORTAC	(Lat. 36°10′53″ N., long. 121°38′32″ W.)
ISIFU	WP	(Lat. 36°43′29″ N., long. 121°56′57″ W.)
SUTRO	WP	(Lat. 36°42′43″ N., long. 122°32′49″ W.)
Point Reyes, CA (PYE)	VORTAC	(Lat. 38°04′47″ N., long. 122°52′41″ W.)

* * * * * * *

T–259 Sacramento, CA (SAC) to San Jose, CA (SJC) [New]

Sacramento, CA. (SAC)	VORTAC	(Lat. 38°26′37″ N., long. 121°33′00″ W.)
MOVDD	WP	(Lat. 37°39′41″ N., long. 121°26′54″ W.)

CEDES	WP	(Lat. 37°33′30″ N., long. 121°37′51″ W.)
San Jose, CA. (SJC)	VORTAC	(Lat. 37°22′29″ N., long. 121°56′41″ W.)

* * * * * * *

T–261 Woodside, CA (OSI) to ALTAM [New]

Woodside, CA (OSI)	VORTAC	(Lat. 37°23′33″ N., long. 122°16′55″ W.)
ALTAM	WP	(Lat. 37°48′44″ N., long. 121°44′50″ W.)

* * * * * * *

T–263 Sunol to Scaggs Island, CA (SGD) [New]

SUNOL	WP	(Lat. 37°36′20″ N., long. 121°48′37″ W.)
Scaggs Island, CA (SGD)	VORTAC	(Lat. 38°10′46″ N., long. 122°22′23″ W.)

* * * * * * *

Issued in Washington, DC on February 8, 2008.

Ellen Crum,

Acting Manager, Airspace and Rules Group.

[FR Doc. E8–2978 Filed 2–15–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2008–0141; Airspace Docket No. 08–AAL–4]

Proposed Revision of Class E Airspace; Allakaket, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to revise Class E airspace at Allakaket, AK. Two Standard Instrument Approach Procedures (SIAPs) are being developed for the Allakaket Airport at Allakaket, AK. Additionally, a textual Obstacle Departure Procedure (ODP) is being developed. Adoption of this proposal would result in revision of existing Class E airspace upward from 700 feet (ft.) and 1,200 ft. above the surface at the Allakaket Airport, Allakaket, AK.

DATES: Comments must be received on or before April 4, 2008.

ADDRESSES: Send comments on the proposal to the Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. You must identify the docket number FAA–2008–0141/ Airspace Docket No. 08–AAL–4, at the beginning of your comments. You may also submit comments on the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

An informal docket may also be examined during normal business hours at the office of the Manager, Safety, Alaska Flight Service Operations, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2008–0141/Airspace Docket No. 08–AAL–4.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of Notice of Proposed Rulemakings (NPRMs)

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *http://www.faa.gov* or the Superintendent of Documents web page at *http://www.access.gpo.gov/nara/index.html.*

Additionally, any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration, Office of Air Traffic Airspace Management, ATA–400, 800 Independence Avenue, SW., Washington, DC 20591 or by calling (202) 267–8783. Communications must identify both docket numbers for this notice. Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking, (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

The FAA is considering an amendment to the Code of Federal Regulations (14 CFR Part 71), which would revise the Class E airspace at the Allakaket Airport, in Allakaket, AK. The intended effect of this proposal is to revise Class E airspace upward from 700 ft. and 1,200 ft. above the surface to contain Instrument Flight Rules (IFR) operations at the Allakaket Airport, Allakaket, AK.

The FAA Instrument Flight Procedures Production and

Maintenance Branch has developed two SIAPs and an ODP for the Allakaket Airport. The new approaches are (1) the Area Navigation (RNAV) Global Positioning System (GPS) Runway (RWY) 05, Original (Orig) and (2) the RNAV (GPS) RWY 23, 0rig. Textual ODP's are unnamed and are published in the front of the U.S. Terminal Procedures for Alaska. Class E controlled airspace extending upward from 700 ft. and 1,200 ft. above the surface in the Allakaket Airport area would be revised by this action. The proposed airspace is sufficient in size to contain aircraft executing the instrument procedures at the Allakaket Airport, Allakaket, AK.

The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 in FAA Order 7400.9R, *Airspace Designations and Reporting Points,* signed August 15, 2007, and effective September 15, 2007, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document would be published subsequently in the Order.

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

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

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

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

* * * * *

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

* * * * *

AAL AK E5 Allakaket, AK [Revised]

Allakaket, Allakaket Airport, AK
(Lat. 66°30′07″ N., long. 152°37′20″ W.)

That airspace extending upward from 700 feet above the surface within a 7.1-mile radius of the Allakaket Airport; and that airspace extending upward from 1,200 feet above the surface extending clockwise from the 045°(T)/066°(M) bearing to the 175°(T)/196°(M) bearing within 72 miles of the Allakaket Airport.

* * * * *

Issued in Anchorage, AK, on February 8, 2008.

Derril D. Bergt,

Acting Manager, Alaska Flight Services Information Area Group.

[FR Doc. E8–2967 Filed 2–15–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2008–0134; Airspace Docket No. 08–AAL–3]

Proposed Revision of Class E Airspace; St. Mary's, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to revise Class E airspace at St. Mary's, AK. Two Standard Instrument Approach Procedures (SIAPs) are being developed for the St. Mary's Airport at St. Mary's, AK. Additionally, four SIAPs are being amended. Adoption of this proposal would result in revision of Class E airspace upward from the surface, and from 700 feet (ft.) and 1,200 ft. above the surface at the St. Mary's Airport, St. Mary's, AK.

DATES: Comments must be received on or before April 4, 2008.

ADDRESSES: Send comments on the proposal to the Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. You must identify the docket number FAA–2008–0134/ Airspace Docket No. 08–AAL–3, at the beginning of your comments. You may also submit comments on the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

An informal docket may also be examined during normal business hours at the office of the Manager, Safety, Alaska Flight Service Operations, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2008–0134/Airspace Docket No. 08–AAL–3.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of Notice of Proposed Rulemaking's (NPRM's)

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *http://www.faa.gov* or the Superintendent of Document's web page at *http://www.access.gpo.gov/nara/index.html.*

Additionally, any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration, Office of Air Traffic Airspace Management, ATA–400, 800 Independence Avenue, SW., Washington, DC 20591 or by calling (202) 267–8783. Communications must identify both docket numbers for this notice. Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

The FAA is considering an amendment to the Code of Federal Regulations (14 CFR Part 71), which would revise Class E airspace at the St. Mary's Airport, in St. Mary's, AK. The intended effect of this proposal is to revise Class E airspace upward from the surface, and from 700 ft. and 1,200 ft. above the surface to contain Instrument Flight Rules (IFR) operations at the St. Mary's Airport, St. Mary's, AK.

The FAA Instrument Flight Procedures Production and Maintenance Branch has developed two new SIAPs and amended four SIAPs for the St. Mary's Airport. The new approaches are (1) the Area Navigation (RNAV) Z Global Positioning System (GPS) Runway (RWY) 17, Original (Orig) and (2) the RNAV (GPS) Z RWY 35, Orig. The amended approaches are (1) the RNAV (GPS) Y RWY 17, Amendment (Amdt) 2, (2) the RNAV (GPS) Y RWY 35, Amdt 1, (3) the Localizer (LOC)/Distance Measuring Equipment (DME) RWY 17, Amdt 4, and (4) the Nondirectional Beacon (NDB)/DME RWY 35, Amdt 1. Class E controlled airspace extending upward from the surface, and from 700 ft. and 1,200 ft. above the surface in the St. Mary's Airport area would be established by this action. The proposed airspace is sufficient in size to contain aircraft executing the instrument procedures at the St. Mary's Airport, St. Mary's, AK.

The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as surface areas are published in paragraph 6002 of FAA Order 7400.9R, *Airspace Designations and Reporting Points,* signed August 15, 2007, and effective September 15, 2007, which is incorporated by reference in 14 CFR 71.1. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 in FAA Order 7400.9R, *Airspace Designations and Reporting Points,* signed August 15, 2007, and effective September 15, 2007, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document would be published subsequently in the Order.

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

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

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

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

September 15, 2007, is to be amended as follows:

* * * * *

Paragraph 6002 Class E Airspace Designated as Surface Areas.

* * * * *

AAL AK E2 St. Mary's, AK [Revised]

St. Mary's, St. Mary's Airport, AK
(Lat. 62°03 38 N., long. 163°18 07 W.)

Within a 6.7-mile radius of the St. Mary's Airport, and within 4 miles either side of the 202° (T)/217°(M) bearing from the St. Mary's Airport extending from the 6.7-mile radius to 10 miles south of the St. Mary's Airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

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

* * * * *

AAL AK E5 St. Mary's, AK [Revised]

St. Mary's, St. Mary's Airport, AK
(Lat. 62°03 38 N., long. 163°18 07 W.)

That airspace extending upward from 700 feet above the surface within a 8.7-mile radius of the St. Mary's Airport, and within 4 miles east and 8 miles west of the 202°(T), 217°(M) bearing from the St. Mary's Airport, extending from the 8.7-mile radius to 16 miles south of the St. Mary's Airport.

* * * * *

Issued in Anchorage, AK, on February 8, 2008.

Derril D. Bergt,

Acting Manager, Alaska Flight Services Information Area Group.

[FR Doc. E8–2977 Filed 2–15–08; 8:45 am]

BILLING CODE 4910–13–P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1615

RIN 3046–AA82

Enforcement of Nondiscrimination on the Basis of Disability in Programs or Activities Conducted by the Equal Employment Opportunity Commission and Accessibility of Commission Electronic and Information Technology

AGENCY: Equal Employment Opportunity Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Equal Employment Opportunity Commission (EEOC or Commission) proposes to amend its regulation to establish that all complaints under section 508 of the Rehabilitation Act of 1973, as amended (section 508), whether filed by members of the public or EEOC employees, will be processed under the procedures for section 504 public complaints. The Commission also proposes to update terminology which outlines how EEOC enforces section 504 of the Rehabilitation Act with respect to its own programs or activities. Finally, the Commission proposes to update or eliminate certain sections of this regulation that are no longer relevant.

DATES: Written comments on this proposed rulemaking must be submitted on or before April 21, 2008.

ADDRESSES: Written comments should be submitted to Stephen Llewellyn, Executive Officer, Executive Secretariat, Equal Employment Opportunity Commission, 10th Floor, 1801 L Street, NW., Washington, DC 20507. As a convenience to commentators, the Executive Secretariat will accept comments transmitted by facsimile (''FAX'') machine. The telephone number of the FAX receiver is (202) 663–4114. (This is not a toll-free number.) Only comments of six or fewer pages will be accepted via FAX transmittal to ensure access to the equipment. Receipt of FAX transmittals will not be acknowledged, except that the sender may request confirmation of receipt by calling the Executive Secretariat staff at (202) 663–4070 (voice) or (202) 663–4074 (TTD). (These are not toll-free telephone numbers.) You may also submit comments and attachments electronically at *http://www.regulations.gov*, which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments. Copies of comments submitted by the public will be available to review at the Commission's library, Room 6502, 1801 L Street, NW., Washington, DC 20507 between the hours of 9:30 a.m. and 5 p.m. or can be reviewed at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Carol R. Miaskoff or Kerry Leibig, Office of Legal Counsel, U.S. Equal Employment Opportunity Commission at (202) 663–4638. (This is not a toll-free-telephone number.)

SUPPLEMENTARY INFORMATION: Section 508 of the Rehabilitation Act provides that each federal agency must ensure that the electronic and information technology it develops, procures, maintains, or uses is accessible to individuals with disabilities who are federal employees or applicants, or members of the public seeking information or services from the agency. Section 508 authorizes individuals to file administrative complaints and civil actions limited to the alleged failure to procure accessible technology. In addition to amending part 1615 to address the requirements of Section 508, this notice proposes to update terminology and eliminate certain sections of part 1615 that are no longer relevant.

Summary of Updates in Proposed Regulation

In 1992, Congress amended the Rehabilitation Act to replace the term ''handicap'' with the term ''disability.'' Public Law 102–569, 106 Stat. 4344. Accordingly, the Commission proposes to replace the term ''handicap'' with the term ''disability'' throughout part 1615. The Commission similarly proposes, again throughout part 1615, to replace the phrase ''individual with handicaps'' with ''individual with a disability'' and the phrase ''individuals with handicaps'' with ''individuals with disabilities.'' Finally, the Commission proposes to replace the term ''nonhandicapped persons'' in 1615.130(c) with the term ''individuals without disabilities.''

Throughout this part, the Commission proposes to replace the term ''Chairman'' with the term ''Chair'' and the terms ''EEO Director'' and ''Director, Equal Employment Opportunity Staff'' with the term ''Director of OEO.''

The Commission proposes to revise the definition at 1615.103 of ''qualified individual with handicaps,'' as it relates to employment. The revised definition will cross-reference 29 CFR 1630.2(m), which defines ''qualified individual with a disability'' under the Americans with Disabilities Act (ADA), and will delete the previous reference. It is necessary to refer to 29 CFR 1630.2(m) in the regulations implementing section 504 because the Rehabilitation Act was amended in 1992 to apply the nondiscrimination standards of Titles I and V of the ADA, as amended, to section 504 complaints alleging non-affirmative action employment discrimination. See 29 U.S.C. 794(d). The appropriate definition of ''qualified individual with a disability'' with respect to employment is therefore now found at 29 CFR 1630.2(m).

The Commission proposes to eliminate the entire text of 1615.110. Section 1615.110 requires that the EEOC complete, by June 26, 1990, a self-evaluation of policies and practices, and the effects thereof, that do not or may not meet the requirements of the regulation. It further requires that a description of areas examined, problems identified, and modifications made to be kept on file for at least three years. Because these requirements were met and the given time periods have long

since passed, this section of the regulation is deleted.

The Commission proposes to revise section 1615.140, which sets forth section 504's prohibition against employment discrimination, to cross-reference the Commission's ADA regulations at 29 CFR part 1630, and to delete the reference to part 1613, which is no longer in force.

The Commission proposes to delete paragraphs (c) and (d) from section 1615.150. These paragraphs provide time frames by which the Commission must make existing facilities accessible, as defined in 1615.150(a) and (b). These paragraphs further require the Commission to develop, by December 1989, a transition plan if structural changes to facilities are needed to achieve program accessibility. As these requirements have long since been met and the latest of the given time frames (June 26, 1992) has long passed, these sections of the regulation are deleted.

The Commission further proposes to update 1615.170(b), which sets forth the procedures for processing complaints alleging violations of section 504 with respect to employment, to cross-reference 29 CFR part 1614 rather than 29 CFR part 1613. Part 1614 replaced part 1613, which is no longer in force, and sets forth procedures for processing federal sector employment discrimination complaints arising under the EEO statutes enforced by the EEOC.

Finally, the Commission proposes to revise 1615.170(j) and 1615.170(k) to clarify the procedures for processing an appeal and to extend the time frame for doing so.

Summary of Section 508 Procedures in Proposed Regulation

Several sections of the regulation will be amended to set forth the procedures for filing a complaint under section 508 against the EEOC.

The statutory language in section 508 directs agencies to use the same complaint processing procedures as they use for section 504 complaints. The Commission will use its section 504 complaint procedures set forth in 29 CFR 1615.170(d)–(m) to process all section 508 complaints it receives whether from its applicants and employees, or from members of the public.

The Commission will not use the federal sector equal employment opportunity administrative complaint procedures, 29 CFR part 1614, for section 508 complaints, even if they are filed by a Commission applicant or employee. The part 1614 process is reserved for complaints alleging employment discrimination. An allegation charging discrimination in access to electronic and information technology in violation of section 508 is outside the scope of part 1614.[1]

If a section 501 complaint filed against the Commission in the part 1614 process is found to include a separate section 508 claim, the Commission's Office of Equal Opportunity (OEO) will process the section 501 claim through the part 1614 process and it will process the section 508 claim pursuant to the procedures set forth in 29 CFR 1615.170(d)–(m).

Section 508 authorizes administrative complaints and lawsuits on or after June 21, 2001, but only with respect to federal agency procurements made on or after June 21, 2001, in violation of section 508. It does not authorize administrative complaints or lawsuits to be filed with respect to electronic and information technology that is ''developed, maintained or used'' by a federal agency. The proposed amendment to 1615.170 reflects this fact by describing the compliance procedures to be used for complaints alleging violations of the agency's responsibility to procure electronic and information technology under section 508.[2]

For a discussion of section 508 enforcement methods, interested parties are advised to consult the Department of Justice's *Section 508 of the Rehabilitation Act: Accessibility for People with Disabilities in the Information Age (Results of 2001 Survey)* at Section III.A, which discusses administrative complaints and lawsuits under section 508. *See http://www.usdoj.gov/crt/508/report2/complaints.htm*. Interested parties may also wish to consult the overview of section 508 provided by the Architectural and Transportation Barriers Compliance Board (Access Board) available at *http://www.access-board.gov/sec508/summary.htm*.[3]

Regulatory Procedures

Executive Order 12866

In promulgating this notice of proposed rulemaking, the Commission has adhered to the regulatory philosophy and applicable principles of regulation set forth in section 1 of Executive Order 12866, Regulatory Planning and Review. As indicated in the Semi-Annual Regulatory Agenda for Fall 2007, this regulation is not a significant regulation within the meaning of the Executive Order.

Regulatory Flexibility Act

The Commission certifies under 5 U.S.C. 605(b), enacted by the Regulatory Flexibility Act (Pub. L. 96–354), that this rule will not have a significant economic impact on a substantial number of small entities, because it applies exclusively to a federal agency and individuals accessing the services of a federal agency. For this reason, a regulatory flexibility analysis is not required.

Unfunded Mandates Reform Act of 1995

This proposed rule will not result in the expenditure by State, local, or 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.

Paperwork Reduction Act

This regulation contains no information collection requirements subject to review by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 29 CFR Part 1615

Administrative practice and procedure, Civil rights, Equal employment opportunity, Federal buildings and facilities, Individuals with disabilities.

For the reasons set forth in the preamble, the EEOC proposes to amend 29 CFR part 1615 as follows:

[1] However, if the employee alleges that the denial of access to electronic or information technology is a violation of the Commission's duty to provide a reasonable accommodation under section 501 of the Rehabilitation Act, the Commission will use the part 1614 process.

[2] We note, however, that the Commission, like all federal agencies, has additional longstanding obligations that are enforceable under sections 501 and 504 of the Rehabilitation Act. Some of these obligations may be triggered when electronic and information technology is ''developed, maintained, or used'' by federal agencies and is not accessible. If individuals file complaints alleging that electronic or information technology acquired or developed prior to June 21, 2001, is inaccessible to people with disabilities, the Commission will review the allegations to determine if they more properly allege violations of sections 501 or 504 and process them accordingly.

[3] The Access Board issues standards for electronic and information technology covered by section 508. These standards set forth a definition of electronic and information technology and the technical and functional performance criteria necessary for such technology to comply with section 508. *See* 36 CFR part 1194.

PART 1615—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF DISABILITY IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION AND IN ACCESSIBILITY OF COMMISSION ELECTRONIC AND INFORMATION TECHNOLOGY

1. Revise the authority citation for 29 CFR Part 1615 to read as follows:

Authority: 29 U.S.C. 794 and 29 U.S.C. 794d(f)(2).

2. The heading of part 1615 is revised to read as set forth above.

3. Amend part 1615 to remove the term ''handicap'' wherever it appears and add, in its place, the term ''disability.''

4. Amend part 1615 to remove the phrase ''individual with a handicap'' wherever it appears and add, in its place, the phrase ''individual with a disability.''

5. Amend part 1615 to remove the phrase ''individuals with handicaps'' wherever it appears and add, in its place, the phrase ''individuals with disabilities.''

6. Amend part 1615 to remove the term ''nonhandicapped persons'' wherever it appears and add, in its place, the term ''individuals without disabilities.''

7. Amend part 1615 to remove the term ''Chairman'' wherever it appears and add, in its place, the term ''Chair.''

8. Amend part 1615 to remove the term ''EEO Director'' wherever it appears and add, in its place, the term ''Director of OEO.''

9. Section 1615.101 is amended by redesignating the current paragraph as paragraph (a) and adding a new paragraph (b) to read as follows:

§ 1615.101 Purpose.

* * * * *

(b) The purpose of this part is also to effectuate section 508 of the Rehabilitation Act, which requires that when Federal departments and agencies develop, procure, maintain, or use electronic and information technology, they shall ensure accessibility by individuals with disabilities who are Federal employees or applicants, or members of the public.

10. Section 1615.102 is revised to read as follows:

§ 1615.102 Application.

This part applies to all programs or activities conducted by the Commission and to its development, procurement, maintenance, and use of electronic and information technology.

11. Section 1615.103 is amended as follows:

A. The definition of ''Complete complaint'' is revised.

B. A definition of ''Electronic and information technology'' is added.

C. The definition heading ''Individual with handicaps'' is removed and ''Individual with a disability'' is added in its place.

D. The definition ''Qualified individual with a handicap'' is removed and a definition of ''Qualified individual with a disability'' is added in its place.

E. A definition of ''Section 508'' is added.

The revisions and additions read as follows:

§ 1615.103 Definitions.

* * * * *

Complete complaint means a written statement that contains the complainant's name and address and describes the Commission's actions in sufficient detail to inform the Commission of the nature and date of the alleged violation of section 504 or section 508. It shall be signed by the complainant or by someone authorized to do so on his or her behalf. Complaints filed on behalf of classes or third parties shall describe or identify (by name, if possible) the alleged victims of discrimination.

Electronic and Information Technology. Includes information technology and any equipment or interconnected system or subsystem of equipment that is used in the creation, conversion, or duplication of data or information. The term electronic and information technology includes, but is not limited to, telecommunications products (such as telephones), information kiosks and transaction machines, World Wide Web sites, multimedia, and office equipment such as copiers and fax machines. The term does not include any equipment that contains embedded information technology that is used as an integral part of the product, but the principal function of which is not the acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information. For example, HVAC (heating, ventilation, and air conditioning) equipment such as thermostats or temperature control devices, and medical equipment where information technology is integral to its operation, are not information technology.

* * * * *

Qualified individual with a disability means:

(1) With respect to any Commission program or activity (except employment), an individual with a disability who, with or without modifications or aids required by this part, meets the essential eligibility requirements for participation in, or receipt of benefits from, that program or activity.

(2) With respect to employment, a qualified individual with a disability as defined in 29 CFR 1630.2(m), which is made applicable to this part by 1615.140.

* * * * *

Section 508 means section 508 of the Rehabilitation Act of 1973, Public Law 93–112, Title V, section 508, as added Public Law 99–506, Title VI, section 603(a), Oct. 21, 1986, 100 Stat. 1830, and amended Public Law 100–630, Title II, section 206(f), Nov. 7, 1988, 102 Stat. 3312; Public Law 102–569, Title V, section 509(a), Oct. 29, 1992, 106 Stat. 4430; Public Law 105–220, Title IV, section 408(b), Aug. 7, 1998, 112 Stat. 1203.

§ 1615.110 [Removed and Reserved]

12. Section 1615.110 is removed and reserved.

13. Section 1615.135 is added to read as follows:

§ 1615.135 Electronic and information technology requirements.

(a) Development, procurement, maintenance, or use of electronic and information technology.—When developing, procuring, maintaining, or using electronic and information technology, the Commission shall ensure, unless an undue burden would be imposed on it, that the electronic and information technology allows, regardless of the type of medium of the technology—

(1) Individuals with disabilities who are Commission employees to have access to and use of information and data that is comparable to the access to and use of the information and data by Commission employees who are not individuals with disabilities; and

(2) Individuals with disabilities who are members of the public seeking information or services from the Commission to have access to and use of information and data that is comparable to the access to and use of the information and data by such members of the public who are not individuals with disabilities.

(b) Alternative means of access when undue burden is imposed.—When development, procurement, maintenance, or use of electronic and information technology that meets the standards published by the Access Board at 36 CFR part 1194 would impose an undue burden, the

Commission shall provide individuals with disabilities covered by this section with the information and data involved by an alternative means of access that allows the individual to use the information and data.

14. Section 1615.140 is revised to read as follows:

§ 1615.140 Employment.

No qualified individual with a disability shall, on the basis of disability, be subjected to discrimination in employment under any program or activity conducted by the Commission. The definitions, requirements, and procedures of section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791), as established by this Commission in 29 CFR part 1614, shall apply to employment in federally conducted programs or activities. As noted in 29 CFR 1614.203(b), the standards used to determine whether section 501 of the Rehabilitation Act has been violated in a complaint alleging non-affirmative action employment discrimination under part 1614 shall be the standards applied under Title I and Title V (sections 501 through 504 and 510) of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. 12101, 12111, 12201) as such sections relate to employment. These standards are set forth in the Commission's ADA regulations at 29 CFR part 1630. If a section 501 complaint is filed against the Commission in the part 1614 process and it is found to include a separate section 508 claim, the part 1614 process will be used to process the section 501 claim. The section 508 claim will be processed separately in accordance with the procedures set forth at § 1615.170.

§ 1615.150 [Amended]

15. Section 1615.150(c) and (d) are removed.

16. Section 1615.170 is amended as follows:

A. Revise paragraphs (a), (b), and (c).

B. Revise the first sentences of paragraphs (d)(1) and (d)(2).

C. Revise the third and fourth sentences of paragraph (i).

D. Revise paragraph (j).

E. Revise the first sentence of paragraph (k).

F. Add a new paragraph (n).

The revisions and additions read as follows:

§ 1615.170 Compliance procedures.

(a) Except as provided in paragraph (b) of this section, this section applies to all allegations of discrimination on the basis of disability in programs or activities conducted by the Commission in violation of section 504. This section also applies to all complaints alleging a violation of the agency's responsibility to procure electronic and information technology under section 508 whether filed by members of the public or EEOC employees or applicants.

(b) The Commission shall process complaints alleging violations of section 504 with respect to employment according to the procedures established by EEOC in 29 CFR part 1614 pursuant to section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791). With regard to employee claims concerning agency procurements made in violation of section 508, the procedures set out in paragraphs (d) through (m) of this section shall be used.

(c) Responsibility for implementation and operation of this section shall be vested in the Director, Office of Equal Opportunity (Director of OEO).

(d) * * * (1) * * * Any person who believes that he or she has been subjected to discrimination prohibited by this part or that the agency's procurement of electronic and information technology has violated section 508, or authorized representative of such person, may file a complaint with the Director of OEO. * * *

(2) * * * Complaints shall be filed with the Director of OEO within one hundred and eighty calendar days of the alleged acts of discrimination. * * *

* * * * *

(i) * * * An appeal shall be deemed filed on the date it is postmarked, or, in the absence of a postmark, on the date it is received by the Chair at EEOC headquarters. It should be clearly marked ''Appeal of Section 504 decision'' or ''Appeal of Section 508 decision'' and should contain specific objections explaining why the person believes the initial decision was factually or legally wrong. * * *

(j) Timely appeals shall be decided by the Chair of the Commission unless the Commission determines that an appeal raises a policy issue which should be addressed by the full Commission.

(1) The Chair will draft a decision within 30 days of receipt of an appeal and circulate it to the Commission.

(2) If a Commissioner believes an appeal raises a policy issue that should be addressed by the full Commission, he or she shall so inform the Chair by notice in writing within ten calendar days of the circulation of the draft decision on appeal.

(3) If the Chair does not receive such written notice, the decision on appeal shall be issued.

(4) If the Chair receives written notice as described in subparagraph (2), the Commission shall resolve the appeal through a vote.

(k) The Commission shall notify the complainant of the results of the appeal within ninety calendar days of the receipt of the appeal from the complainant. * * *

* * * * *

(n) *Civil actions.* The remedies, procedures, and rights set forth in sections 505(a)(2) and 505(b) of the Rehabilitation Act, 29 U.S.C. 794a(a)(2) and 794a(b) shall be the remedies, procedures, and rights available to any individual with a disability filing a complaint under this section.

Dated: February 7, 2008.

Naomi C. Earp,

Chair.

[FR Doc. E8–2863 Filed 2–15–08; 8:45 am]

BILLING CODE 6570–01–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AM22

Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA): Expansion of Benefit Coverage for Prostheses and Enuretic (Bed-wetting) Devices; Miscellaneous Provisions

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Department of Veterans Affairs (VA) regulations for the Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA) to expand the benefits available by covering, in addition to currently-covered prostheses, any non-dental prostheses determined medically necessary for treatment of certain medical conditions. It also proposes to no longer exclude coverage of enuretic (bed-wetting) devices. In addition, this document proposes to make changes in delegations of authority, technical changes, and nonsubstantive changes for purposes of clarity in VA's regulations governing CHAMPVA.

DATES: Comments must be received on or before April 21, 2008.

ADDRESSES: Written comments may be submitted through *http://www.Regulations.gov;* by mail or hand delivery to the Director, Regulations Management (00REG), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026.

Comments should indicate that they are submitted in response to ''RIN 2900-AM22—Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA)—Expansion of Benefit Coverage for Prostheses and Enuretic (Bed-wetting) Devices; Miscellaneous Provisions.'' Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461–4902 for an appointment. (This is not a toll-free number.) In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *http://www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Richard M. Trabert, Policy & Compliance Division, VA Health Administration Center, P.O. Box 65020, Denver, CO 80206–9020; (303) 331–7549. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: This document proposes to amend VA's medical regulations in 38 CFR part 17 concerning CHAMPVA. CHAMPVA is a VA medical benefits program for certain (1) spouses and children of veterans who have a permanent and total service-connected disability and (2) surviving spouses and children of veterans who died as a result of a service-connected disability or while rated permanently or totally disabled from a service-connected disability, or who died in the active military, naval, or air service in the line of duty. CHAMPVA is authorized at 38 U.S.C. 1781 (formerly 38 U.S.C. 1713). To be eligible for CHAMPVA benefits, among other requirements, the spouses, surviving spouses, and children may not be otherwise eligible for medical care under 10 U.S.C. chapter 55 (authorizing TRICARE, formerly CHAMPUS; referred to in this preamble as TRICARE/CHAMPUS). By the terms of section 1781(b), VA is required to provide benefits under CHAMPVA in the same or similar manner and subject to the same or similar limitations as medical care that is furnished to certain dependents and survivors of active duty and retired members of the Armed Forces under TRICARE/CHAMPUS. Needed medical care is largely provided to CHAMPVA beneficiaries through non-VA providers.

This proposed rule would amend 38 CFR 17.272, ''Benefits limitations/exclusions,'' in accordance with the requirements under 38 U.S.C. 1781(b) to furnish CHAMPVA benefits ''in the same or similar manner and with the same or similar limitations'' as medical care under TRICARE/CHAMPUS.

First, we propose to add certain prostheses to the benefits available under the CHAMPVA program to be consistent with benefits authorized for TRICARE/CHAMPUS in section 702 of Public Law 105–85 (1999), the National Defense Authorization Act for Fiscal Year 1998. That statutory provision amended TRICARE/CHAMPUS coverage to include prosthetic devices ''as determined by the Secretary of Defense to be necessary because of significant conditions resulting from trauma, congenital anomalies, or disease.'' The Department of Defense (DoD) amended the TRICARE/CHAMPUS regulations in 32 CFR 199.4 accordingly. See 65 FR 58224–25, Sept. 28, 2000 (final rule); 64 FR 45453–45454, August 20, 1999 (interim final rule). As discussed in the preambles in those rulemaking documents, DoD determined that noses, ears, and fingers are examples of additional prostheses that are authorized under that statutory amendment for TRICARE/CHAMPUS coverage. See 65 FR 58224; 64 FR 45453–45454. The regulations promulgated by DoD exclude from coverage all dental prostheses, ''except for those specifically required in connection with otherwise covered orthodontia directly related to the surgical correction of a cleft palate anomaly.'' 32 CFR 199.4(g)(48).

Under VA's current regulations for CHAMPVA at 38 CFR 17.272(a)(44), coverage for the purchase of prosthetic devices is limited to artificial limbs, voice prostheses, eyes, items surgically inserted in the body as an integral part of a surgical procedure, and dental prostheses that are specifically required in connection with otherwise covered orthodontia directly related to the surgical correction of a cleft palate anomaly. (These are also subject to the requirements generally applicable to CHAMPVA benefits, including being medically necessary and appropriate for the treatment of a condition.) We propose to amend § 17.272(a)(44) to extend prosthetic coverage to any other prostheses (other than dental prostheses) considered medically necessary because of significant conditions resulting from trauma, congenital anomalies, or disease. The proposed changes to § 17.272(a)(44) are also intended to clarify that ears, noses, and fingers and the prostheses currently referred to in § 17.272(a)(44)(i) through (iv) are examples of what the newly-listed category would include. Consistent with 32 CFR 199.4(g)(48), dental prostheses would continue to be excluded except as specifically provided in current § 17.272(a)(44)(v).

As another change authorized under the statutory requirement to furnish CHAMPVA benefits in the same or similar manner and with the same or similar limitations as medical care under TRICARE/CHAMPUS, we propose to amend § 17.272(a)(52) to permit enuretic (bed-wetting) devices (alarms) to be furnished to CHAMPVA beneficiaries. This proposed change would be consistent with DoD's regulations at 32 CFR 199.4(g)(58). That paragraph was amended to no longer exclude such devices. See 67 FR 18825, Apr. 17, 2002. Currently, enuretic (bed-wetting) devices and enuretic conditioning programs are excluded from CHAMPVA coverage. The proposed rule would remove the exclusion for enuretic (bed-wetting) devices now found at § 17.272(a)(52), but would, like TRICARE/CHAMPUS, continue to exclude enuretic conditioning programs. We believe it is in the public interest to implement in the CHAMPVA program this TRICARE/CHAMPUS change. The basis for excluding enuretic conditioning programs is to restrict the payment for professional guidance on the use of these devices to an authorized health care provider, such as the attending physician, a physician assistant, or a nurse practitioner.

This proposed rule would also amend the delegations of authority in 38 CFR 17.275, ''Claim filing deadline,'' and 38 CFR 17.276, ''Appeal/review process.'' Currently, § 17.275(b) provides that only the ''Center Director'' has the authority to grant exceptions to the claim filing deadline. This proposed rule would amend § 17.275(b) by referring to the Center Director by his or her title, the ''Director, Health Administration Center'', and would permit the Director to extend that authority to his or her designee. Similarly, § 17.276 currently provides that, in response to a beneficiary's request for review of a decision by a CHAMPVA benefits advisor, only the Center Director has the authority to issue a decision that is the final decision with respect to benefit coverage and computation of benefits, and that affirms, reverses, or modifies the prior decision. This proposed rule would amend § 17.276 to permit the Director, Health Administration Center, or his or her designee, to issue that final decision.

Finally, the proposed rule would make technical changes and other nonsubstantive changes for purposes of clarity in §§ 17.270 through 17.278. These include technical changes to conform with Public Law 107–135,

which redesignated the statutory section authorizing the CHAMPVA program as 38 U.S.C. 1781 (formerly 38 U.S.C. 1713).

Regulatory Flexibility Act

The Secretary of Veterans Affairs hereby certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. Individuals eligible for CHAMPVA benefits are widely dispersed geographically and thus services provided to them would not have a significant impact on any small entity. Therefore, pursuant to 5 U.S.C. 605(b), this proposed rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Paperwork Reduction Act of 1995

This document contains no provisions constituting a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any year. This proposed rule would have no such effect on State, local, and tribal governments, or on the private sector.

Executive Order 12866

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Executive Order classifies a ''significant regulatory action,'' requiring review by the Office of Management and Budget (OMB) unless OMB waives such review, as any regulatory action that is likely to result in a rule that may: (1) 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; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

The economic, interagency, budgetary, legal, and policy implications of this proposed rule have been examined and it has been determined not to be a significant regulatory action under Executive Order 12866.

Catalog of Federal Domestic Assistance

This proposed rule affects the Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA), for which there is no Catalog of Federal Domestic Assistance program number.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs—health, Grant programs—veterans, Health care, Health facilities, Health professionals, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Reporting and recordkeeping requirements, Scholarships and fellowships, Travel and transportation expenses, and Veterans.

Approved: February 11, 2008.

Gordon H. Mansfield,

Deputy Secretary of Veterans.

For the reasons stated above, the Department of Veterans Affairs proposes to amend 38 CFR part 17 as follows:

PART 17—MEDICAL

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

Authority: 38 U.S.C. 501, 1721, and as noted in specific sections.

2. Amend § 17.270 by:

a. In paragraph (a), removing ''1713'' and adding, in its place, ''1781''.

b. In paragraph (b), removing ''this section'' and adding, in its place, ''§§ 17.270 through 17.278'', removing '' ''fiscal'' year refers to October 1'', and adding, in its place, '' ''fiscal year'' refers to October 1''.

c. Revising the authority citation.

The revision reads as follows:

§ 17.270 General provisions.

* * * * *

(Authority: 38 U.S.C. 501, 1781)

3. Amend § 17.271 by revising the authority citations after paragraph (a) and at the end of the section to read as follows:

§ 17.271 Eligibility.

(a) * * *

(Authority: 38 U.S.C. 501, 1781)

* * * * *

(Authority: 38 U.S.C. 501, 1781)

4. Amend § 17.272 by:

a. Redesignating paragraphs (a)(44)(i) through (a)(44)(iv) as paragraphs (a)(44)(ii)(A) through (D), respectively.

b. Redesignating paragraph (a)(44)(v) as new paragraph (a)(44)(i).

c. Adding paragraphs (a)(44)(ii) introductory text and (a)(44)(ii)(E).

d. Revising paragraph (a)(52) and the authority citation.

The additions and revisions read as follows:

§ 17.272 Benefits limitations/exclusions.

(a) * * *

(44) * * *

(ii) Any prostheses, other than dental prostheses, determined to be medically necessary because of significant conditions resulting from trauma, congenital anomalies, or disease, including, but not limited to:

* * * * *

(E) Ears, noses, and fingers.

* * * * *

(52) Enuretic (bed-wetting) conditioning programs.

* * * * *

(Authority: 38 U.S.C. 501, 1781)

5. Amend § 17.273 by revising the authority citation to read as follows:

§ 17.273 Preauthorization.

* * * * *

(Authority: 38 U.S.C. 501, 1781)

6. Amend § 17.274 by revising the authority citation to read as follows:

§ 17.274 Cost sharing.

* * * * *

(Authority: 38 U.S.C. 501, 1781)

7. Amend § 17.275 by:

a. In paragraph (b), removing ''Center Director'' and adding, in its place, ''Director, Health Administration Center, or his or her designee''; and removing ''paragraph (a) if'' and adding, in its place, ''paragraph (a) of this section if''.

b. Adding an authority citation at the end of the section.

The addition reads as follows:

§ 17.275 Claim filing deadline.

* * * * *

(Authority: 38 U.S.C. 501, 1781)

8. Amend § 17.276 by:

a. Removing ''Center Director'' and ''Director'' each time they appear and adding, in their place, ''Director, Health Administration Center, or his or her designee''.

b. Revising the authority citation.

c. In the Note, removing ''20 CFR'' and adding, in its place ''38 CFR''.

The revision reads as follows:

§ 17.276 Appeal/review process.

* * * * *

(Authority: 38 U.S.C. 501, 1781)

* * * * *

9. Amend § 17.277 by adding an authority citation to read as follows:

§ 17.277 Third-party liability/medical care cost recovery.

* * * * *

(Authority: 28 U.S.C. 2651; 38 U.S.C. 501, 1781)

10. Amend § 17.278 by adding an authority citation to read as follows:

§ 17.278 Confidentiality of records.

* * * * *

(Authority: 5 U.S.C. 552, 552a; 38 U.S.C. 501, 1781, 5701, 7332)

[FR Doc. E8–3003 Filed 2–15–08; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF ENERGY

48 CFR Parts 904, 952 and 970

RIN 1991–AB71

Acquisition Regulation: Security Clause

AGENCY: Department of Energy.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Energy (DOE) is proposing to amend the Department of Energy Acquisition Regulation (DEAR) to revise the security clause used in all contracts and subcontracts involving access authorizations to specifically require background checks and tests for the absence of any illegal drug, as defined in DOE regulations of uncleared personnel (employment applicants and current employees) who will require access authorizations. Background checks would not be required for applicants for DOE access authorization who possess a current access authorization from another Federal agency.

DATES: Written comments on the proposed rulemaking must be received on or before close of business March 20, 2008.

ADDRESSES: This proposed rule is available and comments may be submitted to the *Federal Electronic Rulemaking Portal* at *http://www.regulations.gov*. Comments may also be submitted electronically to *Richard.Langston@hq.doe.gov*. Comments may be mailed to: Richard Langston, Procurement Policy Analyst; MA–61/Forrestal Building; U.S. Department of Energy; 1000 Independence Avenue, SW.; Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Richard Langston at 202–287–1339 or *Richard.Langston@hq.doe.gov*.

SUPPLEMENTARY INFORMATION:

I. Background
II. Section-by-Section Analysis
III. Procedural Requirements
A. Review Under Executive Order 12866
B. Review Under Executive Order 12988
C. Review Under the Regulatory Flexibility Act
D. Review Under the Paperwork Reduction Act
E. Review Under the National Environmental Policy Act
F. Review Under Executive Order 13132
G. Review Under the Unfunded Mandates Reform Act of 1995
H. Review Under the Treasury and General Government Appropriations Act, 1999
I. Review Under Executive Order 13211
J. Review Under the Treasury and General Government Appropriations Act, 2001
K. Approval by the Office of the Secretary of Energy

I. Background

Many DOE contractor and subcontractor employees require access authorizations for access to classified information (Restricted Data, Formerly Restricted Data, or National Security Information) or certain quantities of special nuclear material in order to perform official duties. Section 904.404 is being revised to add a requirement in paragraph (d)(1) that the security clause is required in any contract that will involve contractor employees' access to special nuclear material. That requirement reflects past DOE practice and is being added to make the instruction clear and complete. Section 952.204–2, Security requirements, is revised by changing the title of the section to ''Security'' and by revising its introductory text to conform to the more recent Federal Acquisition Regulation format. Some of the requirements at 970.2201–1–2 are appropriate to other types of contracts if access authorizations are required, so language at 970.2201–1–2 is being restated in the security clause.

II. Section-by-Section Analysis

The Department proposes to amend the DEAR as follows:

Section 904.401 is amended to revise the definitions of classified information and Restricted Data.

Section 904.404, Solicitation provision and contract clause, is amended by adding ''or access to special nuclear materials'' after ''classified information'' at the end of the first sentence of paragraph (d)(1).

Section 952.204–2, Security requirements, is amended by revising its title to ''Security''; by revising the definitions in paragraphs (c) through (g); by revising the title of paragraph (h) from ''*Security clearances of personnel*'' to ''*Access authorizations for personnel*'' and redesignating its text as paragraph (h)(1); by adding new paragraphs (h)(2) and (i); by redesignating existing paragraphs (i) and (j) as (j) and (k); and by adding new paragraphs (l) and (m). Paragraphs (h)(2), (i), and (i)(1) contain language similar to that found in management and operating contract policy guidance at 970.2201–1–2(a)(1) and (2). The language in (h)(2) has been augmented by referencing the criteria at 10 CFR 710.8 that are used to grant or deny access authorizations, by adding a requirement that a candidate for a DOE access authorization must be tested to demonstrate the absence of any illegal drug, as defined in 10 CFR 707.4, and by directing contractors to select for employment only those whom they believe can pass the rigorous background investigation required for such positions. A new paragraph (h)(3) has been added making it clear that drug testing is applicable to all employees on an applicant, random or ''for cause'' basis. Paragraph (i), *Criminal liability* is amended to add ''special nuclear material, and other Government property'' to ''classified information'' as items the contractor must protect. Paragraph (j), *Foreign Ownership, Control or Influence*, is amended by moving the flow down to subcontracts requirement of (j)(4) to (l) and redesignating paragraph (j)(5) as (j)(4). New paragraph (k), *Employment announcements*, requires that contractors include a notice in vacancy announcements for positions requiring access authorizations that background checks and testing for the absence of any illegal drug, as defined in 10 CFR 707.4, will be performed, and that the Federal government may conduct a background investigation, subsequent reinvestigations, and, in the case of counterintelligence positions (as defined in 10 CFR 709.3), a

counterintelligence evaluation, which may include a polygraph examination. In addition to the subject matter from paragraph (j)(4), new paragraph (l), *Flow down to subcontracts*, addresses the flow down to subcontracts by incorporating the subject matter from the final sentence of 970.2201–1–2(a)(1)(ii).

Section 970.2201–1–2, Policies, is revised at paragraph (a)(1)(ii). The first sentence is revised by changing ''personnel investigations'' to ''background checks'' in the first and second sentences; in the third sentence, changing ''pre-employment'' to ''background,'' ''applicant's'' to ''uncleared employment applicant's or uncleared employee,'' and ''applicant'' to ''individual''; adding a new fourth sentence to require a test to demonstrate the absence of any illegal drug as defined in 10 CFR 707.4; in the sixth sentence, changing ''applicant's'' to ''uncleared employment applicant's or uncleared employee''; in the seventh sentence, rewriting the sentence to address ''employee'' rather than ''applicant''; in the eighth sentence, changing the first usage of ''applicant'' to ''uncleared employee'' and the second to ''employee''; and in the last sentence, changing ''may'' to ''shall'' in order to make it imperative that subcontractors perform background checks on subcontract employee applicants or employees if they will require access authorizations to perform their duties.

III. Procedural Requirements

A. Review Under Executive Order 12866

This regulatory action has been determined not to be a significant regulatory action under Executive Order 12866, Regulatory Planning and Review (58 FR 51735, October 4, 1993). Accordingly, this proposed rule is not subject to review under the Executive Order by the Office of Information and Regulatory Affairs (OIRA) within the Office of Management and Budget.

B. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, Civil Justice Reform (61 FR 4729, February 7, 1996), imposes on executive agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; (3) provide a clear legal standard for affected conduct rather than a general standard; and (4) promote simplification and burden reduction. With regard to the review required by section 3(a), section 3(b) of Executive Order 12988 specifically requires that executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or that it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, these regulations meet the relevant standards of Executive Order 12988.

C. Review Under the Regulatory Flexibility Act

This proposed rule has been reviewed under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, which requires preparation of an initial regulatory flexibility analysis for any rule that must be proposed for public comment and that is likely to have a significant economic impact on a substantial number of small entities. The proposed rule would not have a significant economic impact on small entities because it imposes no significant burdens. Any costs incurred by DOE contractors complying with the rule would be reimbursed under the contract.

Accordingly, DOE certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities, and, therefore, no regulatory flexibility analysis is required and none has been prepared.

D. Review Under the Paperwork Reduction Act

This proposed rule contains no new information collection or recordkeeping requirements. Information collection or recordkeeping requirements mentioned in this proposed rule relative to the facility clearance and access authorization processes have been previously cleared under Office of Management and Budget (OMB) paperwork clearance package number 0704–0194 for facility clearances processed by the Department of Defense for Standard Form (SF) 283 or package number 3206–0007 processed by the Office of Personnel Management for personnel access authorizations using SF 86.

E. Review Under the National Environmental Policy Act

DOE has concluded that promulgation of this proposed rule falls into a class of actions which would not individually or cumulatively have significant impact on the human environment, as determined by DOE's regulations (10 CFR Part 1021, Subpart D) implementing the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*). Specifically, this proposed rule is categorically excluded from NEPA review because the amendments to the DEAR would be strictly procedural (categorical exclusion A6). Therefore, this proposed rule does not require an environmental impact statement or environmental assessment pursuant to NEPA.

F. Review Under Executive Order 13132

Executive Order 13132 (64 FR 43255, August 4, 1999) imposes certain requirements on agencies formulating and implementing policies or regulations that preempt state law or that have federalism implications. Agencies are required to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the states and carefully assess the necessity for such actions. DOE has examined today's proposed rule and has determined that it does not preempt state law and does 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. No further action is required by Executive Order 13132.

G. Review Under the Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires a federal agency to perform a detailed assessment of costs and benefits of any rule imposing a federal mandate with costs to state, local or tribal governments, or to the private sector, of $100 million or more in any single year. This proposed rule does not impose a federal mandate on state, local or tribal governments or on the private sector.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations

Act, 1999 (Pub. L. 105–277), requires federal agencies to issue a Family Policymaking Assessment for any rule or policy that may affect family well-being. This proposed rule will have no impact on family well being.

I. Review Under Executive Order 13211

Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use (66 FR 28355, May 22, 2001), requires federal agencies to prepare and submit to the Office of Information and Regulatory Affairs (OIRA), OMB, a Statement of Energy Effects for any significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (3) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

Today's proposed rule is not a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects.

J. Review Under the Treasury and General Government Appropriations Act, 2001

The Treasury and General Government Appropriations Act, 2001, 44 U.S.C. 3516 note, provides for agencies to review most disseminations of information to the public under implementing guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (February 22, 2002), and DOE's guidelines were published at 67 FR 62446 (October 7, 2002). DOE has reviewed today's notice under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Approval by the Office of the Secretary of Energy

The Office of the Secretary of Energy has approved issuance of this proposed rule.

List of Subjects in 48 CFR Parts 904, 952 and 970

Government procurement.

Issued in Washington, DC, on February 11, 2008.

Edward R. Simpson,

Director, Office of Procurement and Assistance Management, Office of Management, Department of Energy.

David O. Boyd,

Director, Office of Acquisition and Supply Management National Nuclear Security Administration.

For the reasons set out in the preamble, DOE proposes to amend Chapter 9 of Title 48 of the Code of Federal Regulations as set forth below:

PART 904—ADMINISTRATIVE MATTERS

1. The authority citations for parts 904 and 952 continue to read as follows:

Authority: 42 U.S.C. 7101, *et seq.*; 41 U.S.C. 418(b); 50 U.S.C. 2401, *et seq.*

2. In 904.401, the definitions of Classified Information and Restricted Data are revised to read as follows:

904.401 Definitions.

* * * * *

Classified Information means information that is classified as Restricted Data or Formerly Restricted Data under the Atomic Energy Act of 1954, or information determined to require protection against unauthorized disclosure under Executive Order 12958, *Classified National Security Information*, as amended, or prior executive orders, which is identified as National Security Information.

* * * * *

Restricted Data means all data concerning design, manufacture, or utilization of atomic weapons; production of special nuclear material; or use of special nuclear material in the production of energy, but excluding data declassified or removed from the Restricted Data category pursuant to 42 U.S.C. 2162 [Section 142, as amended, of the Atomic Energy Act of 1954].

904.404 [Amended]

3. Section 904.404, [DOE Coverage—Paragraph (d)] is amended by adding the words '', access to special nuclear materials or the provision of protective services'' after the words ''classified information'' at the end of the first sentence of paragraph (d)(1).

PART 952—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

4. Section 952.204–2 is revised to read as follows:

952.204–2 Security.

As prescribed in 904.404(d)(1), the following clause shall be included in contracts entered into under section 31 (research assistance, 42 U.S.C. 2051), or section 41 (ownership and operation of production facilities, 42 U.S.C. 2061) of the Atomic Energy Act of 1954, and in other contracts and subcontracts which involve or are likely to involve classified information or special nuclear material.

Security (XXX 2007)

(a) *Responsibility.* It is the Contractor's duty to protect all classified information, special nuclear material, and other DOE property. The Contractor shall, in accordance with DOE security regulations and requirements, be responsible for protecting all classified information and protecting against sabotage, espionage, loss or theft of the classified documents and material, including special nuclear material, in the Contractor's possession in connection with the performance of work under this contract. Except as otherwise expressly provided in this contract, the Contractor shall, upon completion or termination of this contract, transmit to DOE any classified matter or special nuclear material in the possession of the Contractor or any person under the Contractor's control in connection with performance of this contract. If retention by the Contractor of any classified matter is required after the completion or termination of the contract, the Contractor shall identify the items and classification levels and categories of material proposed for retention, the reasons for the retention, and the proposed period of retention. If the retention is approved by the Contracting Officer, the security provisions of the contract shall continue to be applicable to the matter retained. Special nuclear material shall not be retained after the completion or termination of the contract.

(b) *Regulations.* The Contractor agrees to comply with all security regulations and contract requirements of DOE in effect on the date of award.

(c) *Definition of Classified Information.* The term *Classified Information* means information that is classified as Restricted Data or Formerly Restricted Data under the Atomic Energy Act of 1954, or information determined to require protection against unauthorized disclosure under Executive Order 12958, *Classified National Security Information*, as amended, or prior executive orders, which is identified as *National Security Information.*

(d) *Definition of Restricted Data.* The term *Restricted Data* means all data concerning design, manufacture, or utilization of atomic weapons; production of special nuclear material; or use of special nuclear material in the production of energy, but excluding data declassified or removed from the Restricted Data category pursuant to 42 U.S.C. 2162 [Section 142, as amended, of the Atomic Energy Act of 1954].

(e) *Definition of Formerly Restricted Data.* The term ''*Formerly Restricted Data*'' means information removed from the Restricted

Data category based on a joint determination by DOE or its predecessor agencies and the Department of Defense that the information: (1) Relates primarily to the military utilization of atomic weapons; and (2) can be adequately protected as National Security Information. However, such information is subject to the same restrictions on transmission to other countries or regional defense organizations that apply to Restricted Data.

(f) *Definition of National Security Information.* The term ''*National Security Information*'' means information that has been determined, pursuant to Executive Order 12958, Classified National Security Information, as amended, or any predecessor order, to require protection against unauthorized disclosure, and that is marked to indicate its classified status when in documentary form.

(g) *Definition of special nuclear material.* The term ''*special nuclear material*'' means: (1) plutonium, uranium enriched in the isotope 233 or in the isotope 235, and any other material which, pursuant to 42 U.S.C. 2071 [section 51 as amended, of the Atomic Energy Act of 1954] has been determined to be special nuclear material, but does not include source material; or (2) any material artificially enriched by any of the foregoing, but does not include source material.

(h) *Access authorizations of personnel.* (1) The Contractor shall not permit any individual to have access to any classified information or special nuclear material, except in accordance with the Atomic Energy Act of 1954, and the DOE's regulations and contract requirements applicable to the particular level and category of classified information or particular category of special nuclear material to which access is required.

(2) The job qualifications and suitability of employees or prospective employees must be considered by the Contractor prior to assignment to positions requiring access authorizations by careful personnel background checks. Background checks are not required for an applicant for DOE access authorization who possesses a current access authorization from DOE or another Federal agency. Such background checks must include, but are not limited to, as appropriate: A credit check; verification of high school diploma received within the last five years or degree/diploma granted by an institution of higher learning; contacts with listed personal references; contacts with listed employers for the last five years (excluding employment of less than 60 days' duration, part-time employments, and craft/union employments); and local law enforcement checks when such checks are not prohibited by state or local law or regulation, and when the individual resides in the jurisdiction where the Contractor is located. When a DOE access authorization will be required, the aforementioned background checks must be conducted and the uncleared applicant's or uncleared employee's job qualifications and suitability must be established before a request is made to the DOE to process the uncleared applicant or uncleared employee for an access authorization. In addition, each candidate for a DOE access authorization must be tested to demonstrate the absence of any illegal drug, as defined in 10 CFR 707.4. Evidence must be furnished to DOE with the uncleared applicant's or uncleared employee's security forms that specify: The results of the test for the absence of any illegal drug, as defined in 10 CFR 707.4, and, for the background checks, the date each check was conducted; the identity of the contact who provided the information; a synopsis of the information provided by each contact; and a statement that all relevant information available has been reviewed in accordance with the Contractor's personnel policies with favorable results. When hiring new employees for positions requiring access authorizations, the Contractor shall perform these background checks prior to submission of the request for DOE access authorization. If adverse information is found in the course of the background checks, the Contractor must assess the possible impact of such findings on the uncleared applicant's or uncleared employee's suitability for a position requiring an access authorization and act accordingly. Access authorizations are granted or denied based on criteria in 10 CFR 710.8. DOE will not process candidates for a DOE access authorization unless their tests confirm the absence of any illegal drug. Contractors must propose personnel to work in positions requiring access authorizations only if they are confident that the individuals will pass the rigorous background review that DOE will conduct. When an uncleared applicant is hired specifically for a position that requires a DOE access authorization, the uncleared employee shall not be placed in that position prior to the access authorization being granted by DOE, unless an approval has been obtained from the head of the cognizant local security office. If an uncleared employee is placed in that position prior to an access authorization being granted by the DOE, the uncleared employee may not be afforded access to classified information or matter or special nuclear material (in categories requiring access authorization) until DOE notifies the employer that an access authorization has been granted.

(3) All positions requiring access authorizations are deemed *testing designated positions* in accordance with 10 CFR part 707. All employees possessing access authorizations are subject to applicant, random or for cause testing for use of illegal drugs.

(i) *Criminal liability.* It is understood that disclosure of any classified information relating to the work or services ordered hereunder to any person not entitled to receive it, or failure to protect any classified information, special nuclear material, or other Government property that may come to the Contractor or any person under the Contractor's control in connection with work under this contract, may subject the Contractor, its agents, employees, or Subcontractors to criminal liability under the laws of the United States (see the Atomic Energy Act of 1954, 42 U.S.C. 2011 *et seq.*; 18 U.S.C. 793 and 794).

(j) *Foreign Ownership, Control, or Influence.* (1) The Contractor shall immediately provide the cognizant security office written notice of any change in the extent and nature of foreign ownership, control or influence over the Contractor which would affect any answer to the questions presented in the Standard Form (SF) 328, *Certificate Pertaining to Foreign Interests,* executed prior to award of this contract. In addition, any notice of changes in ownership or control which are required to be reported to the Securities and Exchange Commission, the Federal Trade Commission, or the Department of Justice, shall also be furnished concurrently to the Contracting Officer.

(2) If a Contractor has changes involving foreign ownership, control, or influence, DOE must determine whether the changes will pose an undue risk to the common defense and security. In making this determination, DOE will consider proposals made by the Contractor to avoid or mitigate foreign influences.

(3) If the cognizant security office at any time determines that the Contractor is, or is potentially, subject to foreign ownership, control, or influence, the Contractor shall comply with such instructions as the Contracting Officer shall provide in writing to protect any classified information or special nuclear material.

(4) The Contracting Officer may terminate this contract for default either if the Contractor fails to meet obligations imposed by this clause or if the Contractor creates a foreign ownership, control, or influence situation in order to avoid performance or a termination for default. The Contracting Officer may terminate this contract for convenience if the Contractor becomes subject to foreign ownership, control, or influence and for reasons other than avoidance of performance of the contract, cannot, or chooses not to, avoid or mitigate the foreign ownership, control, or influence problem.

(k) *Employment announcements.* When placing announcements seeking applicants for positions requiring access authorizations, the Contractor shall include in the written vacancy announcement, a notification to prospective applicants that background checks and tests for the absence of any illegal drug, as defined in 10 CFR 707.4, will be conducted by the employer and a background investigation by the Federal government may be required for the required access authorization prior to employment, and that subsequent reinvestigations may be required. If the position is covered by the Counterintelligence Evaluation Program regulations at 10 CFR part 709, the announcement should also alert applicants that successful completion of a counterintelligence evaluation may include a counterintelligence-scope polygraph examination.

(l) *Flow down to subcontracts.* The Contractor agrees to insert terms that conform substantially to the language of this clause, including this paragraph, in all subcontracts under this contract that will require Subcontractor employees to possess access authorizations. Additionally, the Contractor must require such Subcontractors to have an existing DOD or DOE facility clearance or submit a completed SF 328, *Certificate Pertaining to Foreign Interests,* as required in

DEAR 952.204–73 and obtain a foreign ownership, control and influence determination and facility clearance prior to award of a subcontract. Information to be provided by a Subcontractor pursuant to this clause may be submitted directly to the Contracting Officer. For purposes of this clause, Subcontractor means any Subcontractor at any tier and the term ''Contracting Officer'' means the DOE Contracting Officer. When this clause is included in a subcontract, the term ''Contractor'' shall mean Subcontractor and the term ''contract'' shall mean subcontract. (End of Clause)

PART 970—DOE MANAGEMENT AND OPERATING CONTRACTS

5. The authority citation for Part 970 continues to read as follows:

Authority: 42 U.S.C. 2201, 2282a, 2282b, 2282c; 42 U.S.C. 7101 et seq.; 41 U.S.C. 418b; 50 U.S.C. 2401 et seq.

970.0470–1 [Amended]

6. Section 970.0470–1(b) is amended by revising both mentions of ''Directives System'' to read ''Directives Program.''

970.2201–1–1 [Amended]

7. Section 970.2201–1–1 is amended by removing the term ''guidance'' and adding in its place ''requirements.''

8. Section 970.2201–1–2, paragraphs (a)(1)(i) and (ii) are revised to read as follows:

970.2201–1–2 Policies.

(a)(1) * * *

(i) Management and operating contractors are expected to bring experienced, proven personnel from their private operations to staff key positions on the contract and to recruit other well-qualified personnel as needed. Such personnel should be employed and treated during employment without discrimination by reason of race, color, religion, sex, age, disability, or national origin. Contractors shall be required to take affirmative action to achieve these objectives.

(ii) The job qualifications and suitability of prospective employees should be established by the contractor prior to employment by careful background checks. Such background checks should include, as appropriate: a credit check; verification of high school diploma received within the last five years or degree/diploma granted by an institution of higher learning; contacts with listed personal references; contacts with listed employers for the last five years (excluding employment of less than 60 days' duration, part-time employments, and craft/union employments); and local law enforcement checks when such checks are not prohibited by state or local law or regulation, and when the individual resides in the jurisdiction where the contractor is located. When a DOE access authorization will be required, the aforementioned background checks must be conducted and the uncleared employment applicant's or uncleared employee's job qualifications and suitability must be established before a request is made to the DOE to process the individual for an access authorization. In addition, each candidate for a DOE access authorization must be tested for the absence of any illegal drug as defined in 10 CFR part 707.4. Evidence must be furnished to DOE with the uncleared employment applicant's or uncleared employee's security forms that specify: the results of the test for the absence of any illegal drug, as defined in 10 CFR 707.4, and, for the background checks, the date each background check was conducted, the identity of the contact who provided the information, a synopsis of the information provided by each contact, and a statement that all relevant information available has been reviewed and favorably adjudicated in accordance with the contractor's personnel policies. When an uncleared applicant is hired specifically for a position which requires a DOE access authorization, the uncleared employee shall not be placed in that position prior to the access authorization being granted by DOE, unless approved by the head of the cognizant local security office. If an uncleared employee is placed in that position prior to access authorization being granted by the DOE, the uncleared employee may not be afforded access to classified information or matter, or to special nuclear materials (in categories requiring an access authorization) until DOE notifies the employer that an access authorization has been granted. Management and operating contractors and other contractors operating DOE facilities shall include the requirements set forth in this subsection in subcontracts (appropriately modified to identify the parties) wherein subcontract employees will be required to hold DOE access authorizations in order to perform on-site duties, such as protective force operations.

* * * * *

[FR Doc. E8–3012 Filed 2–15–08; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

49 CFR Part 612

[Docket FTA–2008–0005]

RIN 2132–AA96

Contractor Performance Incentives for the Capital Investment Program

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); request for comments.

SUMMARY: This notice of proposed rulemaking provides interested parties with the opportunity to comment on the Federal Transit Administration's (FTA) proposal to establish a new part 612 of Title 49 of the Code of Federal Regulations to establish procedures for 49 U.S.C. 5309 capital investment (New Starts) project sponsors to apply for incentive awards if their projects meet eligibility criteria for both cost and ridership estimates. This proposed rule would carry out certain provisions of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: a Legacy for Users (SAFETEA–LU) (Pub. L. 109–59, August 10, 2005). Interested parties are invited to send comments on all facets of this proposal.

DATES: Comments must be submitted by April 21, 2008. Late-filed comments will be considered to the extent practicable.

ADDRESSES: You may submit comments identified by the docket number [FTA–2008–0005] by any of the following methods:

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

Mail: U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Ave SE., Washington, DC 20590.

Hand Delivery: The West Building of the U.S. Department of Transportation, 1200 New Jersey Ave SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Fax: 202–493–2251.

Instructions: You must include the agency name (Federal Transit Administration) and Docket number (FTA–2008–0005) or the Regulatory Identification Number (RIN) for this rulemaking at the beginning of your comments. You should submit two copies of your comments if you submit them by mail. If you wish to receive confirmation that FTA received your comments, you must include a self-

addressed stamped postcard. Note that all comments received will be posted, without change, to *http://www.regulations.gov* including any personal information provided and will be available to internet users. Please see the Privacy Act section of this document.

Docket: For access to the docket to read background documents and comments received, go to *http://www.regulations.gov* at any time or to the U.S. Department of Transportation, West Building, Ground Floor, Room W12–140, 1200 New Jersey Ave SE., Washington, DC 20590 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Sherry Riklin, Deputy Associate Administrator for Planning and Environment, 1200 New Jersey Avenue, SE., East Building, Washington, DC 20590, *phone:* (202) 366–4033, *fax:* (202) 493–2478 or e-mail, *Sherry.Riklin@dot.gov*. For legal questions, please contact Bonnie L. Graves, Attorney-Advisor, Legislation and Regulations Division, Office of Chief Counsel, Federal Transit Administration, 1200 New Jersey Avenue, SE., East Building, Washington, DC, 20590, phone: (202) 366–0944, fax: (202) 366–3809, or e-mail, *Bonnie.Graves@dot.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

On August 10, 2005, President Bush signed the Safe, Accountable, Flexible, and Efficient Transportation Equity Act—A Legacy for Users (SAFETEA–LU). Section 3011 of SAFETEA–LU made a number of changes to 49 U.S.C. 5309 (''Section 5309''), which authorizes the Federal Transit Administration's (FTA's) capital investment grant program. SAFETEA–LU emphasized the need to improve the accuracy of the estimates of ridership and costs used to support the selection of a capital investment project (''New Start'') as a locally preferred alternative (LPA) for Section 5309 funds. Section 5309(d)(4)(B)(i) and Section 5309(e)(4)(D) add ''the reliability of forecasting methods'' as a new evaluation consideration; Section 5309(g)(2)(C) codifies the ''before and after'' study requirement; and Section 5309(l)(2) requires FTA to produce an annual report on contractor performance in the development of ridership forecasts and cost estimates for New Starts projects.

Incentive Awards: Federal transit law supports the use of incentives to encourage the development of more reliable cost and ridership estimates for New Starts funded under Section 5309. Section 5309(h)(2) authorizes FTA to adjust the final net project cost of a new fixed guideway capital project to include the cost of eligible activities not included in the originally defined project if FTA determines that the originally defined project has been completed at a cost that is significantly below the original estimate. Section 5309(h)(3) accords FTA the discretion to provide a higher percentage of New Starts funding than that requested by the project sponsor as an incentive to producing reliable ridership forecasts and cost estimates.

Contractor Incentives: A number of provisions in Section 5309 recognize that contractors to grant recipients play an important role in increasing the reliability of forecasting methods to estimate costs and utilization of New Starts projects. Section 5309(d)(4)(B)(i) requires FTA to consider the reliability of the forecasting methods used to estimate costs and utilization made by the recipient and contractors to the recipient. Section 5309(l)(2) requires FTA to report to Congress annually on the consistency and accuracy of cost and ridership estimates made by each contractor to public transportation agencies developing New Starts projects. Further, Section 5309(l)(3) directs FTA to report to Congress on the suitability of allowing contractors to public transportation agencies that undertake New Starts projects to receive performance incentive awards if a project is completed for less than the original estimated cost. FTA completed this report on November 20, 2006; it is available for review on our web site: *http://www.fta.dot.gov/documents/ContractorPerformance IncentiveReport102006.pdf*.

This NPRM would further encourage accurate cost and ridership estimates through the award of additional New Starts funds to project sponsors, which they can choose to pass along to their contractors. The NPRM would complement the Contractor Performance Assessment Report (CPAR) referenced in section 5309(l)(2), which publicizes the identities of contractors with proven records of performing accurate cost and ridership estimation.

Incentive Award Standards: Consistent with section 5309(h)(3), FTA proposes that a New Starts project sponsor would be eligible for an incentive award if actual opening year ridership is not less than 90 percent of that forecast and actual capital costs, adjusted for inflation, are not more than 110 percent of those estimated, at the time the project entered Preliminary Engineering (PE). The rulemaking proposes to determine whether to provide the incentive only after the project is complete and operating, when actual costs and ridership can be determined. FTA believes the incentive should only be provided for actual performance, not for projected performance.

FTA proposes that the amount of the performance incentive award be based on the size and complexity of the project, and that the award be as high as an additional five percent of the New Starts funding under the Full Funding Grant Agreement (FFGA) or Project Construction Grant Agreement (PCGA). FTA is particularly interested in public comment on the criteria FTA should use to determine the percentage for the award. For example, are more complicated and larger projects more deserving of a full five percent? Should the size or complexity of a project be the only general considerations? Are certain modes inherently more difficult for purposes of cost or ridership estimation (e.g., heavy rail as compared to light rail)? Should a project alignment with tunnels, bridges, or other special features receive more of an incentive award than a project without those features? Should FTA take the project sponsor's experience into account? If so, how? What other factors might FTA consider in determining the percentage of a performance incentive award?

Incentive Award Procedures: Consistent with the intent and provisions of Section 5309, FTA proposes to include an incentive clause in the standard terms and conditions of an FFGA and a PCGA that would allow for an amendment to the grant to award additional New Starts funds for any one of three purposes: (1) To increase the Federal funding contribution to a project; (2) to allow for the addition of project scope; or (3) to provide a financial reward to contractors that have performed sufficiently accurate cost and ridership estimates. The change or addition to project scope could include capital items designed to improve passengers' ridership experience, such as transit enhancements as defined in 49 U.S.C. 5302(a)(15), additional safety or security measures, or new rail rolling stock. Based on the requirements for the ''Before and After'' Study, FTA proposes that the project sponsor would submit the data collected on the transit system two years after the beginning of revenue operations. The data would include ridership patterns and information on the as-built scope and capital costs of the project.

Note: An FFGA is the form of grant award whereby FTA provides $75 million or more in Federal financial assistance under 49 U.S.C. 5309(d) for construction of a New Starts project. A PCGA is the form of grant award whereby FTA provides less than $75 million in Federal financial assistance under 49 U.S.C. 5309(e) for construction of a ''Small Starts'' project. The regulations governing New Starts projects seeking FFGAs are codified at 49 CFR part 611. FTA has not yet promulgated regulations for Small Starts projects, but guidance on the development of Small Starts projects is available through the agency's Web site, *http://www.fta.dot.gov.*

FTA seeks comments on the proposal to provide incentives to New Start project sponsors and their contractors who provide reliable cost and utilization estimates. FTA is particularly interested in comments on how it might implement incentives for contractors to public transportation agencies. Based on comments received on this NPRM, FTA plans to issue a final rule that will establish procedures for project sponsors to apply for incentive awards of Section 5309 New Starts funds if their project meets eligibility criteria for both cost and ridership estimates, and to share those awards with contractors that produce reliable cost and ridership estimates.

We note, moreover, that the award of additional Federal financial assistance for a New Starts or Small Starts project to reward a grantee or its contractors for accurate cost and ridership estimates would be strictly limited to New Starts funds under 49 U.S.C. 5309(d) or 5309(e). Occasionally, New Starts and Small Starts projects are financed with additional sources of Federal assistance, such as Section 5309 Fixed Guideway Modernization and Bus & Bus Facilities funding, Section 5307 Urbanized Area Formula funding, or funding under the Surface Transportation Program and Congestion Mitigation and Air Quality program, but none of these other sources of Federal funding will be available for these incentive awards.

II. Rulemaking Analysis And Notices

Executive Order 12866

This NPRM is significant for purposes of Executive Order 12866 and the Department of Transportation's Regulatory Policies and Practices. The NPRM proposes to establish procedures for Section 5309 capital investment project sponsors to apply for incentive awards if their project meets eligibility criteria for both cost and ridership estimates and is a Departmental priority. These proposals are not expected to have noteworthy cost impacts on regulated parties. FTA requests comment on whether this rulemaking may have unintended cost impacts.

Federalism Assessment

This proposed rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 (''Federalism''). FTA believes this rule does not impose any requirements that would have substantial direct effects on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government.

Executive Order 13175

This proposed rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13175 (''Consultation and Coordination with Indian Tribal Governments''). Because this proposed rule does not have tribal implications and does not impose direct compliance costs, the funding and consultation requirements of Executive Order 13175 do not apply.

Regulatory Flexibility Act and Executive Order 13272

Section 603 of the Regulatory Flexibility Act (RFA) requires an agency to prepare an initial regulatory flexibility analysis describing impacts on small entities whenever an agency is required by 5 U.S.C. 553 to publish a general notice of proposed rulemaking for any proposed rule. Similarly, section 604 of the RFA requires an agency to prepare a final regulatory flexibility analysis when an agency issues a final rule under 5 U.S.C. 553 after being required to publish a general notice of proposed rulemaking. Because this proposed rulemaking establishes a process by which entities may seek increased funding as an incentive for accurate ridership and cost estimates, FTA does not believe this NPRM will have a significant economic impact on a substantial number of small entities. FTA requests public comment on whether this rulemaking may have unintended impacts on small entities.

Unfunded Mandates Reform Act of 1995

This proposed rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of $120.7 million or more, in the aggregate, to any of the following: State, local, or Native American tribal governments, or the private sector.

Paperwork Reduction Act

There are no new information collection requirements in this NPRM.

Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document may be used to cross-reference this action with the Unified Agenda.

Environmental Assessment

The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321–4347), requires Federal agencies to consider the consequences of major Federal actions and prepare a detailed statement on actions significantly affecting the quality of the human environment. We find that there are no significant environmental impacts associated with this NPRM, but ask for public comment on this issue.

Privacy Act

Anyone is able to search the electronic form for all comments received into any of our dockets by the name of the individual submitting the comments (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).

List of Subjects in 49 CFR Part 612

Grant Programs—Transportation; Mass Transportation.

For the reasons set forth in the preamble, we propose to amend title 49, chapter VI of the Code of Federal Regulations by adding a new part as follows:

PART 612—CONTRACTOR PERFORMANCE INCENTIVES FOR THE CAPITAL INVESTMENT PROGRAM

Sec.
612.1 Purpose.
612.3 Definitions.
612.5 Eligible candidates.
612.7 Payment mechanism.
612.9 Incentive award standards.
612.11 Incentive amount.
612.13 Funding source.
612.15 Eligible uses of award.

Authority: 49 U.S.C. 5309; 49 U.S.C. 5334; 49 CFR 1.51

§ 612.1 Purpose.

To improve the accuracy of the estimates of ridership and costs used to support the selection of a fixed guideway capital project as a locally preferred alternative (LPA), this rule

establishes procedures for 49 U.S.C. 5309 (''Section 5309'') capital investment project sponsors to apply for and receive incentive awards if their project meets eligibility criteria for both cost and ridership estimates.

§ 612.3 Definitions.

As used in this part, the following definitions apply:

Before and After Study refers to the project sponsor's comparison and analysis of planning assumptions, forecast results, and existing transit system characteristics ''before'' implementation of a New Starts project with the project costs and benefits realized ''after'' two years of revenue service.

Contractor Performance Assessment Report refers to an annual report to Congress, in which FTA reports the accuracy of contractor projections for cost and ridership from entry into Preliminary Engineering (PE) through two years after the system is open for service.

Full Funding Grant Agreement (FFGA) refers to an instrument that defines the scope of a project, the Federal financial contribution, and other terms and conditions for funding New Starts projects as required by 49 U.S.C. 5309(d)(1) and (g)(2).

Project Construction Grant Agreement (PCGA) refers to an instrument that defines the scope of a project, the Federal financial contribution, and other terms and conditions for funding Small Starts projects as required by 49 U.S.C. 5309(e)(7).

Section 5309 capital investment project refers to a new fixed guideway system or an extension to an existing fixed guideway system, but does not include rail modernization or non-corridor bus capital projects funded under 49 U.S.C. 5309.

§ 612.5 Eligible candidates.

All Section 5309 capital investment project sponsors who will or have receive(d) a Full Funding Grant Agreement (FFGA) or a Project Construction Grant Agreement (PCGA) after August 10, 2005, are eligible to receive incentive awards.

§ 612.7 Payment mechanism.

(a) Full Funding Grant Agreements (FFGA) and Project Construction Grant Agreements (PCGA) for Section 5309 capital investment projects will include an incentive clause that will allow for an amendment to either increase the Federal funding contribution, allow for the addition of scope, or provide a financial award, when the criteria of § 612.9 have been met.

(b) Upon submission of its ''before and after'' data documenting that the project meets the cost and ridership criteria, the project sponsor may request that FTA award the project sponsor a performance incentive.

§ 612.9 Incentive award standards.

(a) For a project sponsor to be eligible to receive a performance incentive award, the project must meet criteria for both cost and ridership estimates.

(1) Actual opening year ridership shall be not less than 90 percent of that forecast; and

(2) Actual capital costs, adjusted for inflation, shall be not more than 110 percent of those estimated; at the time the project entered Preliminary Engineering (PE).

(b) FTA will base its incentive award eligibility determination on the cost and ridership information provided by the project sponsor to FTA for the purposes of the ''Before and After Study'' and the ''Contractor Performance Assessment Report.''

§ 612.11 Incentive amount.

FTA will determine the amount of the performance incentive award based on the size and complexity of the project and may award up to an additional five percent of the federal grant amount identified in the FFGA or PCGA.

§ 612.13 Funding source.

Incentive funds will be available from New Starts funds available under 49 U.S.C. 5309(d) or 5309(e).

§ 612.15 Eligible uses of award.

The performance incentive award may be:

(a) used to fund any item eligible under 49 U.S.C. 5309(b)(1) or (b)(4); or

(b) shared with contractors that prepared reliable cost and ridership estimates for the project.

Issued in Washington, DC, this 12th day of February 2008.

James S. Simpson,

Administrator.

[FR Doc. E8–3025 Filed 2–15–08; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[FWS–R1–ES–2008–0016; 1111 FY07 MO–B2]

RIN 1018–AV00

Endangered and Threatened Wildlife and Plants; Listing Phyllostegia hispida (No Common Name) as Endangered Throughout Its Range

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; request for public comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose to list *Phyllostegia hispida* (no common name), a plant species from the island of Molokai in the Hawaiian Islands, as endangered under the Endangered Species Act of 1973, as amended (Act). If we finalize this rule as proposed, it would extend the Act's protections to this species. We have determined that critical habitat for *Phyllostegia hispida* is prudent but not determinable at this time.

DATES: We will accept comments received or postmarked on or before April 21, 2008. We must receive requests for public hearings, in writing, at the address shown in the **ADDRESSES** section by April 4, 2008.

ADDRESSES: You may submit comments by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: RIN 1018–AV00; 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 Solicited section below for more information).

FOR FURTHER INFORMATION CONTACT: Patrick Leonard, Field Supervisor, U.S. Fish and Wildlife Service, Pacific Islands Fish and Wildlife Office, 300 Ala Moana Boulevard, Box 50088, Honolulu, HI 96850; telephone 808–792–9400; facsimile 808–792–9581. If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Public Comments

We intend that any final action resulting from this proposed rule will be based on the best scientific and commercial data available and be as accurate and as effective as possible. Therefore, we request comments or information from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule. We particularly seek comments concerning:

(1) Biological, commercial trade, or other relevant data concerning any threats (or lack thereof) to this species and regulations that may be addressing those threats;

(2) Additional information concerning the range, distribution, and population size of this species, including the locations of any additional populations of this species;

(3) Any information on the biological or ecological requirements of the species;

(4) Current or planned activities in the areas occupied by the species and possible impacts of these activities on this species;

(5) Which areas would be appropriate as critical habitat for the species and why they should be proposed for designation as critical habitat; and

(6) The reasons why areas should or should not be designated as critical habitat as provided by section 4 of the Act (16 U.S.C. 1531, *et seq.*), including whether the benefits of designation would outweigh threats to the species that designation could cause, such that the designation of critical habitat is prudent.

You may submit your comments and materials concerning this proposed rule by one of the methods listed in the **ADDRESSES** section. We will not accept comments sent by e-mail or fax or to an address not listed in the **ADDRESSES** section. We will not accept anonymous comments; your comment must include your first and last name, city, State, country, and postal (zip) code. 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 addition to the required items specified in the previous paragraph, such as your street address, phone number, or e-mail address, 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, Pacific Islands Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT** section).

Background

Phyllostegia hispida is known only from the island of Molokai, Hawaii. Molokai is approximately 38 miles (mi) (61 kilometers (km)) long and up to 10 mi (16 km) wide, and encompasses an area of about 260 square (sq) mi (674 sq km) (Foote, *et al.* 1972, p. 11; Department of Geography 1998, p. 13). Three shield volcanoes make up most of the land mass, dividing the island into roughly three geographic segments—West Molokai Mountain, East Molokai Mountain, and a volcano that formed Kalaupapa Peninsula (Department of Geography 1998, pp. 11, 13).

The taller and larger East Molokai Mountain which makes up eastern Molokai rises 4,970 ft (1,514 m) above sea level on the island's summit at Kamakou and comprises roughly 50 percent of the island's land area (Department of Geography 1998, p. 11; Foote, *et al.* 1972, p. 11). *Phyllostegia hispida* is known only from the wet forests of eastern Molokai, at elevations from 2,300 to 4,200 feet (ft) (700 to 1,280 meters (m)) (Wagner, *et al.* 1999, p. 819). The wet forests where *Phyllostegia hispida* has been recorded are found only on the windward side of East Molokai, which differs topographically from the leeward side. Precipitous cliffs line the northern windward coast, with deep inaccessible valleys dissecting the coastline. The annual rainfall on the windward side ranges from 75 to over 150 inches (in) (200 to over 375 centimeters (cm)), distributed throughout the year. The soils are poorly drained and high in organic matter. The gulches and valleys are usually very steep, but sometimes gently sloping (Foote, *et al.* 1972, p. 14).

The native habitats and vegetation of the Hawaiian Islands have undergone extreme alterations because of past and present land use, as well as the intentional or inadvertent introduction of nonnative plant and animal species. Introduced mammals, particularly pigs (*Sus scrofa*), have greatly impacted native Hawaiian plant communities. Pigs have been described as the most pervasive and disruptive nonnative influence on the unique native forests of the Hawaiian Islands, and are widely recognized as one of the greatest threats to forest ecosystems in Hawaii today (Aplet, *et al.* 1991, p. 56; Anderson and Stone 1993, p. 195; Loope 1999, p. 56). Introduced (nonnative) plant species, which now comprise approximately half of the plant taxa in the islands, have come to dominate many Hawaiian ecosystems, and frequently outcompete native plants for space, light, water, and nutrients, as well as alter ecosystem function, rendering habitats unsuitable for native species (Cuddihy and Stone 1990, pp. 73–91; Vitousek 1986, pp. 29–41).

The plant *Phyllostegia hispida,* known only from the island of Molokai, has only a few recorded occurrences, and for a short period of time recently, was thought to be possibly extinct in the wild. Alteration of the plant's native habitat by feral pigs and nonnative plants are thought to be the primary threats to *P. hispida,* in conjunction with the threat of predation by feral pigs, competition with nonnative plants, and the negative demographic and genetic consequences of extremely small population size.

Species Information

Phyllostegia hispida was first described by William Hillebrand in 1870 from a specimen collected from an area that he described as the ''heights of Mapulehu'' on the island of Molokai (Wagner, *et al.* 2005), and is recognized as a distinct taxon in Wagner, *et al.* (1999, pp. 817–819). Wagner, *et al.* describes the plant as a non-aromatic member of the mint family (Lamiaceae). *P. hispida* is described as a loosely spreading, many-branched vine that often forms large tangled masses. Leaves are thin and flaccid with hispid hairs and glands. The leaf margins are irregularly and shallowly lobed. Six to eight white flowers make up each verticillaster (a false whorl, composed of a pair of nearly sessile cymes in the axils of opposite leaves or bracts), and nutlets are approximately 0.1 in (2.5 millimeters (mm)) long (Wagner, *et al.* 1999, pp. 817–819). No life history information is currently available on this species.

The few documented specimens of *Phyllostegia hispida* are typically found in wet *Metrosideros polymorpha* (ohia)-dominated forest at an elevation between 3,650 and 4,200 ft (1,112 and 1,280 m). Associated native species included *Cheirodendron trigynum* (olapa), *Ilex anomala* (aiae), *Cibotium glaucum* (hapuu), *Broussaisia argutus* (kanawao), *Rubus hawaiensis* (akala), *Sadleria cyatheoides* (amau), *Pipturus*

albidus (mamaki), *Nertera granadensis* (makole), *Athyrium microphyllum, Elaphoglossum fauriei,* and bryophytes (HBMP Database 2005).

From 1910 to 1979, there were a total of 8 recorded occurrences of *Phyllostegia hispida* in the wet forests of eastern Molokai (Hawaii Biodiversity and Mapping Program (HBMP) Database 2005). None of these historic occurrences have been relocated during surveys conducted in the wet forests of east Molokai over the past several years (The Nature Conservancy of Hawaii (TNCH) 1997b, pp. 1–19; Steve Perlman and Ken Wood, National Tropical Botanical Garden (NTBG), pers. comms. 2006). In 1996, two adult plants were found in eastern Molokai within TNCH's Kamakou Preserve, one next to the Pepeopae Boardwalk and the other east of Hanalilolilo growing along the fence within the State of Hawaii's Puu Alii Natural Area Reserve (NAR). Within only a few months of discovery, the individual growing along the Puu Alii fence died (HBMP Database 2005; TNCH 1997a, p. 2). In 1997, a single *Phyllostegia* individual was discovered on the rim of Pelekunu Valley in the Puu Alii NAR (HBMP Database 2005; TNCH 1997b, p. 6). There is some uncertainty, however, as to whether this individual was, in fact, *P. hispida,* as it was identified as *P. manni* by Hawaii Division of Forestry and Wildlife (DOFAW) staff based upon the size and lobing of its leaves (Robert Hobdy, Robert Hobdy Environmental Consultant, pers. comm. 2006; Joel Lau, HBMP, pers. comm. 2006; Torrie Nohara, DOFAW, pers. comm. 2006). This individual plant was protected from feral ungulates inside a fenced exclosure. Seeds were collected, and seedlings were produced by DOFAW and outplanted into the exclosure with the wild plant (T. Nohara, pers. comm. 2006).

In November 1996, TNCH erected an exclosure around the Pepeopae Boardwalk individual and began frequent, recurrent weeding and monitoring within the fenced area (TNCH 1997a, p. 2). They also built an exclosure approximately 656 ft (200 m) away for future outplantings of propagated individuals. Plants grown from leaf buds collected from the Pepeopae Boardwalk plant were outplanted into the exclosure in December 1997 (TNCH 1998a, p. 7). They survived through 1998 (TNCH 1998b, Appendix 1, dot 28), but have since been confirmed dead (Sam Aruch, TNCH, pers. comm. 2006; Ed Misaki, TNCH, pers. comm. 2006).

The Pepeopae Boardwalk individual died in 1998 or 1999 (HBMP Database 2005), and the wild plant and outplantings in Puu Alii NAR, which may possibly have been *Phyllostegia manni* and not *P. hispida* (see above; the question of taxonomic identity was never resolved), died several years ago (S. Perlman, pers. comm. 2005; K. Wood, pers. comm. 2005; Guy Hughes, Kalaupapa National Historic Park (KNHP), pers. comm. 2006). The University of Hawaii's Lyon Arboretum has material from the individual that was growing along the Puu Alii fence and from the Pepeopae Boardwalk individual in micropropagation (Service Captive Propagation Database (SCPD) 2005).

Surveys have been conducted in the wet forests of east Molokai over the years, but failed to locate additional *Phyllostegia hispida* plants. The species was thought to have been extirpated from the wild until 2005, when two seedlings were found in a Hanalilolilo stream bank in Kamakou Preserve, indicating the possible presence of a mature plant, or plants, somewhere in the vicinity (TNCH 1997b, pp. 1–19; S. Perlman, pers. comm. 2005; S. Perlman and K. Wood, pers. comms. 2006). One of the seedlings was collected by a botanist with HBMP and provided to Lyon Arboretum in Honolulu, which in turn provided it to KNHP on Molokai for attempted propagation. That plant has since died (G. Hughes and Bill Garnett, KNHP, pers. comms. 2006). The other seedling was collected by a botanist with NTBG. Cuttings were propagated from this seedling and provided to KNHP for growing out (S. Perlman, pers. comm. 2006).

Phyllostegia hispida was again thought to be extirpated from the wild until a single juvenile plant was discovered in May 2006 within the Puu Alii NAR along the Puu Alii fenceline at 4,100 ft (1,250 m) elevation (S. Perlman, pers. comm. 2006). Although protected within a 10-ft (3-m) diameter fenced exclosure (Bryan Stevens, Maui DOFAW, pers. comm. 2006), that individual has died for unknown reasons (H. Oppenheimer, Maui Plant Extinction Prevention Program (PEP), pers. comm. 2007). However, 10 new wild plants were discovered within the Puu Alii NAR in April 2007; although most are seedlings, one of these individuals is mature and has fruited and produced seeds (H. Oppenheimer, pers. comm. 2007). Seeds were collected from the mature plant and sent to the Lyon Arboretum, and cuttings were taken from some of the other plants for propagation. Four of the newly discovered seedlings were found next to the Puu Alii fence, and are enclosed with temporary fencing material.

In addition to the newly identified wild plants, 12 of the cuttings that were grown out at KNHP were outplanted into an enclosure in TNCH's Kamakou Preserve in April 2007, and 11 of these were still doing well as of June 2007. Another 12 were outplanted into a second enclosure in Kamakou Preserve in June 2007 (H. Oppenheimer, pers. comm. 2007), bringing the total number of *Phyllostegia hispida* plants in the wild to 10 naturally occurring and 23 recently outplanted individuals.

Previous Federal Action

We first identified *Phyllostegia hispida* as a candidate for listing in the September 19, 1997, Notice of Review of Plant and Animal Taxa that are Candidates or Proposed for Listing as Endangered or Threatened Species (Notice of Review) (62 FR 49397). Candidates are those taxa for which we have on file sufficient information on biological vulnerability and threats to support preparation of a listing proposal, but for which development of a listing regulation is precluded by other higher priority listing activities.

On May 4, 2004, the Center for Biological Diversity petitioned the Service to list 225 species of plants and animals as endangered under the provisions of the Act, including *Phyllostegia hispida.* In our Notice of Review, dated September 12, 2006, we retained a listing priority number of 2 for this species, in accordance with our priority guidance published on September 21, 1983 (48 FR 43098). A listing priority of 2 reflects threats that are both imminent and high in magnitude, as well as the taxonomic classification of *P. hispida* as a full species. We determined that publication of a proposed rule to list the species was precluded by our work on higher priority listing actions during the period from May 2, 2005, through August 23, 2006 (71 FR 53756). However, we have since completed those actions. As such, we had available resources to initiate the proposal to list this species.

Summary of Factors Affecting the Species

Section 4 of the Act and its implementing regulations (50 CFR part 424) set forth the procedures for adding species to the Federal list of endangered and threatened species. 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. The five listing factors are: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial,

recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; and (E) other natural or manmade factors affecting its continued existence.

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

As with virtually every other native plant community in the islands, the wet forests of Molokai where *Phyllostegia hispida* occurs have been impacted by introduced (nonnative) pigs and introduced (nonnative) plants (DOFAW 1991, pp. 3, 14–23; TNCH 1994, pp. 6, 9–12; HBMP Database 2005). The poor reproduction and survivorship of *P. hispida* clearly indicate that the current conditions are less than optimal for this species, although we do not yet fully understand the specific mechanisms that are undermining its viability.

Feral Pigs

European pigs, introduced to Hawaii by Captain James Cook in 1778, hybridized with domesticated Polynesian pigs, became feral, and invaded forested areas, especially wet and mesic forests and dry areas at high elevations. They are currently present on Kauai, Niihau, Oahu, Molokai, Maui, and Hawaii. These introduced pigs are extremely destructive and have both direct and indirect impacts on native plant communities. While rooting in the earth in search of invertebrates and plant material, pigs directly impact native plants by disturbing and destroying vegetative cover, trampling plants and seedlings, and may reduce or eliminate plant regeneration by damaging or eating seeds and seedlings (further discussion of predation is under Factor C, below). Pigs are a major vector for the establishment and spread of competing invasive nonnative plant species, by dispersing these plant seeds on their hooves and coats as well as through their digestive tracts, and by fertilizing the disturbed soil through their feces. Pigs feed preferentially on the fruits of many nonnative plants, such as *Passiflora mollisima* (banana poka) and *Psidium cattleianum* (strawberry guava), thereby facilitating the spread of these invasive species, and also contribute to erosion by clearing vegetation and creating large areas of disturbed soil, especially on slopes (Aplet, *et al.* 1991, p. 56; Smith 1985, pp. 190, 192, 196, 200, 204, 230–231; Stone 1985, pp. 254–255, 262–264; Medeiros, *et al.* 1986, pp. 27–28; Scott, *et al.* 1986, pp. 360–361; Tomich 1986, pp. 120–126; Cuddihy and Stone 1990, pp. 64–65; Loope, *et al.* 1991, pp. 1–21; Wagner, *et al.* 1999, p. 52).

Feral pigs are present in the wet forest habitat formerly and currently inhabited by *Phyllostegia hispida* within Puu Alii NAR and Kamakou Preserve, and their impacts continue to degrade the condition of the forest there (DOFAW 1991, pp. 3, 14–23; TNCH 1994, pp. 6, 9–12; HBMP Database 2005). They are considered a major threat to native species and to the overall health of the watershed in which *P. hispida* occurs (DOFAW 1991, pp. 3, 14–23; TNCH 1994, pp. 6, 9–12). Significant management actions are directed at feral ungulate control in the area where *P. hispida* has been found within Puu Alii NAR and Kamakou Preserve on Molokai, such as large-scale watershed fencing, construction of ungulate exclosures around rare plants, public hunting, and staff hunting (TNCH 1997a, pp. 2–3; TNCH 1998a, pp. 1–2, 7; DOFAW 2000, pp. 3, 12; HBMP Database 2005). When the individual *P. hispida* was discovered in 1996 next to the boardwalk at Pepeopae, TNCH noted pig signs (*e.g.*, droppings, evidence of rooting, wallows) in the vicinity (HPMP Database 2005) and immediately erected a fenced exclosure around the plant to protect it (TNCH 1997a, pp. 2–3). Similarly, a fenced exclosure was erected around the individual that was discovered within the Puu Alii NAR in 1997 to protect it from feral pigs (T. Nohara, pers. comm. 2006). The juvenile plant discovered within the Puu Alii NAR in 2005 was immediately fenced to protect it from feral pigs (B. Stevens, pers. comm. 2006), as were four of the most recently discovered plants along the fenceline at Puu Alii NAR (H. Oppenheimer, pers. comm. 2007). Due to the well-documented negative impacts of feral pigs on native Hawaiian plant communities, the known habitat degradation caused by pigs in the habitat occupied by *P. hispida,* and the continuing presence of pigs in the limited area where *P. hispida* is found, we consider habitat modification and degradation by feral pigs to be a significant and immediate threat to this species.

Nonnative Plants

Introduced nonnative plant species are a pervasive threat to the native flora throughout the Hawaiian Islands. Of the current total of nearly 2,000 native and naturalized plant taxa, approximately half are introduced nonnative species from other parts of the world, and nearly 100 of these are considered invasive pest species (Smith 1985, p. 180). On the Hawaiian Islands and other tropical islands, studies have shown that many of these introduced plant taxa outcompete and displace native plants, and often alter the habitat to the point that it is no longer suitable for the native plant species; these studies include nonnative pest plants found in habitat similar to that of *Phyllostegia hispida* (Smathers and Gardner 1978, pp. 274–275; Smith 1985, pp. 196, 206, 230; Loope and Medeiros 1992, pp. 7–8; Medeiros, *et al.* 1992, pp. 30–32; Ellshoff, *et al.* 1995, pp. 1–5; Meyer and Florence 1996, pp. 777–780; Medeiros, *et al.* 1997, pp. 30–32; Loope, *et al.* 2004, pp. 1472–1473). In particular, nonnative pest plants may make habitat less suitable for native plants by modifying availability of light, altering soil-water regimes, modifying nutrient cycling, or altering fire characteristics of native plant communities (Smith 1985, pp. 206, 217, 225, 227–233; Cuddihy and Stone 1990, p. 74). Although there is no empirical evidence specific to *P. hispida* due to the lack of research on the species, scientists familiar with *P. hispida* believe it does not handle either shade or competition well (H. Oppenheimer, pers. comm. 2007), and nonnative plants are likely to contribute to both of these conditions. Examples of some of the nonnative plants documented in the area occupied by *P. hispida* include *Axonopus fissifolius* (narrow-leaved carpetgrass), *Clidemia hirta* (Koster's curse), *Erechtites valerianifolia* (fireweed), *Juncus effuses* (Japanese mat rush), *Rubus rosifolius* (thimbleberry), and *Sacciolepis indica* (Glenwood grass). Because of demonstrated habitat modification and resource competition by nonnative plant species in habitat similar to the wet forest habitat of *P. hispida,* and the ongoing presence of high numbers of invasive nonnative plant species in the area currently occupied by *P. hispida,* we consider habitat modification and degradation by nonnative plants to be a significant and immediate threat to this species.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Overutilization for commercial, recreational, scientific, or educational purposes is not known to be a threat to *Phyllostegia hispida,* and as such is not addressed in this proposal.

C. Disease or Predation

Because the native vegetation of Hawaii evolved without any browsing or grazing mammals present, many plant species do not have natural defenses against such impacts (Carlquist 1980, pp. 173–175; Lamoureux 1994, pp. 54–55). Native plants such as

Phyllostegia hispida do not have physical or chemical adaptations, such as thorns or noxious compounds, to protect them, thereby rendering them particularly vulnerable to predation by introduced pigs or other ungulates (Department of Geography 1998, pp. 137–138; Carlquist 1980, p. 175). Browsing by ungulates has been observed on many other native plants, including common and rare or endangered species (Cuddihy and Stone 1990, pp. 64–65). In a study of feral pig populations in the Kipahulu Valley on the island of Maui, pigs were observed feeding on at least 40 plant species in the rainforest ecosystem, 75 percent of which were native plants occurring in the herbaceous understory and subcanopy layer (Diong 1982, p. 160). Therefore, even though we have no evidence of direct browsing for *P. hispida,* given the presence of pigs in the area where *P. hispida* occurs, we consider it likely that pigs may impact the species directly through predation. Therefore, we believe feral pigs pose a potentially significant and immediate threat to the species.

D. The Inadequacy of Existing Regulatory Mechanisms

Currently, there are no Federal, State, or local laws, treaties, or regulations that specifically conserve or protect *Phyllostegia hispida* from the threats described in this rule.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

The most significant threat to *Phyllostegia hispida* is its extremely low numbers. A total of 33 plants, only one of which is reproductively mature, are currently known to exist in the wild. Twenty-three of these are only recently outplanted. Although propagules of *P. hispida* have been collected on an opportunistic basis and some controlled propagation of the species has taken place, there is no dedicated funding for propagation of the species and no formal plan exists for outplanting and reintroduction. Outplantings have been attempted on an *ad hoc* basis, but unfortunately none of these outplantings has yet proven successful for more than the short-term.

Species that are known from few wild individuals and are endemic to a single, small island are inherently more vulnerable to extinction than widespread species because of the higher risks posed to a few populations and individuals by genetic bottlenecks, random demographic fluctuations, and localized catastrophes, such as hurricanes and disease outbreaks (Mangel and Tier 1994, pp. 607–614; Pimm, *et al.* 1988, pp. 757–785). In the case of *Phyllostegia hispida*, the entire population of the species is small and restricted to a highly localized geographic area, rendering it highly vulnerable to the risk of extinction in the wild due to the lack of redundancy in populations. Although some species are naturally rare, the poor survivorship of *P. hispida* suggest that the requisite biological or ecological needs of the species are not being met under current conditions. Deterministic factors, such as habitat alteration or loss of a key pollinator, may have reduced this population to such a small size that it is now vulnerable to a stochastic extinction event (Gilpin and Soulé 1986, pp. 24–25). Small population size has therefore become a primary and immediate threat to this species.

Proposed Determination

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats to *Phyllostegia hispida*. The species' extremely low numbers and highly restricted geographic range make it particularly susceptible to extinction at any time from random events such as hurricanes. There is only one plant known to exist in the wild that is reproductively mature. Although several individuals have recently been outplanted, no outplanting effort for this species has yet been successful. Therefore, the future of these propagated individuals is highly uncertain. Although the species is found on protected lands, it nonetheless faces immediate and continuing threats from habitat destruction and degradation due to feral pig activity, competition with nonnative plant species, and predation by nonnative mammals, as well as the threat of extinction at any time from a random stochastic event such as a hurricane.

The Endangered Species Act (Sec. 3(5)(C)(6)) defines an endangered species as ''any species which is in danger of extinction throughout all or a significant portion of its range.'' Based on the immediate and ongoing significant threats to *Phyllostegia hispida* throughout its entire limited range, as described above, and the fact that there is only one adult reproductive individual of the species known, we consider the species *P. hispida* to be in danger of extinction throughout all of its range. Therefore, on the basis of the best available scientific and commercial information, we are proposing to list *P. hispida* as an endangered species.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing results in public awareness and conservation by Federal, State, and local agencies, private organizations, and individuals. The Act encourages cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) requires Federal agencies to confer with the Service on any action that is likely to jeopardize the continued existence of a species proposed for listing or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of the species or destroy or adversely modify its critical habitat. If a Federal action may adversely affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

For *Phyllostegia hispida*, Federal agency actions that may require consultation as described in the preceding paragraph include the provision of Federal funds to State and private entities through Federal programs, such as the Service's Landowner Incentive Program, State Wildlife Grant Program, and Federal Aid in Wildlife Restoration program, as well as the various grants administered by the U.S. Department of Agriculture, Natural Resources Conservation Service. Other types of actions that may require consultation include Army Corps of Engineers activities, such as the construction or maintenance of boardwalks and bridges subject to section 404 of the Clean Water Act (33 U.S.C. 1344, *et seq.*).

The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply

to endangered plants. All prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale in interstate or foreign commerce, or remove and reduce the species to possession from areas under Federal jurisdiction. In addition, for plants listed as endangered, the Act prohibits the malicious damage or destruction on areas under Federal jurisdiction and the removal, cutting, digging up, or damaging or destroying of such plants in knowing violation of any State law or regulation, including State criminal trespass law. Certain exceptions to the prohibitions apply to agents of the Service and State conservation agencies. Although Hawaii has a strong Endangered Species law (HRS, Sect. 195–D), *Phyllostegia hispida* is not currently protected under that law. Federal listing of *Phyllostegia hispida* will automatically invoke State listing under Hawaii's Endangered Species law and supplement the protection available under other State laws. The Federal Endangered Species Act will, therefore, offer additional protection to this species.

The Act and 50 CFR 17.62 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered plants under certain circumstances. Such permits are available for scientific purposes and to enhance the propagation or survival of the species. We anticipate that the only permits that would be sought or issued for *Phyllostegia hispida* would be in association with recovery efforts, as this species is not common in cultivation or the wild. Requests for copies of the regulations regarding listed species and inquiries about prohibitions and permits may be addressed to U.S. Fish and Wildlife Service, Ecological Services, Eastside Federal Complex, 911 NE. 11th Avenue, Portland, OR 97232–4181 (telephone 503–231–6158; facsimile 503–231–6243).

Critical Habitat

Background

Critical habitat is defined in section 3 of the Act as (i) the specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection; and (ii) specific areas outside the geographic area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. Conservation, as defined under section 3 of the Act, means to use and the use of all methods and procedures that are necessary to bring an endangered or threatened species to the point at which the measures provided pursuant to the Act are no longer necessary.

Critical habitat receives protection under section 7 of the Act through the prohibition against destruction or adverse modification of critical habitat with regard to actions carried out, funded, or authorized by a Federal agency. Section 7(a)(2) requires consultation on Federal actions that may affect critical habitat. The designation of critical habitat does not affect land ownership or establish a refuge, wilderness, reserve, preserve, or other conservation area. Such designation does not allow government or public access to private lands. Section 7(a)(2) is a purely protective measure and does not require implementation of restoration, recovery, or enhancement measures, although conservation measures are required under section 7(a)(1) of the Act.

Prudency Determination

Section 4(a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12), require that, to the maximum extent prudent and determinable, we designate critical habitat at the time the species is determined to be endangered or threatened. Our regulations (50 CFR 424.12(a)(1)) state that the designation of critical habitat is not prudent when one or both of the following situations exist: (1) The species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of threat to the species, or (2) such designation of critical habitat would not be beneficial to the species.

There is no documentation that *Phyllostegia hispida* is threatened by taking or other human activity. In the absence of finding that the designation of critical habitat would increase threats to a species, if there are any benefits to a critical habitat designation, then a prudent finding is warranted. The potential benefits include: (1) Triggering consultation under section 7 of the Act, in new areas for actions in which there may be a Federal nexus where it would not otherwise occur because, for example, it is or has become unoccupied or the occupancy is in question; (2) focusing conservation activities on the most essential features and areas; (3) providing educational benefits to State or county governments or private entities; and (4) preventing people from causing inadvertent harm to the species.

The primary regulatory effect of critical habitat is the section 7(a)(2) requirement that Federal agencies refrain from taking any action that destroys or adversely affects critical habitat. At present, the only known extant individuals of *Phyllostegia hispida* occur on State and private land, and all previously known occurrences have been on State and privately owned lands. Further, there are no Federal lands or lands under Federal jurisdiction in the forests of east Molokai, the historic range of this species. Therefore, it is unlikely that this species currently occurs, or would occur in the future, on Federal lands. Nevertheless, lands that may be designated as critical habitat in the future for this species may be subject to Federal actions that trigger the section 7 consultation requirement, such as the granting of Federal monies for conservation projects and/or the need for Federal permits for projects, such as the construction and maintenance of boardwalks and bridges subject to section 404 of the Clean Water Act (33 U.S.C. 1344, *et seq.*). There may also be some educational or informational benefits to the designation of critical habitat. Educational benefits include the notification of land owners, land managers, and the general public of the importance of protecting the habitat of this species. In the case of *Phyllostegia hispida*, these aspects of critical habitat designation would potentially benefit the conservation of the species. Therefore, since we have determined that the designation of critical habitat will not likely increase the degree of threat to the species and may provide some measure of benefit, we find that designation of critical habitat is prudent for *Phyllostegia hispida*.

Primary Constituent Elements

In accordance with sections 3(5)(A)(i) and 4(b)(1)(A) of the Act and regulations at 50 CFR 424.12, in determining which areas to propose as critical habitat, we must consider those physical and biological features (primary constituent elements in the necessary and appropriate quantity and spatial arrangement) essential to the conservation of the species. We must also consider those areas essential to the conservation of the species that are outside the geographical area occupied by the species. These primary

constituent elements include, but are not limited to, space for individual and population growth and for normal behavior; food, water, or other nutritional or physiological requirements; cover or shelter; sites for breeding, reproduction, rearing of offspring, germination, or seed dispersal; and habitats that are protected from disturbance or are representative of the historical geographical and ecological distributions of a species.

We are currently unable to identify the primary constituent elements for *Phyllostegia hispida*, because information on the physical and biological features that are considered essential to the conservation of this species is not known at this time. As discussed in the ''Species Information'' section of this proposed rule, between the years 1910 and 1996 only 10 occurrences of *P. hispida* were documented, and the location information for these occurrences was recorded at a relatively coarse scale. Elevations are known only for the few individuals discovered within the last 10 years. From 1996 through 2005 a total of only 6 plants (3 adults, 2 seedlings, and 1 juvenile) were located, all existing only as single individuals in disparate locations. All of the previously known adults have died without reproducing naturally in the wild; the first mature plant to be observed fruiting was just discovered in April 2007. The two seedlings discovered in 2005 were collected and deposited with propagation facilities to attempt production of additional seedlings for outplanting in the future. The reasons for the deaths of the three adult and one juvenile plants are unknown, as are the reasons for poor natural reproduction in the wild. Key features of the plant's life history, such as longevity, dispersal mechanisms, or vectors for pollination, are unknown.

The plant community where the few remaining wild individuals of *Phyllostegia hispida* are found has been highly modified by the presence of nonnative plants and feral pigs, and the poor viability of the species occurrences observed in recent years indicates that current conditions are not sufficient to meet the basic biological requirements of this species. Because *P. hispida* has never been observed in an unaltered environment, the optimal conditions that would provide the biological or ecological requisites of the species are not known. Although, as described above, we can surmise that habitat degradation from a variety of factors has contributed to the decline of the species, we do not know specifically what essential physical or biological features of that habitat are currently lacking for *P. hispida*. As we are unable to identify the physical and biological features essential to the conservation of *P. hispida*, we are unable to identify areas that contain these features.

Therefore, although we have determined that the designation of critical habitat is prudent for *Phyllostegia hispida*, since the biological requirements of the species are not sufficiently known, we find that critical habitat for *P. hispida* is not determinable at this time.

Peer Review

In accordance with our joint policy published in the **Federal Register** on July 1, 1994 (59 FR 34270), we will seek the expert opinions of at least three appropriate and independent specialists regarding this proposed rule. The purpose of such review is to ensure that our proposed rule is based on scientifically sound data, assumptions, and analyses. We will send these peer reviewers copies of this proposed rule immediately following publication in the **Federal Register**. We will invite these peer reviewers to comment, during the public comment period, on the specific assumptions and conclusions regarding the proposal to list *Phyllostegia hispida* as endangered and our decision regarding critical habitat for this species.

We will consider all comments and information received during the comment period on this proposed rule during preparation of a final rulemaking. Accordingly, the final decision may differ from this proposal.

Public Hearings

The Act provides for one or more public hearings on this proposal, if requested. Requests must be received within 45 days after the date of publication of this proposal in the **Federal Register**. Such requests must be made in writing and be addressed to the Field Supervisor at the address in the **ADDRESSES** section.

Clarity of the Rule

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this rule easier to understand including answers to questions such as the following: (1) Are the requirements in the rule clearly stated? (2) Does the rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Would the rule be easier to understand if it were divided into more (but shorter) sections? (5) Is the description of the rule in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the emergency rule? What else could we do to make the rule easier to understand?

Send a copy of any comments that concern how we could make this rule easier to understand to Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW., Washington, DC 20240. You also may e-mail the comments to this address: *Exsec@ios.goi.gov.*

Paperwork Reduction Act of 1995 (44 U.S.C. 3501, et seq.)

This rule does not contain any new collections of information that require approval by Office of Management and Budget (OMB) under the Paperwork Reduction Act. This rule will not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. 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.

National Environmental Policy Act

We have determined that environmental assessments and environmental impact statements, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

A complete list of all references cited in this rule is available on the Internet at *http://www.regulations.gov* or upon request from the Field Supervisor, Pacific Islands Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT** section).

Author(s)

The primary author of this document is staff from the Pacific Islands Fish and Wildlife Office (see **ADDRESSES**).

List of Subjects in 50 CFR Part 17

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

Proposed Regulation Promulgation

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

PART 17—[AMENDED]

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

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

2. In § 17.12(h) add the following to the List of Endangered and Threatened Plants in alphabetical order under Flowering Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Family	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
*	*	*	*	*	*		*
FLOWERING PLANTS							
*	*	*	*	*	*		*
Phyllostegia hispida	None	U.S.A. (HI)	Lamiaceae—Mint	E	TBD	NA	NA
*	*	*	*	*	*		*

Dated: February 5, 2008.

Kenneth Stansell,

Deputy Director, U.S. Fish and Wildlife Service.

[FR Doc. E8–2841 Filed 2–15–08; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register

Vol. 73, No. 33

Tuesday, February 19, 2008

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Under Secretary, Research, Education, and Economics; Notice of the Advisory Committee on Biotechnology and 21st Century Agriculture Meeting

AGENCY: Agricultural Research Service.

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, 5 U.S.C. App. 2, the United States Department of Agriculture announces a meeting of the Advisory Committee on Biotechnology and 21st Century Agriculture (AC21).

DATES: The meeting dates are March 5, 2008, 8 a.m. to 5 p.m., and March 6, 2008, 8 a.m. to 4 p.m.

ADDRESSES: Room 107A, USDA Jamie L. Whitten Building, 12th Street and Jefferson Drive, SW., Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Michael Schechtman, Telephone (202) 720–3817.

SUPPLEMENTARY INFORMATION: The eighteenth meeting of the AC21 has been scheduled for March 5–6, 2008. The AC21 consists of members representing the biotechnology industry, farmers, food manufacturers, commodity processors and shippers, livestock handlers, environmental and consumer groups, and academic researchers. In addition, representatives from the Departments of Commerce, Health and Human Services, and State, and the Environmental Protection Agency, the Council on Environmental Quality, the Office of the United States Trade Representative, and the National Association of State Departments of Agriculture serve as ''ex officio'' members. At this meeting, there will be several objectives: (1) To introduce new members of the AC21; (2) to officially present a consensus paper to the Office of the Secretary, USDA, responding to the question, ''What issues should USDA consider regarding coexistence among diverse agricultural systems in a dynamic, evolving, and complex marketplace?''; (3) to provide an update to the AC21 on USDA's efforts to ensure a smooth marketplace transition for cloned livestock animals in the marketplace; and (4) to begin discussions related to potential USDA regulatory roles for transgenic animals. Background information regarding the work of the AC21 will be available on the USDA Web site at *http://www.usda.gov/wps/portal/!ut/p/_s.7_0_A/7_0_1OB?navid=BIOTECH&parentnav=AGRICULTURE&navtype=RT*.

Requests to make oral presentations at the meeting may be sent to Michael Schechtman, Designated Federal Official, Office of the Deputy Secretary, USDA, 202 B Jamie L. Whitten Federal Building, 12th Street and Jefferson Drive, SW., Washington, DC 20250, Telephone (202) 720–3817; Fax (202) 690–4265; E-mail *Michael.schechtman@ars.usda.gov*. On March 5, 2008, if time permits, reasonable provision will be made for oral presentations of no more than five minutes each in duration. Written requests to make oral presentations at the meeting must be received by the contact person identified herein at least three business days before the meeting. The meeting will be open to the public, but space is limited. If you would like to attend the meetings, you must register by contacting Ms. Dianne Harmon at (202) 720–4074, by fax at (202) 720–3191 or by E-mail at *Dianne.harmon@ars.usda.gov* at least five business days prior to the meeting. Please provide your name, title, business affiliation, address, and telephone and fax numbers when you register. If you require a sign language interpreter or other special accommodation due to disability, please indicate those needs at the time of registration.

Dated: February 11, 2008.

Jeremy Stump,

Senior Advisor for International and Homeland Security Affairs and Biotechnology.

[FR Doc. E8–3001 Filed 2–15–08; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket # AMS–FV–07–0142]

United States Standards for Grades of Beet Greens

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: The Agricultural Marketing Service (AMS), prior to undertaking research and other work associated with revising official grade standards, is soliciting comments on the possible revisions to the United States Standards for Grades of Beet Greens. AMS has been reviewing the Fresh Fruit and Vegetable grade standards for usefulness in fostering commerce. As a result, AMS has identified the United States Standards for Grades of Beet Greens for possible revisions.

AMS is considering removing the ''Unclassified'' category from the standards. AMS is seeking comments regarding this change as well as any other possible revisions that may be necessary to better serve the industry.

DATES: Comments must be received by April 21, 2008.

ADDRESSES: Interested persons are invited to submit written comments on the Internet at: *http://www.regulations.gov* or to the Standardization Section, Fresh Products Branch, Fruit and Vegetable Programs, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Ave. SW., Room 1661 South Building, Stop 0240, Washington, DC 20250–0240; Fax (202)720–8871. Comments should make reference to the dates and page number of this issue of the **Federal Register** and will be made available for public inspection in the above office during regular business hours.

FOR FURTHER INFORMATION CONTACT: Vincent J. Fusaro, Standardization Section, Fresh Products Branch, (202) 720–2185. The United States Standards for Grades of Beet Greens are available by accessing the Fresh Products Branch Web site at: *http://www.ams.usda.gov/standards/stanfrfv.htm.*

SUPPLEMENTARY INFORMATION: Section 203(c) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627), as amended, directs and authorizes the

Secretary of Agriculture ''To develop and improve standards of quality, condition, quantity, grade and packaging and recommend and demonstrate such standards in order to encourage uniformity and consistency in commercial practices.'' AMS is committed to carrying out this authority in a manner that facilitates the marketing of agricultural commodities. AMS makes copies of official standards available upon request. The United States Standards for Grades of Fruits and Vegetables not connected with Federal Marketing Orders or U.S. Import Requirements no longer appear in the Code of Federal Regulations, but are maintained by USDA, AMS, Fruit and Vegetable Programs.

AMS is considering revisions to the voluntary United States Standards for Grades of Beet Greens using procedures that appear in Part 36, Title 7 of the Code of Federal Regulations (7 CFR part 36). These standards were last revised on June 1, 1959.

Background

AMS has been reviewing the Fresh Fruit and Vegetable grade standards for usefulness in serving the industry. AMS has identified the United States Standards for Grades of Beet Greens for possible revision. Prior to undertaking detailed work developing the proposed revisions in the standards, AMS is soliciting comments on the proposed revision and any other comments regarding revisions to the United States Standards for Grades of Beet Greens to better serve the industry.

AMS would eliminate the ''Unclassified'' category. AMS is removing this section in all standards as they are revised. This category is not a grade and only serves to show that no grade has been applied to the lot. It is no longer considered necessary due to current marketing practices.

This notice provides for a 60-day comment period for interested parties to comment on the proposed changes to the United States Standards for Grades of Beet Greens. Should AMS go forward with the revisions, it will develop the proposed revised standards that will be published in the **Federal Register** with a request for comments in accordance with 7 CFR part 36.

Authority: 7 U.S.C. 1621–1627.

Dated: February 12, 2008.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E8–2961 Filed 2–15–08; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF COMMERCE

Economic Development Administration

[Docket No.: 080131110–8112–01]

Solicitation of Proposals and Applications for Economic Development Assistance Programs

AGENCY: Economic Development Administration (EDA), Department of Commerce.

ACTION: Notice and request for proposals and applications.

SUMMARY: Pursuant to the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. 3121, *et seq.*) (PWEDA), EDA announces general policies and application procedures for grant-based investments under the Public Works, Planning, Local Technical Assistance, and Economic Adjustment Assistance Programs to promote comprehensive, entrepreneurial and innovation-based economic development efforts to enhance the competitiveness of regions, resulting in increased private investment and higher-skill, higher-wage jobs in regions experiencing substantial and persistent economic distress.

DATES: Proposals are accepted on a continuing basis and applications are invited and processed as received. Generally, two months are required for EDA to reach a final decision after receipt of a complete application that meets all requirements. Proposals or applications (as appropriate) received after the date of this notice will be processed in accordance with the requirements set forth herein and in the related federal funding opportunity (FFO) announcement, until the next annual FFO is posted on *www.grants.gov* and related notice and request for proposals and applications is published in the **Federal Register**.

Pre-Application and Application Submission Requirements

Proponents are advised to carefully read the instructions contained in the both complete FFO announcement for this request for proposals and applications, and in the *Pre-Application for Investment Assistance* (Form ED–900P) and *Application for Investment Assistance* (Form ED–900A). Please note that the requirements for the pre-application are different from the requirements for the application. The content of the pre-application and the application (as appropriate) is the same for paper submissions as it is for electronic submissions. EDA will not accept facsimile transmissions of pre-applications and applications.

For projects under EDA's Public Works Program (CFDA No. 11.300) or Economic Adjustment Assistance Program (CFDA No. 11.307), applicants must submit a pre-application on Form ED–900P and the *Application for Federal Assistance* (Form SF–424), both of which are available at *www.eda.gov/InvestmentsGrants/Application.xml.* The applicant must complete Parts I, II and III of Form ED–900P and all of Form SF–424. In addition, the applicant must attach a project narrative, as stated in section IV.B.1. of the FFO announcement for this request for proposals and applications. Forms ED–900P and SF–424 may be submitted either (i) in paper (hardcopy) format at the applicable regional office address provided below, or (ii) electronically in accordance with the procedures provided on *www.grants.gov.*

For projects under EDA's Planning Program (CFDA No. 11.302) or Local Technical Assistance Program (CFDA No. 11.303), please contact the appropriate EDA regional office listed below for instructions as to whether you should complete a pre-application or an application. For example, in the case of a continuation award for a Planning grant, a pre-application is not required. However, for short-term Planning or Local Technical Assistance investments, EDA may provide assistance to develop the economic development capacity of States, cities and other eligible applicants experiencing economic distress or to assist in institutional capacity building, in which circumstances Form ED–900P may be necessary. The applicable EDA regional office will determine which form you must complete.

The following forms may be accessed and downloaded as follows: (i) Forms ED–900P and ED–900A at *http://www.eda.gov/InvestmentsGrants/Application.xml;* (ii) Standard Forms (SF) at either *www.grants.gov* or at *http://www.eda.gov/InvestmentsGrants/Application.xml;* and (iii) Department of Commerce (CD) forms at *http://ocio.os.doc.gov/ITPolicyandPrograms/Electronic_Forms/index.htm.* All forms referenced above may be submitted either: (i) In paper (hardcopy) format at the applicable regional office address provided below; or (ii) electronically in accordance with the procedures provided on *www.grants.gov.*

Addresses and Telephone Numbers for EDA's Regional Offices

Applicants in Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina and Tennessee,

may submit paper submissions to: Economic Development Administration, Atlanta Regional Office, 401 West Peachtree Street, NW., Suite 1820, Atlanta, Georgia 30308, Telephone: (404) 730–3002, Fax: (404) 730–3025.

Applicants in Arkansas, Louisiana, New Mexico, Oklahoma and Texas, may submit paper submissions to: Economic Development Administration, Austin Regional Office, 504 Lavaca, Suite 1100, Austin, Texas 78701–2858, Telephone: (512) 381–8144, Fax: (512) 381–8177.

Applicants in Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin and Muscatine and Scott Counties, Iowa, may submit paper submissions to: Economic Development Administration, Chicago Regional Office, 111 North Canal Street, Suite 855, Chicago, Illinois 60606, Telephone: (312) 353–7706, Fax: (312) 353–8575.

Applicants in Colorado, Iowa (excluding Muscatine and Scott Counties), Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah and Wyoming, may submit paper submissions to: Economic Development Administration, Denver Regional Office, 1244 Speer Boulevard, Room 670, Denver, Colorado 80204, Telephone: (303) 844–4715, Fax: (303) 844–3968.

Applicants in Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Puerto Rico, Rhode Island, Vermont, U.S. Virgin Islands, Virginia and West Virginia, may submit paper submissions to: Economic Development Administration, Philadelphia Regional Office, Curtis Center, 601 Walnut Street, Suite 140 South, Philadelphia, Pennsylvania 19106, Telephone: (215) 597–4603, Fax: (215) 597–1063.

Applicants in Alaska, American Samoa, Arizona, California, Guam, Hawaii, Idaho, Marshall Islands, Micronesia, Nevada, Northern Mariana Islands, Oregon, Republic of Palau and Washington, may submit paper submissions to: Economic Development Administration, Seattle Regional Office, Jackson Federal Building, Room 1890, 915 Second Avenue, Seattle, Washington 98174, Telephone: (206) 220–7660, Fax: (206) 220–7669.

Paper Submissions: Proponents choosing this option must submit one (1) original and two (2) copies of the completed pre-application or application (as appropriate) via postal mail, shipped overnight or hand-delivered to the applicable regional office, unless otherwise directed by EDA staff. Department of Commerce mail security measures may delay receipt of United States Postal Service mail for up to two weeks. Therefore, proponents who wish to submit paper applications are advised to use guaranteed overnight delivery services.

Electronic Submissions: Proponents choosing this option should submit pre-applications or applications in accordance with the instructions provided at *www.grants.gov.* You may access the pre-application or application package by following the instructions provided on *http://www.grants.gov/applicants/apply_for_grants.jsp*. The preferred file format for electronic attachments (e.g., the project narrative statement and exhibits to Form ED–900P) is portable document format (PDF); however, EDA will accept electronic files in Microsoft Word, WordPerfect, Lotus or Excel formats.

Applicants should access the following link for assistance in navigating *www.grants.gov* and for a list of useful resources: *http://www.grants.gov/applicants/applicant_help.jsp*. If you do not find an answer to your question under *Frequently Asked Questions*, try consulting the *Applicant's User Guide*. If you still cannot find an answer to your question, contact *www.grants.gov* via e-mail at *support@grants.gov* or telephone at 1.800.518.4726. The hours of operation for *www.grants.gov* are Monday–Friday, 7 a.m. to 9 p.m. (EST) (except for federal holidays).

FOR FURTHER INFORMATION CONTACT: For additional information or for a paper copy of the FFO announcement, contact the appropriate EDA regional office listed above. EDA's Internet Web site at *www.eda.gov* also contains additional information on EDA and its programs.

SUPPLEMENTARY INFORMATION:

Program Information: EDA's mission is to lead the federal economic development agenda by promoting innovation and competitiveness, preparing American regions for growth and success in the worldwide economy. In implementing this mission pursuant to its authorizing statute, PWEDA, EDA advances economic growth by assisting communities and regions experiencing chronic high unemployment and low per capita income to create an environment that fosters innovation, promotes entrepreneurship, and attracts increased private capital investment.

EDA encourages the submission of only those proposals or applications, as appropriate, that will significantly benefit regions with distressed economies. Distress may exist in a variety of forms, including high levels of unemployment, low income levels, large concentrations of low-income families, significant declines in per capita income, large numbers (or high rates) of business failures, sudden major layoffs or plant closures, trade impacts, military base closures, natural or other major disasters, depletion of natural resources, reduced tax bases, or substantial loss of population because of the lack of employment opportunities. EDA believes that regional economic development to alleviate these conditions is effected primarily through investments and decisions made by the private sector. EDA will give preference to proposals or applications (as appropriate) that include cash contributions (over in-kind contributions) as the matching share.

EDA will evaluate and select proposals or applications (as appropriate) according to the investment policy guidelines and funding priorities set forth below under ''Evaluation Criteria'' and ''Funding Priorities'' and in section V. of the FFO announcement.

Electronic Access: The complete FFO announcement for the FY 2008 Economic Development Assistance Programs competition is available at *www.grants.gov* and at *http://www.eda.gov.*

Funding Availability: Funding appropriated under the FY 2008 Consolidated Appropriations Act (Pub. L. 110–161, 121 Stat. 1844 (2007)) is available for the economic development assistance programs authorized by PWEDA and for the Trade Adjustment Assistance for Firms Program (TAA Program) authorized under the Trade Act of 1974, as amended (19 U.S.C. 2341–2391) (Trade Act). Funds in the amount of $249,100,000 have been appropriated for FY 2008 and shall remain available until expended.

Under this announcement, approximately $216,927,372 is available for the (i) Public Works and Economic Development Facilities Program; (ii) Planning Program; (iii) Local Technical Assistance Program; and (iv) Economic Adjustment Assistance Program. The funding periods and funding amounts referenced in the FFO announcement are subject to the availability of funds at the time of award, as well as to Department of Commerce and EDA priorities at the time of award. The Department of Commerce and EDA will not be held responsible for proposal or application preparation costs. Publication of this notice and the FFO announcement does not obligate the Department of Commerce or EDA to award any specific grant or cooperative agreement or to obligate all or any part of available funds.

From amounts otherwise made available for the economic development assistance programs authorized by

PWEDA, EDA will allocate $9,400,000 to assist eco-friendly projects. With this allocation, EDA aims to benefit projects that seek technologies and strategies which employ the principles of reduced energy consumption, reduced harmful gas emissions and sustainable development. Therefore, EDA encourages applicants for and recipients of FY 2008 investment funds to detail and document increased project costs associated with such mitigation efforts in their communications with EDA.

A separate FFO announcement has been posted at *www.grants.gov* and at *http://www.eda.gov/InvestmentsGrants/FFON.xml* that sets forth the specific funding priorities, application and selection processes, time frames, and evaluation criteria for University Center projects to be funded with FY 2008 appropriated funds. Similarly, separate FFO announcements will be posted on *www.grants.gov* and at *http://www.eda.gov/InvestmentsGrants/FFON.xml* that will set forth the specific funding priorities, application and selection processes, time frames, and evaluation criteria for certain National Technical Assistance and research projects to be funded with FY 2008 appropriations.

Under the Trade Act, EDA administers the TAA Program to provide technical assistance to firms adversely affected by increased import competition. EDA anticipates that appropriated funds will be used to extend new cooperative agreements to the existing network of eleven (11) Trade Adjustment Assistance Centers, and to provide technical assistance to firms certified as eligible under the TAA Program. *See* 13 CFR part 315. On February 6, 2008, EDA published a program announcement (73 FR 6921) to set out the specific TAA Program administrative and procedural requirements, application and evaluation processes, and operational requirements for the current eleven EDA-funded Trade Adjustment Assistance Centers.

Statutory Authorities: The authorities for the (i) Public Works and Economic Development Facilities Program; (ii) Planning Program; (iii) Local Technical Assistance Program; and (iv) Economic Adjustment Assistance Program are sections 201 (42 U.S.C. 3141), 203 (42 U.S.C. 3143), 207 (42 U.S.C. 3147), and 209 (42 U.S.C. 3149) of PWEDA, respectively. Unless otherwise provided in this notice or in the FFO announcement, applicant eligibility, program objectives and priorities, application procedures, evaluation criteria, selection procedures, and other requirements for all programs are set forth in EDA's regulations (codified at 13 CFR chapter III) and applicants must address these requirements. EDA's regulations and PWEDA are available at *http://www.eda.gov/InvestmentsGrants/Lawsreg.xml*.

Catalog of Federal Domestic Assistance (CFDA) Numbers: 11.300, Grants for Public Works and Economic Development Facilities; 11.302, Economic Development—Support for Planning Organizations; 11.303, Economic Development—Technical Assistance; 11.307, Economic Adjustment Assistance.

Applicant Eligibility: Pursuant to PWEDA, eligible applicants for and eligible recipients of EDA investment assistance include a(n): (i) District Organization; (ii) Indian Tribe or a consortium of Indian Tribes; (iii) State, a city or other political subdivision of a State, including a special purpose unit of a State or local government engaged in economic or infrastructure development activities, or a consortium of political subdivisions; (iv) institution of higher education or a consortium of institutions of higher education; or (v) public or private non-profit organization or association acting in cooperation with officials of a political subdivision of a State. *See* section 3 of PWEDA (42 U.S.C. 3122) and 13 CFR 300.3. Projects eligible for Public Works or Economic Adjustment investment assistance include those projects located in regions meeting ''Special Need'' criteria (defined in 13 CFR 300.3), as set forth in section VIII.B. of the FFO announcement.

For-profit, private-sector entities do not qualify for investment assistance under PWEDA. Nonetheless, under its Local Technical Assistance Program or National Technical Assistance Program, EDA may make an award to a for-profit organization to carry out specific research or for other purposes set forth in 13 CFR 306.1. *See also* 42 U.S.C. 3147.

Cost Sharing Requirement: Generally, the amount of the EDA grant may not exceed fifty (50) percent of the total cost of the project. Projects may receive an additional amount that shall not exceed thirty (30) percent, based on the relative needs of the region in which the project will be located, as determined by EDA. *See* section 204(a) of PWEDA (42 U.S.C. 3144) and 13 CFR 301.4(b)(1). For Planning Assistance, the minimum EDA investment rate for projects under 13 CFR part 303 is fifty (50) percent, and the maximum allowable EDA investment rate may not exceed eighty (80) percent. *See* 13 CFR 301.4(b)(3). For projects of a national scope under 13 CFR part 306 (Training, Research and Technical Assistance), and for all other projects under 13 CFR part 306, the Assistant Secretary of Commerce for Economic Development has the discretion to establish a maximum EDA investment rate of up to one-hundred (100) percent where the project (i) merits, and is not otherwise feasible without, an increase to the EDA investment rate; or (ii) will be of no or only incidental benefit to the recipient. *See* section 204(c)(3) of PWEDA (42 U.S.C. 3144) and 13 CFR 301.4(b)(4). In the case of EDA investment assistance to a(n) (i) Indian Tribe, (ii) State (or political subdivision of a State) that the Assistant Secretary determines has exhausted its effective taxing and borrowing capacity, or (iii) non-profit organization that the Assistant Secretary determines has exhausted its effective borrowing capacity, the Assistant Secretary has the discretion to establish a maximum EDA investment rate of up to one hundred (100) percent of the total project cost. *See* sections 204(c)(1) and (2) of PWEDA (42 U.S.C. 3144) and 13 CFR 301.4(b)(5). Potential applicants should contact the appropriate EDA regional office to make these determinations.

In the proposal (or application) review process, EDA will consider the nature of the contribution (cash or in-kind) and the amount of the matching share funds. While cash contributions are preferred, in-kind contributions, fairly evaluated by EDA, may provide the required non-federal share of the total project cost. *See* section 204(b) of PWEDA (42 U.S.C. 3144) and section I.B. of the FFO announcement for this request for proposals and applications. In-kind contributions, which may include forgiveness or assumptions of debt, and contributions of space, equipment or services, are eligible to be included as part of the non-federal share of eligible project costs if they meet applicable federal cost principles and uniform administrative requirements. Funds from other federal financial assistance awards are considered matching share funds only if authorized by statute, which may be determined by EDA's reasonable interpretation of the statute. *See* 13 CFR 300.3. The applicant must show that the matching share is committed to the project for the project period, will be available as needed and is not conditioned or encumbered in any way that precludes its use consistent with the requirements of EDA investment assistance. *See* 13 CFR 301.5.

Intergovernmental Review: Proposals or applications for assistance under EDA's programs are subject to the State review requirements imposed by

Executive Order 12372, ''*Intergovernmental Review of Federal Programs.*''

Evaluation and Selection Procedures: Each pre-application or application (as appropriate) is circulated by a project officer within the applicable EDA regional office for review and comments. When the necessary input and information are obtained, the pre-application or application (as appropriate) is considered by the regional office's Investment Review Committee (IRC), which is comprised of regional office staff. The IRC discusses the pre-application or application (as appropriate) and evaluates it on two levels to (a) determine if the pre-application or application (as appropriate) meets the program-specific award and application requirements provided in 13 CFR 305.2 for Public Works investments, 13 CFR 303.3 for Planning investments, 13 CFR 306.2 for Local and National Technical Assistance, and 13 CFR 307.2 and 307.4 for Economic Adjustment Assistance; and (b) evaluate each pre-application or application (as appropriate) using the general evaluation criteria set forth in 13 CFR 301.8. These general evaluation criteria also are provided below under ''Evaluation Criteria.''

In the case of a pre-application, after completing its evaluation, the IRC recommends to the Regional Director whether an application should be invited, documenting its recommendation in the meeting minutes or in the Investment Summary and the Project Proposal Summary and Evaluation Form. For quality control assurance, EDA Headquarters reviews the IRC's analysis of the project's fulfillment of the investment policy guidelines set forth below under ''Evaluation Criteria'' and in 13 CFR 301.8. After receiving quality control clearance, the Selecting Official, who is the Regional Director, considers the evaluations provided by the IRC and the degree to which one or more of the funding priorities provided below are included, in making his/her decision as to which proponents should be invited to submit formal applications for investment assistance. The Selecting Official then formally invites successful proponents to submit full applications (on Form ED–900A). If the Selecting Official declines to invite a full application, he/she provides written notice to the proponent.

If a proponent is selected to submit a full application on Form ED–900A, the appropriate regional office will provide application materials and guidance in completing them. The proponent will generally have thirty (30) days to submit the completed application materials to the regional office. EDA staff will work with the proponent to resolve application deficiencies. EDA will notify the applicant if EDA accepts a completed application, and it is forwarded for final review and processing in accordance with the procedures described above in this subsection.

Evaluation Criteria: EDA will select investment proposals or applications (as appropriate) competitively based on the investment policy guidelines and funding priority considerations identified in this notice. EDA will evaluate the extent to which a project embodies the maximum number of investment policy guidelines and funding priorities possible and strongly exemplifies at least one of each. All investment proposals or applications (as appropriate) will be competitively evaluated primarily on their ability to satisfy one (1) or more of the following investment policy guidelines, each of equivalent weight and which also are set forth in 13 CFR 301.8.

1. *Be market-based and results driven.* An EDA investment will capitalize on a region's competitive strengths and will positively move a regional economic indicator measured on EDA's Balanced Scorecard, such as: An increased number of higher-skill, higher-wage jobs; increased tax revenue; or increased private sector investment.

2. *Have strong organizational leadership.* An EDA investment will have strong leadership, relevant project management experience, and a significant commitment of human resources talent to ensure a project's successful execution.

3. *Advance productivity, innovation and entrepreneurship.* An EDA investment will embrace the principles of entrepreneurship, enhance regional industry clusters, and leverage and link technology innovators and local universities to the private sector to create the conditions for greater productivity, innovation, and job creation.

4. *Look beyond the immediate economic horizon, anticipate economic changes, and diversify the local and regional economy.* An EDA investment will be part of an overarching, long-term comprehensive economic development strategy that enhances a region's success in achieving a rising standard of living by supporting existing industry clusters, developing emerging new clusters, or attracting new regional economic drivers.

5. *Demonstrate a high degree of local commitment by exhibiting:*

- High levels of local government or non-profit matching funds and private sector leverage;
- Clear and unified leadership and support by local elected officials; and
- Strong cooperation between the business sector, relevant regional partners and local, State and Federal governments.

In addition to using the investment policy guidelines set forth above, EDA also will evaluate all Planning proposals or applications (as appropriate) based on the (i) quality of the proposed scope of work for the development, implementation, revision or replacement of a comprehensive economic development strategy (CEDS); and (ii) qualifications of the proponent to implement the goals and objectives resulting from the CEDS. *See* 13 CFR 303.3(a)(1) and (2). To ensure that the proposal fully meets these requirements, proponents should pay particular attention to 13 CFR 303.7(b), which sets forth specific technical requirements for the CEDS.

Funding Priorities: Successful proposals or applications (as appropriate) for EDA's investment programs will be regionally-driven initiatives in areas of the Nation that are underperforming and eligible for EDA assistance, and that meet one or more of the following core criteria (investment proposals or applications that meet more than one core criterion will be given more favorable consideration):

1. *Investments in support of long-term, coordinated and collaborative regional economic development approaches:*

- Establish comprehensive regional economic development strategies that identify promising opportunities for long-term economic growth.
- Exhibit demonstrable, committed multi-jurisdictional support from leaders across all sectors:

i. Public (*e.g.*, mayors, city councils, county executives, senior state leadership);

ii. Institutional (*e.g.*, institutions of higher learning);

iii. Non-profit (*e.g.*, chambers of commerce, development organizations); and

iv. Private (*e.g.*, leading regional businesses, significant regional industry associations).

- Generate quantifiable positive economic outcomes.

2. *Investments that support innovation and competitiveness:*

- Develop and enhance the functioning and competitiveness of leading and emerging industry clusters in an economic region.

• Advance technology transfer from research institutions to the commercial marketplace.

• Bolster critical infrastructure (*e.g.*, transportation, communications, specialized training) to prepare economic regions to compete in the worldwide marketplace.

3. *Investments that encourage entrepreneurship:*

• Cultivate a favorable entrepreneurial environment consistent with regional strategies.

• Enable economic regions to identify innovative opportunities among growth-oriented small and medium-size enterprises.

• Promote community and faith-based entrepreneurship programs aimed at improving economic performance in an economic region.

4. *Support strategies that link regional economies with the global marketplace:*

• Enable businesses and local governments to understand that 95% of our potential customers don't live in America.

• Enable businesses, local governments and key institutions (*e.g.*, higher education) to understand and take advantage of the numerous free trade agreements implemented in the last seven years.

• Enable economic development professionals to develop and implement strategies that reflect the competitive environment of the 21st Century global marketplace.

Additional consideration will be given to investment proposals or applications (as appropriate), which also:

• Respond to sudden and severe economic dislocations (*e.g.*, major layoffs and/or plant closures, disasters).

• Enable BRAC-impacted communities to transition from a military to civilian economy.

• Advance the goals of linking historic preservation and economic development as outlined by Executive Order 13287, ''*Preserve America.*''

• Support the economic revitalization of brownfields.

The Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements: The administrative and national policy requirements for all Department of Commerce awards, contained in the *Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements*, published in the **Federal Register** on February 11, 2008 (73 FR 7696), are applicable to this competitive solicitation.

Paperwork Reduction Act: This document contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA). The use of Forms ED–900P (*Pre-Application for Investment Assistance*) and ED–900A (*Application for Investment Assistance*) has been approved by the Office of Management and Budget (OMB) under the control number 0610–0094. The use of Form SF–424 (*Application for Financial Assistance*) has been approved under OMB control number 4040–0004. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB control number.

Executive Order 12866 (Regulatory Planning and Review): This notice has been determined to be not significant for purposes of Executive Order 12866.

Executive Order 13132 (Federalism): It has been determined that this notice does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

Administrative Procedure Act/ Regulatory Flexibility Act: Prior notice and an opportunity for public comments are not required by the Administrative Procedure Act or any other law for rules concerning grants, benefits, and contracts (5 U.S.C. 553(a)(2)). Because notice and opportunity for comment are not required pursuant to 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) are inapplicable. Therefore, a regulatory flexibility analysis has not been prepared.

Dated: February 11, 2008.

Benjamin Erulkar,

Deputy Assistant Secretary of Commerce for Economic Development.

[FR Doc. E8–3022 Filed 2–15–08; 8:45 am]

BILLING CODE 3510–24–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–898]

Amended Final Results of Antidumping Duty Administrative Review: Chlorinated Isocyanurates from the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On January 2, 2008, the Department of Commerce (''Department'') published in the **Federal Register** the final results of the first administrative review of the antidumping duty order on chlorinated isocyanurates from the People's Republic of China (''PRC''). *See Chlorinated Isocyanurates from the People's Republic of China: Final Results of the Antidumping Duty Administrative Review*, 73 FR 159 (January 2, 2008) (''Final Results''), and accompanying Issues and Decision Memorandum. The period of review covered December 16, 2004, through May 31, 2006. We are amending our Final Results to correct ministerial errors made in the calculation of the antidumping duty margin for Hebei Jiheng Chemical Company Ltd. (''Jiheng Chemical''), pursuant to section 751(h) of the Tariff Act of 1930, as amended (''Act'').

EFFECTIVE DATE: February 19, 2008.

FOR FURTHER INFORMATION CONTACT: Katharine Huang or Charles Riggle, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1271 or (202) 482–0650, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 26, 2007, Clearon Corporation (''Clearon'') and Occidental Chemical Corporation (''Petitioners''), petitioners in the underlying investigation, BioLab, Inc. (''BioLab''), a domestic producer of the like product, and Hebei Jiheng Chemical Company Ltd. (''Jiheng Chemical''), the respondent in this proceeding, filed timely ministerial error allegations with respect to the Department's antidumping duty margin calculation in the Final Results. On December 31, 2007, Petitioners and Jiheng Chemical filed timely rebuttal comments.

Scope of Order

The products covered by this order are chlorinated isocyanurates, as described below:

Chlorinated isocyanurates are derivatives of cyanuric acid, described as chlorinated s–triazine triones. There are three primary chemical compositions of chlorinated isocyanurates: (1) trichloroisocyanuric acid ($Cl_3(NCO)_3$), (2) sodium dichloroisocyanurate (dihydrate) ($NaCl_2(NCO)_3 \bullet 2H_2O$), and (3) sodium dichloroisocyanurate (anhydrous) ($NaCl_2(NCO)_3$). Chlorinated isocyanurates are available in powder, granular, and tableted forms. This order covers all chlorinated isocyanurates.

Chlorinated isocyanurates are currently classifiable under subheadings 2933.69.6015, 2933.69.6021, 2933.69.6050, 3808.40.50, 3808.50.40 and 3808.94.50.00 of the Harmonized Tariff Schedule of the United States (''HTSUS''). The tariff classification 2933.69.6015 covers sodium dichloroisocyanurates (anhydrous and dihydrate forms) and trichloroisocyanuric acid. The tariff classifications 2933.69.6021 and 2933.69.6050 represent basket categories that include chlorinated isocyanurates and other compounds including an unfused triazine ring. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

Ministerial Errors

A ministerial error as defined in section 751(h) of the Act ''includes an error in addition, subtraction, or other arithmetic function, clerical error resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which the Secretary considers ministerial.'' *See also* 19 CFR 351.224(f).

After analyzing all interested parties' comments, we have determined, in accordance with 19 CFR 351.224(e), that ministerial errors existed in certain calculations for Jiheng Chemical in the Final Results. Correction of these errors results in a change to Jiheng Chemical's final antidumping duty margin. The rate for the PRC–wide entity remains unchanged. For a detailed discussion of these ministerial errors, as well as the Department's analysis, *see* Memorandum to Wendy J. Frankel, Director, AD/CVD Operations, Office 8, from Katharine G. Huang, International Trade Compliance Analyst, through Charles Riggle, Program Manager, AD/CVD Operations, Office 8: Analysis of Ministerial Error Allegations in Final Results for Antidumping Duty Review on Chlorinated Isocyanurates from the People's Republic of China, dated February 11, 2008. Therefore, in accordance with section 751(h) of the Act and 19 CFR 351.224(e), we are amending the Final Results of the administrative review of chlorinated isocyanurates from the PRC. The revised final weighted–average dumping margin for Jiheng Chemical is as follows:

Exporter/Manufacturer	Original Weighted Average Margin Percentage	Amended Weighted- Average margin Percentage
Hebei Jiheng Chemical Company Ltd.	18.44	20.10

Assessment Rates

The Department intends to issue assessment instructions to U.S. Customs and Border Protection (''CBP'') 15 days after the date of publication of these amended final results of review. In accordance with 19 CFR 351.212(b)(1), we have calculated importer–specific assessment rates for merchandise subject to this review.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of this notice of amended final results of administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(2)(C) of the Act: (1) for subject merchandise exported by Jiheng Chemical, the cash deposit rate will be 20.10 percent; (2) for previously reviewed or investigated exporters not listed above that have separate rates, the cash–deposit rate will continue to be the exporter–specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise, which have not been found to be entitled to a separate rate, the cash–deposit rate will be the PRC–wide rate of 285.63 percent; and (4) for all non–PRC exporters of subject merchandise that have not received their own rate, the cash–deposit rate will be the rate applicable to the PRC exporter that supplied that non–PRC exporter. These deposit requirements shall remain in effect until further notice.

Notification of Interested Parties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of the antidumping duties occurred and the subsequent assessment of double antidumping duties. This notice also serves as a reminder to parties subject to administrative protective orders (''APOs'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation that is subject to sanction.

We are issuing and publishing this determination and notice in accordance with sections 751(a) and 777(i) of the Act.

Dated: February 11, 2008.

Stephen J. Claeys,

Acting Assistant Secretary for Import Administration.

[FR Doc. E8–3014 Filed 2–15–08; 8:45 am]

Billing Code: 3510–DR–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA81

Small Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Construction and Operation of a Liquefied Natural Gas Facility off Massachusetts

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

ACTION: Notice; proposed incidental harassment authorization; receipt of application for letter of authorization; request for comments and information.

SUMMARY: NMFS received an application from Neptune LNG, L.L.C. (Neptune) for take of marine mammals, by Level B harassment, incidental to construction and operation of an offshore liquefied natural gas (LNG) facility in Massachusetts Bay. Under the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an incidental harassment authorization (IHA) to Neptune to incidentally take, by

harassment, small numbers of several species of marine mammals for a period of 1 year. NMFS is also requesting comments on its intent to promulgate regulations in 2008, governing the take of marine mammals over a 5–year period incidental to the same activities described herein.

DATES: Comments and information must be received no later than March 20, 2008.

ADDRESSES: Written comments on the application should be addressed to: P. 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.XA81@noaa.gov*. Comments sent via email, including all attachments, must not exceed a 10–megabyte file size. A copy of the application containing a list of references used in this document may be obtained by writing to this address, by telephoning the contact listed here (**FOR FURTHER INFORMATION CONTACT**) or online 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.

The Maritime Administration (MARAD) and U.S. Coast Guard (USCG) Final Environmental Impact Statement (Final EIS) on the Neptune LNG Deepwater Port License Application is available for viewing at *http://dms.dot.gov* under the docket number 22611.

FOR FURTHER INFORMATION CONTACT: Candace Nachman or Ken Hollingshead, Office of Protected Resources, 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 small numbers 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, notice of a proposed authorization is provided to the public for review.

Authorization for incidental takings may be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses, and that the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such taking 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 establishes an expedited process by which citizens of the U.S. can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Except for certain categories of 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 small numbers of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny the authorization.

Summary of Request

On December 27, 2007, NMFS received an application from Neptune requesting an IHA to take small numbers of several species of marine mammals, by Level B (behavioral) harassment, for a period of 1 year, incidental to construction of an offshore LNG facility. Since construction will not be completed before expiration of the IHA, additional construction and operational activities will need to be covered by a future MMPA authorization. Consequently, Neptune's application also serves as a request for a 5–year rule governing the issuance of letters of authorization for construction and operation of the port facility. Neptune is requesting to take several species of marine mammals, by Level B (behavioral) harassment, incidental to Port operations. During Port operations, the use of thrusters during docking will emit sounds that exceed the 120–dB threshold. More detailed information regarding Port operations and related effects will be described in NMFS' proposed rule **Federal Register** notice.

Description of the Project

On March 23, 2007, Neptune received a license to own, construct, and operate a deepwater port (Port or Neptune Port) from MARAD. The Port, which will be located in Massachusetts Bay, will consist of a submerged buoy system to dock specifically designed LNG carriers approximately 22 mi (35 km) northeast of Boston, Massachusetts, in Federal waters approximately 260 ft (79 m) in depth. The two buoys will be separated by a distance of approximately 2.1 mi (3.4 km).

Neptune will be capable of mooring LNG shuttle and regasification vessels (SRVs) with a capacity of approximately 140,000 cubic meters (m3). Up to two SRVs will temporarily moor at the proposed deepwater port by means of a submerged unloading buoy system. Two separate buoys will allow natural gas to be delivered in a continuous flow, without interruption, by having a brief overlap between arriving and departing SRVs. The annual average throughput capacity will be around 500 million standard cubic feet per day (mmscfd) with an initial throughput of 400 mmscfd, and a peak capacity of approximately 750 mmscfd.

The SRVs will be equipped to store, transport, and vaporize LNG, and to odorize, meter and send out natural gas by means of two 16–in (40.6–cm) flexible risers and one 24–in (61–cm) subsea flowline. These risers and flowline will lead to a proposed 24–in (61–cm) gas transmission pipeline connecting the deepwater port to the existing 30–in (76.2–cm) Algonquin Hubline^{SM} (Hubline^{SM}) located approximately 9 mi (14.5 km) west of the proposed deepwater port location. The Port will have an expected operating life of approximately 20 years. Figure 1–1 of Neptune's application shows an isometric view of the Port.

On February 15, 2005, Neptune submitted an application to the USCG and MARAD under the Deepwater Port Act for all Federal authorizations required for a license to own, construct, and operate a deepwater port for the import and regasification of LNG off the coast of Massachusetts. Because, as described later in this document, there is a potential for marine mammals to be taken by harassment, incidental to construction of the facility and its pipeline and by the transport and regasification of LNG, Neptune has applied for a 1–year IHA and a subsequent 5–year letter of authorization for activities commencing in June 2008. The following sections

briefly describe the activities that might harass marine mammals. Detailed information on these activities can be found in the MARAD/USCG Final EIS on the Neptune Project (see **ADDRESSES** for availability).

Construction Activities

The offshore installation effort for Neptune will be accomplished in the following sequence: mobilize an anchored lay barge (or a dynamic positioning derrick barge) and support vessels (i.e., anchor handling tugs, oceangoing tugs, and survey/diver support vessel) for the Proposed Pipeline Route; install the flowline between the riser mainfolds; install the new gas transmission pipeline from the northern riser manifold to the transition manifold and the hot tap to the HubLine^{SM}; install the two riser manifolds and the transition manifold; conduct pipeline hydrostatic testing; install the anchor piles and the lower portion of the mooring lines; connect the mooring lines to the unloading buoys and properly tension the mooring lines; and connect the two risers and control umbilicals between the unloading buoys and the riser manifolds. Construction will take place between June 2008 and June 2009 over approximately seven months. No construction activities will occur from December 2008 through April 2009. See Figure 1–2 of Neptune's application for a full construction schedule.

Description of Construction Activities

Flowline and Manifolds

A pipelaying vessel will install the two rise manifolds and install the flowline between the riser manifolds. The flowline will be a 24–in-diameter (61–cm) line pipe with concrete weight coating and have a length of approximately 2.5 mi (4 km). The flowline will be buried to the top of the pipe. Trenching will begin approximately 300 ft (91.4 ft) from the southern riser manifold and end approximately 300 ft (91.4 ft) from the northern manifold to avoid damaging such structures. Transition sections will use suction pumps, jetting machines, airlifts, or submersible pumps as required. A post-trenching survey will be performed to verify that the proper depth is achieved. Subsequent trenching runs might be performed to further lower section that do not meet burial depth requirements.

Gas Transmission Pipeline to the HubLine^{SM}

The gas transmission pipeline would begin at the existing Hubline^{SM} pipeline approximately 3 mi (4.8 km) east of Marblehead Neck, Massachusetts. From this point, the pipeline would extend toward the northeast crossing the territorial waters of the town of Marblehead, the city of Salem, the city of Beverly, and the town of Manchester-by-the-Sea for approximately 6.4 mi (10.3 km). The transmission line route would continue to the southeast for approximately 4.5 mi (7.2 km) crossing state and Federal waters. The proposed location of the pipeline is shown in Figure 2–1 of Neptune's application.

The transmission pipe (with concrete weight coating) will be transported from the temporary shore base to the operating site. The construction sequence for the transmission line will begin with plowing of the pipeline trench. A pipelaying vessel will install the 24–in-diameter (61–cm) pipeline (which will be buried 3 ft (0.9 m) to the top of the pipe) from the northern riser manifold to the location of the transition manifold near the connection point to the HubLine^{SM}. A site for the transition manifold will be dredged adjacent to the HubLine^{SM}, the manifold will be laid in place, and the tie-in HubLine^{SM} to the will be completed. The gas transmission line will be buried from the transition manifold to the northern riser manifold. Trenching will begin approximately 300 ft (91.4 m) from the northern riser manifold and end approximately 300 ft (91.4 m) from the transition manifold to avoid damaging such structures. A post-trenching survey will be performed to verify that the proper depth is achieved. Subsequent trenching runs might be performed to further lower sections that do not meet burial depth requirements.

Pipeline Hot Tap Installation

The hot tap fitting, which will not require welding, will provide full structural reinforcement where the hole will be cut in the HubLine^{SM}. The tapping tool and actual hot tap procedure will be supplied and supervised by a specialist from the manufacturer. Prior to construction of the hot tap, divers will excavate the HubLine^{SM} tie-in location using suction pumps. The concrete weight coating will be removed from the HubLine^{SM} and inspected for suitability of the hot tap. The hinged hot tap fitting will then be lowered and opened to fit over the 30–in (76.2–cm) HubLine^{SM}. The hot tap fitting will then be closed around the pipeline, the clam studs and packing flanges will be tightened, and the fitting leak will be tested. The HubLine^{SM} then will be tapped, and the valves will be closed. The hot tap and exposed sections of the HubLine^{SM} will be protected with concrete mats until the tie-in to the transition manifold occurs.

Hydrostatic Pipeline Integrity Testing

There will be one combined gas transmission line and flowline hydrotest, including flooding, cleaning, and gauging following pipelay, trenching, and burial. The whole system will be in-line and piggable, meaning that the pipeline can accept pigs, which are gauging/cleaning devices that are driven by pressure from one end of the pipe segment to the other without obstruction. The gas transmission line and flowline will require approximately three million gallons of filtered seawater, including complete flushing of the system and 676 gallons (2,559 liters) of fluorescent dye (TADCO Tracer Fluro Yellow XL500–50 Liquid Dye or an approved equivalent). This volume assumes that no water will bypass the pigs and will include approximately 1,700 gallons (6,435 liters) of water in front of the flooding pig and approximately 1,700 gallons (6,435 liters) of water between other pigs (reduced from two hydrotests to one hydrotest). Flooding will take place from the southern riser manifold to the HubLine^{SM} hot tap manifold. All hydrotest water discharges will be in Federal waters, near the unloading buoys. The total pipeline system will be swab-dried using a pig train with slugs or glycol or similar fluid. The water content of the successive slugs will be sampled to verify that the total pipeline has been properly dried.

Anchor Installation

The prefabricated anchor piles will be installed offshore with a dynamic positioning derrick/anchored barge, anchor-handling vessel, or similar offshore construction equipment. The anchor points will be within a radius of 1,600 to 3,600 ft (487.7 to 1,097.3 m) of the center of each unloading buoy. The anchor system will be installed using suction pile anchors.

Unloading Buoys

The unloading buoys will be offloaded near the designated site. An anchor-handling vessel or small derrick barge will connect the mooring lines from the anchor points to each unloading buoy and then adjust the mooring line tensions to the desired levels.

Risers

The anchor-handling vessel or small derrick barge also will connect the riser and the control umbilical between each unloading buoy and the associated riser manifold, complete the hydrostatic

testing and dewatering of the risers, and test the control umbilicals.

Demobilization

Upon completion of the offshore construction effort, sidescan sonar will be used to check the area. Divers will remove construction debris from the ocean floor. All construction equipment will leave the site.

Construction Vessels

The derrick/lay barge, anchor-handling vessels, and survey/diver support vessel will each make two trips (one round trip) to and from the area of origin (likely the Gulf of Mexico) and will stay on station for the majority of the construction period. The supply vessels (or oceangoing tugs with cargo barges) and crew/survey vessel will make regular trips between the construction sites and mainly the port of Gloucester (approximately 8 mi (12.9 km)). During project installation, the supply vessel will make approximately 102 trips (51 round trips), and the crew/survey vessel will make approximately 720 trips (360 round trips) for a combined total of 822 construction-support-related transits (411 round trips).

All of the construction and support vessels will be transiting Massachusetts Bay en route to the Port. While transiting to and from the construction sites, the supply vessel and crew/survey vessel will travel at approximately 10 knots (18.5 km/hr). While transiting to and from the Gulf of Mexico, the derrick/lay barge and anchor handling vessels will travel up to 12 and 14 knots (22.2 and 25.9 km/hr), respectively, but will operate either in place or at very slow speeds during construction. The survey/diver support vessel will travel at speeds up to 10 knots (18.5 km/hr) transiting to and from the construction area and between dive sites.

Materials, including unloading buoys, mooring lines, risers, and control umbilicals, will be transported from the shore-based storage area to the operating site on deck cargo barges pulled by oceangoing tugs. Cargo barges will transport the concrete-coated line pipe and manifolds to the operating site.

Approved construction procedures will be delivered to each construction vessel, and a kick-off meeting to review construction procedures, health and safety procedures, and environmental limitations will be held with key personnel prior to starting each construction activity.

Construction Sound

Underwater acoustic analyses were completed for activities related to all aspects of Neptune construction. Activities considered to be potential sound sources during construction include: installation (plowing) of flowline and main transmission pipeline routes; lowering of materials (pipe, anchors, and chains); and installation of the suction pile anchors.

Construction-related activities for the Port and the pipeline will generate sound exceeding the 120–dB threshold for continuous and intermittent noise at the source. The loudest source of underwater noise during construction of the Neptune Port will be the use of thrusters for dynamic positioning.

Marine Mammals Affected by the Activity

Marine mammal species that potentially occur within the Neptune facility impact area include several species of cetaceans and pinnipeds: North Atlantic right whale, blue whale, fin whale, sei whale, minke whale, humpback whale, killer whale, long-finned pilot whale, sperm whale, Atlantic white-beaked dolphin, Atlantic white-sided dolphin, bottlenose dolphin, common dolphin, harbor porpoise, Risso's dolphin, striped dolphin, gray seal, harbor seal, harp seal, and hooded seal. Table 3–1 in the IHA application outlines the marine mammal species that occur in Massachusetts Bay and the likelihood of occurrence of each species. Information on those species that may be impacted by this activity are discussed in detail in the MARAD/USCG Final EIS on the Neptune LNG proposal. Please refer to that document for more information on these species and potential impacts from construction and operation of this LNG facility. In addition, general information on these marine mammal species can also be found in the NMFS Stock Assessment Reports (Waring *et al.*, 2007), which is available at: *http://www.nefsc.noaa.gov/nefsc/publications/tm/tm201/*.

In addition to the 16 species listed in Table 3–1 of Neptune's application, Massachusetts Bay is considered an extralimital habitat for ten other cetacean species, or their presence has only been recorded from strandings (Cardoza *et al.*, 1999). The following six species of beaked whales are all pelagic and recorded mostly as strandings the northern bottlenose whale (*Hyperoodon ampullatus*), Cuvier's beaked whale (*Ziphius cavirostris*), Sowerby's beaked whale (*Mesoplodon bidens*), Blainville's beaked whale (*M. densirostris*), Gervais' beaked whale (*M. europaeus*), and true's beaked whale (*M. mirus*). Vagrants include the beluga whale (Delphinapterus leucas), a northern species with rare vagrants reported as far south as Long Island (Katona *et al.*, 1993); the pantropical spotted dolphin (*Stenella attenuata*) and false killer whale (*Pseudorca crassidens*), which are primarily tropical species with rare sightings in Massachusetts waters (Cardoza *et al.*, 1999); and the pygmy sperm whale (*Kogia breviceps*), which is generally an offshore species that occasionally wanders inshore. These vagrant species are not considered further in the analysis.

Potential Effects on Marine Mammals

The effects of sound on marine mammals are highly variable and can be categorized as follows (based on Richardson *et al.*, 1995): (1) The sound may be too weak to be heard at the location of the animal (i.e., lower than the prevailing ambient noise level, the hearing threshold of the animal at relevant frequencies, or both); (2) The sound may be audible but not strong enough to elicit any overt behavioral response; (3) The sound may elicit reactions of variable conspicuousness and variable relevance to the well being of the marine mammal; these can range from temporary alert responses to active avoidance reactions, such as vacating an area at least until the sound ceases; (4) Upon repeated exposure, a marine mammal may exhibit diminishing responsiveness (habituation) or disturbance effects may persist; the latter is most likely with sounds that are highly variable in characteristics, infrequent, and unpredictable in occurrence, and associated with situations that a marine mammal perceives as a threat; (5) Any anthropogenic sound that is strong enough to be heard has the potential to reduce (mask) the ability of a marine mammal to hear natural sounds at similar frequencies, including calls from conspecifics, and underwater environmental sounds such as surf noise; (6) If mammals remain in an area because it is important for feeding, breeding, or some other biologically important purpose even though there is chronic exposure to sound, it is possible that there could be sound-induced physiological stress; this might in turn have negative effects on the well-being or reproduction of the animals involved; and (7) Very strong sounds have the potential to cause temporary or permanent reduction in hearing sensitivity. In terrestrial mammals, and presumably marine mammals, received sound levels must far exceed the animal's hearing threshold for there to be any temporary threshold shift (TTS) in its hearing ability. For transient sounds, the sound level necessary to

cause TTS is inversely related to the duration of the sound. Received sound levels must be even higher for there to be risk of permanent hearing impairment. In addition, intense acoustic (or explosive events) may cause trauma to tissue associated with organs vital for hearing, sound production, respiration, and other functions. This trauma may include minor to severe hemorrhage.

Construction and operation of the Neptune Port will occur consecutively, with no overlap in activities. During construction, the project activities will occur over a 2–year period with sound from Port and pipeline construction causing some possible disturbance to small numbers of both baleen and toothed whales. Pinnipeds are unlikely to be present during summer and will not be affected. The installation of the suction piles will produce only low levels of sound during the construction period and will not increase the numbers of animals affected. Modeling results indicate that noise levels would be below 90 dB re 1 μPa within 0.2 mi (0.3 km) of the source.

During construction of the Port and pipeline, underwater sound levels will be temporarily elevated. These elevated sound levels may cause some species to temporarily disperse from or avoid construction areas, but they are expected to return shortly after construction is completed.

The likelihood of a vessel strike of a marine mammal during pipe laying and trenching operations is low since equipment will be towed at very slow speeds (approximately 5 ft (1.5 m) per minute). Any whales foraging near the bottom would be able to avoid collision or interaction with the equipment and displacement would be temporary for the duration of the plow pass.

Estimates of Take by Harassment

There are three general types of sounds recognized by NMFS: continuous, intermittent (or transient), and pulsive. Sounds of short duration that are produced intermittently or at regular intervals, such as sounds from pile driving, are classified as ''pulsed.'' Sounds produced for extended periods, such as sound from generators, are classified as ''continuous.'' Sounds from moving sources, such as ships, can be continuous, but for an animal at a given location, these sounds are ''transient'' (i.e., increasing in level as the ship approaches and then diminishing as it moves away). Neither the construction nor operation of the Port will cause pulsive sound activities, including pile driving, seismic activities, or blasting.

The sound sources of potential concern are continuous and intermittent sound sources, including underwater noise generated during pipeline/flowline construction. Both continuous and intermittent noise sources are subject to NMFS' 120 dB re 1 μPa threshold for determining levels of continuous underwater noise that may result in the disturbance of marine mammals.

Construction-related Underwater Sound Effects

- Pipe-laying activities will generate continuous but transient sound and will likely result in variable sound levels during the construction period. Depending on water depth, the 120–dB contour during pipe-laying activities will extend from the source (the Port) in varying directions from 3.8 to 5.9 nm (7 to 10.9 km), encompassing an area ranging from 37 to 47 nm^2 for the flowline at the Port and will extend from the pipeline route out 3.5 to 4.1 nm (6.5 to 7.6 km), encompassing an area from 35 to 44 nm^2 for the pipeline route.
- Installation of the suction pile anchors at the Port will produce only low levels of underwater sound with no levels above the 120–dB criterion for continuous sound. The 120–dB threshold would not be exceeded, and the 90–dB contour would occur only out to 300–1,000 ft (91.4–305 m) from the sound source. (See Appendix B of Neptune's application for a more detailed description.)

The basis for Neptune's ''take'' estimate is the number of marine mammals that potentially could be exposed to sound levels in excess of 120 dB. Typically, this is determined by applying the modeled zone of influence (e.g., the area ensonified by the 120–dB contour) to the seasonal use (density) of the area by marine mammals and correcting for seasonal duration of sound-generating activities and estimated duration of individual activities when the maximum sound-generating activities are intermittent to occasional. Nearly all of the required information is readily available in the MARAD/USCG Final EIS, with the exception of marine mammal density estimates for the project area.

For the assessment of the biological noise effects of the Neptune Port construction and operation, LGL Limited (LGL; 2005 and 2006) evaluated the marine mammal density data available from the Cetacean and Turtle Assessment Program (1982) and the U.S. Navy's (USN) Marine Resources Assessment (MRA) for the Northeast Operating Areas (Dept. of the Navy, 2005). The results and methodologies used by both surveys are discussed in detail in Appendix B of Neptune's application.

Using the results from the USN (2005) geospatial analysis model, LGL developed average density-indices for marine mammals known to occur in the proposed project area. The LGL analysis assumed that the USN-adopted method of converting linear density-indices into areal density estimates was reasonable and assumed that the highest numbers of marine mammals in the density-index ranges would be present during Port construction and operations. Table 6–1 in the IHA application provides estimated densities for Massachusetts Bay. LGL cautions that the linear data identified by the USN in its MRA (2005) provide an index of abundance based on all of the usable available data. To convert the linear data into densities for the purpose of assessing the underwater sound effects of the construction and operation of the Neptune Port, it was assumed that the effective survey width was a 0.3–mi (0.5–km) strip on each side of the survey vehicle. Thus, each linear kilometer of survey would encompass an area of 1 km^2. This is a gross oversimplification of reality. For most whale species, individuals are sighted well beyond the assumed distance of 0.3–mi (0.5 km) on each side of the trackline. Thus, the adopted approach overestimates the actual numbers of animals per square kilometer because the linear estimates actually include animals beyond the 0.3–mi (0.5–km) strip width. However, all surveys fail to detect a portion of the animals that are actually present on the surface or underwater. Therefore, the approach adopted here accounts for an unknown fraction of the missed animals. Because these biases cannot be quantified, it is important to treat the following numerical assessments as approximations.

For construction-related effects, Neptune is requesting take of eight cetacean species. Table 6–1 in the IHA application and Table 1 here provide Neptune's estimate of the number of marine mammals that could potentially be harassed during Port construction activities.

Species	Requested Take Levels for Construction Activities
North Atlantic right whale	4
Humpback whale	5
Fin whale	3
Sei whale	3
Minke whale	1
Long-finned pilot whale	44
Atlantic white-sided dolphin[1]	43
Harbor porpoise1	23

Table 1. Requested take levels for marine mammals in Massachusetts Bay from construction of the Neptune Port

[1] Dolphin distribution is generally patchy and with a few large pods being present rather than an even distribution.

Based on weekly construction reports submitted to NMFS by another LNG facility in Massachusetts Bay, the take levels requested by Neptune seem a bit low. It is likely based on the observer data and further analysis, the numbers that would be authorized in the final IHA may be slightly higher than those in this notice of proposed IHA. NMFS biologists will analyze area density, the area to be ensonified to 160 dB, and the number of days that construction activities will occur in order to derive more accurate take numbers during the time of Port construction. However, the numbers are expected to be small based on population sizes.

Potential Impact on Habitat from Port Construction

Construction of the Neptune Port and pipeline will affect marine mammal habitat in several ways: seafloor disturbance, increased turbidity, and generation of additional underwater sound in the area. Proposed construction activities will temporarily disturb 418 acres (1.7 km^2) of seafloor (11 acres (0.04 km^2) at the Port, 85 acres (0.3 km^2) along the pipeline route, and an estimated 322 acres (1.3 km^2) due to anchoring of construction and installation vessels). Of the proposed construction activities, pipeline installation, including trenching, plowing, jetting, and backfill, is expected to generate the most disturbance of bottom sediments. Sediment transport modeling conducted by Neptune indicates that initial turbidity from pipeline installation could reach 100 milligrams per liter (mg/L) but will subside to 20 mg/L after 4 hours. Turbidity associated with the flowline and hot-tap will be considerably less and also will settle within hours of the work being completed. Resettled sediments also will constitute to seafloor disturbance. When re-suspended sediments resettle, they reduce growth, reproduction, and survival rates of benthic organisms, and in extreme cases, smother benthic flora and fauna. Plankton will not be affected by resettled sediment. The project area is largely devoid of vegetation and consists of sand, silt, clay, or mixtures of the three.

Recovery of soft-bottom benthic communities impacted by project installation is expected to be similar to the recovery of the soft habitat associated with the construction of the HubLine^{SM} (Algonquin Gas Transmission L.L.C., 2004). Post-construction monitoring of the HubLine^{SM} indicates that areas that were bucket-dredged showed the least disturbance. Displaced organisms will return shortly after construction ceases, and disrupted communities will easily re-colonize from surrounding communities of similar organisms. Similarly, disturbance to hard-bottom pebble/cobble and piled boulder habitat is not expected to be significant. Some organisms could be temporarily displaced from existing shelter, thereby exposing them to increased predation, but the overall structural integrity of these areas will not be reduced (Auster and Langton, 1998).

Short-term impacts on phytoplankton, zooplankton (holoplankton), and planktonic fish and shellfish eggs and larvae (meroplankton) will occur as a result of the project. Turbidity associated with Port and pipeline installation will result in temporary direct impacts on productivity, growth, and development. Phytoplankton and zooplankton abundance will be greatest during the summer construction schedule. Fish eggs and larvae are present in the project area throughout the year. Different species of fish and invertebrate eggs and larvae will be affected by the different construction schedules.

The temporary disturbance of benthic habitat from trenching for and burial of the transmission pipeline will result in direct, minor, adverse impacts from the dispersion of fish from the area and the burying or crushing of shellfish. In the short-term, there will be a temporary, indirect, and beneficial impact from exposing benthic food sources. Seafloor disturbance could also occur as a result of resettling of suspended sediments during installation and construction of the proposed Port and pipeline. Redeposited sediments will potentially reduce viability of demersal fish eggs and growth, reproduction, and survival rates of benthic shellfish. In extreme cases, resettled sediments could smother benthic shellfish, although many will be able to burrow vertically through resettled sediments.

Construction activities will not create long-term habitat changes, and marine mammals displaced by the disturbance to the seafloor are expected to return soon after construction ceases. Marine mammals also could be indirectly affected if benthic prey species were displaced or destroyed by construction activities. Affected species are expected to recover soon after construction ceases and will represent only a small portion of food available to marine mammals in the area.

Marine Mammal Mitigation, Monitoring, and Reporting

Port Construction Minimization Measures

General

Construction activities will be limited to a May through November time frame so that acoustic disturbance to the endangered North Atlantic right whale can largely be avoided.

Proposed Visual Monitoring Program

The Neptune Project will employ two marine mammal observers (MMOs) on each lay barge, bury barge, and diving support vessel for visual shipboard surveys during construction activities. Qualifications for these individuals will include direct field experience on a marine mammal/sea turtle observation vessel and/or aerial surveys in the Atlantic Ocean/Gulf of Mexico. The observers (one primary, one secondary) are responsible for visually locating marine mammals at the ocean's surface, and, to the extent possible, identifying the species. The primary observer will act as the identification specialist, and the secondary observer will serve as data recorder and also assist with identification. Both observers will have responsibility for monitoring for the presence of marine mammals. All observers will receive NMFS-approved MMO training and be approved in advance by NMFS after review of their resumes.

The MMOs will be on duty at all times when each vessel is moving and at selected periods when the vessel is idle, including when other vessels move around the construction lay barge. The MMOs will monitor the construction area beginning at daybreak using 25x power binoculars and/or hand-held binoculars, resulting in a conservative effective search range of 0.5 mi (0.8 km) during clear weather conditions for the shipboard observers. The MMO will scan the ocean surface by eye for a minimum of 40 minutes every hour. All sightings will be recorded in marine

mammal field sighting logs. Observations of marine mammals will be identified to species or the lowest taxanomic level and their relative position will be recorded. Night vision devices will be standard equipment for monitoring during low-light hours and at night.

During all phases of construction, MMOs will be required to scan for and report all marine mammal sightings to the vessel captain. The captain will then alert the environmental coordinator that a marine mammal is near the construction area. The MMO will have the authority to bring the vessel to idle or to temporarily suspend operations if a baleen whale is seen within 0.6 mi (1 km) of the moving pipelay vessel or construction area. The MMO or environmental coordinator will determine whether there is a potential for harm to an individual animal and will be charged with responsibility for determining when it is safe to resume activity. A vessel will not increase power again until the marine mammal(s) leave(s) the area or has/have not been sighted for 30 minutes. The vessel will then power up slowly.

Construction and support vessels will be required to display lights when operating at night, and deck lights will be required to illuminate work areas. However, use of lights will be limited to areas where work is actually occurring, and all other lights will be extinguished. Lights will be downshielded to illuminate the deck and will not intentionally illuminate surrounding waters, so as not to attract whales or their prey to the area.

Distance and Noise Level for Cut-Off

(1) During construction, if a marine mammal is detected within 0.5 mi (0.8 km) of a construction vessel, the vessel superintendent or on-deck supervisor will be notified immediately. The vessel's crew will be put on a heightened state of alert. The marine mammal will be monitored constantly to determine if it is moving toward the construction area. The observer is required to report all North Atlantic right whale sightings to NMFS, as soon as possible.

(2) Construction vessels will cease any movement in the construction area if a marine mammal other than a right whale is sighted within or approaching to a distance of 100 yd (91 m) from the operating construction vessel. Construction vessels will cease any movement in the construction area if a right whale is sighted within or approaching to a distance of 500 yd (457 m) from the operating construction vessel. Vessels transiting the construction area such as pipe haul barge tugs will also be required to maintain these separation distances. Activities will cease within these safety radii in order to avoid injury or mortality of any marine mammal.

(3) Construction vessels will cease all activities that emit sounds reaching a received level of 120 dB re 1 μPa or higher at 100 yd (91 m) if a marine mammal other than a right whale is sighted within or approaching to this distance, or if a right whale is sighted within or approaching to a distance of 500 yd (457 m), from the operating construction vessel. The back-calculated source level, based on the most conservative cylindrical model of acoustic energy spreading, is estimated to be 139 dB re 1 μPa. Activities will cease within these safety radii in order to avoid injury or mortality of any marine mammal.

(4) Construction may resume after the marine mammal is positively reconfirmed outside the established zones (either 500 yd (457 m) or 100 yd (91 m), depending upon species).

Vessel Strike Avoidance

(1) While under way, all construction vessels will remain 0.6 mi (1 km) away from right whales and all other whales to the extent possible and 100 yd (91 m) away from all other marine mammals to the extent physically feasible given navigational constraints as required by NMFS.

(2) MMOs will direct a moving vessel to slow to idle if a baleen whale is seen within 0.6 mi (1 km) of the vessel.

(3) All construction vessels 300 gross tons or greater will maintain a speed of 10 knots (18.5 km/hr) or less. Vessels less than 300 gross tons carrying supplies or crew between the shore and the construction site must contact the appropriate authority or the construction site before leaving shore for reports of recent right whale sighting and, consistent with navigation safety, restrict speeds to 10 knots (18.5 km/hr) or less within 5 mi (8 km) of any recent sighting location.

(4) Vessels transiting through the Cape Cod Canal and Cape Cod Bay (CCB) between January 1 and May 15 will reduce speeds to 10 knots (18.5 km/hr) or less, follow the recommended routes charted by NOAA to reduce interactions between right whales and shipping traffic, and avoid aggregations of right whales in the eastern portion of CCB. To the extent practicable, pipe deliveries will be avoided during the January to May time frame. In the unlikely event the Canal is closed during construction, the pipe haul barges will transit around Cape Cod following the Boston Traffic Separation Scheme and all measures for the SRVs when transiting to the Port (see Appendix D of Neptune's application for Port Operation Minimization Measures).

(5) Construction and support vessels will transit at 10 knots or less in the following seasons and areas:

- Southeast U.S. Seasonal Management Area (SMA) from November 15 through April 15, which is bounded by the shoreline, 31° 27' N. (i.e., the northern edge of the Mandatory Ship Reporting System (MSRS) boundary) to the north, 29° 45' N. to the south, and 80° 51.6' W. (i.e., the eastern edge of the MSRS boundary);
- Mid-Atlantic SMAs from November 1 through April 30, which encompass the waters within a 30 nm (55.6 km) area with an epicenter at the midpoint of the COLREG demarcation line crossing the entry into the following designated ports or bays: (a) Ports of New York/New Jersey; (b) Delaware Bay (Ports of Philadelphia and Wilmington); (c) Entrance to the Chesapeake Bay (Ports of Hampton Roads and Baltimore) (d) Ports of Morehead City and Beaufort, North Carolina; (e) Port of Wilmington, North Carolina; (f) Port of Georgetown, South Carolina; (g) Port of Charleston, South Carolina; and (h) Port of Savannah, Georgia;
- CCB SMA from January 1 through May 15, which includes all waters in CCB, extending to all shorelines of the Bay, with a northern boundary of 42° 12' N.;
- Off Race Point SMA year round, which is bounded by straight lines connecting the following coordinates in the order stated:

  42° 30' N. 70° 30' W.
  42° 30' N. 69° 45' W.
  41° 40' N. 69° 45' W.
  41° 40' N. 69° 57' W.
  42° 04.8' N. 70° 10' W.
  42° 12' N. 70° 15' W.
  42° 12' N. 70° 30' W.
  42° 30' N. 70° 30' W.; and
- Great South Channel SMA from April 1 through July 31, which is bounded by straight lines connecting the following coordinates in the order stated:

  42° 30' N. 69° 45' W.
  42° 30' N. 67° 27' W.
  42° 09' N. 67° 08.4' W.
  41° 00' N. 69° 05' W.
  41° 40' N. 69° 45' W.
  42° 30' N. 69° 45' W.

Passive Acoustic Monitoring (PAM) Program

In addition to visual monitoring, Neptune will utilize a PAM system to

aid in the monitoring and detection of vocalizing marine mammals in the proposed project area. Neptune has engaged personnel from NMFS and the Stellwagen Bank National Marine Sanctuary (SBNMS) regarding available passive acoustic technology that could be used to enhance the PAM program.

The proposed PAM system will be capable of detecting, localizing (range and bearing), and classifying marine mammals in real-time. When combined with an action and communication plan, Neptune will have the capability to make timely decisions and undertake steps to minimize the potential for collisions between marine mammals and construction vessels. The PAM system proposed for the Neptune project will involve the installation of an array of auto-detection monitoring buoys moored at regular intervals in a circle surrounding the site of the terminal and associated pipeline construction. Buoys will be arranged to maximize auto detection and provide localization capability. With the existing technology, this would require six buoys moored every 5 nm (9.3 km) to provide some overlap in coverage. The buoys are designed to monitor the sound output from construction activities to ensure predicted levels are not exceeded and to detect the presence of vocally active marine mammals. Passive acoustic devices will be actively monitored for detections by a NMFS-approved bioacoustic technician.

Other Measures

Mesh grates will be used during flooding and hydrostatic testing of the pipeline and flowlines to minimize impingement and entrainment of marine mammals. Operations involving excessively noisy equipment will ''ramp-up'' sound sources, as long as this does not jeopardize the safety of vessels or construction workers, allowing whales a chance to leave the area before sounds reach maximum levels. Contractors will be required to utilize vessel-quieting technologies that minimize sound. Contractors will be required to maintain individual Spill Prevention, Control, and Containment Plans in place for construction vessels during construction.

An environmental coordinator with experience coordinating projects to monitor and minimize impacts to marine mammals will be onsite to coordinate all issues concerning marine protected species, following all of the latest real-time marine mammal movements. The coordinator will work to ensure that environmental standards are adhered to and adverse interactions between project equipment and marine mammals do not occur.

Reporting

During construction, weekly status reports will be provided to NMFS utilizing standardized reporting forms. In addition, the Neptune Port Project area is within the MSRA, so all construction and support vessels will report their activities to the mandatory reporting section of the USCG to remain apprised of North Atlantic right whale movements within the area. All vessels entering and exiting the MSRA will report their activities to WHALESNORTH. During all phases of project construction, sightings of any injured or dead marine mammals will be reported immediately to the USCG and NMFS, regardless of whether the injury or death is caused by project activities. Any right whale sightings will be reported to the NMFS Sighting Advisory System.

During all phases of Port construction, sightings of any injured or dead marine mammals must be reported to NMFS immediately, regardless of whether or not the injury or death was caused by project activities. Sightings of injured or dead marine mammals not associated with project activities can be reported to the USCG on VHF Channel 16 or to NMFS Stranding and Entanglement Hotline. In addition, if the injury or death was caused by a project vessel (e.g., SRV, support vessel, or construction vessel), USCG must be notified immediately, and a full report must be provided to NMFS, Northeast Regional Office. The report must include the following information: (1) the time, date, and location (latitude/longitude) of the incident; (2) the name and type of vessel involved; (3) the vessel's speed during the incident; (4) a description of the incident; (5) water depth; (6) environmental conditions (e.g., wind speed and direction, sea state, cloud cover, and visibility); (7) the species identification or description of the animal; and (8) the fate of the animal.

An annual report on marine mammal monitoring and mitigation will be submitted to NMFS Office of Protected Resources and NMFS Northeast Regional Office within 90 days after the expiration of the IHA. The weekly reports and the annual report should include data collected for each distinct marine mammal species observed in the project area in the Massachusetts Bay during the period of LNG facility construction. Description of marine mammal behavior, overall numbers of individuals observed, frequency of observation, and any behavioral changes and the context of the changes relative to construction activities shall also be included in the annual report. Additional information that will be recorded during construction and contained in the reports include: date and time of marine mammal detections (visually or acoustically), weather conditions, species identification, approximate distance from the source, activity of the vessel or at the construction site when a marine mammal is sighted, and whether or not thrusters were in use and how many at the time of the sighting.

Endangered Species Act (ESA)

On January 12, 2007, NMFS concluded consultation with MARAD and USCG under section 7 of the ESA on the proposed construction and operation of the Neptune LNG facility. The finding of that consultation was that the construction and operation of the Neptune LNG terminal may adversely affect, but is not likely to jeopardize, the continued existence of northern right, humpback, and fin whales, and is not likely to adversely affect sperm, sei, or blue whales and Kemp's ridley, loggerhead, green, or leatherback sea turtles. Because the issuance of an IHA to Neptune under section 101(a)(5) of the MMPA is a Federal action, NMFS has section 7 responsibilities for its action. Consultation on the NMFS action will be concluded prior to its determination on the issuance of an IHA to Neptune.

National Environmental Policy Act

MARAD and the USCG released a Final EIS/Environmental Impact Report (EIR) for the proposed Neptune LNG Deepwater Port. A notice of availability was published by MARAD on November 2, 2006 (71 FR 64606). The Final EIS/EIR provides detailed information on the proposed project facilities, construction methods, and analysis of potential impacts on marine mammals. The Final EIS/EIR is incorporated as part of the MMPA record of decision on this action.

NMFS was a cooperating agency in the preparation of the EIS based on a Memorandum of Understanding related to the Licensing of Deepwater Ports entered into by the U.S. Department of Commerce along with 10 other government agencies. NMFS is currently reviewing the Final EIS and will either adopt it or prepare its own NEPA document before making a determination on the issuance of an IHA for the Neptune Project.

Preliminary Determinations

NMFS has preliminarily determined that the impact of construction of the Neptune Port Project may result, at worst, in a temporary modification in behavior of small numbers of certain species of marine mammals that may be in close proximity to the Neptune LNG facility and associated pipeline during its construction. These activities are expected to result in some local short-term displacement, resulting in no more than a negligible impact on the affected species or stocks of marine mammals. The provision requiring that the activity not have an unmitigable adverse impact on the availability of the affected species or stock for subsistence use does not apply for this proposed action.

This preliminary determination is supported by measures described earlier in this document under ''Marine Mammal Mitigation, Monitoring, and Reporting'' and MARAD's Record of Decision (and NMFS' Biological Opinion on this action). As a result of the described mitigation measures, no take by injury or death is requested, anticipated, or proposed to be authorized, and the potential for temporary or permanent hearing impairment is very unlikely due to the relatively low noise levels (and consequently small zone of impact). The likelihood of such effects would be avoided through the incorporation of the proposed shut-down mitigation measures mentioned in this document. While the number of marine mammals that may be harassed will depend on the distribution and abundance of marine mammals in the vicinity of the Port construction, the estimated number of marine mammals to be harassed is small.

Proposed Authorization

As a result of these preliminary determinations, NMFS proposes to issue an IHA to Neptune for the taking (by Level B harassment only) during construction of the Neptune Port provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Dated: February 12, 2008.

James H. Lecky,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E8–3021 Filed 2–15–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Office of the Secretary

[DoD–2008–OS–0008]

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary, DoD.

ACTION: Notice to reinstate two systems of records.

SUMMARY: The Office of the Secretary of Defense is reinstating and transferring two systems of records notices, that were inadvertently deleted, to its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on March 20, 2008 unless comments are received which result in a contrary determination.

ADDRESSES: Send comments to the OSD Privacy Act Coordinator, Records Management Section, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

FOR FURTHER INFORMATION CONTACT: Ms. Cindy Allard at (703) 588–2386.

SUPPLEMENTARY INFORMATION: On February 11, 2008 (73 FR 7720) the DoD published a system of records notice which deleted two systems of records. This notice is to reinstate and transfer from the Defense Logistics Agency (DLA) to Office of the Secretary of Defense (OSD) inventory of system of records.

The following two systems (DMDC 09 and DMDC 10) are reinstated and transferred.

Dated: February 12, 2008.

L.M. Bynum,

Alternative OSD Federal Register Liaison Officer, Department of Defense.

DMDC 09

SYSTEM NAME:

Archival Purchase Card File

SYSTEM LOCATION:

Defense Manpower Data Center, DoD Center Monterey Bay, 400 Gigling Road, Seaside, CA 93955–6771.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All DoD military members and civilian purchasing agents who have been issued credit purchase cards and/or granted approving authorization for the procurement of supplies, equipment, and services for official business.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system includes cardholder name, credit purchase card account number, billing address, work telephone number, and merchant data; approving official name, account number, work telephone number and addresses; and account processing and management information, including charge purchase card transactions, purchase and credit limitations, and card cancellation status indictor.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 10 U.S.C. 136, Under Secretary of Defense for Personnel and Readiness; 10 U.S.C. 2358, Research and Development Projects; and 10 U.S.C. 2784, Management of Credit Cards.

PURPOSE(S):

The purpose of the system of records is to provide a single central file of credit purchases within the Department of Defense to assess historical purchase card data.

For card recovery purposes, the system is used to identify former card holders who failed to properly turn in cards. Data from the system is also provided to the Defense Finance and Accounting Service for reporting credit purchase card transactions to appropriate authorities. Statistical data is used by management for planning, evaluation, and program administration purposes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' set forth at the beginning of the OSD compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic storage media.

RETRIEVABILITY:

Retrieved by name or credit purchase card account number.

SAFEGUARDS:

Access to personal information is restricted to those who require access to the records in the performance of their official duties. Access to personal information is further restricted by the

use of passwords which are changed periodically. Physical entry is restricted by the use of locks, guards, and administrative procedures. Employees are warned through screen log-on protocols and periodic briefings of the consequences of improper access or use.

RETENTION AND DISPOSAL:

Records are deleted 6 years and 3 months after final payment or when no longer needed, whichever is later.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Director, Defense Manpower Data Center, DoD Center Monterey Bay, 400 Gigling Road, Seaside, CA 93955–6771.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Privacy Act Officer, Office of Freedom of Information, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

Written requests should contain the full name, Social Security Number (SSN), date of birth, and current address and telephone number of the individual.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Privacy Act Officer, Office of Freedom of Information, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

Written requests should contain the full name, Social Security Number (SSN), date of birth, and current address and telephone number of the individual.

CONTESTING RECORD PROCEDURES:

The OSD rules for accessing records, for contesting contents and appealing initial agency determinations are published in OSD Administrative Instruction 81; 32 CFR part 311; or may be obtained from the Privacy Act Officer, Office of Freedom of Information, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

RECORD SOURCE CATEGORIES:

The military services, the Defense components, financial institutions, merchants, and cardholders.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

DMDC 10

SYSTEM NAME:

Defense Biometric Identification System (DBIDS)

SYSTEM LOCATION:

Defense Manpower Data Center, 400 Gigling Road, Seaside, CA 93955–6771. For a list of backup locations, contact the system manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty, Reserve, and Guard personnel from the Armed Forces and their family members; retired Armed Forces personnel and their families; DoD and non-DoD employees and dependents, U.S. residents abroad, foreign nationals and corporate employees and dependents who have access to U.S. installations in the continental U.S. and overseas.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system includes personal data to include name, grade, Social Security Number, status, date and place of birth, weight, height, eye color, hair color, gender, passport number, country of citizenship, geographic and electronic home and work addresses and telephone numbers, marital status, fingerprints, photographs, iris scans, hand geometry template and identification card issue and expiration dates. The system also includes vehicle information such as manufacturer, model year, color and vehicle type, vehicle identification number (VIN), license plate type and number, decal number, current registration, automobile insurance data, and driver's license data. The system also contains data on government-issued and personal weapons such as type, serial number; manufacturer, caliber, firearm registration date, and storage location data to include unit, room, building, and phone number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 Departmental regulations; 10 U.S.C. 113, Secretary of Defense, Note at Public Law 106–65; 10 U.S.C. 136, Under Secretary of Defense for Personnel and Readiness; 18 U.S.C. 1029, Fraud and related activity in connection with access devices; 18 U.S.C. 1030, Fraud and related activity in connection with computers; 40 U.S.C. Chapter 25, Information technology management; 50 U.S.C. Chapter 23, Internal Security; Public Law 106–398, Government Information Security Act; Public Law 100–235, Computer Security Act of 1987; Public Law 99–474, Computer Fraud and Abuse Act; E.O. 12958, Classified National Security Information as amended by E.O. 13142 and 13292; E.O. 10450, Security Requirements for Government Employees; and E.O. 9397 (SSN).

PURPOSE(S):

To support DoD physical security and access control programs, the information assurance program, used for identity verification purposes, to record personal property registered with the Department, and for producing installation management reports.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a (b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' set forth at the beginning of the OSD compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and electronic storage media.

RETRIEVABILITY:

Retrieved primarily by name, Social Security Number (SSN), vehicle identifiers, or weapon identification data. However, data may also be retrieved by other data elements such as passport number, photograph, fingerprint data, and similar elements in the database.

SAFEGUARDS:

Computerized records are maintained in a controlled area accessible only to authorized personnel. Entry is restricted by the use of locks, guards, and administrative procedures. Access to personal information is limited to those who require the records in the performance of their official duties, and to the individuals who are the subjects of the record or their authorized representatives. Access to personal information is further restricted by the use of unique logon and passwords, which are changed periodically.

RETENTION AND DISPOSAL:

Disposition pending.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Defense Manpower Data Center, 1600 Wilson Boulevard, Suite 400, Arlington VA 22209–2593.

Deputy Director, Defense Manpower Data Center, DoD Center Monterey Bay, 400 Gigling Road, Seaside, CA 93955–6771.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Privacy Act Officer, Office of Freedom of Information, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

Written requests should contain the full name, Social Security Number (SSN), date of birth, and current address and telephone number of the individual.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Privacy Act Officer, Office of Freedom of Information, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

Written requests should contain the full name, Social Security Number (SSN), date of birth, and current address and telephone number of the individual.

CONTESTING RECORDS PROCEDURES:

The OSD rules for accessing records, for contesting contents and appealing initial agency determinations are published in OSD Administrative Instruction 81; 32 CFR part 311; or may be obtained from the Privacy Act Officer, Office of Freedom of Information, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

RECORD SOURCE CATEGORIES:

Data is collected from existing DoD databases, the Military Services, DoD Components, and from the individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E8–3019 Filed 2–15–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Renewal of Department of Defense Federal Advisory Committees

AGENCY: DoD.

ACTION: Renewal of Federal Advisory Committee.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972, (5 U.S.C. Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.65, the Department of Defense gives notice that it is renewing the charter for the Air University Board of Visitors (hereafter referred to as the Board).

The Board is a discretionary federal advisory committee established by the Secretary of Defense to provide the Department of the Air Force independent advice and recommendations on matters pertaining to the educational, doctrinal, and research policies and activities of Air University. The Secretary of the Air Force or designated representative, on behalf of the Secretary of Defense, may act upon the Board's advice and recommendations.

The Board shall be composed of not more than 35 members, who are eminent authorities in the filed of air power, defense, management, leadership and academia. Board members appointed by the Secretary of Defense, who are not federal officers or employees, shall serve as Special Government Employees under the authority of 5 U.S.C. 3109. Board members shall be appointed on an annual basis by the Secretary of Defense, and they shall serve no more than nine years on the Board. The Board's Chairperson shall be elected by a vote of the Board membership and approved by the Air University Commander. The Secretary of the Air Force or designated representative may invite other distinguished federal officers or employees to serve as non-voting observers of the Board, and may appoint consultants, with special expertise, to assist the Board on an *ad hoc* basis.

Board members and consultants, if required, shall, with the exception of travel and per diem for official travel, serve without compensation. However, the Secretary of the Air Force, at his discretion, may authorize compensation to Board members and consultants in accordance with existing statutes, Executive Orders and regulations.

The Board shall be authorized to establish subcommittees, as necessary and consistent with its mission, and these subcommittees or working groups shall operate under the provisions of the Federal Advisory Committee Act of 1972, the Government in the Sunshine Act of 1976, and other appropriate federal regulations.

Such subcommittees or workgroups shall not work independently of the chartered Board, and shall report all their recommendations and advice to the Board for full deliberation and discussion. Subcommittees or workgroups have no authority to make decisions on behalf of the chartered Board nor can they report directly to the Department of Defense or any federal officers or employees who are not Board members.

SUPPLEMENTARY INFORMATION: The Board shall meet at the call of the Board's Designated Federal Officer, in consultation with the Board's chairperson. The Designated Federal Officer, pursuant to DoD policy, shall be a full-time or permanent part-time DoD employee, and shall be appointed in accordance with established DoD policies and procedures. The Designated Federal Officer or duly appointed Alternate Designated Federal Officer shall attend all committee meetings and subcommittee meetings.

Pursuant to 41 CFR 102–3.105(j) and 102–3.140, the public or interested organizations may submit written statements to the Air University Board of Visitors' membership about the Board's mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meeting of the Air University Board of Visitors.

All written statements shall be submitted to the Designated Federal Officer for the Air University Board of Visitors, and this individual will ensure that the written statements are provided to the membership for their consideration. Contact information for the Air University Board of Visitors' Designated Federal Officer can be obtained from the GSA's FACA Database—*https://www.fido.gov/facadatabase/public.asp.*

The Designated Federal Officer, pursuant to 41 CFR 102–3.150, will announce planned meetings of the Air University Board of Visitors. The Designated Federal Officer, at that time, may provide additional guidance on the submission of written statements that are in response to the stated agenda for the planned meeting in question.

FOR FURTHER INFORMATION: Contact Jim Freeman, Deputy Committee Management Officer for the Department of Defense, 703–601–2554, extension 128.

Dated: February 11, 2008.

L.M. Bynum,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. E8–3017 Filed 2–15–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

Availability for Non-Exclusive, Exclusive, or Partially Exclusive Licensing of Invention Described in U.S. Provisional Patent Application Concerning Treatment of Ischemia-Reperfusion Injury with Lipid, Annexin, and Lipid-Annexin Complexes

AGENCY: Department of the Army, DoD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.4, 404.6 and 404.7, announcement is made of the availability for licensing of the invention described in U.S. Provisional Patent Application No. 60/786,527 entitled ''Treatment of Ischemia-Reperfusion Injury with Lipid, Annexin, and Lipid-Annexin Complexes,'' filed March 27, 2006. Foreign rights are also available (PCT/US2007/065125). The United States Government, as represented by the Secretary of the Army, has rights in this invention.

ADDRESSES: Commander, U.S. Army Medical Research and Materiel Command, *ATTN:* Command Judge Advocate, MCMR–ZA–J, 504 Scott Street, Fort Detrick, Frederick, MD 21702–5012.

FOR FURTHER INFORMATION CONTACT: For patent issues, Ms. Elizabeth Arwine, Patent Attorney, (301) 619–7808. For licensing issues, Dr. Paul Mele, Office of Research & Technology Assessment, (301) 619–6664, both at telefax (301) 619–5034.

SUPPLEMENTARY INFORMATION: Disclosed are lipids, annexin, and lipid-annexin complexes for use in the prevention and/or treatment of ischemia-reperfusion injury and reperfusion injury associated with a variety of diseases and conditions. Also disclosed are therapeutic targets and compositions for the prevention and treatment of ischemia-reperfusion injury and diseases and conditions associated with ischemia-reperfusion injury.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. E8–2980 Filed 2–15–08; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Notice of Intent To Prepare a Draft Environmental Impact Statement on Rock Mining in Wetlands in Levy County, FL

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The U.S. Army Corps of Engineers (Corps) Jacksonville District intends to prepare a Draft Environmental Impact Statement (DEIS), referred to as the Tarmac King Road Limestone Mine DEIS, to evaluate potential impacts of rock mining within wetlands in southern Levy County, FL.

DATES: The Corps plans to hold two public scoping meetings on or about March 26 and 27, 2008 at 6 p.m. EST.

ADDRESSES: The first meeting will be held on March 26, 2008 at the Inglis Community Center, 137 Highway 40 West, Inglis, FL 34449, (352) 447–2203. The second meeting will be held March 27, 2008 at the Tommy Usher Community Center, 506 Southwest 4th Avenue, Chiefland, FL 32626–0121, (352) 493–6711.

FOR FURTHER INFORMATION CONTACT: Mr. Edward P. Sarfert, (850) 439–9533 or e-mail at edward.p.sarfert@usace.army.mil.

SUPPLEMENTARY INFORMATION:

a. *Background/Project Authorization.* The Corps is preparing this DEIS in accordance with the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*), Council of on Environmental Quality (CEQ) Regulations (40 CFR 1500 *et seq.*), and Corps provisions for implementing the procedural requirements of NEPA (33 CFR 230, USACE Engineering Regulation ER 200–2–2). A primary purpose of a Corps Regulatory Program EIS is to provide full and fair discussion of the significant environmental impacts of a proposal or project seeking a U.S. Department of Army permit. The Draft and Final EIS are used to inform the public and agency decision-makers of alternatives to an applicant's project that might avoid or minimize adverse impacts or enhance the quality of the human environment. An EIS is not a Corps regulatory decision document. It is used by agency officials in conjunction with other relevant information in a permit application file, including public and agency comments presented in the Final EIS, to support the final decision on a permit application. In this instance, Tarmac America, LLC, has filed a permit application to mine areas that include wetlands within Levy County, FL.

b. *Need or Purpose.* The purpose of the proposed action is to provide construction-grade aggregate that meets the Florida Department of Transportation specifications for buildings and infrastructure. The proposed mine is to provide this aggregate for Tarmac's and its customers' use in the west central area of Florida. The Corps recognizes that there is a public and private need for this product. The purpose of the proposed DEIS is to evaluate the environmental effects of alternatives to meet these requirements while protecting the aquatic environment.

c. *Prior EAs, EISs.* None.

d. *Alternatives.* An evaluation of alternatives, including a No Action alternative and rock mining in other areas both inside and outside of Levy County and/or Florida will be done. The DEIS will analyze reasonable alternatives to obtaining construction grade limestone to meet the purpose and need. Alternatives will be determined through scoping, but are expected to vary according to timing, and breadth of mining, in addition to a ''no action'' alternative.

e. *Issues.* The following issues have been identified for analysis in the DEIS. This list is preliminary and is intended to facilitate public comment on the scope of the DEIS. The DEIS will consider the effects on Federally listed threatened and endangered species, health and safety, socioeconomics, aesthetics, general environmental concerns, wetlands (and other aquatic resources), historic properties, cultural resources, fish and wildlife values, land use, transportation, recreation, water supply and conservation, water quality, energy needs, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people, and other issues identified through scoping, public involvement, and interagency coordination. At the present time, our primary areas of environmental concern are the loss of wetland functions and value, mitigation of such losses, and the effect of proposed mining on groundwater and surface water quality and on transportation. We expect to better define the issues of concern and define the methods that will be used to evaluate those issues through the scoping process.

f. *Scoping Process.* CEQ regulations (40 CFR 1501.7) require an early and open process for determining the scope of a DEIS and for identifying significant

issues related to the proposed action. The public will be involved in the scoping and evaluation process through advertisements, notices, and other means. At a minimum, all parties who have expressed interest in the Tarmac King Road Limestone Mine project will be given the opportunity to participate in this process. Federal, state and local agencies, and other interested groups will also be involved. All parties are invited to participate in the scoping process by identifying any additional concerns on issues, studies needed, alternatives, procedures, and other matters related to the scope of the EIS.

The public scoping meetings are scheduled for (see **DATES** and **ADDRESSES**). The Corps will provide additional notification of the meeting time and location through newspaper advertisements and other means. Following a short presentation on the planned DEIS, verbal and written comments on the scope of the DEIS will be accepted. A transcript of verbal comments will be generated to ensure accuracy. To submit comments on the scope of the Tarmac King Road Limestone Mine DEIS or to request copies of materials related to this effort as they become available to the public, contact: Mr. Edward P. Sarfert, U.S. Army Corps of Engineers, Regulatory Division, 41 North Jefferson St., Suite 111, Pensacola, FL 32502–5794, by e-mail at edward.p.sarfert@usace.army.mil, or by telephone at (850) 439–9533.

Comments or requests for information can also be submitted on the Tarmac King Road Limestone Mine EIS Web site at *http://www.kingroadeis.com.* The Corps will consider all comments for the scope of the DEIS received by April 26, 2008.

g. *Public Involvement.* The Corps invites Federal agencies, American Indian Tribal Nations, state and local governments, and other interested private organizations and parties to attend the public scooping meeting and to comment on the scope of the planned Tarmac King Road Limestone Mine EIS.

h. *Coordination.* The proposed action is being coordinated with a number of Federal, state, regional, and local agencies including but not limited to the following: U.S. Fish and Wildlife Service, National Marine Fisheries Service, U.S. Environmental Protection Agency, Florida Department of Environmental Protection, Southwest Florida Water Management District, Florida State Historic Preservation Officer, Levy County, and other agencies as identified in scoping, public involvement, and agency coordination.

i. *Other Environmental Review and Consultation.* The proposed action would involve evaluation for compliance with guidelines pursuant to Section 404(b) of the Clean Water Act. This review will involve a detailed evaluation of alternatives to rock mining in the King Road area of Levy County, which is not a water dependent activity.

j. *Agency Role.* The Corps will provide extensive information and assistance on the resources to be impacted, mitigation measures, and alternatives. Although the Corps does not plan to invite any Federal agencies to be cooperating agencies, we expect to receive input and critical information from the U.S. Environmental Protection Agency, the U.S. Fish and Wildlife Service and other federal, state, and local agencies.

k. *Tarmac King Road Limestone Mine DEIS Preparation.* It is estimated that the DEIS will be available to the public on or about July 2008. At least one additional public meeting will be held at that time, during which the public will be provided the opportunity to comment on the Draft EIS before it becomes final.

Dated: February 8, 2008.

David S. Hobbie,

Chief, Regulatory Division.

[FR Doc. E8–2979 Filed 2–15–08; 8:45 am]

BILLING CODE 3710–AJ–P

DEPARTMENT OF DEFENSE

Department of the Navy

[USN–2008–0006]

Privacy Act of 1974; System of Records

AGENCY: Department of the Navy, DoD.

ACTION: Notice to amend a system of records.

SUMMARY: The Department of the Navy is amending a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on March 20, 2008 unless comments are received which result in a contrary determination.

ADDRESSES: Send comments to the Department of the Navy, PA/FOIA Policy Branch, Chief of Naval Operations (DNS–36), 2000 Navy Pentagon, Washington, DC 20350–2000.

FOR FURTHER INFORMATION CONTACT: Mrs. Doris Lama at (202) 685–6545.

SUPPLEMENTARY INFORMATION: The Department of the Navy systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the record system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: February 12, 2008.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

NM08370–I

SYSTEM NAME:

Weapons Registration (June 14, 2006, 71 FR 34324).

CHANGES:

* * * * *

SYSTEM LOCATION:

At end of first para delete *http://neds.daps.dla.mil/sndl.htm* and replace with *http://doni.daps.dla.mil/sndl.aspx.*

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

At end of entry add: ''All individuals authorized access to individual armories.''

* * * * *

PURPOSE(S):

Delete entry and replace with ''To assure proper control of weapons on installations; to monitor and control purchase and disposition of weapons/accessories; and provide record of individuals authorized access to armory spaces.''

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

At end of entry delete *http://neds.daps.dla.mil/sndl.htm* and replace with *http://doni.daps.dla.mil/sndl.aspx.*

NOTIFICATION PROCEDURE:

At end of first para delete *http://neds.daps.dla.mil/sndl.htm* and replace with *http://doni.daps.dla.mil/sndl.aspx.*

RECORD ACCESS PROCEDURES:

At end of first para delete *http://neds.daps.dla.mil/sndl.htm* and replace with *http://doni.daps.dla.mil/sndl.aspx.*

* * * * *

NM08370–1

SYSTEM NAME:

Weapons Registration.

SYSTEM LOCATION:

Organizational elements of the Department of the Navy. Official mailing addresses are published in the Standard Navy Distribution List that is available at *http://doni.daps.dla.mil/sndl.aspx.*

Commander, U.S. Joint Forces Command, 1562 Mitscher Avenue, Suite 200, Norfolk, VA 23551–2488.

Commander, U.S. Pacific Command, P.O. Box 64028, Camp H.M. Smith, HI 96861–4028.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals registering firearms or other weapons with station security offices and/or Provost Marshal; all individuals who purchase a firearm or weapon at authorized exchange activities; and/or individuals who reside in government quarters who possess privately-owned firearms; all individuals authorized access to individual armories.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name, Social Security Number (SSN), rank, weapon registration and permit records, notification to commanding officers of failure to register firearm purchased at authorized exchanges, exchange notification of firearm purchase, physical location of subject weapon, weapon description, and such other identifiable items.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 5013, Secretary of the Navy; 10 U.S.C. 5041, Headquarters, Marine Corps; and E.O. 9397 (SSN).

PURPOSE(S):

To assure proper control of weapons on installations; to monitor and control purchase and disposition of weapons/accessories; and provide record of individuals authorized access to armory spaces.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' that appear at the beginning of the Navy's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and electronic storage media.

RETRIEVABILITY:

Individual's name, Social Security Number (SSN), case number, and/or organization name.

SAFEGUARDS:

Password controlled system, file, and element access based on predefined need-to-know. Physical access to terminals, terminal rooms, buildings, and activities' grounds are controlled by locked terminals and rooms, guards, personnel screening, and visitor registers.

RETENTION AND DISPOSAL:

Records destroyed when individual leaves command.

SYSTEM MANAGER(S) AND ADDRESS:

Organizational elements of the Department of the Navy. Official mailing addresses are published in the Standard Navy Distribution List that is available at *http://doni.daps.dla.mil/sndl.aspx.*

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Commanding officer of the activity in question. Official mailing addresses are published in the Standard Navy Distribution List that is available at *http://doni.daps.dla.mil/sndl.aspx.*

Written request must contain name and Social Security Number (SSN) and signed.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Commanding officer of the activity in question. Official mailing addresses are published in the Standard Navy Distribution List that is available at *http://doni.daps.dla.mil/sndl.aspx.*

Written request must contain name and Social Security Number (SSN) and signed.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual concerned, other records of activity, investigators, witnesses, and correspondents.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E8–3020 Filed 2–15–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before March 20, 2008.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Education Desk Officer, Office of Management and Budget, 725 17th Street, NW., Room 10222, Washington, DC 20503. Commenters are encouraged to submit responses electronically by e-mail to *oira_submission@omb.eop.gov* or via fax to (202) 395–6974. Commenters should include the following subject line in their response ''Comment: [insert OMB number], [insert abbreviated collection name, e.g., ''Upward Bound Evaluation'']. Persons submitting comments electronically should not submit paper copies.

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.

Dated: February 12, 2008.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Office of Elementary and Secondary Education

Type of Review: Revision.

Title: Survey on the Use of Funds Under Title II, Part A (''Improving Teacher Quality State Grants—Subgrants to LEAs'').

Frequency: Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs (primary).

Reporting and Recordkeeping Hour Burden:

Responses: 850.

Burden Hours: 5,000.

Abstract: The No Child Left Behind Act of 2001 (NCLB), which reauthorized the Elementary and Secondary Education Act of 1965, provides funds to districts to improve the quality of their teaching and principal force and raise student achievement. These funds are provided to districts through Title II, Part A (''Improving Teacher Quality State Grants—Subgrants to LEAs''). The purpose of this survey is for the U.S. Department of Education to have a better understanding of how districts are using these funds. The survey also collects information on high-quality professional development in LEAs.

This OMB clearance request is to continue these analyses using a similar data collection instrument and sampling plan for the 2007–2008 school year and subsequent years. The major change from past years is the addition of a short survey for State Educational Agencies (SEAs). The SEA survey will provide information on fiscal year allocations of Title II, Part A funds made to the LEAs selected for participation in the main survey and be preprinted with the names of the LEAs selected for participation in the LEA survey.

Requests for copies of the information collection submission for OMB review may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 3523. 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. E8–3015 Filed 2–15–08; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

LSBC, Inc.; Notice of Intent To Grant Exclusive Patent License

AGENCY: Department of Energy, Office of the General Counsel.

SUMMARY: Notice is hereby given with an intent to grant to Lone Star Bit, (''LSBC, Inc.''), of Stafford, Texas, an exclusive license to practice the inventions described in U.S. Patent No. 6,427,791, entitled ''Drill bit assembly for releasably retaining a drill bit cutter.'' The inventions are owned by the United States of America, as represented by the U.S. Department of Energy (DOE).

DATES: Written comments or nonexclusive license applications are to be received at the address listed below no later than March 20, 2008.

ADDRESSES: Office of the Assistant General Counsel for Technology Transfer and Intellectual Property, U.S. Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Annette R. Reimers, Office of the Assistant General Counsel for Technology Transfer and Intellectual Property, U.S. Department of Energy, Forrestal Building, Room 6F–067, 1000 Independence Ave., SW., Washington, DC 20585; Telephone (202) 586–3815.

SUPPLEMENTARY INFORMATION: 35 U.S.C. 209 provides federal agencies with authority to grant exclusive licenses in federally-owned inventions, if, among other things, the agency finds that the public will be served by the granting of the license. The statute requires that no exclusive license may be granted unless public notice of the intent to grant the license has been provided, and the agency has considered all comments received in response to that public notice before the end of the comment period.

LSBC, Inc., of Stafford, Texas has applied for an exclusive license to practice the inventions embodied in U.S. Patent No. 6,427,791 and has plans for commercialization of the inventions. The exclusive license will be subject to a license and other rights retained by the U.S. Government and other terms and conditions to be negotiated. DOE intends to negotiate to grant the license, unless, within 30 days of this notice, the Assistant General Counsel for Technology Transfer and Intellectual Property, Department of Energy, Washington, DC 20585, receives in writing any of the following, together with supporting documents:

(i) A statement from any person setting forth reason why it would not be in the best interests of the United States to grant the proposed license; or

(ii) An application for a nonexclusive license to the invention in which applicant states that it already has brought the invention to practical application or is likely to bring the invention to practical application expeditiously.

The Department will review all timely written responses to this notice and will proceed with negotiating the license if, after consideration of written responses to this notice, a finding is made that the license is in the public interest.

Issued in Washington, DC on February 7, 2008.

Paul A. Gottlieb,

Assistant General Counsel for Technology Transfer and Intellectual Property.

[FR Doc. E8–3006 Filed 2–15–08; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Excom, Inc.

AGENCY: Department of Energy, Office of the General Counsel.

ACTION: Notice of Invention Available for License and Intent to Grant Exclusive License.

SUMMARY: Notice is hereby given that the ''Smart Visual Sensor'' (SVS) technology, developed under ISTC project # 3195, is available for licensing in the United States as deemed appropriate in the public interest. Excom, Inc., of Holmden, NJ, has applied for an exclusive license to practice the SVS technology in the U.S. The U.S. Government has the exclusive authority to license the SVS technology in the United States.

DATES: Written comments or nonexclusive license applications are to

be received at the address listed below no later than April 4, 2008.

ADDRESSES: Office of the Assistant General Counsel for Technology Transfer and Intellectual Property, U.S. Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585.

FOR FURTHER INFORMATION: John T. Lucas, Office of the Assistant General Counsel for Technology Transfer and Intellectual Property, U.S. Department of Energy, Forrestal Building, Room 6F–067, 1000 Independence Ave., SW., Washington, DC 20585; Telephone (202) 586–2939.

SUPPLEMENTARY INFORMATION: 35 U.S.C. 209 provides federal agencies with authority to grant exclusive licenses in federally-owned inventions, if, among other things, the agency finds that the public will be served by the granting of the license. The statute requires that no exclusive license may be granted unless public notice of the intent to grant the license has been provided, and the agency has considered all comments received in response to that public notice, before the end of the comment period.

Excom, Inc., of Holmdel, NJ has applied for an exclusive license to the SVS technology and has plans for its commercialization. The exclusive license will be subject to a license and other rights retained by the U.S. Government, and other terms and conditions to be negotiated. DOE intends to negotiate to grant the license, unless, within 45 days of this notice, the Assistant General Counsel for Technology Transfer and Intellectual Property, Department of Energy, Washington, DC 20585, receives in writing any of the following, together with supporting documents:

(i) A statement from any person setting forth reason why it would not be in the best interests of the United States to grant the proposed license; or

(ii) An inquiry concerning the technology, followed by an application for a nonexclusive license to the technology in which applicant states that it already has brought the invention to practical application or is likely to bring the technology to practical application expeditiously

The Department will review all timely written responses to this notice, and will proceed with negotiating the license if, after consideration of written responses to this notice, a finding is made that the license is in the public interest.

Issued in Washington, DC on February 7, 2008.

Paul A. Gottlieb,

Assistant General Counsel for Technology Transfer and Intellectual Property.

[FR Doc. E8–3010 Filed 2–15–08; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Nevada

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Nevada Test Site. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Tuesday, March 11, 2008, 6 p.m.

ADDRESSES: Beatty Community Center, 100A Avenue S, Beatty, Nevada 89003.

FOR FURTHER INFORMATION CONTACT: Rosemary Rehfeldt, Board Administrator, 232 Energy Way, M/S 505, North Las Vegas, Nevada 89030. *Phone:* (702) 657–9088; Fax (702) 295–5300 or *E-mail: ntscab@nv.doe.gov*.

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

1. Presentation on the Underground Test Area (UGTA) Committee's Well Recommendation Reports.
2. Review of CAB's participation in UGTA's Technical Working Group meetings.
3. Review of Nevada Test Site ''TRU in Trenches'' update.

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 presentations pertaining to agenda items should contact Rosemary Rehfeldt at the telephone number listed above. The request 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 to Rosemary Rehfeldt at the address listed above or at the following Web site: *http://www.ntscab.com/MeetingMinutes.htm.*

Issued at Washington, DC on February 13, 2008.

Rachel Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. E8–3008 Filed 2–15–08; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Production Engineering and Commercialization of Residential Highly Insulating Windows

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

ACTION: Program Notice.

SUMMARY: The National Energy Technology Laboratory, on behalf of the Office of Energy Efficiency and Renewable Energy's Building Technologies Program, intends to issue a Funding Opportunity Announcement (FOA) to select and fund approximately two teams to develop, manufacturer, and commercialize cost effective, highly insulating windows with an NFRC U-value rating of 0.20 BTU/hr-F_t^2-°F or lower.

DATES: This FOA is expected to be issued on or about April 21, 2008.

FOR FURTHER INFORMATION CONTACT: Marc LaFrance, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Program Office EE–2J, 1000 Independence Avenue, SW., Washington, DC 20585–0121, (202) 586–9142, Email: *Marc.Lafrance@ee.doe.gov* C. Edward Christy, National Energy Technology Laboratory, P.O. Box 880, M/S E–02, Morgantown, WV 26507, (304) 285–4604, E-mail: *Eddie.Christy@netl.doe.gov.*

SUPPLEMENTARY INFORMATION: The projects are expected to be for a period of 12 to 24 months and will require a 50–50 industry cost shared effort with the Department of Energy. Awards are expected to be made in FY09 in the October to December 2008 timeframe, with approximately $2,000,000 of government funding over a two year period. Proposing entities should be led by a domestic window, glass, or production equipment manufacturer or component supplier. Partnerships with entities that can offer high volume distribution to facilitate market penetration will be encouraged. The DOE's long term window R&D goals are

to develop the next generation of windows that offer dynamic solar control and U values of 0.10 BTU/hr-F_t^2-°F. However, these longer term efforts are not the subject of this financial opportunity. The purpose of this effort is for near term product and production engineering development of highly insulating windows that have U-values of 0.2 BTU/hr-F_t^2-°F or less that can be cost effective in the 2010–2012 timeframe for a broad range of applications in colder climates.

FedBizOpps and Grants.gov provide e-mail notification services to interested parties who want to receive information about the posting of an acquisition or financial assistance opportunity. Register for funding opportunity notices at *http://www.grants.gov/search/subscribeAdvanced.do.*

Issued in Morgantown, WV, on February 4, 2008.

C. Edward Christy,

Director, Buildings and Industrial Technologies Division.

[FR Doc. E8–3005 Filed 2–15–08; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC08–521–000; FERC–521]

Commission Information Collection Activities, Proposed Collection; Comment Request; Extension

February 11, 2008.

AGENCY: Federal Energy Regulatory Commission, Department of Energy.

ACTION: Notice of proposed information collection and request for comments.

SUMMARY: In compliance with the requirements of section 3506(c)(2)(a) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), the Federal Energy Regulatory Commission (Commission) is soliciting public comment on the specific aspects of the information collection described below.

DATES: Comments in consideration of the collection of information are due April 15, 2008.

ADDRESSES: An example of this collection of information may be obtained from the Commission's Documents & Filing Web site (*http://www.ferc.gov/docs-filing/elibrary.asp*) or by contacting the Federal Energy Regulatory Commission, *Attn:* Michael Miller, Office of the Executive Director, ED–34 Rm. 42–39, 888 First Street NE., Washington, DC 20426. Comments may be filed either in paper format or electronically. Those parties filing electronically do not need to make a paper filing. For paper filing, the original and 14 copies of such comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 and refer to Docket No. IC08–521–000. Documents filed electronically via the Internet must be prepared in an acceptable filing format and in compliance with the Federal Energy Regulatory Commission submission guidelines. Complete filing instructions and acceptable filing formats are available at (*http://www.ferc.gov/help/submission-guide/electronic-media.asp*). To file the document electronically, access the Commission's Web site and click on Documents & Filing, E-Filing (*http://www.ferc.gov/docs-filing/efiling.asp*), and then follow the instructions for each screen. First time users will have to establish a user name and password. The Commission will send an automatic acknowledgement to the sender's e-mail address upon receipt of comments.

All comments may be viewed, printed or downloaded remotely via the Internet through FERC's homepage using the ''eLibrary'' link. For user assistance, contact *fercolinesupport@ferc.gov* or toll-free at (866) 208–3676. Or for TTY, contact (202) 502–8659.

FOR FURTHER INFORMATION CONTACT: Michael Miller may be reached by telephone at (202) 502–8415, by fax at (202) 273–0873, and by e-mail at *michael.miller@ferc.gov*.

SUPPLEMENTARY INFORMATION: The information collected under the requirements of FERC–521 ''Payments for Benefits from Headwater Benefits'' (OMB No. 1902–0087) is used by the Commission to implement the statutory provisions of section 10(f) of the Federal Power Act (FPA) (16 U.S.C. 803). The FPA authorizes the Commission to determine headwater benefits received by downstream hydropower project owners. Headwater benefits are the additional energy production possible at a downstream hydropower project resulting from the regulation of river flows by an upstream storage reservoir.

When the Commission completes a study of a river basin, it determines headwater benefits charges that will be apportioned among the various downstream beneficiaries. A headwater benefits charge, and the cost incurred by the Commission to complete an evaluation are paid by downstream hydropower project owners. In essence, the owners of non-federal hydropower projects that directly benefit from a headwater(s) improvement must pay an equitable portion of the annual charges for interest, maintenance, and depreciation of the headwater project to the U.S. Treasury. The regulations provide for apportionment of these costs between the headwater project and downstream projects based on downstream energy gains and propose equitable apportionment methodology that can be applied to all rivers basins in which headwater improvements are built. The data the Commission requires owners of non-federal hydropower projects to file for determining annual charges is specified in 18 Code of Federal Regulations (CFR) part 11.

Action: The Commission is requesting a three-year extension of the current expiration date, with no changes to the existing collection of data.

Burden Statement: Public reporting burden for this collection is estimated as:

Number of respondents annually (1)	Number of responses per respondent (2)	Average burden hours per response (3)	Total annual burden hours (1)×(2)×(3)
3	1	40	120

Estimated cost burden to respondents is $7,291.00. (120 hours/2080 hours per year times $126,384 per year average per employee = $7,291.00). The cost per respondent is $2,430.00

The reporting burden includes the total time, effort, or financial resources expended to generate, maintain, retain, disclose, or provide the information including: (1) Reviewing instructions; (2) developing, acquiring, installing, and utilizing technology and systems for the purposes of collecting, validating, verifying, processing, maintaining, disclosing and providing information; (3) adjusting the existing ways to comply with any previously applicable

instructions and requirements; (4) training personnel to respond to a collection of information; (5) searching data sources; (6) completing and reviewing the collection of information; and (7) transmitting, or otherwise disclosing the information.

The estimate of cost for respondents is based upon salaries for professional and clerical support, as well as direct and indirect overhead costs. Direct costs include all costs directly attributable to providing this information, such as administrative costs and the cost for information technology. Indirect or overhead costs are costs incurred by an organization in support of its mission. These costs apply to activities which benefit the whole organization rather than any one particular function or activity.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology *e.g.,* permitting electronic submission of responses.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–2991 Filed 2–15–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2334–044]

Consolidated Edison Energy Massachusetts, Inc., Consolidated Edison Energy Massachusetts, LLC; Notice of Application for Transfer of License, and Soliciting Comments, Motions To Intervene, and Protests

February 8, 2008.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Transfer of License.

b. *Project No.:* 2334–044.

c. *Date Filed:* January 8, 2008.

d. *Applicants:* Consolidated Edison Energy Massachusetts, Inc. (transferor) and Consolidated Edison Energy Massachusetts, LLC (Transferee).

e. *Name and Location of Project:* Gardners Falls Hydroelectric Project is located on the Deerfield and Monahan Rivers in Franklin County Massachusetts.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

g. *Applicant Contacts:* For the transferor: Mr. Andrew Scher, Consolidated Edison Energy Massachusetts, Inc., 4 Irving Place, New York, NY 10003.

For the transferee: Mr. Andrew Scher, Consolidated Edison Energy Massachusetts, LLC., 4 Irving Place, New York, NY 10003.

h. *FERC Contact:* Robert Bell at (202) 502–6062.

i. Deadline for filing comments, protests, and motions to intervene: February 25, 2008.

All documents (original and eight copies) should be filed with: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, SE., Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings. Please include the Project Number on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all intervenors filing a document with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the documents on that resource agency.

j. *Description of Application:* Applicants seek Commission approval to transfer the license for the Gardners Falls Hydroelectric Project from Consolidated Edison Energy Massachusetts, Inc., to Consolidated Edison Energy Massachusetts, LLC.

k. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary link. Enter the docket number (P–2334) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the addresses in item g above.

l. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

m. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

n. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and eight copies to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicants specified in the particular application.

o. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicants. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicants' representatives.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–2974 Filed 2–15–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1651–040]

Town of Afton, Wyoming, Lower Valley Energy; Notice of Application for Transfer of License, and Soliciting Comments, Motions To Intervene, and Protests

February 8, 2008.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Transfer of License.

b. *Project No.:* 1651–040.

c. *Date Filed:* January 7, 2008.

d. *Applicants:* Town of Afton, Wyoming (transferor) and Lower Valley Energy (Transferee).

e. *Name and Location of Project:* Swift Creek Hydroelectric Project is located on Swift Creek, in Lincoln County, Wyoming, partially within the Bridger-Teton National Forest.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a—825r.

g. *Applicant Contacts:* For the transferor: Mr. James K. Sanderson, Town Administrator, Town of Afton, Wyoming, P.O. Box 310, Afton, WY 83110–0310.

For the transferee: Mr. James R. Webb, President, Lower Valley Energy, 236 North Washington, P.O. Box 188, Afton, WY 83110.

h. *FERC Contact:* Robert Bell at (202) 502–6062.

i. *Deadline for filing comments, protests, and motions to intervene:* March 10, 2008.

All documents (original and eight copies) should be filed with: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings. Please include the Project Number on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all intervenors filing a document with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the documents on that resource agency.

j. *Description of Application:* Applicants seek Commission approval to transfer the license for the Swift Creek Hydroelectric Project from Town of Afton, Wyoming, to Lower Valley Energy.

k. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary link. Enter the docket number (P–1651) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the addresses in item g above.

l. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

m. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

n. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and eight copies to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicants specified in the particular application.

o. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicants. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicants' representatives.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–2973 Filed 2–15–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP08–6–000]

Midcontinent Express Pipeline, Llc; Notice of Availability of the Draft Environmental Impact Statement for the Midcontinent Express Pipeline Project

February 8, 2008.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared this Draft Environmental Impact Statement (EIS) for the natural gas pipeline facilities proposed by Midcontinent Express Pipeline Company, LLC (MEP) under the above-referenced docket. MEP's Midcontinent Express Pipeline Project (Project) would be located in various counties and parishes in Oklahoma, Texas, Louisiana, Mississippi, and Alabama.

The Draft EIS was prepared to satisfy the requirements of the National Environmental Policy Act. The FERC staff concludes that the proposed Project, with the appropriate mitigation measures as recommended, would have limited adverse environmental impact.

The U.S. Army Corps of Engineers (COE), U.S. Fish and Wildlife Service (FWS), National Park Service (NPS), Natural Resources Conservation Service (NRCS), U.S. Environmental Protection Agency (EPA), Louisiana Department of Environmental Quality (LDEQ), Texas Parks and Wildlife Department (TPWD), and Alabama Department of Conservation and Natural Resources (ADCNR) are cooperating agencies for the development of this EIS. A cooperating agency has jurisdiction by law or special expertise with respect to any environmental impact involved with the proposal and is involved in the NEPA analysis.

The general purpose of the proposed Project is to transport up to 1,500,000 dekatherms per day of natural gas from production fields in Texas, Oklahoma, and Arkansas to markets in the eastern region of the United States.

The Draft EIS addresses the potential environmental impacts resulting from the construction and operation of the following facilities:

• Approximately 504.3 miles of new 30-, 36-, and 42-inch-diameter interstate natural gas pipeline extending from Bryan County, Oklahoma, to a terminus in Choctaw County, Alabama;

• An approximately 4.1-mile-long, 16-inch-diameter lateral pipeline in Richland and Madison Parishes, Louisiana;

• A total of approximately 111,720 horsepower (hp) of compression at one booster and four new mainline compressor stations;

• 13 new metering and regulating (M/R) stations; and

• Other appurtenant ancillary facilities including, mainline valves (MLV), pig [1] launcher and receiver facilities.

Dependent upon Commission approval, MEP proposes to complete construction and begin operating the proposed Project in February 2009.

The Draft EIS has been placed in the public files of the FERC and is available for public inspection at: Federal Energy Regulatory Commission, Public Reference Room, 888 First Street, NE., Room 2A, Washington, DC 20426, (202) 502–8371.

A limited number of copies of the Draft EIS are available from the Public Reference Room identified above. In addition, CD–ROM copies of the Draft EIS have been mailed to affected landowners; various federal, state, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; local libraries and newspapers; intervenors; and other individuals that expressed an interest in the proposed Project. Hard-copies of the Draft EIS have also been mailed to those who requested that format during the scoping and comment periods for the proposed Project.

Comment Procedures and Public Meetings

Any person wishing to comment on the Draft EIS may do so. To ensure consideration prior to a Commission decision on the proposal, it is important that the Commission receives your comments before the date specified below. Please carefully follow these instructions to ensure that your comments are received and properly recorded.

• Send an Original and two copies of your comments to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Room 1A, Washington, DC 20002.

• Reference Docket No. CP08–6–000.

• Label one copy of the comments for the attention of Gas Branch 3.

• Mail your comments so that they will be received in Washington, DC on or before March 31, 2008

The Commission strongly encourages electronic filing of any comments, interventions or protests to this proceeding. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link and the link to the User's guide. Before you can file comments you will need to create a free account, which can be created by clicking on ''Login to File'' and then ''New User Account.'' You will be asked to select the type of filing you are making. This filing is considered a ''Comment on Filing.''

In lieu of or in addition to sending written comments, you are invited to attend public comment meetings the FERC will conduct in the project area to receive comments on the Draft EIS. All meetings will begin at 7 p.m. (CDT), and are scheduled as follows.

Date	Location
Tuesday, March 25, 2008	Quitman Depot, Main Street and Railroad Avenue, Quitman, MS 39355, (601) 776–3728.
Tuesday, March 25, 2008	Minden Civic Center, 520 Broadway Street, Minden, LA 71055, (318) 377–2144.
Wednesday, March 26, 2008	Eudora Welty Library, 300 North State Street, Jackson, MS 39201, (601) 968–5811.
Wednesday, March 26, 2008	Northeast Texas Community College, 1735 Chapel Hill Road, Mt. Pleasant, TX 75455, (800) 870–0142.
Thursday, March 27, 2008	Delhi Civic Center, 232 Denver Street, Delhi, LA 71232, (318) 878–3792.
Thursday, March 27, 2008	Love Civic Center (North Hall), 2025 South Collegiate Drive, Paris, TX 75460, (903) 739–9912.

Interested groups and individuals are encouraged to attend and present oral comments on the Draft EIS. Transcripts of the meetings will be prepared and placed in the public file.

After the comments are reviewed, and significant new issues are investigated, and modifications are made to the Draft EIS, a Final EIS will be published and distributed by the FERC staff. The Final EIS will contain the staff's responses to timely comments received on the Draft EIS.

Comments will be considered by the Commission but will not serve to make the commentor a party to the proceeding. Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214). Only intervenors have the right to seek rehearing of the Commission's decision. Anyone may intervene in this proceeding based on this Draft EIS. You must file your request to intervene as specified above.[2] You do not need intervenor status to have your comments considered.

The Draft EIS has been placed in the public files of the FERC and is available for distribution and public inspection at: Federal Energy Regulatory Commission, Public Reference Room, 888 First Street, NE., Room 2A, Washington, DC 20426, (202) 208–1371.

CD–ROM copies of the EIS have been mailed to Federal, state and local agencies; public interest groups; individuals and affected landowners who requested a copy of the Draft EIS or provided comments during scoping; libraries and newspapers in the Project area; and parties to this proceeding. Hard copy versions of the Draft EIS were mailed to those specifically requesting them. A limited number of hard copies and CD–ROMs are available from the Public Reference Room identified above.

Additional information about the project is available from the Commission's Office of External Affairs, at 1–866–208–FERC (3372) or on the FERC Internet Web site (*http://www.ferc.gov*). Using the ''eLibrary link,'' select ''General Search'' and enter the project docket number excluding the last three digits (*i.e.*, CP08–6) in the ''Docket Number'' field. Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll

[1] A ''pig'' is a mechanical device used to clean or inspect the pipeline.

[2] Interventions may also be filed electronically via the Internet in lieu of paper. See the previous discussion on filing comments electronically.

free at 1–866–208–3676, or TTY (202) 502–8659. The eLibrary link on the FERC Internet Web site also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

In addition, the FERC now offers a free service called eSubscription that allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. To register for this service, go to *http://www.ferc.gov/esubscribenow.htm*.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–2969 Filed 2–15–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

February 12, 2008.

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP07–672–001.
Applicants: Eastern Shore Natural Gas Company.
Description: Eastern Shore Natural Gas Co submits Substitute Nineteenth Revised Sheet 4 *et al* to FERC Gas Tariff, Second Revised Volume 1, to be effective 10/1/07.
Filed Date: 02/07/2008.
Accession Number: 20080212–0051.
Comment Date: 5 p.m. Eastern Time on Tuesday, February 19, 2008.

Docket Numbers: RP08–131–002.
Applicants: Eastern Shore Natural Gas Company.
Description: Eastern Shore Natural Gas Co submits Substitute Twentieth Revised Sheet 4 *et al* to FERC Gas Tariff, Second Revised Volume 1, to be effective 1/18/08.
Filed Date: 02/08/2008.
Accession Number: 20080212–0050.
Comment Date: 5 p.m. Eastern Time on Wednesday, February 20, 2008.

Docket Numbers: RP08–178–001.
Applicants: Southern Natural Gas Company.
Description: Southern Natural Gas Company Exhibits 1–7 Supplement to Jan. 31, 2008 Maintenance Capital Surcharge Filing.
Filed Date: 02/01/2008.
Accession Number: 20080201–4012.
Comment Date: 5 p.m. Eastern Time on Tuesday, February 19, 2008.

Docket Numbers: RP08–189–000.
Applicants: Questar Overthrust Pipeline Company.
Description: Questar Overthrust Pipeline Company submits 1st Revised, Second Revised Sheet 4 to FERC Gas Tariff, Second Revised Volume 1–A, to be effective 12/15/07.
Filed Date: 02/06/2008.
Accession Number: 20080208–0169.
Comment Date: 5 p.m. Eastern Time on Tuesday, February 19, 2008.

Docket Numbers: RP08–192–000.
Applicants: Texas Eastern Transmission LP.
Description: Texas Eastern Transmission, LP submits Fifth Revised Sheet 543A to FERC Gas Tariff, Seventh Revised Volume 1, to be effective 3/10/08.
Filed Date: 02/08/2008.
Accession Number: 20080211–0006.
Comment Date: 5 p.m. Eastern Time on Wednesday, February 20, 2008.

Docket Numbers: RP08–194–000.
Applicants: Ozark Gas Transmission, L.L.C.
Description: Ozark Gas Transmission LLC submits Second Revised Sheet 69 *et al* to FERC Gas Tariff, Original Volume 1, to become effective 4/1/08.
Filed Date: 02/11/2008.
Accession Number: 20080212–0071.
Comment Date: 5 p.m. Eastern Time on Monday, February 25, 2008.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*. or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. E8–3002 Filed 2–15–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER03–1207–006]

Covanta Delano, Inc.; Notice of Filing

February 8, 2008.

Take notice that on February 6, 2008, Covanta Delano, Inc. filed a revised market-based rate tariff to reflect a name change pursuant to Order No. 697.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*.

Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on February 15, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–2971 Filed 2–15–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2079–061]

Placer County Water Agency; Notice of Intent To File License Application, Filing of Pre-Application Document, Commencement of Licensing Proceeding, Scoping, Solicitation of Comments on the Pad and Scoping Document, and Identification Issues and Associated Study Requests

February 11, 2008.

a. *Type of Filing:* Notice of Intent to File License Application for a New License and Commencing Licensing Proceeding.

b. *Project No.:* 2079–061.

c. *Dated Filed:* December 13, 2007.

d. *Submitted By:* Placer County Water Agency.

e. *Name of Project:* Middle Fork American River Project.

f. *Location:* The Middle Fork American River Project is located in Placer and El Dorado counties, almost entirely within the Tahoe and El Dorado National Forests. The project occupies 3811 acres of United States lands under the jurisdiction of the Forest Service.

g. *Filed Pursuant to:* 18 CFR Part 5 of the Commission's Regulations.

h. *Applicant Contact:* David A. Breninger, General Manager, Placer County Water Agency, P.O. Box 6570, Auburn, CA 95604.

i. *FERC Contact:* Jim Fargo at 202–502–6095 or e-mail *james.fargo@ferc.gov*.

j. We are asking Federal, State, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues to cooperate with us in the preparation of the environmental document. Agencies who would like to request cooperating status should follow the instructions for filing comments described in paragraph o below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See*, 94 FERC 61,076 (2001).

k. *With this notice, we are initiating informal consultation with:* (a) The U.S. Fish and Wildlife Service and/or NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR Part 402 and (b) the State Historic Preservation Officer, as required by section 106, National Historical Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. With this notice, we are designating Placer County Water Agency as the Commission's non-federal representative for carrying out informal consultation, pursuant to section 7 of the Endangered Species Act and section 106 of the National Historic Preservation Act.

m. Placer County Water Agency filed a Pre-Application Document (PAD; including a proposed process plan and schedule) with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

n. A copy of the PAD is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site (*http://www.ferc.gov*), using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, of for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in paragraph h.

Register online at *http://ferc.gov/esubscribenow.htm* to be notified via e-mail of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

o. With this notice, we are soliciting comments on the PAD and Scoping Document 1 (SD1), as well as study requests. All comments on the PAD and SD1, and study requests should be sent to the address above in paragraph h. In addition, all comments on the PAD and SD1, study requests, requests for cooperating agency status, and all communications to and from Commission staff related to the merits of the potential application (original and eight copies) must be filed with the Commission at the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. All filings with the Commission must include on the first page, the project name (Middle Fork American River Project) and number (P–2079–061), and bear the heading ''Comments on Pre-Application Document,'' ''Study Requests,'' ''Comments on Scoping Document 1,'' ''Request for Cooperating Agency Status,'' or ''Communications to and from Commission Staff.'' Any individual or entity interested in submitting study requests, commenting on the PAD or SD1, and any agency requesting cooperating status must do so by April 11, 2008.

Comments on the PAD and SD1, study requests, requests for cooperating agency status, and other permissible forms of communications with the Commission may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-filing'' link.

p. Our intent is to prepare an Environmental Impact Statement (EIS) for which the planned meetings will satisfy the NEPA scoping requirements.

Scoping Meetings

Commission staff will hold two scoping meetings in the vicinity of the project at the time and place noted below. The daytime meeting will focus on resource agency, Indian tribes, and non-governmental organization concerns, while the evening meeting is primarily for receiving input from the public. We invite all interested individuals, organizations, and agencies to attend one or both of the meetings, and to assist staff in identifying particular study needs, as well as the scope of environmental issues to be addressed in the environmental document. The times and locations of these meetings are as follows:

Daytime Scoping Meeting

Date and Time: Tuesday, March 4, 2008, 9 a.m.

Location: Auburn Recreation District-Canyon View Community Center.

Evening Scoping Meeting

Date and Time: Tuesday, March 4, 2008, 6:30 p.m.

Location: Auburn Recreation District-Canyon View Community Center.

Scoping Document 1 (SD1), which outlines the subject areas to be addressed in the environmental document, was mailed to the individuals and entities on the Commission's mailing list. Copies of SD1 will be available at the scoping meetings, or may be viewed on the web at *http://www.ferc.gov,* using the ''eLibrary'' link. Follow the directions for accessing information in paragraph n. Based on all oral and written comments, a Scoping Document 2 (SD2) may be issued. SD2 may include a revised process plan and schedule, as well as a list of issues, identified through the scoping process.

Site Visit

Typically, a site visit is held together with the scoping meeting. However, because most of the project sites will not be accessible in March, the licensees and Commission staff will visit the project sites on Wednesday, June 25, 2008, starting at 8 AM. All participants should meet at Auburn Recreation District Canyon View Community Center, located at 471 Maidu Drive, Auburn, California. Placer County Water Agency will provide transportation for participants. Anyone interested in attending the site visit should contact Mr. Mal Toy of Placer County Water Agency at (530) 823–4889 by June 11, 2008.

Meeting Objectives

At the scoping meetings, staff will: (1) Initiate scoping of the issues; (2) review and discuss existing conditions and resource management objectives; (3) review and discuss existing information and identify preliminary information and study needs; (4) review and discuss the process plan and schedule for pre-filing activity that incorporates the time frames provided for in Part 5 of the Commission's regulations and, to the extent possible, maximizes coordination of federal, state, and tribal permitting and certification processes; and (5) discuss the appropriateness of any federal or state agency or Indian tribe acting as a cooperating agency for development of an environmental document.

Meeting participants should come prepared to discuss their issues and/or concerns. Please review the PAD in preparation for the scoping meetings. Directions on how to obtain a copy of the PAD and SD1 are included in item n. of this document.

Meeting Procedures

The meetings will be recorded by a stenographer and will become part of the formal record of the Commission proceeding on the project.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–2989 Filed 2–15–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RC08–4–000]

New Harquahala Generating Company, LLC; Notice of Filing

February 8, 2008.

Take notice that on February 4, 2008, New Harquahala Generating Company, LLC (Harquahala) submitted a request for appeal of a NERC decision regarding Harquahala's registration as a Transmission Owner and Transmission Operator in the NERC Compliance Registry.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on March 5, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–2968 Filed 2–15–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER08–499–000]

Pacific Gas and Electric Company; Notice of Filing

February 8, 2008.

Take notice that on January 31, 2008, Pacific Gas and Electric Company (PG&E) and Sierra Pacific Power Company tendered for filing a replacement Interconnection Agreement between both parties and a Notice of Termination of PG&E First Revised Rate Schedule No. 72, the existing Interconnection Agreement.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC

Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 pm Eastern Time on February 21, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–2972 Filed 2–15–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP08–66–000]

Petal Gas Storage, L.L.C.; Notice of Application

February 11, 2008.

Take notice that on January 31, 2008, Petal Gas Storage, L.L.C. (Petal), 1100 Louisiana Street, Houston, Texas, 77002, filed with the Federal Energy Regulatory Commission an abbreviated application pursuant to section 7(c) of the Natural Gas Act (NGA), as amended, and Part 157 of the Commission's regulations for authorization to construct and operate an expansion to the existing Compressor Station No. 3 and two new solution-mined salt dome natural gas caverns and related facilities referred to as the Petal No. 3 Compressor Station Expansion and New Caverns Project.

Petal's proposal would involve the construction and operation of: (1) Two new caverns identified as Cavern Nos. 1 and 2; (2) three new compressor units, totaling 15,000 hp at the existing Petal No. 3 Compressor Station; (3) an additional compressor station control room and related facilities, (4) approximately 2,535 feet of 16-inch-diameter natural gas connecting pipeline; and (5) associated 24-inch-diameter fresh water and brine disposal pipelines, the length of which have not yet been determined. The project would increase the overall capacity of Petal's storage operations by 19.40 Bcf of natural gas, 10 Bcf of which would be working gas. All of the proposed facilities would be located at the existing Petal storage operations in Forrest County, Mississippi and are fully set forth in the application which is on file with the Commission and open to public inspection. The filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Any questions regarding the application should be directed to Richard Porter, Petal Gas Storage, L.L.C, 1100 Louisiana Street, Houston, Texas, 77002, (telephone) (713) 381–2526, (fax) (713) 803–2534, *rporter@eprod.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, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

Comment Date: March 3, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–2990 Filed 2–15–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. AC08–31–000]

Pinnacle West Capital Corporation; Notice of Filing

February 8, 2008.

Take notice that on February 4, 2008, Pinnacle West Capital Corporation submitted a request for waiver of the FERC Form No. 1 filing requirements for the 2007 reporting year under section 141.1 of the Commission's regulations.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: March 10, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–2975 Filed 2–15–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP08–64–000]

Northwest Pipeline GP; Notice of Request Under Blanket Authorization

February 8, 2008.

Take notice that on January 25, 2008, Northwest Pipeline GP (Northwest), P.O. Box 58900, Salt Lake City, Utah 84158–0900, filed in Docket No. CP08–64–000, an application pursuant to Sections 157.205 and 157.210 of the Commission's Regulations under the Natural Gas Act (NGA) as amended, to expand the secondary function of two existing portable compressor units at its Kemmerer compressor station in Lincoln County, Wyoming, under Northwest's blanket certificate issued in Docket No. CP82–433–000,[1] all as more fully set forth in the application which is on file with the Commission and open to the public for inspection.

Northwest proposes to use the two portable Solar Centaur turbine-driven centrifugal compressor units (each rated ISO-rated at 4,700 horsepower) on a temporary, as needed basis, to temporarily provide increased throughput, provided the compressor units are not needed for their primary purpose of replacing unavailable permanent compression elsewhere on Northwest's transmission system. Northwest would use any increased throughput to reduce capacity constraints that may be experienced by its existing customers. Northwest states that the design throughput capabilities at the Kemmerer compressor station would not change. Northwest further states that no additional capital cost expenditures would be needed in this proposal, because Northwest already owns the portable compressor units and the auxiliary infrastructure necessary to accommodate the two compressor units already exists at the Kemmerer compressor station. Northwest states that it anticipates any subsequent costs for disconnecting, moving, and reconnecting the portable compressor units, as necessary, would be relatively minimal and expensed.

Any questions concerning this application may be directed to Lynn Dahlberg, Manager, Certificates and Tariffs, P.O. Box 58900, Salt Lake City, Utah 84158–0900, or telephone (801) 584–6851, facsimile (801) 584–7764, or e-mail *Idahlber@williams.com.*

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. E8–2970 Filed 2–15–08; 8:45 am]

BILLING CODE 6717–01–P

[1] 20 FERC ¶ 62,412 (1982).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. P–11841–002]

Ketchikan Public Utilities; Notice of Settlement Agreement and Soliciting Comments

February 11, 2008.

Take notice that the following settlement agreement has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Settlement Agreement.

b. *Project No.:* P–11841–002.

c. *Date Filed:* February 8, 2008.

d. *Applicant:* Ketchikan Public Utilities.

e. *Name of Project:* Whitman Lake Hydroelectric Project.

f. *Location:* The project would be located on Whitman Creek, approximately 4 miles east of the City of Ketchikan, Alaska. The project would occupy 155.8 acres of lands of the United States, 155 acres administered by the U.S. Department of Agriculture, Forest Service and 0.8 acres administered by the U.S. Bureau of Land Management.

g. *Filed Pursuant to:* Rule 602 of the Commission's Rules of Practice and Procedure, 18 CFR 385.602.

h. *Applicant Contact:* Ms. Jennifer Soderstrom, Ketchikan Public Utilities, 2930 Tongass Avenue, Ketchikan, AK 99901, (907) 228–4733.

i. *FERC Contact:* Kenneth Hogan at (202) 502–8434, or *Kenneth.Hogan@ferc.gov*.

j. *Deadline for filing comments:* 20 days from the date of this notice. Reply comments are due 30 days from the date of this notice.

k. All documents (original and eight copies) should be filed with: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Comments may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions

on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

l. Ketchikan Public Utilities (KPU) filed the Settlement Agreement on behalf of itself and the other signatories to the Settlement Agreement (The Alaska Department of Fish and Game, Alaska Department of Natural Resources, and Southern Southeast Region Aquaculture Association). The purpose of the Settlement Agreement was to permit and enhance the multiple uses of the water of Whitman Lake in a manner that promotes the public interest consistent with the economic viability of the power operations, the water supply features, the feasibility of the fish hatchery operations, and all commitments in existing contracts. The signatories, through KPU, request that the Commission consider the protection, mitigation, and enhancement measures outlined in the Settlement Agreement in the Final Environmental Assessment for the proposed project and that the Commission includes them in any license issued for the proposed Whitman Lake Hydroelectric Project.

m. A copy of the settlement agreement is available for review at the Commission on the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number (P–11841) 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. A copy is also available for inspection and reproduction at the address in item h above.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–2992 Filed 2–15–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP08–65–000]

Tennessee Gas Pipeline Company; Notice of Application

February 11, 2008.

Take notice that on January 30, 2008, Tennessee Gas Pipeline Company (Tennessee), 1001 Louisiana, Houston, Texas 77002, filed in Docket No. CP08–65–000, an application, pursuant to section 7 of the Natural Gas Act (NGA), for an order authorizing Tennessee to construct and operate the Concord Lateral Expansion Project (Project). Tennessee plans to construct a 6,130 horsepower compressor station on its Line 200 system in Pelham, New Hampshire, and modify station piping at its existing Laconia Meter Station in Concord, New Hampshire, in order to provide 30,000 Dth/d of incremental transportation capacity to Energy North Natural Gas, Inc., d/b/a/ KeySpan Energy Delivery New England (Energy North), a New Hampshire corporation, all as more fully set forth in the application which is on file with the Commission and open to public inspection. 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.

Any questions regarding this application should be directed to Jay V. Allen, Senior Counsel, El Paso Corporation, 1001 Louisiana, Houston Texas 77002, at (713) 420–5589.

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.

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: March 3, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–2993 Filed 2–15–08; 8:45 am]

BILLING CODE 6717–01–P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Sunshine Act Notice

AGENCY HOLDING THE MEETING: Equal Employment Opportunity Commission.

''FEDERAL REGISTER'' CITATION OF PREVIOUS ANNOUNCEMENT: 73 FR 8667, Thursday, February 14, 2008.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: Tuesday, February 19, 2008, 10:30 a.m. Eastern Time.

CHANGE IN THE MEETING: Open Session: Add Item: FY 2008 State & Local Budget Allocations and Designation of Two New Fair Employment Practice Agencies.

CONTACT PERSON FOR MORE INFORMATION: Stephen Llewellyn, Executive Officer, on (202) 663–4070.

Dated: February 14, 2008.

Stephen Llewellyn,

Executive Officer, Executive Secretariat.

[FR Doc. 08–765 Filed 2–14–08; 1:26 pm]

BILLING CODE 6570–01–M

FEDERAL COMMUNICATIONS COMMISSION

[CG Docket No. 03–123; DA 08–60]

Applications for Certification as Certified State Telecommunications Relay Service (TRS) Programs Filed; Pleading Cycle Established for Comment on Applications

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document, the Commission seeks public comment on state applications for renewal of the certification of their state TRS programs pursuant to Title IV of the Americans with Disabilities Act (ADA).

DATES: Interested parties may file comments in this proceeding no later than February 11, 2008. Reply comments may be filed no later than February 26, 2008.

ADDRESSES: Interested parties may submit comments identified by any of the following methods:

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the Commission's Electronic Comment Filing System (ECFS), through the Commission's website: *http://www.fcc.gov/cgb/ecfs/*, or the Federal eRulemaking Portal: *http://www.regulations.gov*. Filers should follow the instructions provided on the website for submitting comments. For ECFS filers, in completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and CG Docket No. 03–123. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to *ecfs@fcc.gov*, and include the following words in the body of the message, ''get form <your e-mail address>.'' A sample form and directions will be sent in response.
- Paper Filers: Parties who choose to file by paper must file an original and four copies of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although the Commission continues to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.
- Commercial mail sent by overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, SW., Washington, DC 20554.

Parties who choose to file by paper should also submit their filings on compact disc. The compact disc should be submitted, along with three paper copies to: Dana Wilson, Consumer & Governmental Affairs Bureau, Disability Rights Office, 445 12th Street, SW., Room 3-C418, Washington, DC 20554. Such a submission should be on a compact disc formatted in an IBM compatible format using Word 2003 or a compatible software. The compact disc should be accompanied by a cover letter and should be submitted in ''read only'' mode. The compact disc should be clearly labeled with the commenter's name, proceeding (CG Docket No. 03–123), type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the compact disc. The label should also include the following phrase ''CD-Rom Copy—Not an Original.'' Each compact disc should contain only one party's pleadings, preferably in a single electronic file. In addition, commenters filing by paper must send a compact disc copy to the Commission's duplicating contractor at Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Dana Wilson, (202) 418–2247 (voice), (202) 418–7898 (TTY), or e-mail: *Dana.Wilson@fcc.gov*.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's document DA 08–60. Pursuant to 47 CFR 1.415 and 1.419, interested parties may file comments and reply comments on or before the dates indicated in the Dates section. The full text of document DA 08–60, copies of applications for certification, and subsequently filed documents in this matter are available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. Document DA 08–60 also is available on the Commission's Web site at *http://www.fcc.gov/cgb/dro/trs.html*, and the applications for certification are available at *http://www.fcc.gov/cgb/dro/trs_by_state.html*. Document DA 08–60, copies of applications for certification, and subsequently filed documents in this matter may also be found by searching ECFS at *http://www.fcc.gov/cgb/ecfs* (insert CG Docket No. 03–123 into the Proceeding block). They may also be purchased from the Commission's duplicating contractor at Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554; the contractor's Web site, *http://www.bcpiweb.com*; or by calling (800) 378–3160.

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). Document DA 08–60 can also be downloaded in Word or Portable Document Format (PDF) at: *http://www.fcc.gov/cgb/dro/trs.html*.

Synopsis

Notice is hereby given that the states listed below have applied to the Commission for renewal of the

certification of their state TRS programs pursuant to Title IV of the ADA, 47 U.S.C. 225, and the Commission's rules, 47 CFR 64.601–605. Current state certifications expire July 25, 2008. Applications for certification, covering the five year period from July 26, 2008 to July 25, 2013, must demonstrate that the state TRS program complies with section 225 and the Commission's rules governing the provision of TRS. This notice seeks public comment on the following state applications for certification:

File No: TRS–46–07

Alabama Public Service Commission, State of Alabama.

File No: TRS–19–07

Department of Commerce, State of Alaska.

File No: TRS–47–07

Arkansas Deaf and Hearing Impaired, State of Arkansas.

File No: TRS–02–07

Commission for the Deaf and Hard of Hearing, State of Arizona.

File No: TRS–32–07

California Public Utilities Commission, State of California.

File No: TRS–23–07

Colorado Public Utilities Commission, State of Colorado.

File No: TRS–48–07

Connecticut Department of Public Utility, State of Connecticut.

File No: TRS–35–07

Delaware Public Service Commission, State of Delaware.

File No: TRS–49–07

Public Service Commission, District of Columbia.

File No: TRS–50–07

Florida Public Service Commission, State of Florida.

File No: TRS–51–07

Georgia Public Service Commission, State of Georgia.

File No: TRS–22–07

Hawaii Public Utilities Commission, State of Hawaii.

File No: TRS–43–07

Idaho Public Service Commission, State of Idaho.

File No: TRS–10–07

Illinois Commerce Commission, State of Illinois.

File No: TRS–08–07

Indiana Telephone Relay Access Corporation, State of Indiana.

File No: TRS–03–07

Iowa Utilities Board, State of Iowa.

File No: TRS–07–07

Kansas Relay Services, Inc., State of Kansas.

File No: TRS–52–07

Kentucky Public Service Commission, Commonwealth of Kentucky.

File No: TRS–13–07

Louisiana Relay Administration Board, State of Louisiana.

File No: TRS–53–07

Maine Public Utilities Commission, State of Maine.

File No: TRS–33–07

Telecommunications Access of Maryland, State of Maryland.

File No: TRS–34–07

Department of Telecommunications and Energy, Commonwealth of Massachusetts.

File No: TRS–54–07

Michigan Public Service Commission, State of Michigan.

File No: TRS–39–07

Minnesota Department of Commerce, State of Minnesota.

File No: TRS–55–07

Mississippi Public Service Commission, State of Mississippi.

File No: TRS–15–07

Missouri Public Service Commission, State of Missouri.

File No: TRS–56–07

Telecommunications Access Program, State of Montana.

File No: TRS–40–07

Nebraska Public Service Commission, State of Nebraska.

File No: TRS–25–07

Relay Nevada, State of Nevada.

File No: TRS–42–07

New Hampshire Public Service Commission, State of New Hampshire.

File No: TRS–45–07

New Jersey Board of Utilities, State of New Jersey.

File No: TRS–14–07

Commission for the Deaf and Hard of Hearing, State of New Mexico.

File No: TRS–16–07

New York State Department of Public Service, State of New York.

File No: TRS–30–07

Department of Health and Human Service, State of North Carolina.

File No: TRS–12–07

Information Technology Department, State of North Dakota.

File No: TRS–37–07

Public Utilities Commission of Ohio, State of Ohio.

File No: TRS–57–07

Oklahoma Telephone Association, State of Oklahoma.

File No: TRS–36–07

Oregon Public Utilities Commission, State of Oregon.

File No: TRS–58–07

Pennsylvania Bureau of Consumer Services, Commonwealth of Pennsylvania.

File No: TRS–28–07

Telecommunications Regulatory Board, Puerto Rico.

File No: TRS–59–07

Division of Public Utilities and Carriers, State of Rhode Island.

File No: TRS–62–07

Micronesian Telecommunications Corporation, Saipan.

File No: TRS–11–07

South Carolina Office of Regulatory Staff, State of South Carolina.

File No: TRS–60–07

Department of Human Services, State of South Dakota.

File No: TRS–20–07

Tennessee Regulatory Authority, State of Tennessee.

File No: TRS–17–07

Texas Public Utility Commission, State of Texas.

File No: TRS–61–07

Innovative Telephone, U.S. Virgin Islands.

File No: TRS–09–07

Public Service Commission, State of Utah.

File No: TRS–44–07

Vermont Department of Public Service, State of Vermont.

File No: TRS–04–07

Department for the Deaf and Hard of Hearing, Commonwealth of Virginia.

File No: TRS–27–07

Office of the Deaf and Hard of Hearing, State of Washington.

File No: TRS–06–07

Public Service Commission of West Virginia, State of West Virginia.

File No: TRS–01–07

Wisconsin Department of Administration, State of Wisconsin.

File No: TRS–18–07

Division of Vocational Rehabilitation, State of Wyoming.

Federal Communications Commission.

Nicole McGinnis,

Deputy Chief, Consumer & Governmental Affairs Bureau.

[FR Doc. E8–3027 Filed 2–15–08; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Notice of Meeting

AGENCY HOLDING THE MEETING: Federal Maritime Commission.

TIME AND DATE: February 20, 2008.

PLACE: 800 North Capitol Street, NW., First Floor Hearing Room, Washington, DC.

STATUS: Closed.

MATTERS TO BE CONSIDERED: 1. Personnel Matters and Internal Administrative Practices.

CONTACT PERSON FOR MORE INFORMATION: Karen V. Gregory, Assistant Secretary, (202) 523–5725.

Karen V. Gregory,

Assistant Secretary.

[FR Doc. 08–745 Filed 2–15–08; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than March 4, 2008.

A. Federal Reserve Bank of Minneapolis (Jacqueline G. King, Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480-0291:

1. Lloyd O. Olson, Lake Park, Minnesota; to retain voting shares of Lake Park Bancshares, Inc., Lake Park, Minnesota, and thereby indirectly retain voting shares of State Bank of Lake Park, Lake Park, Minnesota.

Board of Governors of the Federal Reserve System, February 13, 2008.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E8–2999 Filed 2–15–08; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 14, 2008.

A. Federal Reserve Bank of Chicago (Burl Thornton, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. Bancorp of New Glarus, Inc., New Glarus, Wisconsin; to acquire 100 percent of the voting shares of Bank of Juda, Juda, Wisconsin.

Board of Governors of the Federal Reserve System, February 12, 2008.

Margaret McCloskey Shanks,

Associate Secretary of the Board.

[FR Doc. E8–2898 Filed 2–15–08; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 14, 2008.

A. Federal Reserve Bank of Atlanta (David Tatum, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309:

1. Community Bank Investors of America, LP, and FA Capital, LLC, both of Midlothian, Virginia; to acquire 22.95 percent of the outstanding voting shares of Silvergate Capital Corporation, and thereby indirectly acquire Silvergate Bank, both of La Jolla, California.

2. Silvergate Capital Corporation; to become a bank holding company by acquiring 100 percent of the voting shares of Silvergate Bank, both of La Jolla, California.

B. Federal Reserve Bank of Chicago (Burl Thornton, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. First Fontanelle Employee Stock Ownership Plan and Trust, Fontanelle, Iowa; to become a bank holding company by acquiring 30.44 percent of First Fontanelle Bancorporation, Fontanelle, Iowa, and thereby indirectly acquire First National Bank, Fontanelle, Iowa.

Board of Governors of the Federal Reserve System, February 13, 2008.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E8–2998 Filed 2–15–08; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Head Start Program Information Report.

OMB No.: 0980–0017.

Description: The Office of Head Start within the Administration for Children and Families, United States Department of Health and Human Services, is proposing to renew authority to collect information using the Head Start Program Information Report (PIR). The PIR provides information about Head Start and Early Head Start services received by the children and families enrolled in Head Start programs. The information collected in the PIR is used to inform the public about these programs and to make periodic reports to Congress about the status of children in Head Start programs as required by the Head Start Act.

Respondents: Head Start and Early Head Start program grant recipients.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Head Start Program Information Report	2,690	1	4	10,760

Estimated Total Annual Burden Hours: 10,760

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: February 11, 2008.

Janean Chambers,

Reports Clearance Officer.

[FR Doc. 08–696 Filed 2–15–08; 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: Required Data Elements for Voluntary Establishment of Paternity Affidavits.

OMB No.: 0970–0171.

Description: Section 466(a)(5)(C)(iv) of the Social Security Act (the Act) requires States to develop and use an affidavit for the voluntary acknowledgement of paternity. The affidavit for the voluntary acknowledgement of paternity must include the minimum requirements specified by the Secretary under section 452(a)(7) of the Act. The affidavits will be used by hospitals, birth record agencies, and other entities participating in the voluntary paternity establishment program.

Respondents: State and Tribal IV–D agencies, hospitals, birth record agencies and other entities participating in the voluntary paternity establishment program.

Annual Burden Estimates

Estimated Total Annual Burden Hours:

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: February 11, 2008.

Janean Chambers,

Reports Clearance Officer.

[FR Doc. 08–697 Filed 2–15–08; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[FDA No. 225–08–8002]

Memorandum of Understanding Between the Division of Select Agents and Toxins Center for Disease Control and Prevention and the Food and Drug Administration

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is providing notice of a memorandum of understanding (MOU) between FDA and the Division of Select Agents and Toxins (DSAT) of the Centers for Disease Control and Prevention (CDC). The purpose of this MOU is to establish a procedure to allow CDC/DSAT to confirm that FDA has accepted or approved, under the authority of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq), an Investigational New Drug application (IND), a request to establish an Investigational New Animal Drug file (INAD), or an Investigational Device Exemption application (IDE) for a clinical trial involving the use of an investigational product that is, bears, or contains a select agent or toxin.

DATES: The agreement became effective January 25, 2008.

FOR FURTHER INFORMATION CONTACT: Jarilyn Dupont, Director of Regulatory Policy, Office of Policy and Planning (HF–11), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–5906.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 20.108(c), which states that all written agreements and MOUs between FDA and others shall be published in the **Federal Register**, the agency is publishing notice of this MOU.

Dated: February 8, 2008.

Jeffrey Shuren,

Assistant Commissioner for Policy.

BILLING CODE 4160–01–S

FDA Record No. 225-08-8002

Memorandum of Understanding
Between
The Division of Select Agents and Toxins
Centers for Disease Control and Prevention
And
Food and Drug Administration

PURPOSE

The purpose of this Memorandum of Understanding (MOU) is to establish a procedure to allow the Division of Select Agents and Toxins (DSAT), Centers for Disease Control and Prevention (CDC) to confirm that the Food and Drug Administration (FDA) has accepted or approved, under the authority of the Food, Drug, and Cosmetics Act (21 U.S.C. 301 *et. seq.*), an Investigational New Drug application (IND), a request to establish an Investigational New Animal Drug file (INAD) or an Investigational Device Exemption application (IDE) for a clinical trial involving the use of an investigational product that is, bears, or contains a select agent or toxin.

DEFINITIONS

The terms "select agent or toxin" and "entity" have the same meaning as defined in 42 C.F.R. part 73.

BACKGROUND

Part 73 of Title 42, Code of Federal Regulations (Select Agent regulations), sets forth the requirements regarding the possession, use, or transfer of select agents and toxins. The regulations implement provisions of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107-188). The Select Agent regulations provide that an entity may not possess or use in the United States, receive from outside the United States, or transfer within the United States, any select agent or toxin unless the entity has been granted a certificate of registration by the Secretary of the Department of Health and Human Services (HHS), or the Secretary of Agriculture. However, the Select Agent regulations provide that the Secretary of HHS may exempt from those requirements, on a case by case basis and where additional regulation is not necessary to protect public health, an investigational product being used in an investigation authorized under: the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 *et seq.*); Section 351 of the Public Health Service Act pertaining to biological products (42 U.S.C. 262); the Virus-Serum-Toxin Act (21 U.S.C. 151-159); or the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 *et seq.*). Under the implementing regulations for the Federal Food, Drug, and Cosmetic Act, FDA has the authority to accept or approve an Investigational New Drug application (IND), a request to establish an Investigational New Animal Drug file (INAD), or an Investigational Device Exemption application (IDE) if it meets the requirements of 21 CFR Part 312, 21 CFR Part 511 or 21 CFR Part 812 respectively. The DSAT desires to obtain confirmation from FDA regarding whether an IND, INAD or IDE has been accepted or approved in order to determine whether an investigational product that is, bears,

or contains a select agent or toxin is being used in a clinical investigation that has been authorized under the Federal Food, Drug and Cosmetic Act. This information will aid the DSAT in determining whether to approve an exemption of an investigational product that is, bears, or contains a select agent or toxin from the requirements of Part 73. The Select Agent regulations require that the DSAT make a determination regarding an application for an exemption within 14 calendar days after receipt.

PROCEDURES

The DSAT agrees to:

1. Designate in writing to FDA the name and contact information of the DSAT representative who will be responsible for requesting confirmation of FDA acceptance or approval of an IND, INAD, or IDE for an investigational product that is, bears, or contains a select agent or toxin being used in a clinical investigation.

2. Inform each sponsor of a clinical investigation for which it intends to confirm the existence of an IND, INAD or IDE, that as a condition of considering the sponsor's exemption request, the DSAT is going to confirm with FDA the existence and status of such IND, INAD or IDE;

3. Obtain from each sponsor requesting an exemption under the Select Agent regulations, a signed authorization allowing FDA to confirm to the DSAT the existence and status of the IND, INAD or IDE, and agreeing that such a confirmation will not violate FDA's information disclosure regulations, the Federal Food, Drug, and Cosmetic Act, or the Trade Secrets Act (18 U.S.C. § 1905).

4. Provide, either electronically or by facsimile, the following information and documents to FDA, when requesting confirmation of whether FDA has accepted or approved an IND, INAD or IDE for an investigational product that is, bears, or contains a select agent or toxin:

   - The IND, INAD or IDE number
   - The name of the sponsor requesting the exemption
   - The name of the select agent
   - The name of the product that is, bears, or contains a select agent
   - The date the IND, INAD, or IDE was submitted to FDA by the sponsor
   - The name of the FDA center (e.g. CBER; CDER; CDRH; or CVM) and name of the review office or division where the IND, INAD or IDE was submitted
   - The signed authorization referred to in paragraph 3, above.

5. Certify that the DSAT will use the information to be provided by FDA only for the purpose of determining whether to approve a request for exemption of the investigational product that is, bears, or contains a select agent or toxin from the requirements of 42 C.F.R. part 73, and that the DSAT will not further disclose the records or information without the written permission of the FDA, unless otherwise authorized by the sponsor.

FDA agrees to:

1. Designate in writing to the DSAT the name and contact information of the FDA representative(s) who will be responsible for providing confirmation of whether FDA has accepted or approved an IND, INAD or IDE for an investigational product that is, bears, or contains a select agent or toxin.

2. Confirm by email within 3 working days from the receipt of the information specified in paragraph 4 above, to the DSAT contact, whether FDA has accepted or approved an IND, INAD or IDE for an investigational product that is, bears, or contains a select agent or toxin, and confirm that the IND, INAD or IDE is not on hold, not withdrawn and/or still in effect at the time of the confirmation.

3. Upon request pertaining to a particular IND, INAD or IDE, notify the DSAT of whether any IND, INAD, or IDE for an investigational product that is, bears, or contains a select agent or toxin has been withdrawn, placed on hold or is otherwise not in effect.

This MOU supercedes any previous agreement between the DSAT at CDC and FDA or any component of FDA concerning information requested pursuant to the Select Agent regulations.

Contacts: For general information concerning this agreement.

A. For the Centers for Disease Control and Prevention
Lori J. Bane
Compliance Officer
CDC, Div. Of Select Agents and Toxins
(404) 718-2006
Zoz1@cdc.gov

B. For the Food and Drug Administration.
Jarilyn Dupont
Director of Regulatory Policy
FDA, Office of Policy
(301) 827-5906
jarilyn.dupont@fda.hhs.gov

EFFECTIVE DATE

This MOU is effective as of the date when it has been signed by both parties, and may be amended at any time by mutual agreement of the DSAT, CDC and FDA. All amendments must be in writing and signed by the parties.

1/24/2008

Robbin Weyant, PhD, CAPT, USPHS
Director, Division of Select Agents and Toxins
Centers for Disease Control and Prevention

Date

1/25/08

Janet Woodcock, MD
Deputy Commissioner and Chief Medical Officer
Food and Drug Administration

Date

[FR Doc. 08–686 Filed 2–15–08; 8:45 am]
BILLING CODE 4160–01–C

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[FDA No. 225–07–3002]

Memorandum of Understanding Between the Walter Reed Army Institute for Research, the Food and Drug Administration, and the F. Edward Herbert School of Medicine of the Uniformed Services University of the Health Sciences

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is providing notice of a memorandum of understanding (MOU) between the Walter Reed Army Institute of Research, FDA, and the F. Edward Herbert School of Medicine of the Uniformed Services University of the Health Sciences. This MOU identifies the terms of collaboration between the three Federal entities in the coordination of the established Clinical Pharmacology Fellowship Training Program. Specifically, this collaboration provides for active duty Army, Air Force, Navy, and Public Health Service Medical Corps officers in the fellowship program to arrange a 2 to 4 month internship within FDA's Center for Drug Evaluation and Research (CDER) through CDER's Office of Clinical Pharmacology.

DATES: The agreement became effective January 8, 2008.

FOR FURTHER INFORMATION CONTACT: Shiew Mei Huang, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 21, Silver Spring, MD 20993, 301–796–1541.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 20.108(c), which states that all written agreements and MOUs between FDA and others shall be published in the **Federal Register**, the agency is publishing notice of this MOU.

Dated: February 8, 2008.

Jeffrey Shuren,

Assistant Commissioner for Policy.

BILLING CODE 4160–01–S

FDA RECORD No. 225-07-3002

DEPARTMENT OF HEALTH & HUMAN SERVICES Food & Drug Administration

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE WALTER REED ARMY INSTITUTE OF RESEARCH
AND
THE FOOD AND DRUG ADMINISTRATION
AND
THE F. EDWARD HERBERT SCHOOL OF MEDICINE
OF THE
THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES

SUBJECT: MOU with FDA and USUHS continuing a fellowship training program.

1. Purpose. This Memorandum of Understanding (MOU) documents the affiliation among the Institute, the School, and the FDA in the established Clinical Pharmacology Fellowship Training Program. This affiliation permits the coordination of resources to develop a unified program, maximize efficient utilization of government facilities, and strengthen the joint education and research efforts among the parties.

2. Problem. Military and civilian elements within the Federal Government are separately empowered and funded by Congressional Acts. In working together, they must accommodate legal and monetary restrictions, and assure that each party receives mission benefit from any Agreements arranged.

3. Scope. The Clinical Pharmacology Fellowship Training Program (the Program) consists of two years of training. Fellows may be selected and trained at each year level. Fellows shall be Medical Corps officers on active duty in the U.S. Army, the U.S. Navy, the U.S. Air Force, or the U.S. Public Health Service. Additionally, civilian fellows may also be trained when there is an available source of funding. The Program has been in effect under an MOU between the same parties. The parties to this MOU are:

a. The Walter Reed Army Institute of Research (the Institute) is an element of the United States Army. The Institute conducts research on a range of military relevant issues, including naturally occurring infectious diseases, combat casualty care, operational health hazards, and medical defense against biological and chemical weapons.

b. The Food and Drug Administration (the FDA) is an agency of the Department of Health and Human Services. The FDA promotes and protects the public health by helping safe and

effective products reach the market in a timely way, and by monitoring products for continued safety after they are in use.

c. The F. Edward Hérbert School of Medicine (the School) is a major component of the Uniformed Services University of Health Sciences, an element within the Department of Defense. A fully-accredited educational institution, the School offers professional and academic degrees in medicine, health administration, biomedical sciences, and related fields.

4. Understandings.

This MOU involves the combined and coordinated efforts of the parties to the MOU, and is only amenable to separation of responsibilities as noted below:

a. The School and the Institute will coordinate the technical and support personnel involved in the Program. The FDA's contribution to the Program will be to offer a two-month to four-month internship to second year fellows and potentially clinical pharmacology staff who have not had this component as part of their training. Each party will provide qualified civilian or uniformed personnel who are assigned to serve as mentors.

b. The Program's Fellows will be directly responsible to and under the direction of the Co-Directors of the Program at the School and at the Institute.

c. The Co-Directors of the Clinical Pharmacology Fellowship Training Program will be responsible for the direction of all Fellows. Fellows will be evaluated semiannually by the Co-Directors for the first year fellows and progress monitored as needed during the second year.

d. The FDA's Office of Clinical Pharmacology within the Center for the Drug Evaluation and Research will arrange a two-month to four-month internship in the therapeutic area of interest for second-year Fellows. The Office of Clinical Pharmacology will contact the appropriate review division within the FDA. During this rotation, a member of the Office of Clinical Pharmacology or the appropriate office or review division hosting the internship will be assigned as a mentor (team leader or reviewer) to the Fellow during the period of training. The Fellows will attend Office of Clinical Pharmacology and related review division briefings and other scientific activities. Reviews by the Fellow of protocols and study reports and other submissions will be conducted under appropriate supervision to the extent permitted under applicable statutes and regulations. The rotation should be arranged to allow the Fellow to participate in educational activities sponsored by the FDA such as the Topics in Clinical Trials course, the bimonthly scientific seminar, the annual Academics to the Center for Drug Evaluation and Research course and, if possible, the NDA review course.

e. The parties agree that they will abide by all requirements of the American Board of Clinical Pharmacology, including, but not limited to, those involving the supervision of Fellows, Fellows' work hours, and Fellows' work environment.

FDA Record No. 225-07-3002

5. Resources.

a. The Institute will bear all special costs for training of Army Fellows outside of normal day to day operations. This will include travel costs and, as a minimum, provision of funds sufficient for one trip each year for each fellow to attend a scientific meeting approved by the Fellowship Training Program Co-Directors. Payment for the tuition of courses and books necessary for training in the discipline of clinical pharmacology also will be from the Institute's training fund.

b. There is no reimbursement contemplated between the parties in the fulfillment of this Agreement. In the event the transfer of funds is required in the future, the parties may enter into an interagency agreement pursuant to the Economy Act of 1932, as amended, 31 U.S.C. 1535.

6. Fellows' Eligibility Requirements

The minimum academic and professional qualifications to enter the program are an M.D. or D.O. degree from an accredited institution and training and board eligibility in a medical specialty.

7. Liability

For liability purposes, it is recognized that the three parties to this Agreement all are entities of the United States Government whose employees are covered by the provisions of the Federal Tort Claims Act. In the event a potentially compensable event occurs, the institution that first learns of the event will notify as soon as practicable the point of contact of the other two institutions listed in the agreement.

While assigned to the Program and while performing duties pursuant to this agreement, Fellows, Directors, mentors, and support staff remain employees of the United States performing duties within the course and scope of their Federal employment. Consequently, the provisions of the Federal Tort Claims Act (Title 28, U.S.C. § 1346(b), 2671 – 2680), including its defense and immunities, will apply to allegations of negligence or wrongful acts or omissions by Fellows, directors, mentors, and support staff while they are acting within the scope their duties pursuant to this agreement.

The foregoing represents the broad outline of the agreements of the parties to engage in collaborative training efforts. All activities undertaken pursuant to the MOU are subject to the availability of personnel, resources, and funds and are further subject to applicable statutes and regulations. This MOU does not affect or supersede any existing or future arrangements among the parties and does not affect the ability of the parties to enter into other agreements or arrangements related to this MOU.

FDA Record No. 225-07-3002

8. Implementation Instructions:

a. Effective Date. This MOU will become effective when signed by all parties and will remain in effect until 30 September 2011.

b. Review and Modification. This MOU may be modified at any time by the written consent of the three parties. This MOU will be reviewed annually to assure its continued necessity and accuracy.

c. Termination. This MOU may be terminated at any time by the written consent of the three parties. One party may terminate this agreement by giving at least 60 days written notice of termination to the other two parties. Such notice will include provision for Fellows who are in the Program at the time the notice is given.

d. Dispute Resolution. In the event of any disagreement on the administration management of the program or focus of research of the Fellows, guidance will be sought initially from the liaison officers of the parties listed below. If a resolution among these officers is not possible, then the dispute will be referred for settlement to the signatories of this Agreement.

9. Technical points of contact (POCs) for this MOU:

COL Colin K. Ohrt
Program Director, Division of Experimental Therapeutics, Clinical Pharmacology Fellowship Program
Consultant for Clinical Pharmacology to Surgeon General
Walter Reed Army Institute of Research

503 Robert Grant Avenue
Silver Spring, Maryland 20910-7500
Phone: 301.319.9280

Louis R. Cantilena, M.D., Ph.D
Director, Division of Clinical Pharmacology
Department of Medicine
F. Edward Hérbert
Uniformed Services University of the Health Services
4301 Jones Bridge Road
Bethesda, Maryland 20814-4799
Phone: 301.295.3240

Shiew Mei Huang, Ph.D.
Deputy Director
Office of Clinical Pharmacology
Food and Drug Administration
White Oak CDER Office Building 21
10903 New Hampshire Avenue
Silver Spring, Maryland 20993
Phone: 301.796.9738

11. Approvals:

FOR the F. Edward Hérbert
School of Medicine

LARRY W. LAUGHLIN, M.D., PH.D.
DEAN

JAN 7 2008
DATE

FOR the WRAIR

KENNETH A. BERTRAM, COL, MC
WRAIR, Commander

8 Jan 2008
DATE

FOR the FDA

STEVEN GALSON, MD, MPH.
Director
Center for Drug Evaluation and Research

9/26/07
DATE

[FR Doc. 08–685 Filed 2–15–08; 8:45 am]
BILLING CODE 4160–01–C

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, Topics in Nanotechnology.
Date: February 29, 2008.
Time: 1 p.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Joseph D. Mosca, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5158, MSC 7808, Bethesda, MD 20892, (301) 435–2344, *moscajos@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, Endocrinology and Reproductive Sciences.
Date: March 5, 2008.
Time: 10 a.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Krish Krishman, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6164, MSC 7892, Bethesda, MD 20892, (301) 435–1041, *krishnak@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Diversity Predoctoral Fellowships of DCPS.
Date: March 13–14, 2008.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Hamilton Crown Plaza, 14th and K Streets, NW., Washington, DC 20005.
Contact Person: Susan F. Marden, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3172, MSC 7770, Bethesda, MD 20892, 301–435–0692, *mardens@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Special Emphasis Panel on Neurotoxicity.
Date: March 19, 2008.
Time: 11 a.m. to 1 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: Michael A. Lang, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4140, MSC 7850, Bethesda, MD 20892, (301) 435–1265, *langm@csr.nih.gov*.

(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: February 11, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 08–713 Filed 2–15–08; 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; 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 Center for Complementary and Alternative Medicine Special Emphasis Panel, Basic Sciences.
Date: March 10–11, 2008.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Courtyard by Marriott Washingtonian Center, 204 Boardwalk Place, Gaithersburg, MD 20878.
Contact Person: Dale L. Birkle, PhD, Scientific Review Administrator, Office of Scientic Review, National Center for Complementary and Alternative Medicine, NIH, 6707 Democracy Blvd., Suite 401, Bethesda, MD 20892, (301) 451–6570, *birkled@mail.nih.gov*.

Dated: February 11, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 08–715 Filed 2–15–08; 8:45 am]

BILLING CODE 4140–01–M

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, Genetics and Informatics Centers Study of COPD.
Date: March 13, 2008.
Time: 8 a.m. to 12 p.m.
Agenda: To review and evaluate contract proposals.
Place: Double Tree Hotel, 1515 Rhode Island Avenue, NW., Washington, DC 20005.
Contact Person: Keary A Cope, PhD, Scientific Review Administrator, Review Branch/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7190, Bethesda, MD 20892–7924, 301–435–2222, *copeka@mail.nih.gov*.
Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Radiology Centers Study of COPD.
Date: March 13, 2008.
Time: 1 p.m. to 5 p.m.
Agenda: To review and evaluate contract proposals.
Place: Double Tree Hotel, 1515 Rhode Island Avenue NW., Washington, DC 20005.
Contact Person: Keary A Cope, PhD, Scientific Review Administrator, Review Branch/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7190, Bethesda, MD 20892–7924, 301–435–2222, *copeka@mail.nih.gov*.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Clinical Centers Study of COPD.

Date: March 13–14, 2008.

Time: March 13, 2008, 7 p.m. to 10 p.m.

Agenda: To review and evaluate contract proposals.

Place: Double Tree Hotel, 1515 Rhode Island Avenue NW., Washington, DC 20005.

Time: March 14, 2008, 8 a.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: Double Tree Hotel, 1515 Rhode Island Avenue NW., Washington, DC 20005.

Contact Person: Keary A Cope, PhD, Scientific Review Administrator, Review Branch/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7190, Bethesda, MD 20892–7924, 301–435–2222, *copeka@mail.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Resource-Related Research Project (R 24).

Date: March 27, 2008.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: David A Wilson, PhD, Scientific Review Administrator, Review Branch/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7204, Bethesda, MD 20892–7924, 301–435–0299, *wilsonda2@nhlbi.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: February 11, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 08–714 Filed 2–15–08; 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 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 Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel, Mentored Career Development, Institutional Research Training & Pathways to Independence Applications.

Date: March 7, 2008.

Time: 12 p.m. to 5 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: Michael L. Bloom, PhD, Scientific Review Administrator, EP Review Branch, NIH–NIAMS Institute, One Democracy Plaza, Room 820, MSC 4872, 6701 Democracy Blvd., Bethesda, MD 20892, 301–594–4953, *Michael_Bloom@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: February 11, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 08–710 Filed 2–15–08; 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 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 Dental and Craniofacial Research Special Emphasis Panel, Review R21s.

Date: March 27, 2008.

Time: 2 p.m. to 3:30 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: Peter Zelazowski, PhD, Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, National Inst of Dental & Craniofacial Research, National Institutes of Health, Bethesda, MD 20892–6402, 301–593–4861. *peter.zelazowski@nih.gov.*

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel, Review R21s.

Date: March 28, 2008.

Time: 2 a.m. to 3:30 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: Peter Zelazowski, PhD, Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, National Inst of Dental & Craniofacial Research, National Institutes of Health, Bethesda, MD 20892–6402, 301–593–4861, *peter.zelazowski@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: February 11, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 08–711 Filed 2–15–08; 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 Initial Review Group, Function, Integration, and Rehabilitation Sciences Subcommittee.

Date: March 10, 2008.
Time: 8:30 a.m. to 5:30 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: Anne Krey, 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, 301–435–6908, *ak41o@nih.gov.*

(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: February 11, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 08–712 Filed 2–15–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine, Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the PubMed Central National Advisory Committee.

The meetings will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: PubMed Central National Advisory Committee.
Date: June 17, 2008.
Time: 9 a.m. to 4 p.m.
Agenda: Review and Analysis of Systems.
Place: National Library of Medicine, Building 38, Board Room, 2nd Floor, 8600 Rockville, Pike, Bethesda, MD 20892.
Contact Person: David J. Lipman, MD, Director, Natl Ctr for Biotechnology Information, National Library of Medicine, Building 38, Room 8N805, Bethesda, MD 20894, (301) 435–5985, *dlipman@mail.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *http://www.pubmedcentral.nih.gov/about/nac.html,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: February 11, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 08–708 Filed 2–15–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors, National Center for Biotechnology Information.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact person listed below in advance of the meeting. The meeting will be closed to the public as indicated below, in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual other conducted by the National Library of Medicine, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invitation of personal privacy.

Name of Committee: Board of Scientific Counselors, National Center for Biotechnology Information.
Date: April 29, 2008.
Open: 8:30 a.m. to 12 p.m.
Agenda: Program Discussion.
Place: National Library of Medicine, Building 38, Board Room, 2nd Floor, 8600 Rockville Pike, Bethesda, MD 20892.
Closed: 12 p.m. to 2 p.m.
Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.
Place: National Library of Medicine, Building 38, Board Room, 2nd Floor, 8600 Rockville Pike, Bethesda, MD 20892.
Open: 2 p.m. to 5 p.m.
Agenda: Program Discussion.
Place: National Library of Medicine, Building 38, Board Room, 2nd Floor, 8600 Rockville Pike, Bethesda, MD 20892.
Contact Person: David J. Lipman, M.D., Director, Natl Ctr for Biotechnology Information, National Library of Medicine, Department of Health and Human Services, Building 38A, Room 8N805, Bethesda, MD 20894, 301–435–5985, *dlipman@mail.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicle, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

(Catalogue of Federal Domestic Assistance Program No. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: February 11, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 08–709 Filed 2–15–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation and Approval of Chemical and Petrochemical Inspections, LP, as a Commercial Gauger and Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation and approval of Chemical and Petrochemical Inspections, LP, as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 151.12 and 19 CFR 151.13, Chemical and Petrochemical

Inspections, LP, 5300 39th Street, Groves, TX 77619, has been approved to gauge and accredited to test petroleum and petroleum products, organic chemicals and vegetable oils for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbp.labhq@dhs.gov.* Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories. *http://cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/commercial_gaugers/*

DATES: The accreditation and approval of Chemical and Petrochemical Inspections, LP, as a commercial gauger and laboratory became effective on April 6, 2006. The next triennial inspection date will be scheduled for April 2009.

FOR FURTHER INFORMATION CONTACT: Commercial Gauger Laboratory Program Manager, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW., Suite 1500N, Washington, DC 20229, 202–344–1060.

Dated: January 31, 2008.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services.

[FR Doc. E8–3028 Filed 2–15–08; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation and Approval of Coastal Gulf and International, as a Commercial Gauger and Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation and approval of Coastal Gulf and International, as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 151.12 and 19 CFR 151.13, Coastal Gulf and International, 13607 River Road, Luling, LA 70070, has been approved to gauge and accredited to test petroleum and petroleum products, organic chemicals and vegetable oils for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquires regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbp.labhq@dhs.gov.* Please reference the website listed below for a complete listing of CBP approved gaugers and accredited laboratories. *http://cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/commercial_gaugers/*

DATES: The accreditation and approval of Coastal Gulf and International, as a commercial gauger and laboratory became effective on May 4, 2005. The next triennial inspection date will be scheduled for May 2008.

FOR FURTHER INFORMATION CONTACT: Commercial Gauger Laboratory Program Manager, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW., Suite 1500N, Washington, DC 20229, 202–344–1060.

Dated: January 31, 2008.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services.

[FR Doc. E8–3063 Filed 2–15–08; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation and Approval of Intertek USA, Inc., as a Commercial Gauger and Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation and approval of Intertek USA, Inc., as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 151.12 and 19 CFR 151.13, Intertek USA, Inc., 481 A East Shore Parkway, New Haven, CT 06512, has been approved to gauge and accredited to test petroleum and petroleum products, organic chemicals and vegetable oils for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbp.labhq@dhs.gov.* Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories. *http://cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/commercial_gaugers/*

DATES: The accreditation and approval of Intertek USA, Inc., as a commercial gauger and laboratory became effective on July 26, 2007. The next triennial inspection date will be scheduled for July 2010.

FOR FURTHER INFORMATION CONTACT: Commercial Gauger Laboratory Program Manager, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW., Suite 1500N, Washington, DC 20229, 202–344–1060.

Dated: January 31, 2008.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services.

[FR Doc. E8–3032 Filed 2–15–08; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation and Approval of Intertek USA, Inc., as a Commercial Gauger and Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation and approval of Intertek USA, Inc., as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 151.12 and 19 CFR 151.13, Intertek USA, Inc., Hwy 28 KM 2.0 Luchetti Industrial Pk, Bayamon, PR

00961, has been approved to gauge and accredited to test petroleum and petroleum products, organic chemicals and vegetable oils for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbp.labhq@dhs.gov.* Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories. *http://cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/commercial_gaugers/*

DATES: The accreditation and approval of Intertek USA, Inc., as a commercial gauger and laboratory became effective on July 17, 2007. The next triennial inspection date will be scheduled for July 2010.

FOR FURTHER INFORMATION CONTACT: Commercial Gauger Laboratory Program Manager, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW., Suite 1500N, Washington, DC 20229, 202–344–1060.

Dated: January 31, 2008.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services.

[FR Doc. E8–3033 Filed 2–15–08; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation and Approval of NMC Global Corporation, as a Commercial Gauger and Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation and approval of NMC Global Corporation, as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 151.12 and 19 CFR 151.13, NMC Global Corporation, 650 Groves Road Suite 111, Thorofare, NJ 08086, has been approved to gauge and accredited to test petroleum and petroleum products, organic chemicals and vegetable oils for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbp.labhq@dhs.gov*. Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories. *http://cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/commercial_gaugers/*

DATES: The accreditation and approval of NMC Global Corporation, as a commercial gauger and laboratory became effective on July 25, 2007. The next triennial inspection date will be scheduled for July 2010.

FOR FURTHER INFORMATION CONTACT: Commercial Gauger Laboratory Program Manager, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW., Suite 1500N, Washington, DC 20229, 202–344–1060.

Dated: January 31, 2008.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services.

[FR Doc. E8–3035 Filed 2–15–08; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation and Approval of Saybolt LP, as a Commercial Gauger and Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation and approval of Saybolt LP, as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 151.12 and 19 CFR 151.13, Saybolt LP, 710 Loop 197 North, Texas City, TX 77590 has been approved to gauge and accredited to test petroleum and petroleum products, organic chemicals and vegetable oils for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbp.labhq@dhs.gov.* Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories. *http://cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/commercial_gaugers/*

DATES: The accreditation and approval of Saybolt LP, as commercial gauger and laboratory became effective on November 1, 2006. The next triennial inspection date will be scheduled for November 2009.

FOR FURTHER INFORMATION CONTACT: Commercial Gauger Laboratory Program Manager, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW., Suite 1500N, Washington, DC 20229, 202–344–1060.

Dated: January 31, 2008.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services.

[FR Doc. E8–3030 Filed 2–15–08; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation and Approval of SGS North America, Inc., as a Commercial Gauger and Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation and approval of SGS North America, Inc., as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 151.12 and 19 CFR 151.13, SGS North America, Inc., 1622 S. Clinton St., Baltimore, MD 21224, has been approved to gauge and accredited to test petroleum and petroleum products, organic chemicals and vegetable oils for customs purposes, in

accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbp.labhq@dhs.gov.* Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories. *http://cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/commercial_gaugers/*

DATES: The accreditation and approval of SGS North America, Inc., as a commercial gauger and laboratory became effective on August 14, 2007. The next triennial inspection date will be scheduled for August 2010.

FOR FURTHER INFORMATION CONTACT: Commercial Gauger Laboratory Program Manager, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW., Suite 1500N, Washington, DC 20229, 202–344–1060.

Dated: January 31, 2008.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services.

[FR Doc. E8–3034 Filed 2–15–08; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation and Approval of SGS North America, Inc., as a Commercial Gauger and Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation and approval of SGS North America, Inc., as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 151.12 and 19 CFR 151.13, SGS North America, Inc., 925 Corn Product Road, Corpus Christi, TX 78409, has been approved to gauge and accredited to test petroleum and petroleum products, organic chemicals and vegetable oils for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbp.labhq@dhs.gov.* Please reference the website listed below for a complete listing of CBP approved gaugers and accredited laboratories. *http://cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/commercial_gaugers/*

DATES: The accreditation and approval of SGS North America, Inc., as a commercial gauger and laboratory became effective on November 02, 2006. The next triennial inspection date will be scheduled for November 2009.

FOR FURTHER INFORMATION CONTACT: Commercial Gauger Laboratory Program Manager, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW., Suite 1500N, Washington, DC 20229, 202–344–1060.

Dated: January 31, 2008.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services.

[FR Doc. E8–3067 Filed 2–15–08; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation of Dixie Services, Inc., as a Commercial Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation of Dixie Services, Inc., as a commercial laboratory.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 151.12, Dixie Services, Inc., 1706 First Street, Galena Park, TX 77547, has been accredited to test petroleum, petroleum products, organic chemicals and vegetable oils for customs purposes, in accordance with the provisions of 19 CFR 151.12. Anyone wishing to employ this entity to conduct laboratory analyses should request and receive written assurances from the entity that it is accredited by the U.S. Customs and Border Protection to conduct the specific test requested. Alternatively, inquiries regarding the specific test this entity is accredited to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbp.labhq@dhs.gov.* Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories. *http://cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/commercial_gaugers/*

DATES: The accreditation of Dixie Services, Inc., as a commercial laboratory became effective on October 4, 2006. The next triennial inspection date will be scheduled for October 2009.

FOR FURTHER INFORMATION CONTACT: Commercial Gauger Laboratory Program Manager, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW., Suite 1500N, Washington, DC 20229, 202–344–1060.

Dated: January 31, 2008.

Ira S. Reese

Executive Director, Laboratories and Scientific Services.

[FR Doc. E8–3029 Filed 2–15–08; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Approval of Inspectorate America Corporation, as a Commercial Gauger

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of approval of Inspectorate America Corporation, as a commercial gauger.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 151.13, Inspectorate America Corporation, 178 Mortland Road, Searsport, ME 04974, has been approved to gauge petroleum, petroleum products, organic chemicals and vegetable oils for customs purposes, in accordance with the provisions of 19 CFR 151.13. Anyone wishing to employ this entity to conduct gauger services should request and receive written assurances from the entity that it is approved by the U.S. Customs and Border Protection to conduct the specific gauger service requested. Alternatively, inquiries regarding the specific gauger service this entity is approved to perform may be directed to

the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbp.labhq@dhs.gov.* Please reference the website listed below for a complete listing of CBP approved gaugers and accredited laboratories. *http://cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/commercial_gaugers/*

DATES: The approval of Inspectorate America Corporation, as a commercial gauger became effective on May 17, 2006. The next triennial inspection date will be scheduled for May 2009.

FOR FURTHER INFORMATION CONTACT: Commercial Gauger Laboratory Program Manager, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW., Suite 1500N, Washington, DC 20229, 202–344–1060.

Dated: January 31, 2008.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services.

[FR Doc. E8–3066 Filed 2–15–08; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Approval of Intertek USA, Inc., as a Commercial Gauger

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of approval of Intertek USA, Inc., as a commercial gauger.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 151.13, Intertek USA, Inc., 214 N. Gulf Blvd., Freeport, TX 77541, has been approved to gauge petroleum, petroleum products, organic chemicals and vegetable oils for customs purposes, in accordance with the provisions of 19 CFR 151.13. Anyone wishing to employ this entity to conduct gauger services should request and receive written assurances from the entity that it is approved by the U.S. Customs and Border Protection to conduct the specific gauger service requested. Alternatively, inquires regarding the specific gauger service this entity is approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbp.labhq@dhs.gov.* Please reference the website listed below for a complete listing of CBP approved gaugers and accredited laboratories. *http://cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/commercial_gaugers/*

DATES: The approval of Intertek USA, Inc., as a commercial gauger became effective on March 22, 2007. The next triennial inspection date will be scheduled for March 2010.

FOR FURTHER INFORMATION CONTACT: Commercial Gauger Laboratory Program Manager, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW., Suite 1500N, Washington, DC 20229, 202–344–1060.

Dated: January 31, 2008.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services.

[FR Doc. E8–3065 Filed 2–15–08; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Approval of W.B. Bransom & Company, Inc., as a Commercial Gauger

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of approval of W.B. Bransom& Company, Inc., as a commercial gauger.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 151.13, W.B. Bransom & Company, Inc., 120 N. Main Street, Pasadena, TX 77501, has been approved to gauge petroleum, petroleum products, organic chemicals and vegetable oils for customs purposes, in accordance with the provisions of 19 CFR 151.13. Anyone wishing to employ this entity to conduct gauger services should request and receive written assurances from the entity that it is approved by the U.S. Customs and Border Protection to conduct the specific gauger service requested. Alternatively, inquiries regarding the specific gauger service this entity is approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbp.labhq@dhs.gov*. Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories. *http://cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/commercial_gaugers/*

DATES: The approval of W.B. Bransom & Company, Inc., as a commercial gauger became effective on May 15, 2007. The next triennial inspection date will be scheduled for May 2010.

FOR FURTHER INFORMATION CONTACT: Commercial Gauger Laboratory Program Manager, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW., Suite 1500N, Washington, DC 20229, 202–344–1060.

Dated: January 31, 2008.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services.

[FR Doc. E8–3031 Filed 2–15–08; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Agency Information Collection Activities: Submitted for Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of extension of an information collection (1010–0150).

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), we are notifying the public that we have submitted to OMB an information collection request (ICR) to renew approval of the paperwork requirements in Form MMS–144, ''Rig Movement Notification Report.'' This notice also provides the public a second opportunity to comment on the paperwork burden of these regulatory requirements.

DATES: Submit written comments by March 20, 2008.

ADDRESSES: You may submit comments either by fax (202) 395–6566 or e-mail (*OIRA_DOCKET@omb.eop.gov*) directly to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for the Department of the Interior (1010–0150). Mail or hand carry a copy of your comments to the Department of the Interior; Minerals Management Service; Attention: Cheryl Blundon; Mail Stop 4024; 381 Elden Street; Herndon, Virginia 20170–4817. If you wish to e-mail your comments to MMS, the address is: *rules.comments@mms.gov.* Reference Information Collection 1010–0150 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, (703) 787–1607. You

may also contact Cheryl Blundon to obtain a copy, at no cost, of the regulation and the form that requires the subject collection of information.

SUPPLEMENTARY INFORMATION:

Title: Form MMS–144, Rig Movement Notification Report.

Form: Form MMS–144.

OMB Control Number: 1010–0150.

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. Section 1332(6) of the Act requires 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 ICR concerns the regulations in 30 CFR 250 Subparts D, E, and F, specifically sections 403(c), 502, and 602, on the movement of drilling, completion, and workover rigs and related equipment on and off an offshore platform or from well to well on the same offshore platform. The requirement for operators to notify MMS of rig movements is only specifically stated in § 250.403(c). However, because of the increased volume of activity in the Gulf of Mexico OCS Region (GOMR) and because the GOMR needs accurate and up-to-date information on rig locations for inspection planning, it has been standard procedure to require this notification as a condition of approval for drilling, well workover, recompletion, or abandonment operations (§§ 250.502 and 250.602).

The MMS District Offices use the information reported to ascertain the precise arrival and departure of all rigs in OCS waters. The accurate location of these rigs is necessary to better facilitate the scheduling of inspections by MMS personnel.

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.'' No items of a sensitive nature are collected. Responses are mandatory.

Frequency: The frequency is on occasion.

Estimated Number and Description of Respondents: Approximately 130 Federal OCS oil and gas lessees.

Estimated Reporting and Recordkeeping ''Hour'' Burden: We estimate respondents will average 6 minutes to fill out and complete Form MMS–144 and there will be 1,870 annual responses. The total annual estimate is 187 burden hours.

Estimated Reporting and Recordkeeping ''Non-Hour Cost'' Burden: We have identified no ''non-hour cost'' burdens associated for this collection.

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: Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3501, *et seq.*) requires each agency ''* * * to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *'' Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

To comply with the public consultation process, on July 17, 2007, we published a **Federal Register** notice (72 FR 39074) announcing that we would submit this ICR to OMB for approval. The notice provided the required 60-day comment period. In addition, § 250.199 provides the OMB control number for the information collection requirements imposed by form MMS–144. The regulation also informs the public that they may comment at any time on the collections of information and provides the address to which they should send comments. We have received no comments in response to these efforts.

If you wish to comment in response to this notice, you may send your comments to the offices listed under the **ADDRESSES** section of this notice. The OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, to ensure maximum consideration, OMB should receive public comments by March 20, 2008.

Public Comment Procedure: 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: January 14, 2008.

E.P. Danenberger,

Chief, Office of Offshore Regulatory Programs.

[FR Doc. E8–2962 Filed 2–15–08; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before February 2, 2008. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW., 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St. NW., 8th floor, Washington DC 20005; or by fax, 202–371–6447. Written

or faxed comments should be submitted by March 5, 2008.

J. Paul Loether,

Chief, National Register of Historic Places/ National Historic Landmarks Program.

Florida

Putnam County

Larimer Memorial Library, 216 Reid St., Palatka, 08000163

Sarasota County

Laurel Park Historic District, Bounded by Morrill St.,Orange Ave.,Brother Geenen Wy.,Julia Pl.,& Lafayette Ct., Sarasota, 08000164

Guam

Guam County

Canada Water Wells, Near jct. of Canada-Toto Rd.& Canada -Toto Loop, Barrigada-Mangilao, 08000165

Massachusetts

Middlesex County

Washington Park Historic District, (Newton MRA) 4–97 Washington Park & 5,15 Park Place, Newton, 08000166

Westford Town Farm, 35 Town Farm Rd., Westford, 08000167

Worcester County

Pine Grove Cemetery, Tremaine & Main Sts., Leominster, 08000168

Nebraska

Chase County

Wauneta Roller Mills, 112 S. Arapahoe, Wauneta, 08000169

Custer County

St. Anselm's Catholic Church, Rectory and Parish Hall, NE 2, Anselmo, 08000170

Douglas County

Moyer Row Houses, 2612–2614 7 2616–2618 Dewey, Omaha, 08000171

Undine Apartments, 2620–2626 Dewey Ave., Omaha, 08000172

Lancaster County

Nebraska Governor's Mansion, 1425 H St., Lincoln, 08000173

New Jersey

Atlantic County

Belcoville Post Office, 1201 Madden Ave. (Weymouth Township), Belcoville, 08000174

Bergen County

Darlington Schoolhouse, 600 Ramapo Valley Rd. (Mahwah Township), Darlington, 08000175

Cape May County

Cape May Point Jail, 720 U.S. 9 (Lower Township), Cold Spring, 08000176

Octagonal Poultry House, 720 U.S. 9 (Lower Township), Cold Spring, 08000177

Mercer County

Maddock's, Thomas, Sons Company, 240 Princeton Ave. (Hamilton Township), East Trenton Heights, 08000178

Monmouth County

North Shrewsbury Ice Boat and Yacht Club, 9 Union St., Red Bank, 08000179

Somerset County

Plukemin Continental Artillery Cantonment Site, 4000 ft. NE. of jct. U.S. 202–206 & Washington Valley Rd. (Bedminster Township), Washington Camp Ground, 08000180

Van Der Veer—Harris House, 344 U.S. 206 (Hillsborough Township), Woods Tavern, 08000181

Oregon

Baker County

Churchill School, 3451 Broadway, Baker City, 08000182

Lane County

Eugene Civic Stadium, 2077 Willamette St., Eugene, 08000183

South Carolina

Cherokee County

Kings Mountain State Park Historic District, (South Carolina State Parks MPS) 1277 Park Rd., Blacksburg, 08000185

Wisconsin

Rock County

Jones, John H., House, 538 S. Main St., Janesville, 08000186

Strunk, John and Eleanor, House, 2306 N. Parker Dr., Janesville, 08000184

[FR Doc. E8–2966 Filed 2–15–08; 8:45 am]

BILLING CODE 4312–51–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–08–002]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: February 26, 2008 at 11 a.m.

PLACE: Room 101, 500 E Street, SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meetings: None
2. Minutes
3. Ratification List
4. Inv. Nos. 731–TA–1110 (Final) (Sodium Hexametaphosphate from China)—briefing and vote. (The Commission is currently scheduled to transmit its determination and Commissioners' opinions to the Secretary of Commerce on or before March 6, 2008.)
5. Outstanding action jackets: None

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

Issued: February 13, 2008.

By order of the Commission.

William R. Bishop,

Hearings and Meetings Coordinator.

[FR Doc. E8–3052 Filed 2–15–08; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Foreign Claims Settlement Commission

[F.C.S.C. Meeting Notice No. 2–08]

Sunshine Act Meeting

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of meetings for the transaction of Commission business and other matters specified, as follows:

DATE AND TIME: Thursday, February 21, 2008, at 10 a.m.

SUBJECT MATTER: Issuance of Amended Proposed Decisions and Amended Final Decisions in claims against Albania.

STATUS: Open.

All meetings are held at the Foreign Claims Settlement Commission, 600 E Street, NW., Washington, DC. Requests for information, or advance notices of intention to observe an open meeting, may be directed to: Administrative Officer, Foreign Claims Settlement Commission, 600 E Street, NW., Room 6002, Washington, DC 20579. Telephone: (202) 616–6988.

Mauricio J. Tamargo,

Chairman.

[FR Doc. 08–775 Filed 2–14–08; 3:11 pm]

BILLING CODE 4410–01–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP (OJP) Docket No. 1476]

Hearing of the Review Panel on Prison Rape

AGENCY: Office of Justice Programs, Justice.

ACTION: Notice of hearing.

SUMMARY: The Office of Justice Programs (OJP) announces the second and third hearings of the Review Panel on Prison Rape (Panel), which will be held in Washington, DC, on March 11–14, 2008, and in Houston, Texas on March 27–28, 2008. The hearing times and location are noted below. The purpose of the hearings is to assist the Bureau of Justice Statistics (BJS) in identifying common characteristics of victims and perpetrators of prison rape, and prison systems with the highest and lowest incidence of prison rape. On December 16, 2007, BJS issued the report *Sexual Victimization in State and Federal Prisons Reported by Inmates, 2007*. The report presents data from the National Inmate Survey, 2007 conducted in 146 state and federal prisons. The report provides a listing of state and federal prisons ranked according to the incidence of prison rape as required by the Prison Rape Elimination Act of 2003. The Panel is required to conduct separate public hearings on the operations of the three prisons with the highest incidence of prison rape and the two prisons with the lowest incidence of prison rape.

DATES: The hearing schedule is as follows:

1. Tuesday, March 11, 2008, 9 a.m. to 5 p.m., in Washington, DC (facilities with lowest incidences of sexual victimization): Ironwood State Prison, California Department of Corrections and Rehabilitation, and Schuylkill Federal Correctional Institution, Federal Bureau of Prisons.

2. Wednesday-Friday, March 12–14, 2008, 9 a.m. to 5 p.m., in Washington, DC (facilities with highest incidences of sexual victimization): Charlotte Correctional Institution, Florida Department of Corrections; Rockville Correctional Institution, Indiana Department of Corrections; and Tecumseh State Correctional Institution, Nebraska Department of Corrections.

3. Thursday-Friday, March 27–28, 2008, 1 p.m. to 5 p.m. on Thursday, and 9 a.m. to 5 p.m., on Friday in Houston, Texas (facilities with highest incidences of sexual victimization): Texas Department of Criminal Justice's Estelle, Clements, Coffield, Allred, and Mountain View Units.

ADDRESSES: The hearings on March 11–14, 2008 will take place in Washington, DC at the Department of Justice, Office of Justice Programs' Main Conference Room, Third Floor, 810 7th Street, NW., Washington, DC 20531. The hearings on March 27–28, 2008 will take place at the T. Gerald Treece Courtroom located at the South Texas College of Law, 1303 San Jacinto Street, Houston, Texas 77002.

FOR FURTHER INFORMATION CONTACT: Kathleen M. Severens, Designated Federal Official, OJP, *Kathleen.Severens@usdoj.gov*, or (202) 307–0690 [**Note**: This is not a toll-free number.]

SUPPLEMENTARY INFORMATION: The Panel, which was established pursuant to the Prison Rape Elimination Act of 2003, Public Law 108–79, 117 Stat. 972 (codified as amended at 42 U.S.C. 15601–15609 (2006)), will hold its next hearings to carry out the review functions specified at 42 U.S.C. 15603(b)(3)(A). Testimony from the hearings will assist the Panel in formulating best practices for deterring prison rape.

Members of the public who wish to attend the hearings must present photo identification upon entrance to the Office of Justice Programs. Space is limited. Special needs requests should be made to Kathleen M. Severens, Designated Federal Official, OJP, *Kathleen.Severens@usdoj.gov* or 202–307–0690, at least one week prior to the hearings. Updated information about the hearings will be available on the Panel's Web site at *http://www.ojp.usdoj.gov/reviewpanel/*.

Dated: February 11, 2008.

Michael Alston,

Office of Justice Programs.

[FR Doc. E8–3016 Filed 2–15–08; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Employment and Training Administration

Energy Industry and Construction and Skilled Trades in the Energy Industry; Solicitation for Grant Applications (SGA) SGA–DFA–PY–07–07: Amendment Number 1

AGENCY: Employment and Training Administration (ETA), Labor.

ACTION: Amendment.

SUMMARY: The Employment and Training Administration published a document in the **Federal Register** of January 23, 2008, announcing the availability of funds and solicitation for grant applications for the Energy Industry and Construction and Skilled Trades in the Energy Industry. This amendment will make changes to the January 23 document by clarifying and correcting this Solicitation.

FOR FURTHER INFORMATION CONTACT: Ariam Ferro, Grants Management Specialist, Telephone (202) 693–3968.

Amendment

In the **Federal Register** of January 23, 2008, in FR Volume 73, Number 15, the solicitation is hereby amended with the following:

1. This amendment is to clarify and answer questions raised about the definition of a region. On page 4001, Part I.3.A, Strategic Regional Partnerships, at the end of the first full paragraph, add the following text: Economic regions do not typically correspond to geographic or political jurisdictions such as municipal boundaries or state, county, or local workforce investment areas. Thus, partners should develop an understanding of the identified industry or industry sector that is within a state or across state borders. More information about the WIRED strategic framework can be found at: *http://www.doleta.gov/WIRED*.

2. On page 4008, Part V.1.C., the Strategies and Solutions for Addressing Industry-Identified Workforce Challenges section, delete the following text: The proposed project will address one or more workforce challenges identified by the energy industry and/or skilled trade occupations related to energy through the HGJTI, as discussed in Part I.a of this SGA (2 points). Add the following text: The proposed project will address one or more workforce challenges identified by the energy industry and/or skilled trade occupations related to energy through the HGJTI, as discussed in Part I.2 of this SGA (2 points).

3. On page 4003, Part I.3.E. Clear and Specific Outcomes, delete the following text: The common measures for adults include: (1) Entered employment, (2) job retention, and (3) average earnings increase. Add the following text: The common measures for adults include: (1) Entered employment, (2) job retention, and (3) average earnings.

4. This amendment is to address a question asked during the Prospective Applicant Conference webinar on February 1, 2008. For the purposes of this SGA, youth aged 16 and above are eligible to be served under this grant.

5. This amendment is to answer a question asked during the Prospective Applicant Conference webinar on February 1, 2008. For the purposes of this SGA, youth common measures should be used for 16 and 17 year-olds and adult common measures should be used for anyone ages 18 and above.

6. This amendment is to clarify an answer given during the Prospective Applicant Conference webinar on February 1, 2008. For the purposes of this SGA, no provision for profit will be allowed.

7. A virtual Prospective Applicant Conference was held via webinar for this grant competition on February 1, 2008. The presentation slides with notes can be viewed at: *http://www.workforce3one.org/view.cfm?id=4788&info=1*.

A recorded version can be viewed at: *http://www.workforce3one.org/view.cfm?id=4795&info=1*.

Signed at Washington, DC, this 12th day of February, 2008.

Eric Luetkenhaus,

Grant Officer, Employment & Training Administration.

[FR Doc. E8–3007 Filed 2–15–08; 8:45 am]

BILLING CODE 4510–FN–P

LEGAL SERVICES CORPORATION

Sunshine Act Meeting of the Board of Directors

TIME AND DATE: The Legal Services Corporation Board of Directors will meet on February 20, 2008, via conference call. The meeting will begin at 3 p.m., (EDT), and continue until conclusion of the Board's agenda.

LOCATION: 3333 K Street, NW., Washington, DC 20007, 3rd Floor Conference Center.

STATUS OF MEETING: Open. Directors will participate by telephone conference in such a manner as to enable interested members of the public to hear and identify all persons participating in the meeting. Members of the public wishing to observe the meeting may do so by joining participating staff at the location indicated above. members of the public wishing to listen to the meeting by telephone should call 1–888–390–6586 and enter 30819 on the keypad when prompted. To enhance the quality of your listening experience, as well as that of others, and to eliminate background noises that interfere with the audio recording of the proceeding, please mute you telephone during the meeting.

Matters To Be Considered

1. Consider and act on adoption of agenda
2. Consider and act on proposed LSC *Code of Ethics and Conduct*
3. Consider and act on whether to authorize the filing of an application to the District of Columbia for registration to undertake charitable solicitations
4. Report on the work of the Board's *Ad Hoc Committee*
5. Consider and act on other business
6. Consider and act on motion to adjourn the meeting

FOR FURTHER INFORMATION CONTACT: *Contact Person for Further Information:* Patricia Batie, Manager of Board Operations, at (202) 295–1500.

Special Needs: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Patricia Batie at (202) 295–1500.

February 13, 2008.

Victor M. Fortuno,

Vice President, General Counsel and Corporate Secretary.

[FR Doc. 08–758 Filed 2–13–08; 4:55 pm]

BILLING CODE 7050–01–M

LIBRARY OF CONGRESS

Copyright Office

[Docket No. 2008–2]

Review of Copyright Royalty Judges Determination

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice.

SUMMARY: The Register of Copyrights issues the following determination concerning the Copyright Royalty Judges' decisions to include the rate for use of the section 112 license for ephemeral recordings within the rates and terms of royalty payments under section 114 for the use of sound recordings in transmissions made by New Subscription Services, Preexisting Subscription Services and Satellite Digital Audio Radio Services, and to not set a minimum fee within the section 112 license rates for the Satellite Digital Audio Radio Services.

FOR FURTHER INFORMATION CONTACT: Tanya M. Sandros, General Counsel, Copyright GC/I&R, P.O. Box 70400, Washington, DC 20024. Telephone: (202) 707–8380. Telefax: (202) 707–8366.

SUPPLEMENTARY INFORMATION:

Background

The Copyright Royalty Judges are required by 17 U.S.C. 803(b) and 37 CFR 351 to issue determinations of rates and terms for royalty payments due for the public performance of sound recordings in certain digital transmissions by licensees in accordance with the provisions of 17 U.S.C. 114, and the making of certain ephemeral recordings by licensees in accordance with the provisions of 17 U.S.C. 112(e).

The Copyright Royalty Judges recently issued three final determinations setting rates and terms for the public performance of a sound recording by means of a digital transmission and for the making of ephemeral recordings necessary to facilitate those transmissions pursuant to 17 U.S.C. 114 and 17 U.S.C. 112(e). On December 19, 2007 the Copyright Royalty Judges announced the rates and terms applicable to Preexisting Satellite Services, 72 FR 71795; on December 20, 2007, they announced the rates and terms applicable to New Subscription Services, 72 FR 72253; and, on January 24, 2008, they announced the rate and terms applicable to Satellite Digital Audio Radio Services. 73 FR 4080.[1]

Under 17 U.S.C. 802(f)(1)(D), the Register of Copyrights may review for legal error the resolution by the Copyright Royalty Judges of a material question of substantive law under title 17 that underlies or is contained in a final determination of the Copyright Royalty Judges. If the Register of Copyrights concludes, after taking into consideration the views of the participants in the proceeding, that any resolution reached by the Copyright Royalty Judges was in material error, the Register of Copyrights shall publish such a decision in the **Federal Register**, together with a specific identification of the legal conclusion of the Copyright Royalty Judges that is determined to be erroneous. The decision of the Register of Copyrights shall be binding as precedent upon the Copyright Royalty Judges in subsequent proceedings.

The Register of Copyrights has deemed that the Copyright Royalty Judges' publication of Final Rulings regarding New Subscription Services (''NSS''), Preexisting Subscription

[1] On May 1, 2007, the Copyright Royalty Judges announced rates and terms applicable to an Eligible Nonsubscription Transmission or a Transmission made by a New Subscription Service, herein referred to as *Webcaster II*, 72 FR 24084. [Docket No. CRB 2005–1] While the 60 day time period allotted under 17 U.S.C. 802(f)(1)(D) for issuing a written review for legal error has expired with regard to *Webcaster II*, the same legal error which is addressed herein was made in *Webcaster II*.

Services (''PSS'') and Preexisting Satellite Digital Audio Radio Services (''SDARS'') constitute issuance of final determinations as per 802(f)(1)(D). The Register of Copyrights has reviewed these final determinations of rates and terms of royalty payments under sections 114 and 112. The Register concludes that the Copyright Royalty Judges' resolution to include the rate for the section 112 license within the rates and terms for the section 114 license constitutes a failure to establish a discernable rate for the section 112 license and is therefore a legal error. Moreover, this legal error has serious ramifications in that the beneficiaries of the section 114 license fees are not identical to the beneficiaries of the section 112 license fees. The Register also concludes that the Copyright Royalty Judges' failure to set a minimum fee within the section 112 license rates for SDARS is a legal error.

Copyright Royalty Judges' Determination Setting Rates and Terms for New Subscription Services

On October 31, 2005, pursuant to section 114(f)(2)(C), XM Satellite Radio, Inc. (''XM'') filed a Petition to Initiate and Schedule Proceeding for a NSS with the Copyright Royalty Judges. Pursuant to 17 U.S.C. 804(b)(3)(C)(ii), the Copyright Royalty Judges published a notice in the **Federal Register** on December 5, 2005, announcing commencement of the proceeding to set rates and terms for royalty payments under sections 114 and 112 for the activities of the new subscription service described in the XM Petition and requesting interested parties to submit their Petitions to Participate. 70 FR 72471. Petitions to participate were received from Sirius Satellite Radio, Inc. (''Sirius''), XM, MTV Networks (''MTV''), and SoundExchange, Inc.

Subsequent to the presentation of the direct phase of their cases and the filing of their written rebuttal statements, but prior to the oral presentation of their rebuttal witnesses, the parties informed the Copyright Royalty Judges that they had ''reached full agreement on all issues in this litigation'' and that ''there are no more issues to try.'' Docket No. CRB 2005–5, *Transcript of September 10, 2007*, at p. 5. They stated that the settlement agreement would be submitted to the Copyright Royalty Judges for approval and adoption pursuant to 17 U.S.C. 801(b)(7)(A). *Id.* at 6. The proposed rates and terms codifying the settlement agreement were filed on October 30, 2007.

Section 801(b)(7)(A) allows for the adoption of rates and terms negotiated by ''some or all of the participants in a proceeding at any time during the proceeding'' provided they are submitted to the Copyright Royalty Judges for approval. 17 U.S.C. 801(b)(7)(A). Accordingly, on November 9, 2007, the Copyright Royalty Judges published a Notice of Proposed Rulemaking (''NPRM'') requesting comment on the proposed rates and terms submitted to the Judges. 72 FR 63532. Comments were due by December 10, 2007. In response to the NPRM, the Copyright Royalty Judges received only one comment, which was submitted by SoundExchange, supporting the adoption of the proposed regulations.

The Copyright Royalty Judges received no objections from a party that would be bound by the proposed rates and terms and that would be willing to participate in further proceedings. Therefore, on December 20, 2007, they adopted final regulations which set the rates and terms for the use of sound recordings in transmissions made by NSS and for the making of ephemeral recordings necessary for the facilitation of such transmissions for the period commencing from the inception of the NSS through December 31, 2010.

The Copyright Royalty Judges' rates, which included a non-refundable annual minimum fee, allocated a single calculation and payment for both the public performance of sound recordings by eligible digital transmissions made by a Service pursuant to 17 U.S.C. 114, and for ephemeral recordings of sound recordings made pursuant to 17 U.S.C. 112 to facilitate such transmissions. They did not set a separate discernible rate for the section 112 license.

Copyright Royalty Judges' Determination Setting Rates and Terms for Preexisting Subscription Services and Satellite Digital Audio Radio Services

On January 9, 2006, the Copyright Royalty Judges commenced a proceeding to set rates and terms for PSS and SDARS with a request for petitions to participate. 73 FR 1455. Seven parties filed petitions to participate in this proceeding: SoundExchange, Music Choice, Muzak LLC, XM, Sirius, Royalty Logic, Inc., and THP Capstar Acquisition d/b/a DMX Music. Prior to the beginning of formal hearings, the Copyright Royalty Judges referred a novel material question of substantive law regarding the universe of preexisting subscription services to the Register of Copyrights.

On October 20, 2006, the Register of Copyrights transmitted her determination on this issue to the Copyright Royalty Judges. Subsequently, DMX withdrew from the proceeding on October 20, 2006, and Sirius participated in the proceeding solely as a SDARS rather than as both a PSS and a SDARS. Royalty Logic, Inc. also withdrew from the proceeding on November 21, 2006, and the Copyright Royalty Judges dismissed Muzak from the proceedings on January 7, 2007.

Music Choice, as a PSS, reached a settlement with SoundExchange. Their settlement was submitted to the Copyright Royalty Judges and published for comment on October 31, 2006. 72 FR 61585. No objections were received from a party that would be bound by the proposed rates and terms and that would be willing to participate in further proceedings. On December 19, 2007, the Copyright Royalty Judges adopted final regulations which set the rates and terms for PSS under sections 114 and 112 for the license period 2008–2012. The rates, which included a non-refundable annual advance payment (i.e. a minimum fee), allocated a single calculation and payment method for both the public performance of sound recordings by eligible digital transmissions made pursuant to 17 U.S.C. 114, and for ephemeral recordings of sound recordings made pursuant to 17 U.S.C. 112 to facilitate such transmissions. The adopted settlement did not set a separate discernible rate for the section 112 license. 73 FR 71795.

In light of Music Choice's settlement, the only potential licensees remaining in the proceeding were the SDARS: XM and Sirius. Hereafter the proceeding was referred to as the SDARS proceeding. The remaining parties entered into negotiations to set rates and terms for use of the section 114 and section 112 statutory licenses but they were unable to reach an agreement. Consequently, the Copyright Royalty Judges proceeded with hearings to determine the rates and terms that would apply to SDARS.

The standards the Copyright Royalty Judges are to apply in setting the rates and terms for SDARS (as well as for PSS) differ between the 114 and 112 licenses. Section 114(f)(1) requires the Copyright Royalty Judges to establish rates and terms for the transmission of the sound recordings that are reasonable and that are calculated to achieve four specific policy objectives set forth in section 801(b)(1) of the copyright law. 17 U.S.C. 114(f)(1), 17 U.S.C. 801(b)(1). On the other hand, section 112(e), governing the reproductions made to facilitate the transmissions licensed under section 114, requires the Copyright Royalty Judges to set rates and terms that most clearly represent those ''that would have been negotiated

in the marketplace between a willing buyer and a willing seller,'' and to take into account certain factors when making this determination. 17 U.S.C. 112(e)(4). Additionally, the section 112 license requires that ''such rates shall include a minimum fee for each type of service offered.'' 17 U.S.C. 112(e)(4).

After considering the evidence in this proceeding and the applicable law, the Copyright Royalty Judges announced their final determination setting rates and terms for SDARS on January 24, 2008, stating that the ''appropriate section 114 performance license rate is 6.0% of gross revenues for 2007 and 2008, 6.5% for 2009, 7.0% for 2010, 7.5% for 2011 and 8.0% for 2012 and, further, that the appropriate section 112 reproduction license rate is deemed to be embodied in the section 114 license rate.'' 73 FR at 4084. However, the Copyright Royalty Judges did not determine a separate rate for the section 112 license or determine what portion of the Section 114 license fee, if any, should be deemed to be attributable to the section 112 license. In other words, they did not set a discernible rate for section 112. Additionally, the Copyright Royalty Judges did not set a minimum fee for the SDARS section 112 license.

Review of Copyright Royalty Judges' Determinations

In accordance with the authority granted to the Register of Copyrights under 17 U.S.C. 802(f)(1)(D), the Register of Copyrights has reviewed for legal error the determinations of the Copyright Royalty Judges setting rates and terms for use of the sections 112 and 114 statutory licenses by NSS, PSS, and SDARS. The Register concludes that the Copyright Royalty Judges did not determine rates for the section 114 and 112 licenses and that this resolution constitutes an error on a material question of substantive law under title 17 in each of the above-referenced determinations. Further, the Register concludes that the Copyright Royalty Judges' determination of rates for SDARS did not include a minimum fee for the section 112 license and that this resolution was also in material error.

It is not that the Copyright Royalty Judges failed to recognize the need to set a rate for the section 112 license or include a minimum fee. The January 24, 2007 Order acknowledges the Copyright Royalty Judges' responsibility to set these rates for the section 112 license. 73 FR at 4084 and 4098. Even so, the Copyright Royalty Judges chose not to set a specific rate for the section 112 license, citing the paucity of evidence in the record for the SDARS proceeding that could be used to determine the value of the license. In that case, the Copyright Royalty Judges were presented with two proposals. According to the final order, SoundExchange suggested ''combining the Section 112 and 114 rates over the license period by allocating 8.8% of the combined fee owed by the SDARS towards the 112 charge.'' 73 FR at 4098. The SDARS agreed in principle but they suggested that the section 112 license has no separate value. However, the Copyright Royalty Judges rejected both proposals, finding that neither proposal was supported by record evidence. *Id*

The Copyright Royalty Judges declined to accept that 8.8% of the rate for the performance of the sound recording represents the valuation of the right to make reproductions of the sound recordings under the section 112 license. Instead, they concluded that ''SoundExchange's valuation of 8.8% is nothing more than an effort to preserve a belief that the section 112 license has some value by perpetuating the number adopted in the first webcasting proceeding.'' *Id* The Copyright Royalty Judges then characterized the section 112 license as ''an add-on to the securing of the performance rights granted by the Section 114 license,'' and determined that the rate for the section 112 license rate is embodied in the rate for the section 114 license, just as they did in *Webcaster II*.[2] *Id*. However, the Copyright Royalty Judges did not identify any particular percentage of the section 114 license fee as representing the value of the section 112 license.

There is also sparse evidence or analysis regarding the decision to include rates for the section 112 license within the rates and terms for the section 114 license in either the December 19, 2007 Final Rule for PSS or the December 20, 2007 Final Rule for NSS, since both determinations were the result of negotiated settlements. Settlements, however, are not accepted in a vacuum. Section 801(b)(7)(A) allows for the adoption of rates and terms negotiated by ''some or all the participants in a proceeding at any time during the proceeding'' provided they are submitted to the Copyright Royalty Judges for approval. 17 U.S.C. 801(b)(7)(A). The Copyright Royalty Judges have the authority to accept or reject the settlement and it is the resulting Final Order which is then subject to review by the Register. 17 U.S.C. 802(f)(1)(D). In fact, in their October 31, 2007 NPRM announcing negotiated rates and terms for PSS, the Copyright Royalty Judges exercised their authority to accept or reject the proposed settlement by including two modifications to the negotiated proposal before publishing it for comment. 73 FR 61586.

The negotiated settlements establishing rates and terms for both PSS and NSS, and their approval by the Copyright Royalty Judges, followed the previous conclusion in *Webcaster II* regarding inclusion of the section 112 license within the section 114 license as a single rate. Thus, the *Webcaster II* conclusion on this matter likely underlies the parties' settlement just as it did the January 24, 2007 Order for the SDARS. Therefore, the Register reviews the analysis and resolution on this matter as contained in *Webcaster II*.

In *Webcaster II*, the Copyright Royalty Judges rejected the proposal put forward by SoundExchange and agreed to by the Digital Media Association, which sought to carry forward the combination of sections 112 and 114 rates from the prior license period. This proposal included the ''deeming'' of 8.8% of the total fee owed by Services as constituting the section 112 charge. 72 FR 24101. The Copyright Royalty Judges declined to ascribe any particular percentage of the section 114 royalty as representative of the value of the section 112 license.

The Copyright Royalty Judges made this decision based on the view that ''SoundExchange's evaluation of 8.8% is not a rate.'' *Id* Additionally, they noted that ''the paucity of the record prevents us from determining that 8.8% of the section 114 royalties is either the value of or the rate for the section 112 license'' and that ''the record demonstrates that * * * copyright owners and performers are unable to secure separate fees for the section 112 license.'' 72 FR 24101–24102.

The Register observes that the parties' failure to provide sufficient evidence to set a rate does not dispatch the Copyright Royalty Judges' statutory obligations. The Register notes that Congress allows the Copyright Royalty Judges to consider a broad array of information in determining the separate rates for the section 112 license that most clearly represent the fees that would have been negotiated in the marketplace between a willing buyer and a willing seller. In making these determinations, the Copyright Royalty Judges are to consider economic, competitive, and programming information presented by the parties, and they may consider voluntary license agreements negotiated under section 112. 17 U.S.C. 112(e)(4). Furthermore,

[2] In *Webcaster II* the Copyright Royalty Judges, for the first time, announced rates and terms of royalty payments under sections 114 and 112 for the use of sound recordings in transmissions. 72 FR 24084. [Docket No. CRB 2005–1]

the Copyright Royalty Judges have been granted subpoena powers to compel participants or witnesses to appear and give testimony. See 17 U.S.C. 803(b)(6)(C)(ix).

Moreover, there is a practical reason for making this determination. The requirement in section 112(e)(4) to determine rates is logical in that the two licenses involve different rights. The section 112 statutory license applies to reproductions, while the section 114 statutory license applies to public performances. Moreover, the beneficiaries of the section 114 license are not identical to the beneficiaries of the section 112 license. Royalties collected under section 114 are paid to the performers and the copyright owners of the sound recordings, i.e., usually the record companies; whereas, the royalties collected pursuant to the section 112 license are not paid to performers. Without separate rates for both the section 114 and 112 licenses, SoundExchange is unable to allocate properly the funds it collects as the Designated Agent and fulfill both its responsibility to distribute receipts to stakeholders of the public performance right under section 114(g) as well as its responsibility to distribute receipts to separate stakeholders of the reproduction right under section 112.

Consequently, the Register finds that the Copyright Royalty Judges' resolution to include rates for the section 112 license within rates and terms for the section 114, without specifying what percentage, if any, is attributable to the section 112 license, does not fulfill the Copyright Royalty Judges' responsibility to determine the value of the section 112 license for ephemeral copies. Both the text and the legislative history of section 112 indicate Congress' view that the rate setting body must determine the value of the section 112 license. *See* 17 U.S.C. 112(e)(3) (requiring reasonable rates and terms of royalty payments for the activities specified by paragraph (1) which shall include a minimum fee for each type of service offered by transmitting organizations); DMCA Conf. Rpt., 105–796, at 89–91; DMCA Section-by-Section Analysis at 52–53, 61–62.

Conclusion

Having reviewed the resolution by the Copyright Royalty Judges for legal error, the Register of Copyrights hereby concludes that in setting rates for the section 112 and 114 statutory licenses, the Copyright Royalty Judges must establish separate values for each of the two licenses and that rates for the section 112 license shall include a minimum fee.[3] Pursuant to the requirements established in 802(f)(1)(D), the Register issues this written decision not later than 60 days after the dates on which the final determinations by the Copyright Judges were issued. This decision shall be binding as precedent upon the Copyright Royalty Judges in subsequent proceedings.

Dated: February 14, 2008.

Marybeth Peters,

Register of Copyrights.

[FR Doc. E8–3149 Filed 2–15–08; 8:45 am]

BILLING CODE 1410–30–P

[3] The Register, however, takes no position on what the value of the minimum fee should be, or whether it could be a fee of zero.

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act; Notice of Agency Meeting

TIME AND DATE: 10: a.m., Thursday, February 21, 2008.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Open.

MATTERS TO BE CONSIDERED: 1. Quarterly Insurance Fund Report.

2. *Final Rule:* Part 797 of NCUA's Rules and Regulations, Procedures for Debt Collection.

FOR FURTHER INFORMATION CONTACT: Mary Rupp, Secretary of the Board, Telephone: 703–518–6304.

Mary Rupp,

Secretary of the Board.

[FR Doc. 08–770 Filed 2–14–08; 2:39 pm]

BILLING CODE 7535–01–M

THE NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meetings of Humanities Panel

AGENCY: The National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meetings of Humanities Panels will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Heather C. Gottry, Acting Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone (202) 606–8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Endowment's TDD terminal on (202) 606–8282.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by the grant applicants. Because the proposed meetings will consider information that is likely to disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential and/or information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated July 19, 1993, I have determined that these meetings will be closed to the public pursuant to subsections (c) (4), and (6) of section 552b of Title 5, United States Code.

1. *Date:* March 4, 2008.
Time: 9 a.m. to 5 p.m.
Room: 415.
Program: This meeting will review applications for Stabilization 3 in Preservation and Access Grants for Stabilizing Humanities Collections, submitted to the Division of Preservation and Access, at the October 1, 2007 deadline.

2. *Date:* March 6, 2008.
Time: 9 a.m. to 5 p.m.
Room: 415.
Program: This meeting will review applications for Stabilization 4 in Preservation and Access Grants for Stabilizing Humanities Collections, submitted to the Division of Preservation and Access, at the October 1, 2007 deadline.

3. *Date:* March 13, 2008.
Time: 9 a.m. to 5 p.m.
Room: 415.
Program: This meeting will review applications for National Digital Newspaper Program (NDNP) in National Digital Newspaper Program, submitted to the Division of Preservation and Access, at the November 1, 2007 deadline.

4. *Date:* March 13, 2008.
Time: 9 a.m. to 5 p.m.
Room: 315.
Program: This meeting will review applications for Digital Humanities

Workshops, submitted to the Division of Education Programs, at the January 17, 2008 deadline.

5. *Date:* March 21, 2008.

Time: 1 p.m. to 5 p.m.

Room: 415.

Program: This meeting, which will be by teleconference, will review applications for America's Media Makers: Production and Development Grants Program, submitted to the Division of Public Programs, at the January 23, 2008 deadline.

6. *Date:* March 24, 2008.

Time: 8:30 a.m. to 5:30 p.m.

Room: 421.

Program: This meeting will review applications for America's Historical and Cultural Organizations: Planning and Implementation Grants Program, submitted to the Division of Public Programs, at the January 23, 2008 deadline.

Heather C. Gottry,

Acting Advisory Committee Management Officer.

[FR Doc. E8–3049 Filed 2–15–08; 8:45 am]

BILLING CODE 7536–01–P

NATIONAL SCIENCE FOUNDATION

Committee Management; Notice of Establishment

The Director of the National Science Foundation has determined that the establishment of the Proposal Review Panel for Emerging Frontiers in Research and Innovation necessary and in the public interest in connection with the performance of duties imposed upon the National Science Foundation (NSF), by 42 U.S.C. 1861, *et seq.* This determination follows consultation with the Committee Management Secretariat, General Services Administration.

Name of Committee: Proposal Review Panel for Emerging Frontiers in Research and Innovation (#34558).

Purpose: advise the National Science Foundation on the merit of proposals of proposals requesting financial support for research and research-related activities under the purview of the Office of Emerging Frontiers in Research and Innovation located in the Directorate of Engineering.

Responsible NSF Official: Sohi Rastegar, Office Director, Emerging Frontiers in Research and Innovation, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: 703/292–8305.

Dated: February 13, 2008.

Susanne Bolton,

Committee Management Officer.

[FR Doc. E8–2988 Filed 2–15–08; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Proposal Review; Notice of Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces its intent to hold proposal review meetings throughout the year. The purpose of these meetings is to provide advice and recommendations concerning proposals submitted to the NSF for financial support. The agenda for each of these meetings is to review and evaluate proposals as part of the selection process for awards. The review and evaluation may also include assessment of the progress of awarded proposals. The majority of these meetings will take place at NSF, 4201 Wilson Blvd., Arlington, Virginia 22230.

These meetings will be closed to the public. The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act. NSF will continue to review the agenda and merits of each meeting for overall compliance of the Federal Advisory Committee Act.

These closed proposal review meetings will no longer be announced on an individual basis in the **Federal Register**. NSF intends to publish a notice similar to this on a quarterly basis. For an advance listing of the closed proposal review meetings that include the names of the proposal review panel and the time, date, place, and any information on changes, corrections, or cancellations, please visit the NSF Web site: *http://www.nsf.gov/events/advisory.jsp.* This information may also be requested by telephoning 703/292–8182.

Dated: February 13, 2008.

Susanne Bolton,

Committee Management Officer.

[FR Doc. E8–2987 Filed 2–15–08; 8:45 am]

BILLING CODE 7555–01–P

OFFICE OF PERSONNEL MANAGEMENT

Federal Prevailing Rate Advisory Committee; Open Committee Meetings

According to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that a meeting of the Federal Prevailing Rate Advisory Committee will be held on Thursday, March 20, 2008.

The meeting will start at 10 a.m. and will be held in Room 5A06A, U.S. Office of Personnel Management Building, 1900 E Street, NW., Washington, DC.

The Federal Prevailing Rate Advisory Committee is composed of a Chair, five representatives from labor unions holding exclusive bargaining rights for Federal blue-collar employees, and five representatives from Federal agencies. Entitlement to membership on the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the Prevailing Rate System and other matters pertinent to establishing prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the U.S. Office of Personnel Management.

This scheduled meeting will start in open session with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the Chair to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would unacceptably impair the ability of the Committee to reach a consensus on the matters being considered and would disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public because of a determination made by the Director of the U.S. Office of Personnel Management under the provisions of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463) and 5 U.S.C. 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of the meeting.

Annually, the Chair compiles a report of pay issues discussed and concluded recommendations. These reports are available to the public, upon written request to the Committee.

The public is invited to submit material in writing to the Chair on Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information on

these meetings may be obtained by contacting the Committee at U.S. Office of Personnel Management, Federal Prevailing Rate Advisory Committee, Room 5526, 1900 E Street, NW., Washington, DC 20415, (202) 606–2838.

Dated: February 11, 2008.

Charles E. Brooks,

Chairman, Federal Prevailing Rate Advisory Committee.

[FR Doc. E8–2963 Filed 2–15–08; 8:45 am]

BILLING CODE 6325–49–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57311; File No. SR–NSX–2008–03]

Self-Regulatory Organizations; National Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Creation of a Zero Display Reserve Order With a Pegging Option

February 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 February 5, 2008, the National Stock Exchange, Inc. (''NSX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. The Exchange has designated the proposed rule change as ''non-controversial'' under Section 19(b)(3)(A)(iii) [3] of the Act and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to amend its rules in order to establish a Zero Display Reserve Order type (''Zero Display Order''). The Zero Display Order may have a pegged order option.

The text of the proposed rule changes is available on the Exchange's Web site *(http://www.nsx.com),* at the principal office of the Exchange, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to add a new type of Reserve Order, the Zero Display Order, to those currently permitted under its Rules. Currently, Reserve Orders must consist of a displayed quantity and a reserve quantity. The Zero Display Order will allow Users to designate the entire quantity of an order as reserve, with zero display quantity.

Zero Display Orders will be accessed from the Exchange using a priority system that the Exchange believes best balances the advantages of a Zero Display Order with those of other Reserve Orders and displayed orders. Under the Exchange's methodology, the display quantity of orders will first be exhausted according to price priority and time priority. Next, the reserve quantity of each order will be exhausted in rounds according to price and then time priority, with the reserve quantity of each order accessed according to its original display amount in each round. Zero Display Orders will be assumed to have a displayed quantity of one round lot for purposes of the process described in the preceding sentence. Zero Display Orders will not be eligible to be routed away to another market center.

For the purposes of demonstrating this methodology, consider the following examples:

NSX BOOK AT BEGINNING

Book	ETP Holder	Display	Reserve
	T1	100	1000
	T2	0	1000
	T3	500	500
	T4	100	100
	T5	0	500

Trade 1: Contra Order for 100

Trade 1 comes in with a contra order of 100 shares. Going through the process, the Exchange's system will look to all displayed orders first and match the contra order with the first order in time reflected in its book. Thus, the contra order would be matched to the first displayed order in the NSX Book, reflecting the one lot, resulting in the following execution:

EXECUTIONS

ETP Holder	Display	Reserve
T1	100	

Once that trade is executed, the NSX Book is refreshed. Since a one lot was executed against T1 and only T1, the NSX Book is refreshed with respect to T1. Thus, T1 now has a new time attributable to its order as it is refreshed with a new display of 100 that has floated up from its reserve. The new book and the time ranking would be thus:

NEW BOOK

Book	ETP Holder	Display	Reserve
	T2	0	1000
	T3	500	500
	T4	100	100
	T5	0	500
	T1	100	900

Trade 2: Contra Order for 700

In contrast, a contra order for 1,400 shares with the NSX Book as outlined in New book under Trade 1 would show the difference between a reserve order and a zero display order. Using the snapshot identified under New Book in Trade 1, the 1,400 shares would be matched and executed against the display quantity of T3 (the first in time on displayed orders after the ''refresh'') first, then the display quantity of T4 and finally the display quantity of T1, before being matched against the reserve quantity. With 700 shares left to be matched, the system will then match 100 against the undisplayed quantity of T2 (no displayed quantity, therefore defaulting to 100), 500 against the undisplayed quantity of T3 (because it previously displayed 500) and 100 against the undisplayed quantity of T4 (because it previously displayed 100). The new book after these transactions would be:

Book	ETP Holder	Display	Reserve
	T5	0	500
	T1	100	800
	T2	0	900
	T3	0	0

Book	ETP Holder	Display	Reserve
	T4	0	0

After Trade 1 has been matched and executed, a second contra order comes in for 700 shares. The ''snapshot'' for this contra order is reflected above.

Using the snapshot above, the 700 order would be matched and executed against the display quantity of T3 (the first in time on displayed orders after the ''refresh'') first, then the display quantity of T4 and finally the display quantity of T1, reflecting in the following executions:

EXECUTIONS

ETP Holder	Display	Reserve
T3	500	.....
T4	100	.....
T1	100	.....

Once that trade is executed, the NSX Book is refreshed. Since a five lot was matched and executed against T3, a one lot against T4 and a one lot against T1 (in that order), those orders are refreshed and their priority remains in the book in that order as they have a new time associated with the refresh. Notice that T2 and T5, neither of which were refreshed, now has the time priority over the other undisplayed orders. The new book and the time ranking would be thus:

NEW BOOK

Book	ETP Holder	Display	Reserve
	T2	0	1000
	T5	0	500
	T3	500	0
	T4	100	0
	T1	100	800

Trade 3: Contra order for 1100

After Trade 2 has been matched and executed, a third contra order comes in for 1100 shares. The ''snapshot'' for this contra order is reflected above.

Using the snapshot above, the 1100 order would be matched and executed against the display quantity of T3 first, then the display quantity of T4 and finally the display quantity of T1 (in the sequence of the order in which they were refreshed above). Once the display quantity of 700 is exhausted, the remaining 400 shares would be executed against the undisplayed orders in the following order. One lot against T2 (the first in time, since these orders were not executed and not refreshed); one lot against T5 (the second in time, since these orders were not executed and not refreshed), one lot against T1, and then one lot against T2 again to exhaust the amount of shares. In sum, the executions would be as follows:

EXECUTIONS

ETP Holder	Display	Reserve
T3	500	.....
T4	100	.....
T1	100	100
T2	.....	200
T5	.....	100

Once that third trade is executed, the NSX Book is refreshed. Since a five lot was executed against T3, a one lot against T4 and a one lot against T1 (in that order), those orders are refreshed and their priority remains in the book in that order as they have a new time associated with the refresh. Similarly, the reserve orders were executed against T2, T5 and T1 in one lots and in that order. Since there was a remainder, T2 was executed again for a one lot. Given the time of execution, the priority of T2, which was the last to be executed against, is the last to be refreshed. Thus, it goes to the bottom of the queue as the last ETP Holder to be refreshed. Similarly, since the undisplayed portion of T1 was matched and executed after the undisplayed portion of T5, its time priority is after T5. The ''refresh'' order is T3, T4, T1, T2, T5, T1 and T2, which would result in the NSX Book looking like the following:

NEW BOOK

Book	ETP Holder	Display	Reserve
	T3	0	0
	T4	0	0
	T5	0	400
	T1	100	600
	T2	0	800

Trade 4: Contra order for 200

After Trade 3 has been matched and executed, a fourth contra order comes in for 200 shares. The ''snapshot'' for this contra order is reflected above.

Using the snapshot above, the 200 order would be matched and executed against the display quantity of T1 first, then the non display quantity of T5, who is first in line among the undisplayed, for a one lot, reflecting in the following executions:

EXECUTIONS

	Display	Reserve
T1	100	.....

EXECUTIONS—Continued

	Display	Reserve
T5	.....	100

Once the fourth trade was executed (in order of T1 and T5, with T2 not being touched), T2, which was not refreshed becomes the top priority in terms of time, so that the new book would look as follows (T3 and T4 are no longer reflected since their displayed and non-displayed portions are exhausted):

NEW BOOK

Book	ETP Holder	Display	Reserve
	T2	0	800
	T1	100	500
	T5	0	300

Trade 5: Contra order for 100

After the fourth trade has been matched and executed, a fifth contra order comes in for 100 shares. The ''snapshot'' for this contra order is reflected above.

Using the snapshot above, the 100 order would be executed against the display quantity of T1, reflecting in the following executions:

EXECUTIONS

ETP Holder	Display	Reserve
T1	100	.....

Once the fifth trade was executed against the displayed portion of T1, the quantity of T1's reserve order becomes refreshed. As the only order that becomes refreshed, it drops to the bottom of the queue in terms of time priority, so that the new book would look as follows:

NEW BOOK

Book	ETP Holder	Display	Reserve
	T2	0	800
	T5	0	300
	T1	100	400

Trade 6: Contra order for 100

After the fifth trade has been matched and executed, a sixth contra order comes in for 100 shares. The ''snapshot'' for this contra order is reflected above.

Using the snapshot above, the 100 order would be executed against the display quantity of T1, reflecting in the following executions:

EXECUTIONS

ETP Holder	Display	Reserve
T1	100	0

Once the sixth trade was executed against the displayed portion of T1, the quantity of T1's reserve order becomes refreshed. Please note that, despite the fact that T1 has the lowest time priority, the one lot is still executed against T1 because it has a display amount and the displayed amount takes precedence over the undisplayed amount. The new book would look as follows:

NEW BOOK

Book	ETP Holder	Display	Reserve
	T2	0	800
	T5	0	300
	T1	100	300

These examples reflect the system of priority for displayed orders, reserved orders and zero display orders. Priority is always given to the display amount at the time the contra order comes in for interaction with the orders in the NSX Book.

The Exchange also proposes to provide Users with the option of pegging Zero Display Orders. These pegged Zero Display Reserve Orders (''Pegged Orders'') will allow Users to place limit orders that buy or sell stated amounts of a security that will, as directed by the User, track one of three different aspects of the Protected NBBO or the NSX Top of Book (defined in the proposed amendment to the Definition Section of the Exchange's Rules, and referred to hereinafter as the ''Protected BBO''): (1) The buy-side of the Protected BBO, (2) the sell-side of the Protected BBO, or (3) the midpoint of the Protected BBO. When a Pegged Order's price is adjusted, its original timestamp and time priority will be preserved.

If a Pegged Order is placed which traces the midpoint of the Protected BBO, it will be executed in sub-pennies if necessary to obtain a midpoint price. Even if this order type results in an ETP Holder executing on its own account for prices that are superior by less than a penny to those customer orders that it may be holding, it will not result in a violation of Rule 12.6. In addition, the execution of a midpoint Pegged Order will not result in a trade-through of a protected quotation. A midpoint Pegged Order will execute against orders on the NSX Book or against incoming orders, including other midpoint Pegged Orders. When the Protected BBO is locked, the midpoint pegged order will be executed at the locked market price. When the Protected BBO is crossed, the midpoint pegged order will wait for the Protected BBO to uncross before becoming eligible to trade again.

Any Zero Display Order may also be designated as a Post Only Order pursuant to NSX Rule 11.11(c)(5). If a Zero Display Order is designated as a Post Only Order and is immediately marketable, the order will not be executed, but will be posted to the NSX Book, unless the contra-side order with which it would interact is a Zero Display Order that has not been designated as Post Only, in which case the order will be executed.[5] [6] When such a Post Only Zero Display Order is posted to the NSX Book and is thereafter matched for execution, if the price of the order is better (i.e. higher for a buy order and lower for a sell order) than the contra-side of the Protected BBO, such order will be deemed to be priced at the price of the contra-side of the Protected BBO for purposes of matching and execution.[7]

Orders marked Post Only will always be considered ''liquidity providing'' by the Exchange for purposes of application of the Exchange's fees and rebate programs. By making a Post Only designation, ETP Holders are able to avoid the risk that their orders will be considered ''liquidity taking'' for purposes of application of the Exchange's fees and rebate programs. If a Zero Display Order is not designated as Post Only, however, and the order interacts with a Zero Display Order that is designated as Post Only, the non-Post Only Zero Display Order will be considered liquidity taking by the Exchange, regardless of which order arrives at NSX first. Additionally, a Zero Display Order that has not been designated as Post Only for which the User has selected the Order Delivery mode of order interaction pursuant to Rule 11.13(b)(2) (''Order Delivery'') will be converted to the Automatic Execution mode of order interaction pursuant to Rule 11.13(b)(1) (''AutoEx'') by the Exchange if such order is immediately marketable upon its entry into the NSX BLADE[SM] System.

The Zero Display Order and its variant, the Pegged Order, will provide additional flexibility and functionality to the Exchange's NSX BLADE system. The Exchange anticipates that the introduction of this new order will result in an increase in liquidity on the Exchange, resulting in increased revenues. These increased revenues will be included in the Exchange's general operating revenues which are used to fund, among other things, the Exchange's regulatory oversight functions.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b) of the Act,[8] in general, and Section 6(b)(5),[9] in particular, which requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any inappropriate burden on competition.

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 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 after the date of filing, 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[10] and subparagraph (f)(6) of Rule 19b–4 thereunder.[11]

A proposed rule change filed under 19b–4(f)(6) normally may not become operative prior to 30 days after the date of filing.[12] However, Rule 19b–4(f)(6)(iii)[13] permits the Commission to

[5] [6] This will not result in a locking or crossing quote, because the Zero Display Order will not be displayed and therefore will not be a quote.

[7] *See* proposed NSX Rule 11.15(a)(iv).

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6)(iii).

[13] *Id.*

designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has satisfied the five-day prefiling requirement.[14] In addition, the Exchange has requested that the Commission waive the 30-day pre-operative delay and designate the proposed rule change to become operative upon filing.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it would allow the Exchange to immediately implement this proposal. In addition, the Commission does not believe that the rule change presents novel issues since the Zero Display Order type is similar to order types that are currently available on other markets.[15] The Commission designates the proposal to become effective and operative upon filing.[16]

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 the furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NSX–2008–03 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NSX–2008–03. 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 NSX. 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–NSX–2008–03 and should be submitted on or before March 11, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–2955 Filed 2–15–08; 8:45 am]

BILLING CODE 8011–01–P

[14] *Id.*

[15] *See* Nasdaq Stock Market Rules 4751(e)(3) and (f)(4) and NYSE Arca Rules 7.31(h)(4), (5), and 7.31(cc).

[16] For purposes only of waiving the 30-day operative delay, the Commission has considered the impact of the proposed rule on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57312; File No. SR–NYSE–2004–70]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Amendments No. 2, 3, and 5 and Order Granting Accelerated Approval to a Proposed Rule Change, as Modified by Amendments No. 2, 3, and 5, To Amend Rule 104 To Require Specialists To Yield Proprietary Trades to Later-Arriving System Orders

February 12, 2008.

I. Introduction

On December 13, 2004, the New York Stock Exchange LLC[1] (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[2] and Rule 19b–4 thereunder,[3] a proposed rule change to amend NYSE Rule 104 to require that in transactions between a specialist and a contra order that have been agreed to but not yet reported, the specialist must yield to any system orders that enter the specialist's book and can take the specialist's position in such transaction except if the specialist's transaction meets a specified exception. On January 7, 2005, the Exchange filed Amendment No. 1 to the proposed rule change. The proposed rule change, as modified by Amendment No. 1, was published for public comment in the **Federal Register** on January 28, 2005.[4] The Exchange filed Amendments No. 2,[5] 3,[6] 4,[7] and 5[8] to the proposed rule change on August 11, 2005, October 14, 2005, September 15, 2006, and February 8, 2008, respectively. The Commission received five comment letters from a single commenter opposing the proposed rule change.[9] On June 7, 2005 and November 18, 2005, the Exchange submitted responses to the comments.[10] This order

[1] Formerly known as the New York Stock Exchange, Inc.

[2] 15 U.S.C. 78s(b)(1).

[3] 17 CFR 240.19b–4.

[4] Securities Exchange Act Release No. 51048 (Jan. 18, 2005), 70 FR 4171 (''Notice'').

[5] Amendment No. 2 superseded the original filing and Amendment No. 1 in their entirety and included (i) clarifying changes to the descriptions of the exceptions to the rule, (ii) the addition of system orders to the exception relating to non-regular way transactions, and (iii) the addition of convert and parity orders (''CAP orders'') to the exception relating to electing transactions.

[6] In Amendment No. 3, the Exchange revised the purpose section of the filing to clarify the discussion of the exception relating to non-regular way transactions. Amendment No. 3 also makes certain technical changes to the proposed rule change.

[7] Amendment No. 4 was withdrawn on February 8, 2008, by Amendment No. 5.

[8] In Amendment No. 5, the Exchange: (i) *Withdraws* Amendment No. 4; (ii) makes certain technical corrections to the proposed rule change; (iii) clarifies that NYSE Rule 123B(d) does not apply to transactions handled pursuant to proposed NYSE Rule 104.10(10); (iv) eliminates references to the election of stop orders by specialists, as this functionality is now automated; (v) eliminates references to the Intermarket Trading System, which has been decommissioned; (vi) amends Item 5 of Amendment No. 2 to clarify that the Exchange had received comments on the proposal; and (vii) corrects a typographical error in Amendment No. 3.

[9] *See* letters from George Rutherfurd, Consultant (''Rutherfurd''), to the Commission, dated February 18, 2005 (''February 18th Rutherfurd Letter''), April 8, 2005, June 15, 2005 (''June 15th Rutherfurd Letter''), October 20, 2005 (''October 20th Rutherfurd Letter''), and November 27, 2005 (''November 27th Rutherfurd Letter'') (together, the ''Rutherfurd Letters'').

[10] *See* letters from Mary Yaeger, Assistant Secretary, NYSE, to Jonathan G. Katz, Secretary, Commission, dated June 7, 2005 (''June 7th NYSE Letter'') and November 18, 2005 (''November 18th NYSE Letter'').

provides notice of filing of Amendments No. 2, 3, and 5 to the proposed rule change, and grants accelerated approval to the proposed rule change, as modified by Amendments No. 2, 3, and 5.

II. Description of the Proposed Rule Change

The Exchange proposes to amend NYSE Rule 104 Supplementary Material .10 to provide that when a specialist has completed but not yet reported a transaction as principal with an order in the book or in the crowd, the specialist must yield to any order received through SuperDOT® that could take the specialist's place in the unreported principal transaction. The Exchange proposes to amend NYSE Rule 104 Supplementary Material .10 to add new section (10) to require that, notwithstanding the ability of a specialist to trade as principal with either a system order or a broker in the crowd, if a marketable order arrives on the book before the reporting of the specialist's trade as principal is complete, the specialist must yield to such order. Where the specialist is required to yield, the customer whose order entered the book would be reported as the contra party for the trade instead of the specialist.

The proposed rule would provide the following six exceptions to this requirement.

1. *Correction of a Bona Fide Specialist Error in a Previously Reported Transaction.* These are cases where a specialist has to issue corrected reports that include dealer participation via the Display Book® to correct a previously executed and reported transaction. Such corrections could involve the price, volume, or names involved on a transaction. If an executable system order is on the same side as the dealer participation necessary to correct the error, this would trigger the Display Book's® ''P'' indicator (preventing the specialist from participating as dealer ahead of executable system orders). In this situation, the specialist would be permitted to use the override feature, provided that the specialist places an ''Error'' notation in the Display Book's® free form comment field. The specialist would be required to adequately document the error on the firm's books and records.

2. *Trading in Satisfaction of the Specialist's Obligation to Give Up a Trade to an Agency Order.* These are cases where Exchange policy permits the specialist to give up a trade to an agency order after the initial trade has been reported and the specialist cannot substitute the agency customer's name, such as where a customer requests to participate on a trade previously executed by the specialist as principal on a non-regular way basis. When reporting such substituted trades, the specialist would have to participate as dealer in order to unwind his own participation in the initial transaction. If an executable system order is on the same side as the dealer participation necessary to effect the substitution, this would trigger the Display Book's® ''P'' indicator. In this situation, the specialist would be permitted to use the override feature to complete the substitute transaction. The specialist would be required to document the substitution trade in the Display Book's® free form comment field.

3. *Report of Non-Regular-Way Principal to Customer Transaction.* These are cases where a member firm represents a non-regular-way settlement order (*e.g.*, cash basis, next day, and seller's option) and the specialist is willing to trade with that order at a price at which there are regular-way settlement customer orders on the same side on the Display Book® at the same or a better price.[11] The override feature may be used by the specialist to effect the non-regular way transactions, provided, however, that the specialist may be required to give up the trade to an agency order if the customer indicates its willingness to participate on the same terms as the specialist.

4. *Principal Participation in CAP Order Electing Transaction.*[12] These are cases where the specialist chooses to execute the elected portions of CAP orders at the same price as the electing sale.[13] In these cases, the specialist bases the price on the total volume of the electing orders and the CAP orders, and then effects both the electing transaction and the CAP transaction contemporaneously and at the same price. NYSE Rule 123A.30 requires the specialist to report the transaction that elects the CAP orders independently from the transaction that fills the elected CAP orders. Orders may arrive on the Display Book® between the time the specialist reports the electing trade and the fill for the CAP transaction, which would trigger the ''P'' indicator. In connection with the transaction filling the CAP order, the specialist would be permitted to use the override feature. The specialist would be required to document the dealer participation by placing an applicable comment in the Display Book's® free form comment field.

5. *Principal Participation in Connection with CAP Order Executed as Part of the Opening of Trading.*[14] These are cases where the specialist participates as dealer in connection with CAP orders. In these situations, the CAP orders are included in the specialist's calculation of the opening price, are elected by the opening trade, and are executed contemporaneously and consecutively with the opening transaction at the opening price, but are reported separately from the report of the opening transaction. Orders may arrive on the Display Book® between the time the specialist reports the opening trade and the fill for the converted portion of the CAP orders, which would trigger the ''P'' indicator. In connection with the transaction filling the converted portion of CAP orders, the specialist would be permitted to use the override feature. The specialist would be required to document the dealer participation by placing the required comment in the Display Book's® free form comment field.

6. *Closing Transactions to Offset Market-at-the-Close (''MOC'') and/or Limit-at-the-Close (''LOC'') Order Imbalances.* These are cases where the specialist participates on the closing transaction to offset a MOC and/or LOC order imbalance. The situation may arise if unexecuted market orders entered just prior to the close are assigned to the paired-off portion of the closing trades. When the specialist reports dealer participation to offset an imbalance on the first print of the closing (as required by Exchange Rule 123C(3)(A)) and there are market orders on the same side assigned to the paired off portion, which is the second print of the close, the ''P'' indicator would be triggered. In this instance, the specialist would be permitted to use the override feature. The specialist would be

[11] Non-regular-way orders may be represented by a broker in the crowd or may be entered through the SuperDOT® system.

[12] In Amendment No. 5, the Exchange omitted stop orders from exceptions 4 and 5 because stop order execution is now automated. *See* Securities Exchange Act Release No. 54820 (November 27, 2006), 71 FR 70824 (December 6, 2006) (SR–NYSE–2006–65). Since specialists no longer handle stop orders manually, the exception from the proposed rule is no longer necessary.

[13] *See* NYSE Rule 123A.30. CAP orders are orders in which the specialist may convert all or part of an unelected portion of a percentage order, and may trade on parity with the elected or converted portions of the order, as long as the specialist is not holding orders at the same price that do not grant parity. Even though the specialist is not obligated to guarantee an execution to CAP orders at the same price as the electing sale, he may choose to do so. The Exchange stated that it inadvertently omitted references to CAP orders in exception 4, although they were specifically referred to in an analogous situation in exception 5. Accordingly, in Amendment No. 2, the Exchange added CAP orders to exception 4.

[14] Regarding elimination of stop orders from exception 5, *see supra* note 12.

required to document the dealer participation by indicating ''MOC'' in the Display Book's® free form comment field.

III. Discussion

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange. In particular, the Commission finds that the proposed rule change, as amended, is consistent with Section 6(b)(5) of the Act [15] which requires, among other things, an exchange to have rules that are 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.[16]

The Commission notes that the proposed rule change should help ensure that system orders entered into the Exchange's Display Book through an Exchange order delivery system such as SuperDOT® receive executions in the Exchange market to the greatest extent possible, and should help to minimize the risk of improper trading ahead of SuperDOT® orders by the specialist. The Commission also believes that the exceptions to the proposed rule are sufficiently limited and represent situations in which it would continue to be appropriate for the specialist to act as principal, notwithstanding the presence of a new customer order on the book.

In his comments, Rutherfurd states that the proposal ''attempts to codify a truly bizarre notion'' whereby ''an order must participate in trade even though the order was not even in the marketplace when the trade took place * * *.'' [17] Rutherfurd states that the Exchange's technological limitations (whether reporting or surveillance) seem to have given rise to this rule.[18]

Rutherfurd also states that the proposal conflicts with existing Exchange rules and that the Exchange fails to address such conflict. For example, Rutherfurd believes that the proposed rule change is inconsistent with Rule 76's crossing/price improvement procedure, in that it would assign a price to a subsequent SuperDOT® market order without giving it an opportunity to receive a better price.[19] In addition, Rutherfurd also states ''[t]he fact that the specialist may have followed the crossing procedure (or not, as in a floor broker trade) in a prior trade has no relevance whatsoever to a specialist's responsibility to expose the subsequently arriving [SuperDOT®] order to market interest existing at the time the order is received.''[20]

Furthermore, Rutherfurd states the Exchange's proposal would not allow for the possibility of price improvement and that a SuperDOT® order arriving after a specialist has consummated a trade could suffer economic harm. In addition, Rutherfurd states that under the proposal, a specialist could participate in a better-priced transaction that should have gone to a later-arriving SuperDOT® order if, as the specialist is in the process of substituting the subsequent SuperDOT® order for its own interest in a consummated but not yet reported transaction, the Exchange's autoquote publishes an improved price.[21] Rutherfurd also contends that the Exchange has used the term ''yield'' incorrectly and should instead have used the phrase ''substitution of principals,'' arguing that the Exchange's use of the term ''yield'' will create confusion because of its traditional use in the securities context (as in, for example, Section 11(a)(1)(G) under the Act [22]).[23]

The Exchange believes that Rutherfurd's comments are misplaced and should be disregarded.[24] Specifically, the Exchange states that ''Exchange Rules 76 and 91 require that before purchasing (selling) for his own account, a specialist must offer (bid for) the security at a price that is lower (higher), by the minimum variation, than the specialist's bid (offer) for his own account'' to ensure ''there is no other buy (sell) interest in the market that is willing to trade at the better price.'' [25] The Exchange believes that ''this procedure ensures that the specialist's bid (offer) is the best available price at the time that the dealer trade is orally consummated, [and that] any later-arriving DOT order(s) to which the specialist must yield under proposed Rule 104.10[(10)] would, by definition, also be receiving the best available price in the market at the moment that that order arrived on the book.'' [26] The Commission believes that this is a reasonable interpretation of the Exchange's rules.[27]

In addition, the Exchange states that the proposal does not permit specialists to trade at the expense of subsequent SuperDOT® orders.[28] Specifically, the Exchange states that Rutherfurd's example is based on a flawed assumption that the later-arriving sell order was entitled to trade with the even-later-arriving buy order and that the fact that a better price is subsequently received is irrelevant.[29] The Exchange acknowledges that under the proposal the specialist might be able to trade with even-later-arriving order at the improved price.[30] Although this may appear unfair to the later-arriving order, the Exchange notes that ''it is not a foregone conclusion that the specialist will be the contra party to the even-later-arriving'' order, and believes that Rutherfurd ignores the fact the ''the specialist continues to bear the market risk of yielding to the later-arriving sell order.'' [31] The Commission agrees with

[15] 15 U.S.C. 78f(b)(5).

[16] In approving the proposed rule change, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[17] February 18th Rutherfurd Letter, *supra* note 9, at 1. *See also* June 15th Rutherfurd Letter, *supra* note 9, at 1; and October 20th Rutherfurd Letter, *supra* note 9, at 2.

[18] February 18th Rutherfurd Letter, *supra* note 9, at 4. *See also* June 15th Rutherfurd Letter, *supra* note 9, at 2; October 20th Rutherfurd Letter, *supra* note 9, at 2; and November 27th Rutherfurd Letter, *supra* note 9, at 5.

[19] February 18th Rutherfurd Letter, *supra* note 9, at 5. *See also* June 15th Rutherfurd Letter, *supra* note 9, at 5–7; and October 20th Rutherfurd Letter, *supra* note 9, at 1.

[20] June 15th Rutherfurd Letter, *supra* note 9, at 6. In addition, Rutherfurd states that scenario 1, which was provided by the Exchange to illustrate the operation of NYSE Rules 76 and 91, would require a specialist ''to try to buy stock when all he or she wants to do is sell'' and to ''do so in a manner that 'penny jumps' a public limit order they are representing as agent.'' *Id.* at 9. The Exchange subsequently corrected scenario 1. *See* November 18th NYSE Letter, *supra* note 10, at 1–2. Rutherfurd states that the revised scenario 1 is ''still deeply flawed.'' *See* November 27th Rutherfurd Letter, *supra* note 9, at 3.

[21] February 18th Rutherfurd Letter, *supra* note 9, at 6. *See also* June 15th Rutherfurd Letter, *supra* note 9, at 10.

[22] 15 U.S.C. 78k(a)(1)(G) (regarding an exchange member ''yield[ing] priority, parity, and precedence in execution'' to non-member orders).

[23] February 18th Rutherfurd Letter, *supra* note 9, at 5. *See also* June 15th Rutherfurd Letter, *supra* note 9, at 2–5; and November 27th Rutherfurd Letter, *supra* note 9, at 5. In addition, the Rutherford Letters discuss a number of Exchange proposed rule changes, rules and other matters unrelated to this proposed rule change.

[24] *See* June 7th NYSE Letter, *supra* note 10.

[25] *Id.* at 2.

[26] *Id.*

[27] The Commission also notes that the Exchange amended Rule 123B to clarify that a specialist executing systems order in accordance with proposed Rule 104.10(10)(i) is not required to expose such orders to buying and selling interest in the trading crowd. *See* Amendment No. 5, *supra* note 8.

[28] *See* June 7th NYSE Letter, *supra* note 10, at 3–4.

[29] *Id.* at 4.

[30] *Id.*

[31] *Id.*

[32] *Id.* at 2.

[33] June 15th Rutherfurd Letter, *supra* note 9, at 2. *See also* November 27th Rutherfurd Letter, *supra* note 9, at 1.

[34] *See* October 20th Rutherfurd Letter, *supra* note

the Exchange that it is not a forgone conclusion that the specialist will be the contra party to the even-later-arriving order. The Commission notes that, while the specialist may at times receive the benefit of trading with the even later arriving order at an improved price, the specialist is subject to market risk and the even-later-arriving order could just as easily be at an inferior price.

Finally, the Exchange disagrees with Rutherfurd that it misused the term ''yield'' and his belief that use of the term would be confusing and should be changed.[32] The Commission acknowledges the commenter's view that the Exchange's use differs from its use in some other contexts; at the same time, the Commission believes that the use of the term ''yield'' is appropriately within the Exchange's discretion.

Rutherfurd responded to the Exchange by reiterating his prior comments and added that the solution to the inability of the Exchange surveillance systems to ''distinguish between proper versus improper specialist principal trading'' is ''enhanced surveillance, not bizarre, radical new law.''[33] Although Rutherfurd does not agree with the approach taken by the Exchange, the Commission believes that proposal constitutes an appropriate exercise of the Exchange's business judgment.

Rutherfurd further states that the Exchange does not provide sufficient rationale for the proposed rule or the exceptions thereto.[34] He also states that the Exchange did not comply with the requirements of Form 19b–4 with respect to Amendment No. 2.[35] The Commission believes that the proposed rule change, as amended, is sufficient to comply with the requirements of Form 19b–4.

IV. Accelerated Approval

The Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[36] for accelerating approval of Amendments No. 2, 3, and 5 to the proposed rule change prior to the thirtieth day after publication in the **Federal Register**.[37]

In Amendment No. 2, the Exchange made clarifying changes to the proposed rules that raise no new or novel issues. The Exchange also revised the exception relating to non-regular way principal transactions to specify that such non-regular-way orders are ''principal to customer'' orders to capture orders represented by a broker in the crowd or entered through the SuperDOT® system. Previously, the Exchange inadvertently omitted system orders from the description of orders covered by this exception. In Amendment No. 3, the Exchange modified the discussion of this exception to reflect the corresponding change in the rule text in Amendment No. 2.[38] The Commission finds that the addition of system orders to this exception presents no new or novel issues.

In Amendment No. 2, the Exchange also amended the exception relating to principal participation in electing transactions to add CAP orders to the exception. In the case of CAP orders, the specialist bases the price on the total volume of the electing orders and the CAP orders, and then effects both the electing transaction and the CAP transaction contemporaneously and at the same price. NYSE Rule 123A.30 (CAP orders) requires the specialist to report the transaction that elects the CAP orders independently from the transaction that fills the elected CAP orders. As a result, orders may arrive on the Display Book® between the time the specialist reports the electing trade and the fill for the CAP transaction. Although adding CAP orders to the exception may expand the number of instances in which a specialist may trade notwithstanding a later-arriving system order, the Exchange believes that the addition of CAP orders to the exception does not raise new issues. The Commission agrees with the Exchange that the addition of CAP orders to the exception does not raise any new issues.

In Amendment No. 5, the Exchange amended NYSE Rule 123B to clarify that, when a specialist is executing a system order pursuant to proposed NYSE Rule 104.10(10), the specialist is not required to expose the order to buying and selling interest in the crowd. The Commission believes that this amendment helps to address inconsistencies between proposed Rule 104.10(10) and other Exchange rules. Amendment No. 5 also eliminates references to the election of stop orders by specialists, as this functionality is now automated, and eliminates references to the Intermarket Trading System, which has been decommissioned. In addition, Amendment No. 5 makes technical and clarifying changes.[39] The Commission believes that Amendment No. 5 presents no new or novel issues.

Accordingly, the Commission finds that good cause exists, consistent with Sections 6(b)(5) of the Act,[40] and Section 19(b) of the Act[41] to approve the proposed rule change, as modified by Amendments No. 2, 3, and 5, on an accelerated basis.

V. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendments No. 2, 3, and 5, including whether Amendments No. 2, 3, and 5 are consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2004–70 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2004–70. 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/*

[29] *Id.* at 4.

[30] *Id.*

[31] *Id.*

[32] *Id.* at 2.

[33] June 15th Rutherfurd Letter, *supra* note 9, at 2. *See also* November 27th Rutherfurd Letter, *supra* note 9, at 1.

[34] *See* October 20th Rutherfurd Letter, *supra* note 9, at 2. *See also* November 27th Rutherfurd Letter, *supra* note 9, at 1.

[35] October 20th Rutherfurd Letter, *supra* note 9, at 1. Specifically, Rutherfurd noted that in Item 1(b) the NYSE stated it ''does not believe the proposal will have any direct effect, or any significant indirect effect, on any other Exchange rule in effect at the time of this filing.'' Rutherfurd states ''[i]t is inconceivable that the NYSE can make this executing a system order pursuant to proposed NYSE Rule 104.10(10), the specialist is not required to expose the order to buying and selling interest in the crowd. In addition, Rutherfurd contends that the NYSE should have referenced his comments in Item 5 of Amendment No. 2 (regarding whether the Exchange has solicited or received comments). *Id.*

[36] 15 U.S.C. 78s(b)(2). Pursuant to Section 19s(b)(2) of the Act, the Commission may not approve any proposed rule change, or amendment thereto, prior to the thirtieth day after the date of publication of the notice thereof, unless the Commission finds good cause for so doing.

[37] In Amendment No. 5, the Exchange withdrew Amendment No. 4. *See supra* note 8.

[39] *See, e.g.,* discussion in note 35, *supra* and accompanying text.

[40] 15 U.S.C. 78f(b)(5).

[41] 15 U.S.C. 78s(b).

rules/sro.shtml). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2004–70 and should be submitted on or before March 11, 2008.

VI. Conclusion

For the foregoing reasons, the Commission finds that the proposed rule change, as amended, is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[42] that the proposed rule change (SR–NYSE–2004–70), as modified by Amendments No. 2, 3, and 5, be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[43]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–2981 Filed 2–15–08; 8:45 am]

BILLING CODE 8011–01–P

[42] 15 U.S.C. 78s(b)(2).

[43] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57304; File No. SR–OCC–2008–01]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of a Proposed Rule Change Relating to Its Facilities Management Agreements

February 11, 2008.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on January 9, 2008, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change described in Items I, II, and III below, which items have been prepared primarily by OCC. The Commission is publishing this notice to solicit comments from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would amend OCC Rule 309 to permit expedited review of a facilities management agreement proposed to be entered into by an existing clearing member that desires to become a managed clearing member.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to provide an expedited process for reviewing a facilities management agreement proposed to be entered into by an operationally capable clearing member that desires to become a managed clearing member. A managed clearing member is one that outsources certain of its obligations as a clearing member to another clearing member (''managing clearing member'').

Rule 309 prohibits a clearing member that proposes to enter into an outsourcing agreement with a managing clearing member from implementing the agreement without the prior approval of the Membership/Risk Committee (''Committee'').[3] In 2006 and 2007, the Committee reviewed three requests to approve such outsourcing arrangements. However, none of the three clearing member's desired time frame for implementing its facilities management arrangement coincided with a regularly scheduled meeting of the Committee, and each firm was required to defer executing its outsourcing plans until after a meeting occurred.

To provide for a more timely review of certain outsourcing agreements, OCC proposes to modify Rule 309. Under the proposal, a managed clearing member would be permitted to request an expedited review of its outsourcing agreement, and if OCC consented to an expedited review, the Chairman, the Management Vice Chairman, or the President would be authorized to determine whether the agreement meets applicable requirements and to approve or disapprove the agreement. At the next regularly scheduled Committee meeting, the Committee would independently review the outsourcing agreement and would determine de novo whether to approve or disapprove it. In the event the Committee's decision would result in a modification or a reversal of the action taken by the Chairman, the Management Vice Chairman, or President, no actions taken by OCC or the clearing member prior to the modification or reversal would be invalidated and no rights of any person arising out of such actions would be affected. In the unlikely event that the Committee disapproved an agreement previously approved by OCC, the clearing member would be given a reasonable time either to enter into an appropriately revised outsourcing agreement or to cease to be a Managed Clearing Member.

This proposed process is comparable to the process used when clearing members request expedited approval to clear a new type or kind of transaction.[4] OCC believes that the proposed expedited review process strikes a reasonable balance between meeting the business requirements of clearing

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries prepared by OCC.

[3] *See* Rule 309(f). *See also* Securities Exchange Act Release No. 55686 (May 1, 2007), 72 FR 26191 (May 8, 2007) [SR–OCC–2006–21].

[4] Article V, Section 1, Interpretation & Policy .03e. *See also* Securities Exchange Act Release No. 30169 (January 8, 1992) 57 FR 1776 [SR–OCC–91–06].

members and continuing to ensure appropriate review of the operational and financial aspects of outsourcing arrangements.

The expedited review process would become Interpretation & Policy .01 under Rule 309. The existing Interpretation and Policy .01, which required managing clearing members as of October 1, 2003, to meet revised capital requirements by October 1, 2004, is no longer applicable and is therefore being deleted. In addition, a technical change is being made to paragraph (f) of Rule 309 to more closely parallel the language used in a cross-referenced By-law provision.

OCC believes that the proposed change is consistent with the Act because it promotes the prompt and accurate clearance and settlement of securities transactions by providing an expedited review process for facilities management agreements proposed to be entered into by OCC clearing members. The proposed rule change is not inconsistent with the existing rules of OCC, including any other rules proposed to be amended.

(B) Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period: (i) As the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve 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–OCC–2008–01 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR-OCC–2008–01. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of OCC and on OCC's Web site at: *http://www.theocc.com/publications/rules/proposed_changes/sr_occ_08_01.pdf.* All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–OCC–2008–01 and should be submitted on or before March 11, 2008.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.[5]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–2903 Filed 2–15–08; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of Reporting Requirements Submitted for OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Submit comments on or before March 20, 2008. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

Copies: Request for clearance (OMB 83–1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

ADDRESSES: Address all comments concerning this notice to: *Agency Clearance Officer,* Jacqueline White, Small Business Administration, 409 3rd Street, SW., 5th Floor, Washington, DC 20416; and *OMB Reviewer,* Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Jacqueline White, Agency Clearance Officer, (202) 205–7044.

SUPPLEMENTARY INFORMATION:

Title: Small Business Administration (SBA) Surety Bond Guarantee Customer Survey (previous title, Office of Capital Access Online Survey).

No.: N/A.

Frequency: On occasion.

Description of Respondents: SBG Program management to access program familiarity in the general small contractor population and to help determine the potential market for SBA surety bond guarantees.

Responses: 382.

[5] 17 CFR 200.30–3(a)(12).

Annual Burden: 12.7.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. E8–2964 Filed 2–15–08; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Air Traffic Procedures Advisory Committee

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Public Meeting.

SUMMARY: The FAA is issuing this notice to advise the public that a meeting of the Federal Aviation Administration Air Traffic Procedures Advisory Committee (ATPAC) will be held to review present air traffic control procedures and practices for standardization, clarification, and upgrading of terminology and procedures.

DATES: The meeting will be held Tuesday, April 15, 2008, from 9 a.m. to 4:30 p.m., Wednesday, April 16, 2008, from 9 a.m. to 4:30 p.m., and Thursday, April 17, 2008, from 9 a.m. to 4:30 p.m.

ADDRESSES: The meeting will be held at the Baltimore Marriott Inner Harbor Hotel at Camden Yards, 110 S. Eutaw Street, Baltimore, MD 21201.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Jehlen, Executive Director, ATPAC, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 493–4527.

SUPPLEMENTARY INFORMATION: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App.2), notice is hereby given of a meeting of the ATPAC to be held Tuesday, April 15, 2008 from 9 a.m. to 4:30 p.m., Wednesday, April 16, 2008, from 9 a.m. to 4:30 p.m., and Thursday, April 17, 2008, from 9 a.m. to 4:30 p.m.

The agenda for this meeting will cover a continuation of the ATPAC's review of present air traffic control procedures and practices for standardization, revision, clarification, and upgrading of terminology and procedures. It will also include:

1. Approval of Minutes.
2. Submission and Discussion of Areas of Concern.
3. Discussion of Potential Safety Items.
4. Report from Executive Director.
5. Items of Interest.
6. Discussion and agreement of location and dates for subsequent meetings.

Attendance is open to the interested public but limited to space available. With the approval of the Executive Director, members of the public may present oral statements at the meeting. Persons desiring to attend and persons desiring to present oral statements should notify Mr. Richard Jehlen no later than April 4, 2008. The next quarterly meeting of the FAA ATPAC is scheduled for July 15–16, 2008, in Washington, DC.

Any member of the public may present a written statement to the ATPAC at any time at the address given above.

Issued in Washington, DC, on January 30, 2008.

Richard Jehlen,

Executive Director, Air Traffic Procedures Advisory Committee.

[FR Doc. E8–2959 Filed 2–15–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Sixth Meeting, Special Committee 215; Aeronautical Mobile Satellite (Route) Services Next Generation Satellite Services and Equipment

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 215, Aeronautical Mobile Satellite (Route) Services, Next Generation Satellite Services and Equipment.

SUMMARY: The FAA is issuing this notice to advise the public of a second meeting of RTCA Special Committee 215, Aeronautical Mobile Satellite (Route) Services, Next Generation Satellite Services and Equipment.

DATES: The meeting will be held March 4–5, 2008, at 9 a.m.

ADDRESSES: The meeting will be held at RTCA Headquarters, 1828 L Street, NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC 20036; telephone (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org* for directions. **Note:** Dress is business casual.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 215 meeting. The agenda will include:

- March 4:
- Opening Plenary Session (Welcome, Introductions, and Administrative Remarks, Review and Approval of Agenda for Sixth Plenary)
- Review and Approval of Fifth Meeting Summary (215–045; RTCA Paper No. 295–07/SC215–011).
- Review of Action List Outstanding Actions.
- DO–270 Normative Appendix.
- Subnetwork Operational Approval Requirements.
- Report for Drafting Group.
- Review of DO–270 Normative Appendix.
- Draft DO–262–Normative Appendix.
- Review of Approach and Format for Appendix Publication.
- Status Update on any Remaining Sections.
- Review and Discussion of TSO (D. Robinson, FAA).
- Closing Plenary Session (Other Business, Schedule Next Plenary Meeting, Adjourn–Wednesday, March 5, 2008; 12 noon).

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC on February 8, 2008.

Robert L. Bostiga,

RTCA Advisory Committee (Acting).

[FR Doc. 08–699 Filed 2–15–08; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2008–0039]

Motor Carrier Safety Advisory Committee Public Meeting

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of Motor Carrier Safety Advisory Committee Meeting.

SUMMARY: FMCSA announces that the Motor Carrier Safety Advisory Committee (MCSAC) will hold a committee meeting. The meeting is open to the public.

DATES: The meeting will be held from 9 a.m. to 5 p.m. on Wednesday, March 12, 2008. Written comments must be received by April 12, 2008.

ADDRESSES: The meeting will take place at the U.S. Department of

Transportation, Media Center, West Building, Ground Floor, 1200 New Jersey Avenue, SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Ms. Pamela Pelcovits, Director, Office of Policy Plans and Regulation, Federal Motor Carrier Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590, (202) 366–5370, *mcsac@dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Section 4144 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU, Pub. L. 109–59) required the Secretary of the U.S. Department of Transportation to establish in FMCSA, a Motor Carrier Safety Advisory Committee. The advisory committee provides advice and recommendations to the FMCSA Administrator on motor carrier safety programs and motor carrier safety regulations. The advisory committee operates in accordance with the Federal Advisory Committee Act (5 U.S.C. App 2). The FMCSA Administrator appointed 15 members to serve on the advisory committee on March 5, 2007.

II. Meeting Participation

The meeting is open to the public and FMCSA invites participation by all interested parties, including motor carriers, drivers, and representatives of motor carrier associations. Please note that participants will need to be pre-cleared in advance of the meeting in order to enter the building. By March 7, 2008, e-mail *mcsac@dot.gov* if you plan to attend the meeting to facilitate the pre-clearance process. For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, e-mail *mcsac@dot.gov.* As a general matter, the committee will make one hour available for public comments on Wednesday, March 12, 2008, from 4 p.m. to 5 p.m. Individuals wishing to address the committee should send an e-mail to *mcsac@dot.gov* by noon on Tuesday, March 11, 2008. The time available will be reasonably divided among those who have signed up to address the committee, but no one will have more than 15 minutes. Individuals wanting to present written materials to the committee should submit written comments identified by Federal Docket Management System (FDMC) Docket Number FMCSA–2008–0039 using any of the following methods:

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

Issued on: February 12, 2008.

Larry W. Minor,

Associate Administrator for Policy and Program Development.

[FR Doc. E8–3023 Filed 2–15–08; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–05–22727, FMCSA–05–23099]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 8 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals will provide a level of safety that is equivalent to, or greater than, the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: This decision is effective March 15, 2008. Comments must be received on or before March 20, 2008.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA–05–22727, FMCSA–05–23099, using any of the following methods.

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Each submission must include the Agency name and the docket number for this Notice. Note that DOT posts all comments received without change to *http://www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments online.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78; Apr. 11, 2000). This information is also available at *http://DocketInfo.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Director, Medical Programs, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue, SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-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.'' The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

Exemption Decision

This notice addresses 8 individuals who have requested a renewal of their exemption in accordance with FMCSA procedures. FMCSA has evaluated these 8 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

John R. Alger
Gene Bartlett, Jr.
Marland L. Brassfield
Billy R. Jeffries
John P. Rodrigues
Robert V. Sloan
Gary N. Wilson
William B. Wilson

These exemptions are extended subject to the following conditions: (1) That each individual have a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retain a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails 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. 31136(e) and 31315.

Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 8 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (70 FR 71884; 71 FR 4632; 71 FR 4194; 71 FR 13450). Each of these 8 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the standard specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption standards. These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

Request for Comments

FMCSA will review comments received at any time concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31136(e) and 31315. However, FMCSA requests that interested parties with specific data concerning the safety records of these drivers submit comments by March 20, 2008.

FMCSA believes that the requirements for a renewal of an exemption under 49 U.S.C. 31136(e) and 31315 can be satisfied by initially granting the renewal and then requesting and evaluating, if needed, subsequent comments submitted by interested parties. As indicated above, the Agency previously published notices of final disposition announcing its decision to exempt these 8 individuals from the vision requirement in 49 CFR 391.41(b)(10). The final decision to grant an exemption to each of these individuals was based on the merits of each case and only after careful consideration of the comments received to its notices of applications. The notices of applications stated in detail the qualifications, experience, and medical condition of each applicant for an exemption from the vision requirements. That information is available by consulting the above cited **Federal Register** publications.

Interested parties or organizations possessing information that would otherwise show that any, or all of these drivers, are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

Issued on: February 11, 2008.

Larry W. Minor,

Associate Administrator for Policy and Program Development.

[FR Doc. E8–2982 Filed 2–15–08; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket Nos FMCSA 01–10678, FMCSA 03–16241]

Qualification of Drivers; Exemption Renewals; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA previously announced its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 10 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has reviewed the comments submitted in response to the previous announcement and concluded that granting these exemptions will provide a level of safety that will be equivalent to, or greater than, the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Director, Medical Programs, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue, SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at *http://www.regulations.gov.*

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption 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.'' The statutes also allow the Agency to renew exemptions at the end of the 2-year period. The Notice was published on December 19, 2007. The comment period ended on January 18, 2008.

Discussion of Comments

FMCSA received one comment in this proceeding. The comment is considered and discussed below.

Advocates for Highway and Auto Safety (Advocates) expressed opposition to FMCSA's policy to grant exemptions from the FMCSR, including the driver qualification standards. Specifically, Advocates: (1) Objects to the manner in which FMCSA presents driver information to the public and makes safety determinations; (2) objects to the Agency's reliance on conclusions drawn from the vision waiver program; (3) claims the Agency has misinterpreted statutory language on the granting of exemptions (49 U.S.C. 31136(e) and 31315); and finally (4) suggests that a 1999 Supreme Court decision affects the legal validity of vision exemptions.

The issues raised by Advocates were addressed at length in 64 FR 51568 (September 23, 1999), 64 FR 66962 (November 30, 1999), 64 FR 69586 (December 13, 1999), 65 FR 159 (January 3, 2000), 65 FR 57230 (September 21, 2000), and 66 FR 13825 (March 7, 2001). We will not address these points again here, but refer interested parties to those earlier discussions.

Conclusion

The Agency has not received any adverse evidence on any of these drivers that indicates that safety is being compromised. Based upon its evaluation of the 10 renewal applications, FMCSA renews the Federal vision exemptions for, Ronald G. Austin, Rickey C. Dalton, Martiniano L. Espinosa, Derek T. Ford, Paul C. Gruenberg, Jr., James G. LaBair, Dennis A. Leschke, Lonnie Lomax, Jr., Eugene C. Murphy, and Carl W. Skinner, Jr.

In accordance with 49 U.S.C. 31136(e) and 31315, each renewal exemption will be valid for 2 years unless revoked earlier by FMCSA.

The exemption will be revoked if: (1) The person fails 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. 31136 and 31315.

Issued on: February 11, 2008.

Larry W. Minor,

Associate Administrator for Policy and Program Development.

[FR Doc. E8–2983 Filed 2–15–08; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket Nos FMCSA–99–5748, FMCSA–99–6156, FMCSA–01–10578, FMCSA–05–22194]

Qualification of Drivers; Exemption Renewals; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA previously announced its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 12 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has reviewed the comments submitted in response to the previous announcement and concluded that granting these exemptions will provide a level of safety that will be equivalent to, or greater than, the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Director, Medical Programs, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue, SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at *http://www.regulations.gov.*

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption 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.'' The statutes also allow the Agency to renew exemptions at the end of the 2-year period. The Notice was published on December 19, 2007. The comment period ended on January 18, 2008.

Discussion of Comments

FMCSA received one comment in this proceeding. The comment is considered and discussed below.

Advocates for Highway and Auto Safety (Advocates) expressed opposition to FMCSA's policy to grant exemptions from the FMCSR, including the driver qualification standards. Specifically, Advocates: (1) Objects to the manner in which FMCSA presents driver information to the public and makes safety determinations; (2) objects to the Agency's reliance on conclusions drawn from the vision waiver program; (3) claims the Agency has misinterpreted statutory language on the granting of exemptions (49 U.S.C. 31136(e) and 31315); and finally (4) suggests that a 1999 Supreme Court decision affects the legal validity of vision exemptions.

The issues raised by Advocates were addressed at length in 64 FR 51568 (September 23, 1999), 64 FR 66962 (November 30, 1999), 64 FR 69586 (December 13, 1999), 65 FR 159 (January 3, 2000), 65 FR 57230 (September 21, 2000), and 66 FR 13825 (March 7, 2001). We will not address these points again here, but refer interested parties to those earlier discussions.

Conclusion

The Agency has not received any adverse evidence on any of these drivers that indicates that safety is being compromised. Based upon its evaluation of the 12 renewal applications, FMCSA renews the Federal vision exemptions for, Woodrow E. Bohley, Kenneth E. Bross, Russell W. Foster, Kevin Jacoby, Richard L. Loeffelholz, Herman C. Mash, Frank T. Miller, Martin Postma, Robert G. Rascicot, Stephen G. Sniffin, Jon H. Wurtele, and Walter M. Yohn, Jr.

In accordance with 49 U.S.C. 31136(e) and 31315, each renewal exemption will be valid for 2 years unless revoked earlier by FMCSA.

The exemption will be revoked if: (1) The person fails 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. 31136 and 31315.

Issued on: February 11, 2008.

Larry W. Minor,

Associate Administrator for Policy and Program Development.

[FR Doc. E8–2984 Filed 2–15–08; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Agency Request for Emergency Processing of Collections of Information Associated With Today's Publication of Solicitation of Applications and Notice of Funds Availability (NOFA)

AGENCY: Federal Railroad Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Railroad Administration (FRA) hereby gives notice that it has submitted the following information collection request (ICR) to the Office of Management and Budget (OMB) for Emergency Processing under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. 3501 *et seq.*). FRA requests that OMB authorize the collection of information identified below on or before February 29, 2008, for 180 days after the date of approval by OMB. A copy of this ICR, with applicable supporting documentation, may be obtained by calling FRA's Clearance Officers, Mr. Robert Brogan (tel. (202) 493–6292) or Ms. Gina Christodoulou (tel. (202) 493–6139). These numbers are not toll-free. A copy of this ICR may also be obtained electronically by contacting Mr. Brogan at *robert.brogan@dot.gov* or by contacting Ms. Christodoulou at *gina.christodoulou@dot.gov*. Comments and questions about the ICR identified below should be directed to the Office of Information and Regulatory Affairs (OIRA), Attn: FRA OMB Desk Officer, 725 17th St., NW., Washington, DC 20503. Comments and questions about the ICR identified below may also be transmitted electronically to OIRA at: *oira_submissions@omb.eop.gov*.

DATES: Comments should be submitted as soon as possible upon publication of this notice in the **Federal Register**.

Title: Solicitation of Applications and Notice of Funds Availability (NOFA) for the Capital Assistance to States—Intercity Rail Service Program.

OMB Control Number: 2130–New.

Frequency: One-time.

Affected Public: 50 States and District of Columbia/Their Partners.

Form(s): SF–424.

Other Instruments: Collection of Information Associated with the NOFA Published in Today's **Federal Register**.

Estimated Total Annual Number of Responses: 7.0 Grant Applications (Paper/Electronic).

Estimated Total Annual Burden Hours: 6,309 Hours.

Abstract: On December 16, 2007, President Bush signed Public Law 110–161, The Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2008. As part of this Act, Congress provided $30 million to FRA to award in one or more grants for eligible projects related to capital improvements (fixed facilities and rolling stock) necessary to support improved or new intercity passenger services, and planning activities that lead to the development of a passenger rail corridor investment plan. Funds provided under this grant program may constitute no more than 50 percent of the total cost of a selected project, with the remaining cost funded from other sources. The funding provided under these grants will be made available to grantees on a reimbursement basis. FRA anticipates awarding grants to multiple eligible participants. FRA may choose to award a grant or grants within the available funds in any amount. Funding made available through grants provided under this program, together with funding from other sources that is committed by a grantee as part of a grant agreement, must be sufficient to complete the funded project and achieve the anticipated improvement to intercity passenger rail service. FRA will begin accepting grant applications on Monday, March 18, 2008. Applications may be submitted until the earlier of Wednesday, September 30, 2009, or the date on which all available funds will have been committed under this program.

Authority: 44 U.S.C. 3501–3520.

Issued in Washington, DC on February 12, 2008.

D.J. Stadtler,

Director, Office of Financial Management, Federal Railroad Administration.

[FR Doc. E8–3011 Filed 2–15–08; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements of Title 49 Code of Federal Regulations Part 236

Pursuant to Title 49 Code of Federal Regulations (CFR) Part 235 and 49 U.S.C. 20502(a), the following railroad has petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR Part 236, as detailed below.

[Docket Number FRA–2007–0026]

Applicant: CSX Transportation, Incorporated, Mr. C. M. King, Chief Engineer, Communications and Signals, 500 Water Street , SC J–350, Jacksonville, Florida 32202.

The CSX Transportation, Incorporated seeks approval of the proposed discontinuance and removal of three power operated split point derails, Number (No.) 2, No. 4, and No. 6, located within a traffic control system in St. Joseph, Michigan, milepost CG–87; Grand Rapids Subdivision; Chicago Division. The derails are manually controlled by the St. Joseph Drawbridge tender under the authority of the train dispatcher located in Jacksonville, Florida.

The reason given for the proposed changes is that the derails are no longer needed in present day operation.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and include a concise statement of the interest of the party in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

All communications concerning this proceeding should be identified by Docket Number FRA–2007–0026 and may be submitted by one of the following methods:

Web site: http://www.regulations.gov. Follow the instructions for submitting comments on the DOT electronic site;

Fax: 202–493–2251;

Mail: Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590; or

Hand Delivery: Room W12–140 of the U.S. Department of Transportation 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.

Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the

public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://www.regulations.gov.*

FRA wishes to inform all potential commenters that 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.*

Issued in Washington, DC on February 12, 2008.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. E8–3026 Filed 2–15–08; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Solicitation of Applications and Notice of Funding Availability for the Capital Assistance to States—Intercity Passenger Rail Service Program

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of funding availability; solicitation for applications.

SUMMARY: Under this Notice, the FRA encourages interested State departments of transportation to submit applications for grants to fund capital improvements and planning activities necessary to support improved or new intercity passenger rail service.

DATES: FRA will begin accepting grant applications on Monday, March 18, 2008. Applications may be submitted until the earlier of Wednesday, September 30, 2009, or the date on which all available funds will have been committed under this program. The last-mentioned date will be announced in the **Federal Register**.

ADDRESSES: Applications must be submitted electronically to *http://www.grants.gov* (''Grants.Gov''). Grants.Gov allows organizations electronically to find and apply for competitive grant opportunities from all Federal grant-making agencies. Any State wishing to submit an application pursuant to this notice should immediately initiate the process of registering with Grants.Gov at *http://www.grants.gov*. Please confirm all Grants.Gov submissions by e-mailing *paxrail@dot.gov*.

For application materials that an applicant is unable to submit via Grants.Gov (such as oversized engineering drawings), applicants may submit an original and two (2) copies to the Federal Railroad Administration at the following address: Federal Railroad Administration, Attention: Peter Schwartz, Office of Railroad Development (RDV–11), Mail Stop #20, 1200 New Jersey Avenue, SE., Washington, DC 20590.

Due to delays caused by enhanced screening of mail delivered via the U.S. Postal Service, applicants are encouraged to use other means to assure timely receipt of materials.

FOR FURTHER INFORMATION CONTACT: Peter Schwartz, Office of Railroad Development (RDV–11), Federal Railroad Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590. Phone: (202) 493–6360; Fax: (202) 493–6333, or Desmond Brown, Grants Officer, Office of Acquisition and Grants Services (RAD–30), Federal Railroad Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590. Phone: (202) 493–6152; Fax: (202) 493–6171.

SUPPLEMENTARY INFORMATION: The Capital Assistance to States—Intercity Passenger Rail Service Program (Catalog of Federal Domestic Assistance (CFDA) Program Number 20.317) will be supported with $30,000,000 of Federal funds provided to FRA as part of the Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2008 (Division K of Pub. L. 110–161 (December 26, 2007)). Funds provided under this program may constitute no more than 50 percent of the total cost of a selected project, with the remaining cost funded from other sources. FRA anticipates awarding grants to multiple eligible participants. Eligible projects include capital improvements (fixed facilities and rolling stock) necessary to support improved or new intercity passenger rail services, and planning activities that lead directly to the development of a passenger rail corridor investment plan. FRA anticipates that no further public notice will be made with respect to selecting grantees under this program.

Purpose: In 2002, then-Secretary of Transportation, Norman Y. Mineta, announced a number of principles to guide the future of intercity passenger rail in the United States. One of these principles was to ''establish a long-term partnership between States and the Federal Government to support intercity passenger rail.'' In furtherance of that principle, the President's Fiscal Year (FY) 2008 Budget proposed, and the Congress enacted, a program that would increase the States' role in intercity passenger rail development by establishing Federal-State partnerships for intercity passenger rail investment along the model of those that currently exist for other modes of transportation. This program makes $30,000,000 in Federal funding available directly to States through grants to fund up to 50 percent of the cost of capital investments and planning activities necessary to achieve tangible improvements to, or institute new, intercity passenger rail service. Examples of such improvements include (but are not strictly limited to) the purchase of passenger rolling stock, the improvement of existing track to allow for higher maximum speeds, the addition or lengthening of passing tracks to increase capacity, the improvement of interlockings to increase capacity and reliability, and the improvement of signaling systems to increase capacity and maximum speeds, and improve safety.

Authority: The authority for the Program can be found in the Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2008 (Division K of Pub. L. 110–161 (December 26, 2007)).

Funding: The Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2008, provides $30,000,000, and directs FRA to award one or more grants covering up to 50 percent of the cost of capital investments (and limited planning activities) necessary to support improved intercity passenger rail services. The funding provided under these grants will be made available to grantees on a reimbursement basis. It is anticipated that the available funding could support the projects proposed by multiple applicants. FRA may choose to award a grant or grants within the available funds in any amount. Funding made available through grants provided under this program, together with funding from other sources that is committed by a grantee as part of a grant agreement, must be sufficient to complete the funded project and achieve the anticipated improvement to intercity passenger rail service.

Schedule for Capital Grant Program: FRA will begin accepting grant applications on Monday, March 18, 2008. Applications must be submitted by Wednesday, September 30, 2009 or the date (to be announced) on which all available funds will have been committed. Due to the limited funding

available under this program: (1) Applicants are encouraged to submit their applications at the earliest date practicable in order to maximize the consideration of their application in the competition; and (2) FRA may request that an applicant submit a revised application reflecting a refined scope of work and budget. FRA anticipates making the first award(s) pursuant to this notice during FY 2008.

Eligible Participants: The department of transportation of any State (including, for the purposes of this program, the District of Columbia) is eligible to apply for funding under this Notice, provided that the applicant State includes intercity passenger rail service as an integral part of statewide transportation planning as required under section 135 of title 23, United States Code. If the proposed project is in more than one State, a single State department of transportation should apply on behalf of all the participating States.

Eligible Projects: Eligible projects must be for the primary benefit of intercity passenger rail service. Only new projects will be eligible; projects that have either commenced before the time of award or have been completed will not be considered. Proposed projects must be specifically included in the applicant State's Statewide Transportation Improvement Plan at the time of application to be eligible. Matching funding must be in the form of new financial commitments toward the proposed project by the applicant and/or its partners. Expenditures which occurred prior to the passage into law of the Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2008, and expenditures on unrelated projects will not be considered.

Eligible Planning Projects: Congress has allowed up to ten percent ($3,000,000) of the funding available under the program to be used for planning activities that lead directly to the development of a passenger rail corridor investment plan. Only proposed planning projects that incorporate the methodologies set forth in FRA's publication, entitled ''Railroad Corridor Transportation Plans: A Guidance Manual,'' available at *http://www.fra.dot.gov/Downloads/RRdev/corridor_planning.pdf*, will be given priority for consideration, subject to the Selection Criteria outlined below.

Selection Criteria: The following will be considered to be positive selection factors in evaluating applications for grants under this program:

1. The ability of the proposed project to result directly in appreciable benefits to intercity passenger rail services, including, but not limited to, improved safety (particularly at railroad-highway at-grade crossings), and improved intercity passenger rail reliability (particularly involving a commitment by host freight railroads to an enforceable on-time performance standard of 80 percent or greater).

2. The extent to which, following the completion of the proposed project, the total, fully allocated operating expenses of the intercity passenger rail service benefiting from the project are projected to be offset by the total of (a) revenues attributable to the service, and (b) committed state financial support, with little or no need for Federal operating support.

3. The extent to which the proposed project involves a commitment by States or railroads of financial resources to improve the safety of highway/rail grade crossings over which the passenger service operates.

4. The relative emphasis of the proposed project on the implementation of tangible capital improvements, rather than planning.

5. The ability of the proposed project to result in reduced and reliable line-haul and/or total travel times for intercity rail passengers, increased intercity passenger service frequencies, and/or enhanced service quality for intercity train passengers.

6. The extent to which the project promotes seamless intermodal connections between passenger rail service and other modes of transportation, such as mass transit and commercial air service.

7. The extent to which the proposed project has stand-alone value as a transportation improvement, and the extent to which the benefits resulting from the project are not contingent upon future additional Federal funding, or on additional capital investments other than those to which the applicant or the applicant's partners have committed at the time of the submission of the grant application.

8. For proposed grant-funded projects involving improvements or alterations to, or use of, assets owned or used by other entities (such as freight or commuter railroads), the extent to which the applicant has completed written agreements (covering issues including, but not limited to, project design, project implementation, and assurance and/or enforcement of achievement of anticipated project benefits) between the applicant and the other affected entities.

9. The existence and quality of a comprehensive, realistic transportation plan (a) covering the rail line(s), facilities, and services employed or affected by the benefiting project and (b) reflecting the improved operation of the benefiting service.

10. The progress toward completing any environmental documentation or clearance required for the proposed project under the National Environmental Policy Act, the National Historic Preservation Act, section 4(f) of the DOT Act, the Clean Water Act, or other applicable Federal or State laws and regulations (federal environmental and historic preservation review requirements will apply to all projects funded through the Capital Assistance to States—Intercity Passenger Rail Service Program).

11. The projected lapse in time between a grant award and the initiation and completion of, and realization of the benefits resulting from, the proposed project, and the veracity of such projections.

12. The extent to which the State commits funds or contributions as a match for the funds potentially available under this program for the project of a value in excess of 50 percent of the total cost of the project, and the extent to which such funds are from non-Federal sources. For purposes of this criterion, all monetary and other resources of the National Railroad Passenger Corporation (Amtrak) are considered to be Federal sources.

13. The extent to which matching funds or contributions committed by the State would be contributions from private or other non-State entities, such as host freight railroads and local governments, and the extent to which the commitment by the host freight railroad of financial resources is commensurate with the benefit expected to their operations.

Requirements for Grant Applications: The following points describe the minimum content which will be required in grant applications. These requirements may be satisfied through a narrative statement submitted by the applicant, supported by spreadsheet documents, tables, drawings, and other materials, as appropriate. Each grant application will:

1. Designate a point of contact for the applicant and provide their name and contact information, including phone number, mailing address and e-mail address.

2. Include a complete Standard Form 424, ''Application for Federal Assistance'', and, as applicable, Standard Form 424B, ''Assurances—Non-Construction Programs'' or Standard Form 424D, ''Assurances—Construction Programs.'' Also include signed copies of FRA's Additional Assurances and Certifications, available

at *http://www.fra.dot.gov/downloads/admin/assurancesandcertifications.pdf.*

3. Identify and provide background information on the intercity passenger rail services that the proposed project is intended primarily to benefit. The required content under this heading will differ according to the purpose of the project:

a. *Grant applications related to projects that are targeted toward improving existing intercity passenger rail services.* Describe in detail the current state of the benefiting services. Include descriptions of the geographic markets served, the current operating characteristics of the services (including timetables, consist diagrams, and measures of service reliability), and the financial characteristics of the service (including profit and loss statements and descriptions of past and/or current state financial support for operations and capital investments). Describe the current annual passenger utilization of the service (train ridership; passenger-mile volumes; and train boardings plus alightings at each station), any existing contractual arrangements for the operation of the service, the characteristics of other rail service (e.g. commuter and freight) currently operating on the route, and the extent to which the benefiting service falls within the geographic scope of one or more Federally-designated high-speed rail corridors. In addition, describe and compare the existing transportation facilities and service offerings (including travel times, frequencies, prices or perceived costs, reliability, and service quality) afforded by other public and private modes of transportation, as well as intercity passenger rail, in the geographic market area.

b. *For grant applications related to projects that are targeted toward the introduction of new intercity passenger rail service.* Describe the characteristics, including trip time and frequencies, of any past intercity passenger rail service that has served the same general geographic markets as the proposed service. Describe the characteristics of other rail service (e.g. commuter and freight) currently operating on the route. Describe the geographic market to be served by the new service, the current level of completion and nature of the planning for the new service, the extent to which the benefiting service falls within the geographic scope of one or more Federally-designated high-speed rail corridors, and the existing transportation facilities and service offerings (including travel times, frequencies, prices or perceived costs, reliability, and service quality) afforded by other public and private modes of transportation in the geographic market area.

4. Define the scope of work for the proposed project and the anticipated project schedule. Describe the proposed project's physical location (as applicable), and the extent to which the proposed project consists of planning and/or implementation of capital improvements. Include any drawings, plans, or schematics that have been prepared relating to the proposed project.

5. Present a detailed budget for the proposed project. At a minimum, the budget should separate total cost of the project into the following categories: (1) Administrative and legal expenses; (2) Land, structures, rights-of-way, and appraisals; (3) Relocation expenses and payments; (4) Architectural and engineering fees; (5) Project inspection fees; (6) Site work; (7) Demolition and removal; (8) Construction labor, supervision, and management; (9) Materials, by type (e.g. ties, rail, signals, switches, rolling stock; (10) Equipment; (11) Miscellaneous; and (12) Contingencies. For each cost category, specify (as defined under OMB Circular A–87, ''Cost Principles for State, Local and Indian Tribal Governments'') the amount of costs that are allowable for participation, and the amount of non-allowable costs. Also specify the amount of allowable costs in each category that are proposed to be funded under this program, and the amount to be funded by non-program matching funds.

6. Describe the operating changes to the target intercity passenger rail services that are anticipated to result from the project, and assess the operational feasibility of the proposed project. The required level of detail for the descriptions of anticipated operating changes and the feasibility assessment will depend upon the nature of the project, as follows:

a. *Projects intended to improve the reliability of existing intercity passenger rail services, but which are not intended to affect the trip times, service frequencies, or passenger capacity of the benefiting services.* Describe, in quantitative terms, the delays that would be incurred by the benefiting intercity passenger rail service were the proposed project not to be completed. Describe, in quantitative terms, the delays that would be avoided as a result of the completion of the proposed project. Address proposed means for ensuring and/or enforcing that the anticipated reliability improvements will be realized following the completion of the proposed project.

b. *Projects, particularly those involving the purchase of rolling stock, intended to increase capacity on existing intercity passenger rail services, but which are not intended to affect the trip times or service frequencies of the benefiting services.* Describe evidence of current under-capacity of the benefiting services, and the extent to which such under-capacity conditions are projected to change in the future. Include results of modeling performed using train performance calculators demonstrating that current schedules may be maintained following the introduction of the proposed new equipment. Address the adequacy of existing infrastructure (e.g. station platforms, maintenance facilities, passing tracks, and wyes) to accommodate any proposed increased consist lengths. Present evidence that the proposed new equipment meets the clearance requirements of the infrastructure over which it is intended to operate, or provide details of what infrastructure modifications will be required to achieve the physical clearances required for the operation of the proposed new equipment. Present evidence that existing or anticipated future station access limitations (e.g. lack of transit access, shortage of parking), will not create a capacity constraint that would limit the utility of additional on-train capacity.

c. *Projects which, either by design or otherwise as a direct consequence thereof, would affect trip times and frequencies of existing intercity passenger rail services, or which are related to the introduction of new intercity passenger rail service.* Describe the operating plan intended for the benefiting service following completion of the grant-funded project. Include operating details, such as proposed timetables, equipment consists, track charts of the proposed route, descriptions of maintenance of equipment and maintenance of way arrangements, station access plans, and quantitative projections of operating reliability. Include the outputs, such as stringline (time and distance) diagrams, of train performance calculator modeling and dispatching modeling undertaken as part of the preparation of the proposed operating plan. These outputs shall include all other rail services—intercity, freight, and commuter—that will share facilities with, or otherwise impact or be impacted by, the services that will benefit from the improvements proposed in the application. Such coverage of other services shall address both current conditions and projected

service levels in the time horizon year adopted in the application. Address the operating feasibility of the proposed service, and summarize any identified risks associated with the operating plan. Describe any contractual arrangements that will be in place for the operation of the service. Include a description of the methodology employed in developing the operating plan. Operating plans developed in accordance with FRA's publication, entitled ''Railroad Corridor Transportation Plans: A Guidance Manual,'' available at *http://www.fra.dot.gov/Downloads/RRdev/corridor_planning.pdf*, will be considered to fulfill these requirements. Address proposed means for ensuring and/or enforcing that the anticipated operating plan will be implemented with a high degree of reliability following the completion of the proposed project.

7. Describe any additional planning activities or capital improvements, beyond those project elements included in the grant proposal, that would be required in order to realize the operating benefits intended to be generated by the proposed project. Indicate the extent to which funding from other sources has been committed to and/or work has commenced on these additional requirements.

8. Describe proposed project implementation and project management provisions. Include descriptions of expected arrangements for project contracting, contract oversight, change-order management, risk management, and conformance to Federal requirements for project progress reporting.

9. Present a financial plan reflecting the anticipated financial performance of the benefiting service following completion of the grant-funded project. Include a detailed projected profit and loss statement, along with forecasts for revenues, ridership, passenger-miles, and expenses generated by the proposed service. Demonstrate the extent to which the benefiting service will not require Federal financial assistance to support its operation following the completion of the grant-funded project.

10. Describe the benefits forecasted to result from the proposed project, specifically as they relate to improvements in safety (particularly at railroad-highway grade crossings) and increases in intercity passenger rail reliability (particularly to the extent the proposed project would result in a commitment by host freight railroads to an enforceable on-time performance standard of 80 percent or greater).

11. Describe the extent to which the proposed project will result in reduced line-haul and/or total travel times for intercity rail passengers, increased intercity passenger service frequencies, and/or enhanced service quality for intercity train passengers.

12. Describe the source(s) and amount(s) of matching funding to be committed to the project by the applicant.

13. Describe the anticipated ownership arrangement for the project following completion.

14. Describe any written agreements (or progress in negotiations) between the applicant and other entities regarding proposed grant-funded projects involving improvements or alterations to, or use of, assets owned or used by other entities.

15. Describe progress toward completing any environmental documentation or clearance required for the proposed project under the National Environmental Policy Act, the National Historic Preservation Act, section 4(f) of the DOT Act, the Clean Water Act, or other applicable Federal or State laws.

16. Describe the degree to which intercity passenger rail is included as an integral part of the applicant State's statewide transportation planning, as required under section 135 of title 23, United States Code, and present evidence that the specific proposed project is included or mentioned in the applicant State's Statewide Transportation Improvement Plan.

Format: Excluding spreadsheets, drawings, and tables, the narrative statement for grant applications may not exceed fifty pages in length. With the exclusion of oversized engineering drawings (which may be submitted in hard copy to the FRA at the address above), all application materials should be submitted as attachments through Grants.Gov.

Spreadsheets consisting of budget or financial information should be submitted via Grants.Gov as Microsoft Excel (or compatible) documents.

Issued in Washington, DC, on February 12, 2008.

Mark E. Yachmetz,

Associate Administrator for Railroad Development.

[FR Doc. E8–3018 Filed 2–15–08; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Ex Parte No. 670 (Sub-No. 1)]

Notice of Rail Energy Transportation Advisory Committee Meeting

AGENCY: Surface Transportation Board, Department of Transportation.

ACTION: Notice of Rail Energy Transportation Advisory Committee meeting.

SUMMARY: Notice is hereby given of a meeting of the Rail Energy Transportation Advisory Committee (RETAC), pursuant to section 10(a)(2) of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C., App. 2).

DATES: The meeting will be held on March 6, 2008, beginning at 9 a.m., E.S.T.

ADDRESSES: The meeting will be held in the 1st floor hearing room at the Surface Transportation Board's headquarters at Patriot's Plaza, 395 E Street, SW., Washington, DC 20423–0001.

FOR FURTHER INFORMATION CONTACT: Scott M. Zimmerman (202) 245–0202. [*Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at:* 1–800–877–8339].

SUPPLEMENTARY INFORMATION: RETAC arose from a proceeding instituted by the Board, in *Establishment of a Rail Energy Transportation Advisory Committee*, STB Ex Parte No. 670. RETAC was formed to provide advice and guidance to the Board, and to serve as a forum for discussion of emerging issues regarding the transportation by rail of energy resources, particularly, but not necessarily limited to, coal, ethanol, and other biofuels. The purpose of this meeting is to continue discussions regarding issues such as rail performance, capacity constraints, infrastructure planning and development, and effective coordination among suppliers, carriers, and users of energy resources.

The meeting, which is open to the public, will be conducted pursuant to RETAC's charter and Board procedures. Further communications about this meeting may be announced through the Board's Web site at *http://www.stb.dot.gov*.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Decided: February 12, 2008.

By the Board, Anne K. Quinlan, Acting Secretary.

Anne K. Quinlan,

Acting Secretary.

[FR Doc. E8–3009 Filed 2–15–08; 8:45 am]

BILLING CODE 4915–01–P

Federal Register

Tuesday,
February 19, 2008

Part II

The President

Memorandum of February 14, 2008—Assignment of Function Regarding Medicare Funding

Federal Register
Vol. 73, No. 33
Tuesday, February 19, 2008

Presidential Documents

Title 3—

The President

Memorandum of February 14, 2008

Assignment of Function Regarding Medicare Funding

Memorandum for the Secretary of Health and Human Services

By the authority vested in me as President by the Constitution and the laws of the United States, including section 301 of title 3, United States Code, you are directed to perform the function of the President as described under section 802 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173, 31 U.S.C. 1105(h) (1)).

You are authorized and directed to publish this memorandum in the **Federal Register**.

THE WHITE HOUSE,
Washington, February 14, 2008.

[FR Doc. 08–783
Filed 2–15–08; 11:44 am]
Billing code 4110–60–M

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This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html*.

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H.R. 5140/P.L. 110–185

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210–299	(869–062–00012–0)	62.00	Jan. 1, 2007
300–399	(869–062–00013–8)	46.00	Jan. 1, 2007
400–699	(869–062–00014–6)	42.00	Jan. 1, 2007
700–899	(869–062–00015–4)	43.00	Jan. 1, 2007
900–999	(869–062–00016–2)	60.00	Jan. 1, 2007
1000–1199	(869–062–00017–1)	22.00	Jan. 1, 2007
1200–1599	(869–062–00018–9)	61.00	Jan. 1, 2007
1600–1899	(869–062–00019–7)	64.00	Jan. 1, 2007
1900–1939	(869–062–00020–1)	31.00	Jan. 1, 2007
1940–1949	(869–062–00021–9)	50.00	[5] Jan. 1, 2007
1950–1999	(869–062–00022–7)	46.00	Jan. 1, 2007
2000–End	(869–062–00023–5)	50.00	Jan. 1, 2007
8	(869–062–00024–3)	63.00	Jan. 1, 2007
9 Parts:			
1–199	(869–062–00025–1)	61.00	Jan. 1, 2007
200–End	(869–062–00026–0)	58.00	Jan. 1, 2007
10 Parts:			
1–50	(869–062–00027–8)	61.00	Jan. 1, 2007
51–199	(869–062–00028–6)	58.00	Jan. 1, 2007
200–499	(869–062–00029–4)	46.00	Jan. 1, 2007
500–End	(869–066–00030–8)	62.00	Jan. 1, 2007
11	(869–062–00031–6)	41.00	Jan. 1, 2007
12 Parts:			
1–199	(869–062–00032–4)	34.00	Jan. 1, 2007
200–219	(869–062–00033–2)	37.00	Jan. 1, 2007
220–299	(869–062–00034–1)	61.00	Jan. 1, 2007
300–499	(869–062–00035–9)	47.00	Jan. 1, 2007
500–599	(869–062–00036–7)	39.00	Jan. 1, 2007
600–899	(869–062–00037–5)	56.00	Jan. 1, 2007
900–End	(869–062–00038–3)	50.00	Jan. 1, 2007
13	(869–062–00039–1)	55.00	Jan. 1, 2007
14 Parts:			
1–59	(869–062–00040–5)	63.00	Jan. 1, 2007
60–139	(869–062–00041–3)	61.00	Jan. 1, 2007
140–199	(869–062–00042–1)	30.00	Jan. 1, 2007
200–1199	(869–062–00043–0)	50.00	Jan. 1, 2007
1200–End	(869–062–00044–8)	45.00	Jan. 1, 2007
15 Parts:			
0–299	(869–062–00045–6)	40.00	Jan. 1, 2007
300–799	(869–062–00046–4)	60.00	Jan. 1, 2007
800–End	(869–062–00047–2)	42.00	Jan. 1, 2007
16 Parts:			
0–999	(869–062–00048–1)	50.00	Jan. 1, 2007
1000–End	(869–062–00049–9)	60.00	Jan. 1, 2007
17 Parts:			
1–199	(869–062–00051–1)	50.00	Apr. 1, 2007
200–239	(869–062–00052–9)	60.00	Apr. 1, 2007
240–End	(869–062–00053–7)	62.00	Apr. 1, 2007
18 Parts:			
1–399	(869–062–00054–5)	62.00	Apr. 1, 2007
400–End	(869–062–00055–3)	26.00	Apr. 1, 2007
19 Parts:			
1–140	(869–062–00056–1)	61.00	Apr. 1, 2007
141–199	(869–062–00057–0)	58.00	Apr. 1, 2007
200–End	(869–062–00058–8)	31.00	Apr. 1, 2007
20 Parts:			
1–399	(869–062–00059–6)	50.00	Apr. 1, 2007
400–499	(869–062–00060–0)	64.00	Apr. 1, 2007
500–End	(869–062–00061–8)	63.00	Apr. 1, 2007
21 Parts:			
1–99	(869–062–00062–6)	40.00	Apr. 1, 2007
100–169	(869–062–00063–4)	49.00	Apr. 1, 2007
170–199	(869–062–00064–2)	50.00	Apr. 1, 2007
200–299	(869–062–00065–1)	17.00	Apr. 1, 2007
300–499	(869–062–00066–9)	30.00	Apr. 1, 2007
500–599	(869–062–00067–7)	47.00	Apr. 1, 2007
600–799	(869–062–00068–5)	17.00	Apr. 1, 2007
800–1299	(869–062–00069–3)	60.00	Apr. 1, 2007
1300–End	(869–062–00070–7)	25.00	Apr. 1, 2007
22 Parts:			
1–299	(869–062–00071–5)	63.00	Apr. 1, 2007
300–End	(869–062–00072–3)	45.00	Apr. 1, 2007
23	(869–062–00073–7)	45.00	Apr. 1, 2007
24 Parts:			
0–199	(869–062–00074–0)	60.00	Apr. 1, 2007
200–499	(869–062–00075–8)	50.00	Apr. 1, 2007
500–699	(869–062–00076–6)	30.00	Apr. 1, 2007
700–1699	(869–062–00077–4)	61.00	Apr. 1, 2007
1700–End	(869–062–00078–2)	30.00	Apr. 1, 2007
25	(869–062–00079–1)	64.00	Apr. 1, 2007
26 Parts:			
§§ 1.0–1–1.60	(869–062–00080–4)	49.00	Apr. 1, 2007
§§ 1.61–1.169	(869–062–00081–2)	63.00	Apr. 1, 2007
§§ 1.170–1.300	(869–062–00082–1)	60.00	Apr. 1, 2007
§§ 1.301–1.400	(869–062–00083–9)	47.00	Apr. 1, 2007
§§ 1.401–1.440	(869–062–00084–7)	56.00	Apr. 1, 2007
§§ 1.441–1.500	(869–062–00085–5)	58.00	Apr. 1, 2007
§§ 1.501–1.640	(869–062–00086–3)	49.00	Apr. 1, 2007
§§ 1.641–1.850	(869–062–00087–1)	61.00	Apr. 1, 2007
§§ 1.851–1.907	(869–062–00088–0)	61.00	Apr. 1, 2007
§§ 1.908–1.1000	(869–062–00089–8)	60.00	Apr. 1, 2007
§§ 1.1001–1.1400	(869–062–00090–1)	61.00	Apr. 1, 2007
§§ 1.1401–1.1550	(869–062–00091–0)	58.00	Apr. 1, 2007
§§ 1.1551–End	(869–062–00092–8)	50.00	Apr. 1, 2007
2–29	(869–062–00093–6)	60.00	Apr. 1, 2007
30–39	(869–062–00094–4)	41.00	Apr. 1, 2007
40–49	(869–062–00095–2)	28.00	[7] Apr. 1, 2007
50–299	(869–062–00096–1)	42.00	Apr. 1, 2007

Title	Stock Number	Price	Revision Date
300–499	(869–062–00097–9)	61.00	Apr. 1, 2007
500–599	(869–062–00098–7)	12.00	[6] Apr. 1, 2007
600–End	(869–062–00099–5)	17.00	Apr. 1, 2007
27 Parts:			
1–39	(869–062–00100–2)	64.00	Apr. 1, 2007
40–399	(869–062–00101–1)	64.00	Apr. 1, 2007
400–End	(869–062–00102–9)	18.00	Apr. 1, 2007
28 Parts:			
0–42	(869–062–00103–7)	61.00	July 1, 2007
43–End	(869–062–00104–5)	60.00	July 1, 2007
29 Parts:			
0–99	(869–062–00105–3)	50.00	[9] July 1, 2007
100–499	(869–062–00106–1)	23.00	July 1, 2007
500–899	(869–062–00107–0)	61.00	[9] July 1, 2007
900–1899	(869–062–00108–8)	36.00	July 1, 2007
1900–1910 (§§ 1900 to 1910.999)	(869–062–00109–6)	61.00	July 1, 2007
1910 (§§ 1910.1000 to end)	(869–062–00110–0)	46.00	July 1, 2007
1911–1925	(869–062–00111–8)	30.00	July 1, 2007
1926	(869–062–00112–6)	50.00	July 1, 2007
1927–End	(869–062–00113–4)	62.00	July 1, 2007
30 Parts:			
1–199	(869–062–00114–2)	57.00	July 1, 2007
200–699	(869–062–00115–1)	50.00	July 1, 2007
700–End	(869–062–00116–9)	58.00	July 1, 2007
31 Parts:			
0–199	(869–062–00117–7)	41.00	July 1, 2007
200–499	(869–062–00118–5)	46.00	July 1, 2007
500–End	(869–062–00119–3)	62.00	July 1, 2007
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–062–00120–7)	61.00	July 1, 2007
191–399	(869–062–00121–5)	63.00	July 1, 2007
400–629	(869–062–00122–3)	61.00	July 1, 2007
630–699	(869–062–00123–1)	37.00	July 1, 2007
700–799	(869–062–00124–0)	46.00	July 1, 2007
800–End	(869–062–00125–8)	47.00	July 1, 2007
33 Parts:			
1–124	(869–062–00126–6)	57.00	July 1, 2007
125–199	(869–062–00127–4)	61.00	July 1, 2007
200–End	(869–062–00128–2)	57.00	July 1, 2007
34 Parts:			
1–299	(869–062–00129–1)	50.00	July 1, 2007
300–399	(869–062–00130–4)	40.00	July 1, 2007
400–End & 35	(869–062–00131–2)	61.00	[8] July 1, 2007
36 Parts:			
1–199	(869–062–00132–1)	37.00	July 1, 2007
200–299	(869–062–00133–9)	37.00	July 1, 2007
300–End	(869–062–00134–7)	61.00	July 1, 2007
37	(869–062–00135–5)	58.00	July 1, 2007
38 Parts:			
0–17	(869–062–00136–3)	60.00	July 1, 2007
18–End	(869–062–00137–1)	62.00	July 1, 2007
39	(869–062–00138–0)	42.00	July 1, 2007
40 Parts:			
1–49	(869–062–00139–8)	60.00	July 1, 2007
50–51	(869–062–00140–1)	45.00	July 1, 2007
52 (52.01–52.1018)	(869–062–00141–0)	60.00	July 1, 2007
52 (52.1019–End)	(869–062–00142–8)	64.00	July 1, 2007
53–59	(869–062–00143–6)	31.00	July 1, 2007
60 (60.1–End)	(869–062–00144–4)	58.00	July 1, 2007
60 (Apps)	(869–062–00145–2)	57.00	July 1, 2007
61–62	(869–062–00146–1)	45.00	July 1, 2007
63 (63.1–63.599)	(869–062–00147–9)	58.00	July 1, 2007
63 (63.600–63.1199)	(869–062–00148–7)	50.00	July 1, 2007
63 (63.1200–63.1439)	(869–062–00149–5)	50.00	July 1, 2007
63 (63.1440–63.6175)	(869–062–00150–9)	32.00	July 1, 2007
63 (63.6580–63.8830)	(869–062–00151–7)	32.00	July 1, 2007
63 (63.8980–End)	(869–062–00152–5)	35.00	July 1, 2007
64–71	(869–062–00153–3)	29.00	July 1, 2007
72–80	(869–062–00154–1)	62.00	July 1, 2007
81–84	(869–062–00155–0)	50.00	July 1, 2007
85–86 (85–86.599–99)	(869–062–00156–8)	61.00	July 1, 2007
86 (86.600–1–End)	(869–062–00157–6)	61.00	July 1, 2007
87–99	(869–062–00158–4)	60.00	July 1, 2007
100–135	(869–062–00159–2)	45.00	July 1, 2007
136–149	(869–062–00160–6)	61.00	July 1, 2007
150–189	(869–062–00161–4)	50.00	July 1, 2007
190–259	(869–062–00162–2)	39.00	[9] July 1, 2007
260–265	(869–062–00163–1)	50.00	July 1, 2007
266–299	(869–062–00164–9)	50.00	July 1, 2007
300–399	(869–062–00165–7)	42.00	July 1, 2007
400–424	(869–062–00166–5)	56.00	[9] July 1, 2007
425–699	(869–062–00167–3)	61.00	July 1, 2007
700–789	(869–062–00168–1)	61.00	July 1, 2007
790–End	(869–062–00169–0)	61.00	July 1, 2007
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–062–00170–3)	24.00	July 1, 2007
101	(869–062–00171–1)	21.00	July 1, 2007
102–200	(869–062–00172–0)	56.00	July 1, 2007
201–End	(869–062–00173–8)	24.00	July 1, 2007
42 Parts:			
1–399	(869–062–00174–6)	61.00	Oct. 1, 2007
400–413	(869–062–00175–4)	32.00	Oct. 1, 2007
414–429	(869–062–00176–2)	32.00	Oct. 1, 2007
*430–End	(869–062–00177–1)	64.00	Oct. 1, 2007
43 Parts:			
*1–999	(869–062–00178–9)	56.00	Oct. 1, 2007
1000–end	(869–062–00179–7)	62.00	Oct. 1, 2007
***44**	(869–062–00180–1)	50.00	Oct. 1, 2007
45 Parts:			
1–199	(869–062–00181–9)	60.00	Oct. 1, 2007
*200–499	(869–060–00182–7)	34.00	[11] Oct. 1, 2007
500–1199	(869–062–00183–5)	56.00	Oct. 1, 2007
1200–End	(869–062–00184–3)	61.00	Oct. 1, 2007
46 Parts:			
1–40	(869–062–00185–1)	46.00	Oct. 1, 2007
41–69	(869–062–00186–0)	39.00	Oct. 1, 2007
*70–89	(869–062–00187–8)	14.00	Oct. 1, 2007
90–139	(869–062–00188–6)	44.00	Oct. 1, 2007
140–155	(869–062–00189–4)	25.00	Oct. 1, 2007
156–165	(869–062–00190–8)	34.00	Oct. 1, 2007
*166–199	(869–062–00191–6)	46.00	Oct. 1, 2007
200–499	(869–062–00192–4)	40.00	Oct. 1, 2007
500–End	(869–062–00193–2)	25.00	Oct. 1, 2007
47 Parts:			
0–19	(869–062–00194–1)	61.00	Oct. 1, 2007
*20–39	(869–062–00195–9)	46.00	Oct. 1, 2007
40–69	(869–062–00196–7)	40.00	Oct. 1, 2007
*70–79	(869–062–00197–5)	61.00	Oct. 1, 2007
80–End	(869–062–00198–3)	61.00	Oct. 1, 2007
48 Chapters:			
1 (Parts 1–51)	(869–062–00199–1)	63.00	Oct. 1, 2007
1 (Parts 52–99)	(869–062–00200–9)	49.00	Oct. 1, 2007
2 (Parts 201–299)	(869–062–00201–7)	50.00	Oct. 1, 2007
3–6	(869–062–00202–5)	34.00	Oct. 1, 2007

Title	Stock Number	Price	Revision Date
7–14	(869–062–00203–3)	56.00	Oct. 1, 2007
15–28	(869–062–00204–1)	47.00	Oct. 1, 2007
*29–End	(869–062–00205–0)	47.00	Oct. 1, 2007
49 Parts:			
1–99	(869–062–00206–8)	60.00	Oct. 1, 2007
100–185	(869–062–00207–6)	63.00	Oct. 1, 2007
186–199	(869–062–00208–4)	23.00	Oct. 1, 2007
200–299	(869–062–00208–1)	32.00	Oct. 1, 2007
300–399	(869–062–00210–6)	32.00	Oct. 1, 2007
400–599	(869–062–00210–3)	64.00	Oct. 1, 2007
600–999	(869–062–00212–2)	19.00	Oct. 1, 2007
1000–1199	(869–062–00213–1)	28.00	Oct. 1, 2007
1200–End	(869–062–00214–9)	34.00	Oct. 1, 2007
50 Parts:			
*1–16	(869–062–00215–7)	11.00	Oct. 1, 2007
*17.1–17.95(b)	(869–062–00216–5)	32.00	Oct. 1, 2007
17.95(c)–end	(869–062–00217–3)	32.00	Oct. 1, 2007
17.96–17.99(h)	(869–062–00218–1)	61.00	Oct. 1, 2007
*17.99(i)–end and 17.100–end	(869–062–00219–0)	47.00	[10] Oct. 1, 2007
18–199	(869–062–00226–3)	50.00	Oct. 1, 2007
200–599	(869–062–00221–1)	45.00	Oct. 1, 2007
600–659	(869–062–00222–0)	31.00	Oct. 1, 2007
660–End	(869–062–00223–8)	31.00	Oct. 1, 2007
CFR Index and Findings Aids	(869–062–00050–2)	62.00	Jan. 1, 2007
Complete 2007 CFR set		1,499.00	2008
Microfiche CFR Edition:			
Subscription (mailed as issued)		406.00	2008
Individual copies		4.00	2008
Complete set (one-time mailing)		332.00	2007
Complete set (one-time mailing)		332.00	2006

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 2005, through January 1, 2006. The CFR volume issued as of January 1, 2005 should be retained.

[5] No amendments to this volume were promulgated during the period January 1, 2006, through January 1, 2007. The CFR volume issued as of January 6, 2006 should be retained.

[6] No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2006. The CFR volume issued as of April 1, 2000 should be retained.

[7] No amendments to this volume were promulgated during the period April 1, 2006 through April 1, 2007. The CFR volume issued as of April 1, 2006 should be retained.

[8] No amendments to this volume were promulgated during the period July 1, 2005, through July 1, 2006. The CFR volume issued as of July 1, 2005 should be retained.

[9] No amendments to this volume were promulgated during the period July 1, 2006, through July 1, 2007. The CFR volume issued as of July 1, 2006 should be retained.

[10] No amendments to this volume were promulgated during the period October 1, 2005, through October 1, 2006. The CFR volume issued as of October 1, 2005 should be retained.

[11] No amendments to this volume were promulgated during the period October 1, 2006, through October 1, 2007. The CFR volume issued as of October 1, 2006 should be retained.