



Federal Register

12-11-06

Vol. 71 No. 237

Book 1 of 4 Books

Pages 71463-72714

Monday

Dec. 11, 2006



The **FEDERAL REGISTER** (ISSN 0097-6326) is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition. Periodicals postage is paid at Washington, DC.

The **FEDERAL REGISTER** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see www.archives.gov.

The seal of the National Archives and Records Administration authenticates the **Federal Register** as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge as one of the databases on GPO Access, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** www.gpoaccess.gov/nara, available through GPO Access, is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6 a.m. each day the **Federal Register** is published and includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward.

For more information about GPO Access, contact the GPO Access User Support Team, call toll free 1-888-293-6498; DC area 202-512-1530; fax at 202-512-1262; or via e-mail at gpoaccess@gpo.gov. The Support Team is available between 7:00 a.m. and 9:00 p.m. Eastern Time, Monday-Friday, except official holidays.

The annual subscription price for the **Federal Register** paper edition is \$749 plus postage, or \$808, plus postage, for a combined **Federal Register**, **Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is \$165, plus postage. Six month subscriptions are available for one-half the annual rate. The prevailing postal rates will be applied to orders according to the delivery method requested. The price of a single copy of the daily **Federal Register**, including postage, is based on the number of pages: \$11 for an issue containing less than 200 pages; \$22 for an issue containing 200 to 400 pages; and \$33 for an issue containing more than 400 pages. Single issues of the microfiche edition may be purchased for \$3 per copy, including postage. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard, American Express, or Discover. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954; or call toll free 1-866-512-1800, DC area 202-512-1800; or go to the U.S. Government Online Bookstore site, see bookstore.gpo.gov.

There are no restrictions on the republication of material appearing in the **Federal Register**.

How To Cite This Publication: Use the volume number and the page number. Example: 71 FR 12345.

Postmaster: Send address changes to the Superintendent of Documents, Federal Register, U.S. Government Printing Office, Washington DC 20402, along with the entire mailing label from the last issue received.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche 202-512-1800
Assistance with public subscriptions 202-512-1806

General online information 202-512-1530; 1-888-293-6498

Single copies/back copies:

Paper or fiche 202-512-1800
Assistance with public single copies 1-866-512-1800
(Toll-Free)

FEDERAL AGENCIES

Subscriptions:

Paper or fiche 202-741-6005
Assistance with Federal agency subscriptions 202-741-6005

FEDERAL REGISTER WORKSHOP

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: Sponsored by the Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

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

WHEN: Tuesday, December 12, 2006
9:00 a.m.-Noon

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

RESERVATIONS: (202) 741-6008



Contents

Federal Register

Vol. 71, No. 237

Monday, December 11, 2006

Agency for International Development

PROPOSED RULES

Semi-annual agenda, 73823–73826

Agriculture Department

PROPOSED RULES

Semi-annual agenda, 72939–73031

NOTICES

Agency information collection activities; proposals, submissions, and approvals, 71503–71505

Air Force Department

NOTICES

Privacy Act; systems of records, 71535–71537

Architectural and Transportation Barriers Compliance Board

PROPOSED RULES

Semi-annual agenda, 73827–73829

Army Department

NOTICES

Privacy Act; systems of records, 71537–71538

Arts and Humanities, National Foundation

See National Foundation on the Arts and the Humanities

Blind or Severely Disabled, Committee for Purchase From People Who Are

See Committee for Purchase From People Who Are Blind or Severely Disabled

Broadcasting Board of Governors

NOTICES

Meetings; Sunshine Act, 71505

Centers for Medicare & Medicaid Services

See Inspector General Office, Health and Human Services Department

Children and Families Administration

NOTICES

Organization, functions, and authority delegations:
Assistant Secretary Office for Children and Families et al., 71549–71550

Civil Rights Commission

PROPOSED RULES

Semi-annual agenda, 73831–73832

Coast Guard

RULES

Ports and waterways safety; regulated navigation areas, safety zones, security zones, etc.:
East Rockaway Inlet to Atlantic Beach Bridge, NY, 71483–71486

Commerce Department

See Foreign-Trade Zones Board

See Industry and Security Bureau

See International Trade Administration

PROPOSED RULES

Semi-annual agenda, 73033–73124

NOTICES

Privacy Act; systems of records, 71506–71507

Committee for Purchase From People Who Are Blind or Severely Disabled

PROPOSED RULES

Semi-annual agenda, 73833–73837

Commodity Futures Trading Commission

PROPOSED RULES

Semi-annual agenda, 74125–74131

Consumer Product Safety Commission

PROPOSED RULES

Semi-annual agenda, 74133–74143

Corporation for National and Community Service

PROPOSED RULES

Semi-annual agenda, 73839–73842

Court Services and Offender Supervision Agency for the District of Columbia

PROPOSED RULES

Semi-annual agenda, 73845–73846

Defense Department

See Air Force Department

See Army Department

See Navy Department

PROPOSED RULES

Federal Acquisition Regulation (FAR):

Semi-annual agenda, 74113–74124

Semi-annual agenda, 73125–73165

NOTICES

Meetings:

Science Board task forces, 71531–71532

Privacy Act; systems of records, 71532–71535

Drug Enforcement Administration

NOTICES

Agency information collection activities; proposals, submissions, and approvals, 71555

Registration revocations, restrictions, denials, reinstatements:

Orlando Wholesale L.L.C., 71555–71557

Taby Enterprises of Osceola, Inc., 71557–71559

Schedules of controlled substances; production quotas:

Schedule I and II—

2007 aggregate, 71559–71562

Education Department

PROPOSED RULES

Semi-annual agenda, 73167–73175

Employee Benefits Security Administration

NOTICES

Employee Retirement Income Security Act:

Annual information return report forms; revision, 71562–71579

Reports and guidance documents; availability, etc.:
 Multiple Employer Welfare Arrangements annual report;
 2006 Form M-1 availability [**Editorial Note:** This
 document appearing at 71 FR 70991 in the **Federal
 Register** of Thursday, December 7, 2006, was
 incorrectly indexed in that issue's Table of Contents.]

Energy Department

See Federal Energy Regulatory Commission

PROPOSED RULES

Semi-annual agenda, 73177–73193

NOTICES

Atomic energy agreements; subsequent arrangements,
 71539–71540

Environmental Protection Agency

RULES

Air quality implementation plans; approval and
 promulgation; various States; air quality planning
 purposes; designation of areas:
 Maine, 71489–71491

Air quality implementation plans; approval and
 promulgation; various States:
 Nevada, 71486–71489

PROPOSED RULES

Semi-annual agenda, 73847–73981

NOTICES

Water pollution control:

National Pollutant Discharge Elimination System—
 Various States; storm water discharges from industrial
 activities; general permits, 71540–71541

Water supply:

Public water system supervision program—
 Kansas, 71542
 Nebraska, 71541–71542

Equal Employment Opportunity Commission

PROPOSED RULES

Semi-annual agenda, 73983–73986

Executive Office of the President

See Management and Budget Office

Farm Credit Administration

PROPOSED RULES

Semi-annual agenda, 74145–74152

NOTICES

Meetings; Sunshine Act, 71542–71543

Farm Credit System Insurance Corporation

PROPOSED RULES

Semi-annual agenda, 74153–74154

Federal Aviation Administration

RULES

Airworthiness directives:

Columbia Aircraft Manufacturing, 71478–71480
 Empresa Brasileira de Aeronautica S.A. (EMBRAER),
 71480–71483
 Fokker, 71475–71478

PROPOSED RULES

Airworthiness directives:

Bombardier, 71492–71494
 Pacific Aerospace Corp. Ltd., 71499–71500
 Pilatus Aircraft Ltd, 71497–71499
 Raytheon Aircraft Co., 71494–71497

Federal Communications Commission

PROPOSED RULES

Semi-annual agenda, 74155–74217

NOTICES

Committees; establishment, renewal, termination, etc.:
 Diversity for Communications in the Digital Age
 Advisory Committee, 71543

Federal Deposit Insurance Corporation

PROPOSED RULES

Semi-annual agenda, 74219–74227

Federal Election Commission

NOTICES

Meetings; Sunshine Act, 71543

Federal Energy Regulatory Commission

PROPOSED RULES

Semi-annual agenda, 74229–74240

Federal Highway Administration

NOTICES

Highway planning and construction; licenses, permits,
 approvals, etc.:
 Monterey County, CA; U.S. Highway 101 Prunedale
 Improvement Project, 71608

Federal Housing Enterprise Oversight Office

PROPOSED RULES

Semi-annual agenda, 74029–74032

Federal Housing Finance Board

PROPOSED RULES

Semi-annual agenda, 74241–74244

Federal Maritime Commission

PROPOSED RULES

Semi-annual agenda, 74245–74247

Federal Mediation and Conciliation Service

PROPOSED RULES

Semi-annual agenda, 73987–73988

Federal Reserve System

RULES

Loans to executive officers, directors, and principal
 shareholders of member banks (Regulation O):
 Reporting requirements, 71472–71475

PROPOSED RULES

Semi-annual agenda, 74249–74255

NOTICES

Banks and bank holding companies:
 Formations, acquisitions, and mergers, 71543–71544

Federal Retirement Thrift Investment Board

NOTICES

Meetings; Sunshine Act, 71544

Federal Trade Commission

PROPOSED RULES

Semi-annual agenda, 74257–74269

NOTICES

Premerger notification waiting periods; early terminations,
 71544–71548

Foreign Assets Control Office

PROPOSED RULES

Iranian and Sudanese transactions regulations:
 Agricultural commodities, medicine, and medical
 devices; exportation licensing procedures
 effectiveness, 71500–71501

Foreign-Trade Zones Board**NOTICES***Applications, hearings, determinations, etc.:*

Indiana

Pfizer Inc.; pharmaceutical products manufacturing and warehousing facilities, 71507

North Carolina

DNP IMS America Corp.; thermal media and digital printer cartridge and components manufacturing plant, 71507

Ohio, 71507–71508

Virginia

A. Wimpfheimer & Bro., Inc.; textile finishing plant, 71508

General Services Administration**PROPOSED RULES**

Federal Acquisition Regulation (FAR):

Semi-annual agenda, 74113–74124

Semi-annual agenda, 73989–74001

Government Ethics Office**PROPOSED RULES**

Semi-annual agenda, 74033–74040

NOTICES

Senior Executive Service Performance Review Board; membership, 71548–71549

Health and Human Services Department*See Children and Families Administration**See Health Resources and Services Administration**See Inspector General Office, Health and Human Services Department***PROPOSED RULES**

Semi-annual agenda, 73195–73275

Health Resources and Services Administration**NOTICES**

Meetings:

National Health Service Corps National Advisory Council, 71550

Homeland Security Department*See Coast Guard***PROPOSED RULES**

Semi-annual agenda, 73277–73382

Housing and Urban Development Department*See Federal Housing Enterprise Oversight Office***PROPOSED RULES**

Semi-annual agenda, 73385–73413

NOTICES

Agency information collection activities; proposals, submissions, and approvals, 71550–71551

Industry and Security Bureau**NOTICES**

Meetings:

Deemed Export Advisory Committee, 71508–71509

Inspector General Office, Health and Human Services Department**PROPOSED RULES**

Medicare and State healthcare programs; fraud and abuse:

New safe harbors and special fraud alerts; comment request, 71501–71502

Interior Department*See Land Management Bureau**See National Indian Gaming Commission**See National Park Service***PROPOSED RULES**

Semi-annual agenda, 73415–73489

Internal Revenue Service**NOTICES**

Employee Retirement Income Security Act:

Annual information return report forms; revision, 71562–71579

International Trade Administration**NOTICES**

Antidumping:

Folding metal tables and chairs from—
China, 71509–71510Fresh garlic from—
China, 71510–71523Hot-rolled carbon steel flat products from—
Netherlands, 71523–71530Stainless steel butt-weld pipe fittings from—
Various countries, 71530–71531**International Trade Commission****NOTICES**

Import investigations:

Display controllers and products containing same and certain display controllers with upscaling functionality and products containing same, 71554

Silicon metal from—
Brazil and China, 71554–71555**Justice Department***See Drug Enforcement Administration***PROPOSED RULES**

Semi-annual agenda, 73491–73538

Labor Department*See Employee Benefits Security Administration***PROPOSED RULES**

Semi-annual agenda, 73539–73573

Land Management Bureau**NOTICES**

Meetings:

Resource Advisory Councils—
Central Montana, 71551–71552
Dakotas, 71551**Management and Budget Office****PROPOSED RULES**

Semi-annual agenda, 74041–74043

Millennium Challenge Corporation**NOTICES**

Reports and guidance documents; availability, etc.:

Quarterly report, 71579–71583

National Aeronautics and Space Administration**PROPOSED RULES**

Federal Acquisition Regulation (FAR):

Semi-annual agenda, 74113–74124

Semi-annual agenda, 74003–74008

National Archives and Records Administration**PROPOSED RULES**

Semi-annual agenda, 74009–74015

NOTICES

Agency records schedules; availability, 71583–71585

National Credit Union Administration**PROPOSED RULES**

Semi-annual agenda, 74271–74279

NOTICES

Meetings; Sunshine Act, 71585

National Foundation on the Arts and the Humanities**PROPOSED RULES**

Semi-annual agenda:

Institute of Museum and Library Services, 74017–74018

National Endowment for the Arts, 74019–74020

National Endowment for the Humanities, 74021–74023

National Indian Gaming Commission**PROPOSED RULES**

Semi-annual agenda, 74281–74285

National Labor Relations Board**NOTICES**

Senior Executive Service Combined Performance Review Board; membership, 71585–71586

National Park Service**NOTICES**

Environmental statements; notice of intent:

Cape Hatteras National Seashore, NC; off-road vehicle management plan, 71552–71553

National Register of Historic Places; pending nominations, 71553–71554

National Science Foundation**PROPOSED RULES**

Semi-annual agenda, 74025–74027

Navy Department**NOTICES**

Patent licenses; non-exclusive, exclusive, or partially exclusive:

Ekips Technologies, Inc., 71538

Privacy Act; systems of records, 71538–71539

Nuclear Regulatory Commission**RULES**

Spent nuclear fuel and high-level radioactive waste; independent storage; licensing requirements:

Approved spent fuels storage casks; list, 71463–71472

PROPOSED RULES

Semi-annual agenda, 74287–74302

NOTICES

Environmental statements; availability, etc.:

Alcoa Inc., 71589–71591

Philadelphia Health & Education Corp., 71591–71593

Plants and materials; physical protection:

Fingerprinting and criminal history records check requirements; access to safeguards information, 71593–71596

Applications, hearings, determinations, etc.:

Carolina Power & Light Co., 71586

Pacific Gas & Electric Co., 71586–71589

Office of Federal Housing Enterprise Oversight

See Federal Housing Enterprise Oversight Office

Office of Management and Budget

See Management and Budget Office

Peace Corps**PROPOSED RULES**

Semi-annual agenda, 74069–74071

Pension Benefit Guaranty Corporation**PROPOSED RULES**

Semi-annual agenda, 74073–74078

NOTICES

Employee Retirement Income Security Act:

Annual information return report forms; revision, 71562–71579

Personnel Management Office**PROPOSED RULES**

Semi-annual agenda, 74045–74067

Postal Rate Commission**NOTICES**

Meetings; Sunshine Act, 71596

Public Debt Bureau**NOTICES**

Agency information collection activities; proposals, submissions, and approvals, 71610–71612

Railroad Retirement Board**PROPOSED RULES**

Semi-annual agenda, 74079–74081

NOTICES

Agency information collection activities; proposals, submissions, and approvals, 71596

Regulatory Information Service Center**PROPOSED RULES**

Introduction to Unified Agenda of Regulatory and Deregulatory Actions, 72717–72838

Securities and Exchange Commission**PROPOSED RULES**

Semi-annual agenda, 74303–74327

NOTICES

Meetings; Sunshine Act, 71597

Options Price Reporting Authority:

Consolidated Options Last Sale Reports and Quotation Information; Reporting Plan; amendments, 71597–71598

Self-regulatory organizations; proposed rule changes:

American Stock Exchange LLC, 71598–71600

National Association of Securities Dealers, Inc., 71600–71605

Philadelphia Stock Exchange, Inc., 71605–71607

Selective Service System**PROPOSED RULES**

Semi-annual agenda, 74083–74084

Small Business Administration**PROPOSED RULES**

Semi-annual agenda, 74085–74095

Social Security Administration**PROPOSED RULES**

Semi-annual agenda, 74097–74112

State Department**PROPOSED RULES**

Semi-annual agenda, 73575–73582

NOTICES

Culturally significant objects imported for exhibition:

Defining Modernity: European Drawings 1800-1900, 71607

George Stubbs (1724-1806): British Painter, 71607–71608

Surface Transportation Board

PROPOSED RULES

Semi-annual agenda, 74329–74332

NOTICES

Railroad operation, acquisition, construction, etc.:

Iowa Interstate Railroad, Ltd., 71608–71609

Railroad services abandonment:

Norfolk Southern Railway Co., 71609–71610

Transportation Department

See Federal Aviation Administration

See Federal Highway Administration

See Surface Transportation Board

PROPOSED RULES

Semi-annual agenda, 73583–73673

Treasury Department

See Foreign Assets Control Office

See Internal Revenue Service

See Public Debt Bureau

PROPOSED RULES

Semi-annual agenda, 73675–73798

Veterans Affairs Department

PROPOSED RULES

Semi-annual agenda, 73799–73821

Separate Parts In This Issue

Parts II-LX

The Unified Agenda of the Federal Regulatory and
Deregulatory Actions, 72715–74450

Reader Aids

Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

To subscribe to the Federal Register Table of Contents LISTSERV electronic mailing list, go to <http://listserv.access.gpo.gov> and select Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings); then follow the instructions.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

10 CFR

72.....71463

12 CFR

215.....71472

14 CFR

39 (3 documents)71475,
71478, 71480

Proposed Rules:

39 (4 documents)71492,
71494, 71497, 71499

31 CFR**Proposed Rules:**

538.....71500

560.....71500

33 CFR

165.....71483

40 CFR

52 (2 documents)71486,
71489

81.....71489

42 CFR**Proposed Rules:**

1001.....71501

Rules and Regulations

Federal Register

Vol. 71, No. 237

Monday, December 11, 2006

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

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

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN 3150-AH93

List of Approved Spent Fuel Storage Casks: NUHOMS® HD Addition

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to add the NUHOMS® HD cask system to the list of approved spent fuel storage casks. This final rule allows the holders of power reactor operating licenses to store spent fuel in this approved cask system under a general license.

DATES: *Effective Date:* The final rule is effective on January 10, 2007.

ADDRESSES: Publicly available documents related to this rulemaking may be viewed electronically on the public computers located at the NRC's Public Document Room (PDR), Room O1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. The PDR reproduction contractor will copy documents for a fee. Selected documents can be viewed and downloaded electronically via the NRC's rulemaking Web site at <http://ruleforum.llnl.gov>.

Publicly available documents created or received at the NRC are available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/NRC/reading-rm/adams.html>. From this site, the public can gain entry into the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are any problems in accessing the documents located in ADAMS, contact

the NRC PDR Reference staff at (800) 397-4209, (301) 415-4737, or by e-mail to pdr@nrc.gov.

FOR FURTHER INFORMATION CONTACT: Jayne M. McCausland, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-6219, e-mail jmm2@nrc.gov.

SUPPLEMENTARY INFORMATION:

Background

Section 218(a) of the Nuclear Waste Policy Act of 1982, as amended (NWPA), requires that "[t]he Secretary [of the Department of Energy (DOE)] shall establish a demonstration program, in cooperation with the private sector, for the dry storage of spent nuclear fuel at civilian nuclear power reactor sites, with the objective of establishing one or more technologies that the [Nuclear Regulatory] Commission may, by rule, approve for use at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site-specific approvals by the Commission." Section 133 of the NWPA states, in part, that "[t]he Commission shall, by rule, establish procedures for the licensing of any technology approved by the Commission under Section 218(a) for use at the site of any civilian nuclear power reactor."

To implement this mandate, the NRC approved dry storage of spent nuclear fuel in NRC-approved casks under a general license by publishing a final rule in 10 CFR Part 72 entitled "General License for Storage of Spent Fuel at Power Reactor Sites" (55 FR 29181; July 18, 1990). This rule also established a new Subpart L within 10 CFR Part 72, entitled "Approval of Spent Fuel Storage Casks," containing procedures and criteria for obtaining NRC approval of spent fuel storage cask designs.

Discussion

On May 5, 2004, and as supplemented on July 6, August 16, October 11, October 28, November 19, 2004; February 18, March 7, April 14, May 20, May 24, August 16, 2005; and January 24, February 15, and September 19, 2006, the certificate holder, Transnuclear, Inc. (TN), submitted an application to the NRC to add the NUHOMS® HD cask system to the list of NRC-approved casks for spent fuel

storage in 10 CFR 72.214. The NUHOMS® HD System provides for the horizontal storage of high burnup spent pressurized water reactor fuel assemblies in a Dry Shielded Canister (DSC) that is placed in a horizontal storage module (HSM) utilizing an OS-187H transfer cask (TC). The system is an improved version of the Standardized NUHOMS® System described in Certificate of Compliance (CoC) No. 1004. The NUHOMS® HD System has been optimized for high thermal loads, limited space, and radiation shielding performance. The -32PTH DSC included in this system is similar to the -24PTH DSC submitted for licensing as Amendment No. 8 to the Standardized NUHOMS® System. The -32PTH DSC will be transferred during loading operations using the OS-187H TC. The OS-187H TC is very similar to the OS-197 and OS-197 TCs described in the final safety analysis report for the Standardized NUHOMS® System. The -32PTH DSC will be stored in an HSM, designated the HSM-H. The HSM-H is virtually identical to the HSM-H submitted for licensing as Amendment No. 8 to the Standardized NUHOMS® System. The NRC staff performed a detailed safety evaluation of the proposed CoC request and found that an acceptable safety margin is maintained. In addition, the NRC staff has determined that there continues to be reasonable assurance that public health and safety and the environment will be adequately protected.

The NRC published a direct final rule (71 FR 25740; May 2, 2006) and the companion proposed rule (71 FR 25782) in the **Federal Register** to add the NUHOMS® HD cask system to the listing in 10 CFR 72.214. The comment period ended on July 17, 2006. Six comment letters were received on the proposed rule. The comments were considered to be significant and adverse and warranted withdrawal of the direct final rule. A notice of withdrawal was published in the **Federal Register** on July 13, 2006; 71 FR 39520.

Based on NRC review and analysis of public comments, the staff has modified, as appropriate, Technical Specifications (TS) and the Approved Contents and Design Features, for the NUHOMS® HD system. The staff has also modified its preliminary Safety Evaluation Report (SER). In particular, regarding the potential for the dry

shielded canister to corrode in a coastal marine environment, TN committed to specifying a weathering steel for Independent Spent Fuel Storage Installations (ISFSIs) located near a coastal marine environment. The staff made corresponding changes to the SER and added a requirement to TS 4.4.1 to capture this commitment for the HSM-H.

The proposed TS and SER have been revised in response to Comment 2. Specifically, based on questions from the staff regarding this issue, TN committed in a letter dated September 19, 2006, to add the following to Section 3.4.1.4 of the Safety Analysis Report (SAR) for the NUHOMS HD design: "If an independent spent fuel storage installation site is located in a coastal salt water marine atmosphere, then any load-bearing carbon steel DSC support structure rail components of any associated HSM-H shall be procured with a minimum 0.20 percent copper content for corrosion resistance." This commitment has also been captured in NUHOMS HD TS 4.4.1 for the HSM-H, and the staff made corresponding changes to SER Section 3.2.1 to document its evaluation.

The NRC finds that the TN NUHOMS HD cask system, as designed and when fabricated and used in accordance with the conditions specified in its CoC, meets the requirements of 10 CFR Part 72. Thus, use of the TN NUHOMS HD cask system, as approved by the NRC, will provide adequate protection of public health and safety and the environment. With this final rule, the NRC is approving the use of the TN NUHOMS HD cask system under the general license in 10 CFR Part 72, Subpart K, by holders of power reactor operating licenses under 10 CFR Part 50. Simultaneously, the NRC is issuing a final SER and CoC that will be effective on January 10, 2007. Single copies of the CoC and SER are available for public inspection and/or copying for a fee at the NRC Public Document Room, O-1F21, 11555 Rockville Pike, Rockville, MD.

Discussion of Amendments by Section

Section 72.214 List of Approved Spent Fuel Storage Casks

CoC No. 1030 is added to the list of approved spent fuel storage casks.

Summary of Public Comments on the Proposed Rule

The NRC received six comment letters on the proposed rule. The commenters included representatives from industry and members of the public. Copies of

the public comments are available for review in the NRC's Public Document Room, O-1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

Comments on the Transnuclear, Inc., NUHOMS HD Cask System

Several of the commenters provided specific comments on the NRC staff's preliminary SER and the TS. To the extent possible, the comments on a particular subject are grouped together. The listing of the Transnuclear, Inc., NUHOMS HD cask system within 10 CFR 72.214, "List of approved spent fuel storage casks," has not been changed as a result of the public comments. A review of the comments and the NRC staff's responses follow:

Comment 1: Three commenters raised issues with using Boral® for criticality control. One commenter pointed to documented widespread evidence of Boral degradation; e.g., in Spain, Boral was banned from all casks after evidence of Boral's swelling and hydrogen generation was found in laboratory testing, and in the U.S., Boral has exhibited swelling, blistering, and instances of major hydrogen gas generation in dry cask fuel storage applications. Two commenters noted that NRC issued Generic Safety Issue No. 196 to study the Boral degradation problem. Other remarks concerning Boral are noted as follows: (1) The problem has been occurring for 20 to 30 years; (2) Boral problems occur on a random basis, and it is impossible to predict the product's performance because of uncertainty in the level of porosity in the aluminum boron carbide core of the clad product; (3) Boral was the material choice in past years mainly because there were no economical alternatives; (4) The use of Boral was understandable 10 or even 5 years ago because fully dense metallic neutron absorbers were not commercially available then, but now aluminum alloy-based neutron absorbers with high boron content are produced by several suppliers; (5) Boral is used today only because of its cost savings to the cask supplier, and it is not worth putting the health and safety of workers who load the cask at risk; (6) From a metallurgical point of view, the most consistent performance will be demonstrated from an aluminum boron carbide neutron absorbing product which exhibits 100 percent of theoretical density, and only a fully dense neutron absorber will completely eliminate the potential of swelling and hydrogen gas generation phenomenon.

Response: The NRC is aware that canisters containing BORAL™ may

generate hydrogen while the canister is submerged in the spent fuel pool during short-term loading operations. This was observed at the Columbia Generating Station in 2002. BORAL™ will react with the spent fuel pool water during loading operations and generate hydrogen. The magnitude of the hydrogen generation could depend on many factors, such as pool water chemistry, batch-to-batch variations, time-at-temperature, etc. The hydrogen generation does not decrease the efficacy of the material as a neutron absorber. As is the case with most casks licensed by the NRC, the SAR for the NUHOMS HD describes hydrogen generation mitigating procedures. Vendors of casks certified by NRC have recommended that the utilities monitor for hydrogen gas during loading operations and state that a purge be used when hydrogen gas concentration exceeds 2.4 percent prior to or during root-pass welding of the lid.

The NRC is aware that BORAL™ can swell or blister under high temperatures and hydrostatic pressures as was observed in Spain. In October 2003, the NRC received a letter from the Empresa Nacional de Residuos Radiactivos, S. A. (ENRESA) concerning this matter in the Spanish cask. However, it is our understanding that the Equipos Nucleares, S.A (ENSA) test conditions, under which blistering was observed, were conducted at high heat-up rates and high hydrostatic pressures, well beyond those for operating conditions for the dry cask storage systems in the U.S. It is also our understanding that the high heat-up rates and hydrostatic pressures did not permit the liquid to drain prior to expanding, thereby leading to blistering. This was due to low porosity of the BORAL™ matrix structure which does not facilitate water egress under the conditions mentioned above. The letter from ENRESA concerning this matter in the Spanish cask and the BORAL™ blistering never stated that BORAL™ has been banned from use in Spain. It should be noted that no U.S. vendors or utilities have reported any BORAL™ blistering during loading operations or manufacturer acceptance testing of a cask.

The staff in the Spent Fuel Storage and Transportation Division have shared data and reports with the staff in the office of Nuclear Regulatory Research concerning GSI-196, BORAL™ degradation. All data, reports, and letters (domestic and foreign) provided to ascertain criticality implications of BORAL™ degradation in the context of dry cask storage of spent fuel have shown that the efficacy

was not reduced in BORAL™ used in dry cask storage systems.

Blistering or swelling in BORAL™ has been reported to occur under wet storage conditions in the spent fuel pools at both domestic and foreign reactors. For example, in September 2003, FPL Energy Seabrook, LLC, reported bulging of the BORAL™ coupon used to monitor the performance of the spent fuel pool racks. The bulging of this coupon was due to blistering. FPL's examination and analysis of the coupon indicated no loss in the B-10 areal density.

Neutron attenuation and radiography measurements have been conducted on the BORAL™ test coupons—both seal-welded and vented—subjected to multiple wetting/drying cycles and varying heat-up rates to simulate wet storage and typical cask loading conditions. In the many test reports reviewed by the NRC staff, blistering usually occurred in the low-porosity (low B4C content) coupons. The data reported that the boron-10 areal density in the blistered specimens remained unaffected. Thus, neutron attenuation efficacy was not affected in the BORAL™. It should be noted that the Seabrook licensee, who reported blistering in the BORAL™ coupons after about 7 years of wet storage in the spent fuel pool, reportedly demonstrated that BORAL™ suffered no loss of effectiveness as a neutron absorber.

The NRC is aware that other neutron absorber materials are now available to the cask vendors; however, the NRC does not recommend any brand of material to the vendors. To date, tests have shown that the BORAL™ material still performs its intended function with or without the blisters being present.

The NRC staff does not dispute the advantages of the near-theoretical-density neutron absorber materials, which have become available in recent years. However, blistering has not been shown to affect dose to workers involved in the cask loading process. Additionally, if hydrogen gas is detected during the loading operations, the vendors and licensees can use mitigating procedures to vent and purge the cask. This procedure is recommended prior to welding; thus, worker safety can be ensured.

The NRC staff does agree that this problem of blistering and hydrogen generation has not been reported in the absorber materials that have a 100-percent dense matrix. However, the NRC has reviewed evaluations by the Energy Power Research Institute (EPRI) and cask vendors, and for the most part, the boron areal density (10B/cm²) in the

blistered specimens remained unaffected. Thus, neutron attenuation was not affected, and there was no impact on BORAL's effectiveness as a neutron absorber.

Comment 2: One commenter stated that the structural steel frame used to support the DSC poses a serious risk to public health and safety. The commenter made the following points: (1) From contact with the air and humidity in the environment, these structurals can corrode from the inside as well as from the outside. Particularly at coastal sites, anything that can corrode, will corrode. Even stainless steel develops stress corrosion cracks. (2) The upright tubes make up the only support structure for the fuel-filled canister. They cannot be inspected from the outside of the NUHOMS because they cannot be seen. All primary supports must be inspected periodically, and it is a fatal flaw to have a fuel storage canister perched about 6 feet in the air on top of a steel frame which cannot be inspected at all. It is a dangerous sort of design for unrestricted use around our country, including the plants in salt air environments.

Response: Regarding Part (1), above, it is widely recognized that corrosion is a significant concern in coastal marine environments due to the wind borne salts deposited upon structures. Based on questions from the staff regarding this issue, TN committed in a September 19, 2006, letter to add the following to Section 3.4.1.4 of the SAR for the NUHOMS® HD design: "If an independent spent fuel storage installation site is located in a coastal salt water marine atmosphere, then any load-bearing carbon steel DSC support structure rail components of any associated HSM-H shall be procured with a minimum 0.20 percent copper content for corrosion resistance." This commitment has also been captured in NUHOMS® HD TS 4.4.1 for the HSM-H. Consequently, the TN design incorporates a requirement to use atmospheric corrosion resisting steels (a.k.a., weathering steels) when the spent fuel storage site is near a coastal marine environment.

A significant body of technical literature exists, which provides corrosion rate data for a variety of steel alloys exposed to the elements at coastal sites. From this data, TN recognized that weathering steels provide ample corrosion resistance in a coastal marine atmosphere. This corrosion resistance would assure that the accumulated corrosion loss over a 20-year license period would be immaterial to the

structural integrity of the support steel inside the HSM-H.

It should be noted that the data used to determine the required corrosion allowance are for samples fully exposed to the elements. It is known that samples that are fully shielded from the sun and rain show a significantly lower corrosion rate than fully exposed samples. The structural steel of the HSM-H is entirely enclosed inside a ventilated concrete structure that totally shields the steel from sunlight and precipitation. TN chose to employ the higher corrosion rate data for fully exposed samples as the basis for their corrosion allowance. This provides an added degree of conservatism to their design.

In addition to the use of corrosion-resisting steels, TN has specified the application of a corrosion resistant coating over the support steel. The coating may be one of several systems. One system consists of an inorganic zinc primer with an epoxy overcoat. This is an industry-recognized, high performance, and long-lived industrial coating system that is designed to withstand very severe environments. Although the coating is specified, it is not credited in the corrosion rate calculations that are part of the structural steel design margins.

The staff finds that the use of corrosion-resisting steel with a calculated corrosion rate derived from a more severe exposure environment is appropriate. Additionally, the staff finds that the use of a coating system, and the fact that the steel is enclosed in a dry, interior-like environment, provide additional protection against corrosion. Thus, the staff finds that this TN design provides reasonable assurance that the system will not experience any significant corrosion during the 20-year license period at a coastal spent fuel storage site.

Regarding Part (2), the commenter is correct that the canister, in some models of the HSM, is supported in the vertical direction by a series of columns or legs, six in total, that are made of structural steel tubing. These columns are part of a three-dimensional welded and bolted frame anchored vertically and horizontally to the reinforced concrete storage module. The three pairs of columns that are each less than 3.5 feet long support a cross beam which then provides support at three locations for each of the two support rails. The framing design concept is similar to that used in structural steel framing of multi-story buildings, tankage support systems, and other applications where a three-dimensional framing concept is appropriate. In this case, since the frame

is provided with lateral supports at the location of each column to the reinforced concrete horizontal storage module, the frame is considered to be a braced-frame and, therefore, has limited lateral deflection that can occur at the top of the frame. The design concept is not considered to be unique, out-of-the-ordinary, or a dangerous design configuration for this intended use. The design conditions that represent the environment in which the frame must function have been incorporated into the design criteria. In other models of the HSM, the support rails are supported directly on the reinforced concrete storage module by embedded anchors. The NUHOMS® HD support rails are supported and anchored in this manner.

The commenter used the term "primary support" and indicated that all primary supports must be inspected periodically. While the NUHOMS® HD can be used at a nuclear power plant, the certification of the dry spent fuel storage system is carried out under 10 CFR part 72 and not 10 CFR part 50. Consequently, the assertion made by the commenter that "all primary supports" must be inspected periodically may be in reference to a requirement in 10 CFR 50.55a(f), for inservice testing requirements for nuclear power reactor facilities for various classes of components. These 10 CFR part 50 requirements do not apply to the passive systems that are under the jurisdiction of 10 CFR part 72. The design criteria used for the design of the NUHOMS® HD system, to support the canisters in the horizontal storage module, are sufficiently robust so that periodic inservice inspections of these structural components are not deemed to be necessary. It is correct that there is a requirement that is identified in 10 CFR 72.122(f) related to testing and maintenance of systems and components that are important to safety. Such systems and components are to be designed to permit inspection. The NUHOMS® HD rail support system could be visually inspected by remote operations using fiber optics into the HSM-H via the vent system, or the HSM-H can be opened, the canister extracted into the transfer cask, and the rail supports inspected, after appropriate radiation surveys and procedures are met. The environmental concern in Part (2) of the comment is addressed in Part (1) response.

Comment 3: A commenter raised the following concern with respect to flooding: Section 4.6.3 of the Generic Technical Specification states that flood "levels up to 50 feet and water velocity of 5 fps" are allowed. The commenter

was concerned about the flooding condition in which the floodwater rises to fill the inlet ducts in NUHOMS® (all of the air inlet ducts in the NUHOMS® module lie at the ground level). He questioned that if the floodwater rises high enough to block off the air flow through the inlet ducts, the DSC would not cool and concluded that without the ventilation airflow, the DSC would overheat and may even explode from pressure buildup. It seemed to the commenter that TN considered only the case of deep submergence flood in the safety evaluation, which is not a risky condition because the DSC is cooled by the flood water. The commenter further stated that low flood level is a risky condition since the DSC is several feet above the ground, and a flood of any height that remains below the DSC will choke off the ventilation air and cause the DSC to overheat. The commenter was surprised that NRC would issue "general certification" to a ventilated cask like this one to be used in flood plains, considering that there are many "nukes" on river basins that are in the potential flood zone. The commenter further stated that the condition of partial height flood should be given full technical consideration.

Response: Regarding low level floods in the situation when the bottom vents are blocked, evaporative cooling will cool the upper volume of the HSM and the DSC as demonstrated below. A thermal analysis of a typical HSM and DSC with a fuel heat load of 24kW in accident conditions demonstrates that the DSC support steel maximum temperature is 615 °F, and the DSC shell maximum temperature is 642 °F. These component temperatures would provide evaporation of the water in the bottom of the HSM. The evaporated water would cool the DSC and the upper volume of the HSM. The staff notes that the NUHOMS® HD technical specification maximum heat load is 34.8 kW. Even at the higher heat loads, staff believes that evaporative cooling will prevent the DSC from overheating. In addition, the flood water will help cool the submerged portion of the HSM cavity. Therefore, the staff concludes that the DSC will not overheat, and the resulting DSC internal pressures will not exceed the design pressure.

Comment 4: One commenter believed that TS 4.6.3 was unclear in the statement that NRC has allowed "seismic loads of up to 0.3 g horizontal and up to 0.2 g vertical" on the system. The commenter asked for the location in the storage facility to which the g-loads correspond, either at the C.G. of the storage system or at the pad surface on the module's centerline, and also asked

if the g-load limits include the effect of soil-structure interaction alluded to in Paragraph 4.2.2. Another commenter assumed that the 0.3 g horizontal and 0.2 g vertical seismic events (per page 4–7 of Design Features in the Certificate) are free-field accelerations at the site and stated that they will get amplified at the pad due to soil-structure interaction. The on-the-pad accelerations will be further magnified at the rails due to the flexibility of the DSC support structure. Combined with the rattling impulse from the fuel, the commenter believed that a canister may roll off the rails.

Response: The permissible seismic loads of 0.3 g horizontal and 0.2 g vertical noted by the first commenter are the maximum values at the top of the HSM-H or the top of the supporting basemat or pad the NUHOMS® HD system is allowed to be subjected to. The design of the HSM-H and the NUHOMS® HD system is based on the amplified response spectra value of 0.37 g in the orthogonal horizontal direction and 0.20 g in the vertical direction on the 0.3 g and 0.2 g values respectively. The 0.30 g horizontal and 0.20 g vertical values also reflect the resulting maximum permitted accelerations at the top of the basemat or pad after a soil-structure interaction analysis has been performed, if necessary, by the cask system user for the specific site using the site-specific free field g-values. The fact left unstated is that where a soil-structure interaction analysis must be performed by the user, the resulting amplified response value at the center of gravity of the loaded HSM-H must not exceed 0.37 g in the horizontal direction and 0.20 g in the vertical direction. Based on the proposed rule, if either of these values were exceeded, the NUHOMS® HD system could not be used.

The interpretation of the second commenter is not what is reflected in the TS as discussed above. The TS g-values are not generally consistent with the free-field acceleration values at most sites.

The design conditions have included analyses of the canister in place on the rail support system under the design lateral loads from the seismic events, and there is no canister roll off from the rail support system.

Comment 5: One commenter found that the DSC support structure is not restrained against all four walls of the concrete module. A 45-ton container resting unsecured on the rails that are not braced against the four walls is a physically unstable arrangement. The commenter asked if this configuration had been analyzed to ensure that failure

from resonance would not occur during earthquakes. The commenter stated that he could not find any evidence of such an evaluation in the TSAR or the NRC's SER.

Response: It is unclear to the NRC staff what the source and basis are for these comments. The comments do not relate to the NUHOMS® HD system. There is no document identified as the TSAR (Topical Safety Analysis Report) associated with this docket application (72-1030). This terminology was associated with applications submitted in the late 1980s and early 1990s (e.g., TN-24 and TN-32 cask systems). The commenter's description of the DSC support structure does not match that of the NUHOMS® HD system. For the NUHOMS® HD system, the DSC support structure consists of a pair of structural steel rails of 12-inch deep wide-flange sections that are anchored to the reinforced concrete horizontal storage module at the bottom flanges and connected by two struts and are, therefore, considered braced. This configuration is provided in the SAR for the NUHOMS® HD system. The seismic analysis determined that amplified accelerations are based on the frequency analysis, so that any issue of resonance has been incorporated into the analysis and then into the design of the individual members.

Comment 6: One commenter believed that being able to remove the container at the end of 20 years of licensed life should be an important safety consideration. The commenter inquired and found that no plant that has loaded a NUHOMS® in the country has ever attempted to remove the container after a few years of storage. The commenter wanted to know what would happen if the aging of the rails and container's surfaces due to years of weathering were to cause the canister to bind to the rails.

Response: The canister itself is constructed of stainless steel. The top of the support beam has a stainless steel cover plate welded along its entire length. This stainless steel plate forms the surface upon which the canister rests and also serves as a sliding surface for canister installation or removal operations. This plate may be lubricated if desired.

Long-term experiments, where stainless steel samples were exposed to the weather at coastal marine sites, have demonstrated that stainless steel is highly resistant to atmospheric corrosion under those conditions. In the case of the TN NUHOMS® HD design, the canister and related support rails are shielded from direct exposure to the weather (being enclosed in a ventilated enclosure). This sheltering from the

direct weather would result in little, if any, corrosion compared to the already insignificant amounts that could occur if these components were fully exposed to the weather. Absent corrosion, there is no likelihood that the canister would bind to the support rails. Because of this, and the fact that a lubricant (grease) could be applied to the rails, if desired, the staff believes it to be highly unlikely that any difficulty would arise during a removal operation, even after an extended period of time.

Comment 7: A commenter asked what would happen if uneven settlement of the pad from the heavy weight of the module were to cause the canister to bind to the rails.

Response: Uneven settlement of the pad, commonly referred to as differential settlement, is not expected to occur. If it were to occur, it is highly unlikely that it would result in any differential movement between the two supporting rails for the canister that would cause the canister to bind to the rails. The reinforced concrete pad and the reinforced concrete horizontal storage module represent a very stiff structural combination, so that relative movement between the support rails cannot be logically projected based on the structural response from any differential settlement across the supporting base pad. Further, the adequacy of the pad to support the horizontal storage module, without detrimental settlements, is required under the requirements of 10 CFR 72.212. The adequacy must be maintained under static and dynamic loads of the storage cask system, considering potential amplification of earthquakes through soil-structure interaction, soil liquefaction, and other soil instabilities due to vibratory ground motion, if these conditions exist at a site. Binding of the canister to the support rails from settlement or differential movement is not expected under any design condition.

Comment 8: A commenter asked what would happen if the 60 kips of permissible extraction force to remove the container are not sufficient. The commenter stated that this scenario is ignored in the Technical Specification of TN's TSAR.

Response: See also response to Comment 5 regarding a document misidentified as TN's TSAR. If settlement or differential settlement of a limited magnitude were to develop over the years, the transport trailer is equipped with hydraulic jacks or positioners and an alignment system, identified as the skid positioning system that is normally used for the alignment of the transfer cask. This same system

can be used to accommodate effects resulting from limited settlement or differential settlement between the basemat or storage pad and the approach slab. If a situation were to develop where the support skid positioning system could not accommodate the magnitude of the movement, the approach slab can be modified or other measures taken.

Comment 9: A commenter stated that the NUHOMS® HSM is much heavier and bigger than the previous models, noting that each loaded module weighs over 200 tons and questioned whether the ground underneath the NUHOMS® housing would settle over the years under the weight of the modules. The commenter also cited NRC's SER on page 3-7: "It is assumed that an axial load of 80 kips is required for insertion and 60 kips for extraction," and stated that this seems backwards. More force will be needed to extract the canister than to insert it (when the rail is new and greased). The commenter questioned how a safety concern would be addressed if because of settlement and weather effects, 60 kips is not enough to pull the canister out, and how the NUHOMS® would be emptied of fuel if the canister binded to the rails. The commenter believed that this would be a huge concern to people living near the NUHOMS® sites. He further stated that the minimum the NRC should do is to require that a demo of canister extractions at a couple of sites loaded with NUHOMS for 10 years (or more) be done to prove that the horizontally loaded canister can be successfully extracted.

Response: With regard to the commenter's concern about the weight of NUHOMS® HSM, the 80-kip insertion load, and the 60-kip extraction load, it is noted that as stated in the SER on page 3-7, these are the design load conditions under normal operation loading conditions. In the off-normal operation loading condition, the extraction force can be allowed to reach 80 kips under that design condition. The dry cask storage system has been evaluated against the regulatory requirements for retrievability of the spent fuel, and a demonstration of canister extraction from the horizontal storage module is not deemed necessary at some time after 10 years of storage. The extraction system has been determined to be capable of functioning during the term of the certificate.

Comment 10: A commenter stated that he could not find any evaluation of safety for the following scenarios when the DSC is being inserted into the HSM:

Scenario 1: The transfer cask skid has been unfastened from the trailer and the

transfer cask lid has been removed making the DSC axially unrestrained, but before the skid has been fastened to the HSM and the hydraulic ram has been engaged to the DSC grapple ring. An earthquake during this period, depending on its magnitude, has the potential to cause uncontrolled DSC movement and cause a significant radiation exposure event to the workers that could be potentially deadly to the workers.

Scenario 2: The DSC has been installed in the HSM, but the HSM lid (a heavy circular lid that also restrains the DSC in the axial direction) is not yet in place. An earthquake during this period could cause a major radiation exposure event that could be potentially deadly to the workers.

Response: Scenario 1: For the described scenario, the position of the transfer cask for the NUHOMS® HD system, before the lid is removed, is on the transfer trailer, with the cask within several feet of the open HSM-H cavity, after the centerlines of the HSM-H and the cask have been verified to be approximately coincident. The lid of the cask is then removed. The transfer trailer is then backed to within a few inches of the face of the HSM-H, the trailer brakes are set, and the tractor is disconnected from the trailer and moved away. The transfer trailer vertical jacks are positioned to locate the vertical position of the cask in its approximate insertion orientation. The skid tie-down bracket fasteners are removed, and the position of the cask is corrected, as needed for alignment, using the hydraulic skid positioning system. Then, the optical survey equipment and reference marks are used for adjusting the final alignment. The skid positioning system is then used for that final alignment, and the canister is inserted into the HSM-H access opening docking collar. The transfer cask is then secured to the HSM-H using the cask restraints.

A large seismic event, during the period of time from when the transfer cask lid is removed and is several feet from the HSM-H, and before the transfer cask is anchored to the HSM-H with a sufficiently large horizontal axial component, could overcome the frictional resistance that keeps the canister inside the transfer cask. This would not, however, be an uncontrolled DSC movement, since the DSC inside the transfer cask has only an approximately 1/4-inch radial gap, which controls the movement to essentially longitudinal/axial movement with the maximum lateral position of the DSC changing by approximately 1/64-inch for each inch of longitudinal/axial

movement. The longitudinal/axial movement is limited by the distance of several feet between the transfer cask opening and the face of the HSM-H. A longitudinal/axial movement of 3 to 5 feet of the DSC from the transfer cask opening would not constitute an uncontrolled DSC movement, since that longitudinal/axial movement is limited by the face of the HSM-H module.

The possibility of the hypothesized scenario is considered to be much less than what is considered significant for design accident conditions arising from handling and storage of spent nuclear fuel. The seismic event, to produce the hypothesized movement, must have a large enough component of acceleration in the longitudinal/axial direction of the positioned transfer cask that can be at any point on the compass, and the event must occur within a time period of 2 to 4 hours. On an annual basis, this would occur only three to five times per year for a given facility. If such a remote accidental event were ever to occur, plant operations personnel would respond by placing temporary shielding with equipment over any exposed portion of the DSC.

Scenario 2: The operations' procedures identify that upon disengagement of the transfer cask from the HSM-H, the canister's axial seismic restraint is installed. This is a design feature that uses a structural steel embedment in the reinforced concrete of the HSM-H as the anchor point for the retainer device. The commenter's assumption that the HSM-H lid or door is the axial retainer for the canister is incorrect.

Comment 11: One commenter stated that the DSC is pushed into the HSM module using a simple hydraulic ram that has no redundant load handling features. A simple failure such as loss of hydraulic pressure during the pushing operation would leave the DSC in a partially inserted configuration. The commenter believed that a single failure proof ram system should be required or TN should demonstrate that a ram failure halfway through the DSC pushing process can be dealt with using credible recovery measures. The commenter did not believe that NRC has ever considered this issue or that TN has ever been asked to provide an answer.

Response: The functioning of the ram operating system is not considered to be a system that is safety related since the canister is confined and shielded during the period of ram operations. A failure in the location, as hypothesized by the commenter, presents an operational problem, but no significant issues are created. The corrective action would be

to repair the operating system of the ram. NRC has considered this scenario, and the NRC agrees with the safety classification of the ram assembly that it is "Not Important To Safety" as identified in Table 2-5 of the applicant's SAR.

Comment 12: A commenter stated that the DSC, according to NRC's SER, can survive the drop from 80 inches height, but was concerned about how a dropped DSC would be lifted from the pad. The DSC seems to have no lifting or handling attachments except for the grapple, which is useable only to engage the ram for a horizontal push.

Response: The commenter is correct in that there are no lifting or handling attachments other than the grapple ring for a loaded canister. The DSC is placed into the transfer cask within the fuel pool and then is loaded with spent fuel. Then, after removal from the fuel pool and preparation for transfer, the closed cask is moved on the transfer trailer in a horizontal orientation to a location outside the fuel handling building. The transfer trailer and cask with the DSC closed inside are moved to the pad area. The DSC is not lifted out of the transfer cask, but is pushed out of the cylindrical transfer cask directly into the HSM-H in a horizontal position, with the transfer cask coupled to the HSM-H, creating a connecting tunnel space completely enclosing the DSC. This operating procedure makes the possibility of a dropped DSC on the pad extremely unlikely and an accident that is beyond the design basis accident. If a beyond design accident condition were to arise where a loaded and unshielded DSC had to be lifted, the first step would be to provide temporary shielding and probably execute a remote lift in the horizontal position with a device brought in for special use. Such special procedures can be developed for an accident condition response. It should be noted that the 80-inch side drop is for the DSC inside the transfer cask.

Comment 13: A commenter stated that NRC should require a stiff foundation underneath the NUHOMS® to support the weight of the NUHOMS®. At present, the commenter sees nothing in the proposed certificate that requires a strong support foundation to be built. He believes this to be a serious oversight.

Response: The weight of the NUHOMS HD® system, as installed in-place, including the HSM-H, the DSC, and the spent fuel, is to be supported by the ISFSI basemat or pad. That structure is identified in accordance with 10 CFR 72.3 as "Not Important to Safety." The basemat or pad is designed, constructed,

maintained, and tested as a commercial grade item designed to be in compliance with 10 CFR 72.212(b)(2). This regulation requires that the user of the NUHOMS® HD cask system must evaluate and establish that the following criteria are met:

(1) The cask storage pads and areas have been designed to adequately support the static and dynamic loads of the storage casks, considering potential amplification of earthquakes through soil-structure interaction and soil liquefaction potential or other soil instability due to vibratory ground motion.

(2) For the HSM-H loaded with a filled -32 PTH DSC, the weight is approximately 207.5 tons that is distributed over the pad area, which, as a minimum, is approximately 200 square feet.

(3) The static load bearing pressure on the supporting soil material would normally be approximately 2075 pounds per square foot, a common value used for residential and commercial building foundations on fine-grained soils.

(4) The loading on the foundation is not considered to be structurally significant or unusually high.

Comment 14: A commenter expressed the following concerns pertaining to storing fuel horizontally in a hot state:

(1) After searching the public filings by TN on this docket and Docket No. 72-1004, the commenter could not find a single evaluation of the consequences of storing fuel horizontally over long periods of time. In discussions between Westinghouse and a utility, the conclusion that they reached was that "additional analyses and evaluation will be needed to determine whether it is permissible to store Westinghouse's fuel horizontally."

(2) A lot of fuel is already in NUHOMS® at many sites. What is happening to all of the fuel stored outside of the fuel supplier's (Westinghouse's) specifications is unknown because the condition cannot be examined.

Response: In response to (1), after searching the TN filings, one document was found in which Westinghouse stated that "* * * additional analyses and evaluation may be needed * * *." The NRC staff independently performed a generic analysis of spent fuel stored horizontally under the design service condition and for the service life of the NUHOMS® storage system. This analysis looked at the structural capability of the spent fuel materials to perform in the horizontal position without degrading spent fuel performance.

There are two sources of stress in the fuel cladding, when in the horizontal orientation, that could result in creep. These are internal pressurization of the fuel rod and gravity. Two possible sources of deformation of the cladding, bending and creep, are possible under the horizontal position. The bending stress and the hoop stress are both considerably less than the yield stress under internal pressure and a horizontal position. The bending deflection, at the center of the span between the grid spacers, due to the downward gravitational load of the fuel, is approximately 3 millimeters. No changes occur in the stresses or radial growth as a result of storage in the horizontal position. The creep deformation is self limiting under both stresses due to the decreasing temperature of the fuel with time. If the initial maximum temperature is kept below 400 °C, as recommended by Interim Staff Guidance (ISG)-11, then the creep deformation under the maximum allowable pressurization is less than 1 percent over a 20-year storage period. No cladding failure is expected at this strain level. The additional downward load, due to the gravitational force from the unsupported, approximately 300 grams of fuel between the grid spacer supports, increases the longitudinal stress by no more than 1 percent of the material strength and results in a minuscule increase of the hoop stress. Therefore, no more additional creep is expected in the horizontal orientation than in the vertical orientation.

In response to (2), the cask vendors specify the range of parameters for the fuel to be stored in the CoC. The worst case fuel is analyzed as in paragraph (1), above. The fuel is evaluated when it is removed from the reactor to determine if it falls in the specified envelope. If it is in this envelope, no adverse fuel performance is expected.

Comment 15: A commenter stated that, in the future, the fuel that will be stored will have burned longer in the reactor. The commenter believed that the NRC should perform a careful safety evaluation before permitting even more fuel, particularly well burned fuel, to be stored horizontally. The commenter cited NRC's SER on page 4-6 that reads: "The NUHOMS HD DSC only undergoes a one-time temperature drop during backfilling of the DSC with helium gas. Because this is a one-time event, the DSC does not undergo any thermal cycling." The commenter stated that the SER evidently assumes that the fuel will never be unloaded, unpackaged, and reloaded after it has been vacuum dried and backfilled. If that is the underlying

basis of the SER, the commenter believes that the certificate should be restricted to only once-through loading such that there is no likelihood of thermal cycling of the fuel.

Response: The staff has performed a safety evaluation and analyzed the effects of these parameters on the storage of fuel as provided in the guidance contained in ISG-11, Rev. 3. Higher burnup fuels will have the following characteristics:

(1) A higher cladding stress caused by a higher internal pressure due to an increased fission gas release from the pellets;

(2) A higher hydrogen content in the cladding resulting in a decrease in mechanical properties; and

(3) A higher heat generation rate.

As long as the fuel burnup is below the approved in-reactor burnup limit (currently 62.5 GWd/MTU) and is maintained in a nonoxidizing atmosphere below 400 °C, there are no active degradation mechanisms that would cause cladding breaches to occur under normal storage conditions. In addition, the structural review must include mechanical properties of the cladding at the limit of the approved burnup to determine the behavior of the fuel under off-normal and accident conditions.

The staff has evaluated the issue of thermal cycling on the behavior of irradiated fuel. Two issues of concern were thermal shock during reflood, if wet unloading occurs, and hydride reorientation. Reflood analysis is required in every SAR to evaluate the ability of the cladding to tolerate the thermal shock to the cladding due to the rapid submergence of the hot fuel in the cool pool water. For the NUHOMS® HD unloading operation, the maximum fuel cladding temperature during cask reflood is calculated to be significantly less than the vacuum drying condition because of the presence of water vapor. Consequently, during cask reflood, a lower temperature rise is expected when compared with that for the cask vacuum drying operations.

Hydride reorientation, which might degrade the mechanical properties of the cladding, occurs when hydrogen goes into solution and is subsequently precipitated under stress during cooling. A number of studies indicate that thermal cycling may contribute to the phenomena of reorientation. To limit the occurrence of hydride reorientation in the cladding during storage, drying, etc., ISG-11, Rev. 3, limits the number of thermal cycles that the fuel can experience to 10 or less. Thermal cycling is only a concern if thermal

cycling takes place early in the storage period when the fuel is relatively hot.

Under normal storage conditions, there are no mechanisms to degrade the fuel to the point where a loaded cask would have to be opened prematurely. At later times in the storage period, when unloading and repackaging are expected to occur, the temperatures will be at a lower maximum temperature due to the reduced decay heat, and as a result, less hydrogen (the solubility decreases exponentially with temperature) will be able to go into solution during these operations. In addition, the maximum stress in the rods will be less than at the initial vacuum drying, due to the lower temperature during unloading and repackaging. As a result, hydride reorientation, and consequently thermal cycling, is not of concern during unloading later in the storage period.

Comment 16: A commenter stated that "NRC's SER says that—The application performed dynamic impact analysis using LS-DYNA 3D on a cask-pad-soil finite element model * * *." The commenter believed that this was not true and noted that the FSAR shows that the applicant used a cookbook approach, developed by EPRI in the time when LS-DYNA was not widely used, which is considered to be unconservative by most experts. The commenter further stated that, according to the experts he consulted, a true LS-DYNA analysis would have shown much greater g-loads under an 80-inch drop. Therefore, the SAR analysis on which the NRC has relied is inadequate and unconservative.

Response: The analytical method used by the applicant referred to by the commenter was performed as described in the NRC's SER using NUREG/CR-6608, dated February 1998, using LS-DYNA 3D. This is a commercial finite element dynamic analysis software package capable of three-dimensional representations. The DYNA 3D software package used in the development of the analysis procedure described in NUREG/CR-6608 by Lawrence Livermore National Laboratory is the comparable software package that has been used in the national laboratories. The analytical approach used in NUREG/CR-6608 is considered by NRC as an acceptable method of evaluation for low-velocity impacts such as a dropped cask. It is recognized that, in this approach, the transfer cask internals that include the canister, the fuel basket, and the spent fuel are modeled only by their mass and their mass distribution.

Comment 17: A commenter believed that the tornado missile analysis in Chapter 11 of the NUHOMS® FSAR

does not consider the damaging scenario of missile impact. The commenter stated that the analysis assumes impact over the concrete walls. The most dangerous impact would occur if the missile were to hit the fasteners that keep the door of the HSM in place. If the fastener fails from the missile impact, then the door will come loose and the canister will be uncovered, exposing people nearby to radiation. The commenter did not see any evaluation of this scenario in TNs FSAR or NRC's SER.

Response: The scenario proposed by the commenter, while not specifically identified, is encompassed by and bounded by the scenarios specifically discussed in the referenced documents. First, it is necessary to have an accurate understanding of the physical configuration of the door of the HSM-H and the opening for the door on the front wall of the HSM-H base assembly. The door thickness is a total of 2.53 feet made up of 0.65 feet of steel, and the remainder is made of concrete. Approximately 97 percent of the total thickness of the door is inside the plane of the outside face of the HSM-H, filling the recessed hole. The door is supported within the hole on two radial bearing pads that support the door on the 1.875-foot thickness of concrete of the 2.53-foot door thickness. The door is not supported in the vertical direction by the fasteners that the commenter addressed. The failure of one of those fasteners, as a result of a local missile impact, would not dislodge the door from the HSM-H base unit, and the door's radiation shielding capability would remain. Since the relevant missiles used to evaluate local missile damage effects all have physical dimensions and resulting damage zone dimensions much less than the spacing of the subject fasteners, multiple fastener loss is not likely. The fasteners' minimum spacing is approximately 5 feet, whereas the missiles considered relevant have maximum dimensions of approximately 1.5 feet. Even with multiple fastener failures, the thick door assembly will most likely remain in the deeply recessed opening after a local missile strike on the door's steel exterior, since the door assembly would have to move axially outward nearly 2 feet in order for the HSM-H to be rendered to a condition with an open door.

Comment 18: A commenter expressed concern with the way the canister is stored. The commenter stated that it seems that the canister is lying on a couple of rails, and it is held in place by gravity and nothing else (no straps, no frame, no structurals to restrain it).

Response: The commenter is correct that the canister is supported by two structural support rails. These are configured to create a cradle for the canister. The two rails of the cradle are each oriented at 30 degrees off the vertical centerline through the DSC, as it is in the stored horizontal position. With the 60-degree angle between the rail supports, a simple calculation demonstrates that a side load, through the center of gravity of the DSC, would have to exceed approximately 0.55 grams to disturb the at-rest position of the stored cask. This value, for lateral load, exceeds the control limits that are placed on this system, regarding the sites where the system could be used. That results in a design transverse load of 0.41 grams on the DSC. In the longitudinal direction, the DSC is restrained from movement on the rail support system by the axial retainer system that restrains DSC movement, with respect to the HSM-H.

Comment 19: A commenter understood that the fuel is stored in the canister in a non-fixed manner and that during an earthquake, the fuel would move in the canister. The commenter inferred from reading the SAR that most of the canister's weight is in the fuel. He stated that if most of the weight is free to move about in the canister, then there is a risk of the canister rolling over and falling down during an earthquake.

Response: The maximum values for comparing weight distribution for a loaded DSC are that 46.6 percent of the total weight of a loaded DSC is the weight of the spent fuel and the other 53.4 percent is the weight of the canister, the internal basket, and other hardware of the cask. The internal fuel basket is a cellular structure that provides a storage position 8.7 inches by 8.7 inches in cross-section for each of the 32 spent fuel assemblies that are stored. The orthogonal grid of the assemblage of these 32 cells is circumscribed by a circle created by metallic basket rails that transition from the grid configuration to a circle concentric with the inside surface of the canister. The radial space from the fuel basket and basket rails to the inside face of the canister is one-eighth of an inch. This configuration does not allow gross freedom of movement of the stored fuel, but only provides sufficient space to allow for loading and unloading of the spent fuel and for the thermal growth that is expected. Consequently, there is minimal lateral displacement of the spent fuel that can occur inside the canister.

Comment 20: One commenter stated that he did not find a time history analysis in Appendix 3.9.9.10.2 of the

SAR to determine if canister bouncing or rolling might occur. He also stated that it did not appear that the effect of soil-structure interaction was mentioned.

Response: As described in Section 3.9.9.10.2 of Appendix 3.9.9 of the SAR, the seismic design basis for the HSM-H and the stored spent fuel in the canister is based on the maximum peak accelerations at the top of the basemat, or pad structure, not exceeding 0.3 grams in the horizontal direction or 0.20 grams in the vertical direction. For the sites where soil-structure interaction analysis is considered important, the user of the NUHOMS® HD system will have to determine that these values are not exceeded. Additionally, as indicated in the TS, Section 4.0, Design Features, amplified seismic response spectra from such an analysis would be produced. The HSM-H system, with the stored canister, is based on a limit of 0.37 grams in both transverse and longitudinal directions and 0.20 grams in the vertical direction, at the center of gravity of the HSM-H, with respect to the amplified response spectra. Within these limits of accelerations, there will be no uncontrolled motion of the canister that would result in a safety issue.

Summary of Final Revisions

The proposed TS and SER have been revised in response to Comment 2 to capture and document TN's commitment to add the following to Section 3.4.1.4 of the SAR for the NUHOMS® HD design: "If an independent spent fuel storage installation site is located in a coastal salt water marine atmosphere, then any load-bearing carbon steel DSC support structure rail components of any associated HSM-H shall be procured with a minimum 0.20 percent copper content for corrosion resistance."

Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995 (Pub. L. 104-113) requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this final rule, the NRC is adding the NUHOMS® HD cask system to the list of NRC-approved cask systems for spent fuel storage in 10 CFR 72.214. This action does not constitute the establishment of a standard that establishes generally applicable requirements.

Agreement State Compatibility

Under the "Policy Statement on Adequacy and Compatibility of Agreement State Programs" approved by the Commission on June 30, 1997, and published in the **Federal Register** on September 3, 1997 (62 FR 46517), this rule is classified as Compatibility Category "NRC." Compatibility is not required for Category "NRC" regulations. The NRC program elements in this category are those that relate directly to areas of regulation reserved to the NRC by the Atomic Energy Act of 1954, as amended (AEA), or the provisions of Title 10 of the Code of Federal Regulations. Although an Agreement State may not adopt program elements reserved to NRC, it may wish to inform its licensees of certain requirements via a mechanism that is consistent with the particular State's administrative procedure laws but does not confer regulatory authority on the State.

Finding of No Significant Environmental Impact: Availability

Under the National Environmental Policy Act of 1969, as amended, and the NRC regulations in Subpart A of 10 CFR Part 51, the NRC has determined that this rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environment and, therefore, an environmental impact statement is not required. This final rule adds an additional cask to the list of approved spent fuel storage casks that power reactor licensees can use to store spent fuel at reactor sites without additional site-specific approvals from the Commission. The EA and finding of no significant impact on which this determination is based are available for inspection at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD. Single copies of the EA and finding of no significant impact are available from Jayne M. McCausland, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-6219, e-mail jmm2@nrc.gov.

Paperwork Reduction Act Statement

This final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Existing requirements were approved by the Office of Management and Budget, Approval Number 3150-0132.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection requirement unless the requesting document displays a currently valid OMB control number.

Regulatory Analysis

On July 18, 1990 (55 FR 29181), the Commission issued an amendment to 10 CFR Part 72. The amendment provided for the storage of spent nuclear fuel in cask systems with designs approved by the NRC under a general license. Any nuclear power reactor licensee can use cask systems with designs approved by the NRC to store spent nuclear fuel if it notifies the NRC in advance, the spent fuel is stored under the conditions specified in the cask's CoC, and the conditions of the general license are met. In that rule, four spent fuel storage casks were approved for use at reactor sites and were listed in 10 CFR 72.214. That rule envisioned that storage casks certified in the future could be routinely added to the listing in 10 CFR 72.214 through the rulemaking process. Procedures and criteria for obtaining NRC approval of new spent fuel storage cask designs were provided in 10 CFR Part 72, Subpart L.

The alternative to this action is to withhold approval of this new design and issue a site-specific license to each utility that proposes to use the casks. This alternative would cost both the NRC and utilities more time and money for each site-specific license. Conducting site-specific reviews would ignore the procedures and criteria currently in place for the addition of new cask designs that can be used under a general license, and would be in conflict with NWPA direction to the Commission to approve technologies for the use of spent fuel storage at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site reviews. This alternative also would tend to exclude new vendors from the business market without cause and would arbitrarily limit the choice of cask designs available to power reactor licensees. This final rulemaking will eliminate the above problems and is consistent with previous Commission actions. Further, the rule will have no adverse effect on public health and safety.

The benefit of this rule to nuclear power reactor licensees is to make available a greater choice of spent fuel storage cask designs that can be used under a general license. The new cask

vendors with casks to be listed in 10 CFR 72.214 benefit by having to obtain NRC certificates only once for a design that can then be used by more than one power reactor licensee. The NRC also benefits because it will need to certify a cask design only once for use by multiple licensees. Casks approved through rulemaking are to be suitable for use under a range of environmental conditions sufficiently broad to encompass multiple nuclear power plants in the United States without the need for further site-specific approval by NRC. Vendors with cask designs already listed may be adversely impacted because power reactor licensees may choose a newly listed design over an existing one. However, the NRC is required by its regulations and NWSA direction to certify and list approved casks. This rule has no significant identifiable impact or benefit on other Government agencies.

Based on the above discussion of the benefits and impacts of the alternatives, the NRC concludes that the requirements of the final rule are commensurate with the Commission's responsibilities for public health and safety and the common defense and security. No other available alternative is believed to be as satisfactory, and thus, this action is recommended.

Regulatory Flexibility Certification

Under the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the NRC certifies that this rule will not, if issued, have a significant economic impact on a substantial number of small entities. This final rule affects only the licensing and operation of nuclear power plants, independent spent fuel storage facilities, and TN. The companies that own these plants do not fall within the scope of the definition of "small entities" set forth in the Regulatory Flexibility Act or the Small Business Size Standards set out in regulations issued by the Small Business Administration at 13 CFR part 121.

Backfit Analysis

The NRC has determined that the backfit rule (10 CFR 50.109 or 10 CFR 72.62) does not apply to this final rule because this amendment does not involve any provisions that would impose backfits as defined. Therefore, a backfit analysis is not required.

Congressional Review Act

Under the Congressional Review Act of 1996, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory

Affairs, Office of Management and Budget.

List of Subjects in 10 CFR Part 72

Administrative practice and procedure, Criminal penalties, Manpower training programs, Nuclear materials, Occupational safety and health, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

■ For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553; the NRC is adopting the following amendments to 10 CFR part 72.

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL, HIGH-LEVEL RADIOACTIVE WASTE, AND REACTOR-RELATED GREATER THAN CLASS C WASTE

■ 1. The authority citation for part 72 continues to read as follows:

Authority: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86-373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95-601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102-486, sec. 7902, 106 Stat. 3123 (42 U.S.C. 5851); sec. 102, Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332); secs. 131, 132, 133, 135, 137, 141, Pub. L. 97-425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100-203, 101 Stat. 1330-235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); sec. 651(e), Pub. L. 109-58, 119 Stat. 806-10 (42 U.S.C. 2014, 2021, 2021b, 2111).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Pub. L. 100-203, 101 Stat. 1330-232, 1330-236 (42 U.S.C. 10162(b), 10168(c), (d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97-425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100-203, 101 Stat. 1330-235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97-425, 96 Stat. 2202, 2203, 2204, 2222, 2224 (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

■ 2. In § 72.214, Certificate of Compliance 1030 is added to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1030.
Initial Certificate Effective Date: January 10, 2007.
SAR Submitted by: Transnuclear, Inc.
SAR Title: Final Safety Analysis Report for the NUHOMS® HD Horizontal Modular Storage System Irradiated Nuclear Fuel.
Docket Number: 72-1030.
Certificate Expiration Date: January 11, 2027.
Model Number: NUHOMS® HD-32PTH.

Dated at Rockville, Maryland, this 22nd day of November, 2006.

For the Nuclear Regulatory Commission.

William F. Kane,

Acting Executive Director for Operations.

[FR Doc. E6-20962 Filed 12-8-06; 8:45 am]

BILLING CODE 7590-01-P

FEDERAL RESERVE SYSTEM

12 CFR Part 215

[Regulation O; Docket No. R-1271]

Loans to Executive Officers, Directors, and Principal Shareholders of Member Banks

AGENCY: Board of Governors of the Federal Reserve System ("Board").

ACTION: Interim rule with request for public comments.

SUMMARY: The Board is adopting, on an interim basis, and soliciting comment on amendments to the Board's Regulation O to eliminate certain reporting requirements. These amendments implement section 601 of the Financial Services Regulatory Relief Act of 2006. The Board proposed and supported eliminating these statutory reporting provisions because the Board had found that they did not contribute significantly to the effective monitoring of insider lending or the prevention of insider abuse.

DATES: This interim rule is effective on December 11, 2006. Comments must be received by January 10, 2007.

ADDRESSES: You may submit comments, identified by Docket No. R-1271, by any of the following methods:

- Agency Web site: <http://www.federalreserve.gov>. Follow the instructions for submitting comments at <http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm>.

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

- E-mail: regs.comments@federalreserve.gov.

Include docket number in the subject line of the message.

- FAX: 202/452-3819 or 202/452-3102.
- Mail: Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

All public comments are available from the Board's Web site at <http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm> as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room MP-500 of the Board's Martin Building (20th and C Streets, NW.) between 9 a.m. and 5 p.m. on weekdays.

FOR FURTHER INFORMATION CONTACT:

Mark E. Van Der Weide, Senior Counsel (202/452-2263), or Amanda K. Allexon, Attorney (202-452-3818), Legal Division. Users of Telecommunication Device for the Deaf (TTD) only, contact (202) 263-4869.

SUPPLEMENTARY INFORMATION:

Background and Description of Interim Rule

Section 22(h) of the Federal Reserve Act ("FRA") restricts the ability of member banks to extend credit to their executive officers, directors, principal shareholders, and to related interests of such persons.¹ Section 22(g) of the FRA imposes some additional limitations on extensions of credit made by member banks to their executive officers.² Section 106(b)(2) of the Bank Holding Company Act Amendments of 1970 ("BHC Act Amendments") adds further restrictions on extensions of credit to an executive officer, director, or principal shareholder of a bank from a correspondent bank.³ The Board's Regulation O implements sections 22(g) and 22(h) of the FRA, as well as section 106(b)(2) of the BHC Act Amendments.⁴ Sections 22(g) and 22(h) and Regulation O apply, by their terms, to all banks that are members of the Federal Reserve System.⁵ Other Federal law subjects federally insured state non-member banks and insured savings associations to sections 22(g) and 22(h) and Regulation O in the same manner and to

the same extent as if they were member banks.⁶

Section 601 of the Financial Services Regulatory Relief Act of 2006 ("Act") (Pub. L. 109-351) removed several statutory reporting requirements relating to insider lending by member banks. These amendments, which became effective on October 13, 2006, eliminated the statutory provisions that:

- Require a member bank to include a separate report with its quarterly Reports of Condition and Income ("Call Report") on any extensions of credit the bank has made to its executive officers since its last Call Report (12 U.S.C. 375a(9));
 - Require an executive officer of a member bank to file a report with the member bank's board of directors whenever the executive officer obtains an extension of credit from another bank in an amount that exceeds the amount the executive officer could obtain from the member bank (12 U.S.C. 375a(6));
 - Require an executive officer or principal shareholder of a depository institution to file an annual report with the institution's board of directors during any year in which the officer or shareholder has an outstanding extension of credit from a correspondent bank of the institution (12 U.S.C. 1972(2)(G)(i)); and
 - Authorize the Federal banking agencies to issue regulations that require the reporting and public disclosure of information related to extensions of credit received by an executive officer or principal shareholder of a depository institution from a correspondent bank of the institution (12 U.S.C. 1972(2)(G)(ii)).
- The Board proposed and supported eliminating these statutory reporting provisions because the Board had found that they did not contribute significantly to the effective monitoring of insider lending or the prevention of insider abuse.

The Board is adopting, and inviting public comment on, this interim rule to implement the changes made by section 601 of the Act. In particular, the interim rule eliminates:

- Section 215.9 of Regulation O, which requires an executive officer of a member bank to file a report with the member bank's board of directors whenever the executive officer obtains certain extensions of credit from another bank;
- Section 215.10 of Regulation O, which requires a member bank to include a separate report with its quarterly Call Report on any extensions of credit the bank has made to its

executive officers since its last Call Report; and

- Subpart B of Regulation O, which requires the reporting and public disclosure of extensions of credit to an executive officer or principal shareholder of a member bank by a correspondent bank of the member bank.

The interim rule also makes minor conforming changes to Regulation O to reflect the removal of these provisions. The Board invites comment on all aspects of the interim rule.

The Board notes that the changes made by section 601 and this interim rule do *not* alter the substantive restrictions on loans by depository institutions to their executive officers and principal shareholders found in Regulation O. Section 601 and this interim rule also do *not* alter the substantive restrictions on loans made to executive officers and principal shareholders of depository institutions by their correspondent banks found at 12 U.S.C. 1972(2). Moreover, elimination of these reporting requirements does not limit the authority of the appropriate Federal banking agency to take enforcement action against a depository institution or its insiders for violation of these insider lending restrictions. In addition, the Board notes that Regulation O would continue to require that a depository institution and its insiders maintain sufficient information to enable examiners to monitor the institution's compliance with the regulation,⁷ and the Federal banking agencies would retain authority under other provisions of law to collect information regarding insider lending by depository institutions.

Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act, the Board certifies that the interim rule would not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Although the interim rule would apply to all member banks regardless of their size, the interim rule would reduce the regulatory burden on member banks, including small member banks, by removing requirements to report certain types of extensions of credit to insiders and to insiders of correspondent banks. Accordingly, a regulatory flexibility analysis is not required.

¹ 12 U.S.C. 375b.

² 12 U.S.C. 375a.

³ 12 U.S.C. 1972(2).

⁴ 12 CFR part 215.

⁵ Section 106(b)(2) of the BHC Act Amendments applies by its terms to insured banks, mutual savings banks, savings banks, and savings associations.

⁶ 12 U.S.C. 1828(j), 1468(b); 12 CFR 563.43.

⁷ 12 CFR 215.8.

Administrative Procedure Act

The provisions of the rule are effective on December 11, 2006. Pursuant to 5 U.S.C. 553, the Board finds that there is good cause to make the interim rule effective on December 11, 2006. As noted above, the rule implements statutory changes that became effective on October 13, 2006, and also reduces burden. The Board is interested in public comment on all aspects of the interim rule and will revise the interim rule as appropriate after reviewing public comment.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Ch. 3506; 5 CFR 1320 Appendix A.1), the Board reviewed the interim final rule under the authority delegated to the Board by the Office of Management and Budget.

The collections of information that are proposed to be revised by this rulemaking are found in 12 CFR 215.9 and 215.10, and 12 CFR part 215, subpart B. This information previously was required to evidence compliance with the requirements of the Federal Reserve Act (12 U.S.C. 375a and 375b) and 12 U.S.C. 1972. The respondents/recordkeepers are for-profit financial institutions, including small businesses, and individuals.

The Federal Reserve may not conduct or sponsor, and an organization is not required to respond to, this information collection unless it displays a currently valid OMB control number. The OMB control number associated with 12 CFR 215.9 and 12 CFR part 215, subpart B is 7100-0034 (FFIEC 004). The OMB control number associated with 12 CFR 215.10 is 7100-0036 (FFIEC 031 and 041). The FFIEC 004 would be discontinued as a result of this rule. The estimated burden per response for each of the paperwork requirements associated with the FFIEC 004 information collection varies between nine minutes and one hour. It is estimated that there are 4,760 respondents and recordkeepers and an average frequency of one response per respondent each year. The total amount of annual burden that would be saved as a result of this rule is estimated to be 5,331 hours. The estimated annual cost savings would be \$239,895. In addition, the last page of the FFIEC 031 and 041 reporting forms (loans to executive officers), which is associated with 12 CFR 215.10, would be eliminated as a result of this rule. The estimated burden per response for this portion of the reporting forms is fifteen minutes. It is estimated that there are 919 respondents

and an average frequency of four responses per respondent each year. Therefore the total amount of annual burden that would be eliminated is estimated to be 919 hours and there is estimated to be minimal cost savings.

For the FFIEC 004, individual respondent financial information is regarded as confidential under the Freedom of Information Act (5 U.S.C. 552(b)(4), (6) and (8)). However, until the passage of the Act and the issuance of this interim rule, upon request from the public the member bank has been required to disclose the name of each executive officer and principal shareholder who, together with related interests, has loans from correspondent banks equal to a minimum of 5 percent of the member bank's capital and surplus, or \$500,000, whichever is less. For the FFIEC 031 and 041, the data are not considered confidential.

The Federal Reserve has a continuing interest in the public's opinions of our collections of information. At any time, comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, may be sent to: Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551; and to the Office of Management and Budget, Paperwork Reduction Project (7100-0034 or 7100-0036), Washington, DC 20503.

Plain Language

Section 722 of the Gramm-Leach-Bliley Act (12 U.S.C. 4809) requires the Board to use "plain language" in all rules published in the **Federal Register**. The Board believes the interim rule is presented in a simple and straightforward manner but invites comment on whether the Board could take additional steps to make the rule easier to understand.

List of Subjects in 12 CFR Part 215

Credit, Penalties, Reporting and recordkeeping requirements.

Authority and Issuance

■ For the reasons set out in the preamble, the Board amends 12 CFR part 215 to read as follows:

PART 215—LOANS TO EXECUTIVE OFFICERS, DIRECTORS, AND PRINCIPAL SHAREHOLDERS OF MEMBER BANKS (REGULATION O)

■ 1. The authority citation for part 215 is revised to read as follows:

Authority: 12 U.S.C. 248(a), 375a(10), 375b(9) and (10), 1817(k); and Pub. L. 102-242, 105 Stat. 2236 (1991).

■ 2. Remove the heading Subpart A—Loans by Member Banks to Their Executive Officers, Directors, and Principal Shareholders.

■ 3. Section 215.1 is revised to read as follows:

§ 215.1 Authority, purpose, and scope.

(a) *Authority.* This part is issued pursuant to sections 11(a), 22(g), and 22(h) of the Federal Reserve Act (12 U.S.C. 248(a), 375a, and 375b), 12 U.S.C. 1817(k), and section 306 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (Pub. L. 102-242, 105 Stat. 2236 (1991)).

(b) *Purpose and scope*—(1) This part governs any extension of credit made by a member bank to an executive officer, director, or principal shareholder of the member bank, of any company of which the member bank is a subsidiary, and of any other subsidiary of that company.

(2) This part also applies to any extension of credit made by a member bank to a company controlled by such a person, or to a political or campaign committee that benefits or is controlled by such a person.

(3) This part also implements the reporting requirements of 12 U.S.C. 1817(k) concerning extensions of credit by a member bank to its executive officers or principal shareholders (or to the related interests of such persons).

(4) Extensions of credit made to an executive officer, director, or principal shareholder of a bank (or to a related interest of such person) by a correspondent bank also are subject to restrictions set forth in 12 U.S.C. 1972(2).

■ 4. In § 215.2, the introductory text is revised to read as follows:

§ 215.2 Definitions.

For purposes of this part, the following definitions apply unless otherwise specified:

* * * * *

■ 5. Remove §§ 215.9 and 215.10 and redesignate §§ 215.11, 215.12, and 215.13 as §§ 215.9, 215.10, and 215.11, respectively.

■ 6. In newly designated § 215.9:

■ a. In paragraph (a)(1), remove footnote 4.

■ b. Paragraph (a)(2)(ii) is revised to read as follows:

§ 215.9 Disclosure of credit from member banks to executive officers and principal shareholders.

(a) * * *

(2) * * *

(ii) Any political or campaign committee the funds or services of which will benefit a person or that is controlled by a person. For the purpose of this section, a related interest does not include a bank or a foreign bank (as defined in 12 U.S.C. 3101(7)).

* * * * *

■ 7. Newly designated § 215.11 is revised to read as follows:

§ 215.11 Civil penalties.

Any member bank, or any officer, director, employee, agent, or other person participating in the conduct of the affairs of the bank, that violates any provision of this part (other than § 215.9) is subject to civil penalties as specified in section 29 of the Federal Reserve Act (12 U.S.C. 504).

■ 8. The Appendix to Subpart A of Part 215 is redesignated as the Appendix to Part 215.

■ 9. Remove the heading Subpart B—Reports on Indebtedness of Executive Officers and Principal Shareholders to Correspondent Banks.

■ 10. Remove §§ 215.20, 215.21, 215.22, and 215.23.

By order of the Board of Governors of the Federal Reserve System, December 6, 2006.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. E6-20956 Filed 12-8-06; 8:45 am]

BILLING CODE 6210-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2006-25086; Directorate Identifier 2006-NM-019-AD; Amendment 39-14847; AD 2006-25-06]

RIN 2120-AA64

Airworthiness Directives; Fokker Model F27 Mark 500 Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Fokker Model F27 Mark 500 airplanes. This AD requires an inspection to determine whether certain main landing gear (MLG) drag stay units (DSUs) are installed. This AD also requires an ultrasonic inspection to determine if certain tubes are installed in the affected DSUs of the MLG, and related investigative/corrective actions if necessary. This AD results from a report

that, due to fatigue cracking from an improperly machined radius of the inner tube, a drag stay broke, and, consequently, led to the collapse of the MLG during landing. We are issuing this AD to prevent such fatigue cracking, which could result in reduced structural integrity or collapse of the MLG.

DATES: This AD becomes effective January 16, 2007.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of January 16, 2007.

ADDRESSES: You may examine the AD docket on the Internet at <http://dms.dot.gov> or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC.

Contact Fokker Services B.V., P.O. Box 231, 2150 AE Nieuw-Venep, the Netherlands, for service information identified in this AD.

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

SUPPLEMENTARY INFORMATION:

Examining the Docket

You may examine the airworthiness directive (AD) docket on the Internet at <http://dms.dot.gov> or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647-5227) is located on the plaza level of the Nassif Building at the street address stated in the

ADDRESSES section.

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to all Fokker Model F27 Mark 500 airplanes. That NPRM was published in the **Federal Register** on June 21, 2006 (71 FR 35572). That NPRM proposed to require an inspection to determine whether certain main landing gear (MLG) drag stay units (DSUs) are installed. That NPRM also proposed to require an ultrasonic inspection to determine if certain tubes are installed in the affected DSUs of the MLG, and related investigative/corrective actions if necessary.

Comments

We provided the public the opportunity to participate in the

development of this AD. We have considered the comment received.

Request To Change Incorporation of Certain Information

The Modification and Replacement Parts Association (MARPA) states that, typically, airworthiness directives are based on service information originating with the type certificate holder or its suppliers. MARPA adds that manufacturer service documents are privately authored instruments generally having copyright protection against duplication and distribution. MARPA notes that when a service document is incorporated by reference into a public document, such as an airworthiness directive, it loses its private, protected status and becomes a public document. MARPA adds that if a service document is used as a mandatory element of compliance, it should not simply be referenced, but should be incorporated into the regulatory document; by definition, public laws must be public, which means they cannot rely upon private writings.

MARPA adds that incorporated by reference service documents should be made available to the public by publication in the Docket Management System (DMS), keyed to the action that incorporates them. MARPA notes that the stated purpose of the incorporation by reference method is brevity, to keep from expanding the **Federal Register** needlessly by publishing documents already in the hands of the affected individuals; traditionally, "affected individuals" means aircraft owners and operators, who are generally provided service information by the manufacturer. MARPA adds that a new class of affected individuals has emerged, since the majority of aircraft maintenance is now performed by specialty shops instead of aircraft owners and operators. MARPA notes that this new class includes maintenance and repair organizations, component servicing and repair shops, parts purveyors and distributors, and organizations manufacturing or servicing alternatively certified parts under section 21.303 ("Replacement and modification parts") of the Federal Aviation Regulations (14 CFR 21.303). MARPA adds that the concept of brevity is now nearly archaic as documents exist more frequently in electronic format than on paper. Therefore, MARPA asks that the service documents deemed essential to the accomplishment of the NPRM be incorporated by reference into the regulatory instrument, and published in the DMS.

We do not agree that documents should be incorporated by reference during the NPRM phase of rulemaking. The Office of the Federal Register (OFR) requires that documents that are necessary to accomplish the requirements of the AD be incorporated by reference during the final rule phase of rulemaking. This final rule incorporates by reference the document necessary for the accomplishment of the requirements mandated by this AD. Further, we point out that while documents that are incorporated by reference do become public information, they do not lose their copyright protection. For that reason, we advise the public to contact the manufacturer to obtain copies of the referenced service information.

In regard to the commenter's request that service documents be made available to the public by publication in the **Federal Register**, we agree that

incorporation by reference was authorized to reduce the volume of material published in the **Federal Register** and the Code of Federal Regulations. However, as specified in the Federal Register Document Drafting Handbook, the Director of the OFR decides when an agency may incorporate material by reference. As the commenter is aware, the OFR files documents for public inspection on the workday before the date of publication of the rule at its office in Washington, DC. As stated in the Federal Register Document Drafting Handbook, when documents are filed for public inspection, anyone may inspect or copy file documents during the OFR's hours of business. Further questions regarding publication of documents in the **Federal Register** or incorporation by reference should be directed to the OFR.

In regard to the commenter's request to post service bulletins on the

Department of Transportation's DMS, we are currently in the process of reviewing issues surrounding the posting of service bulletins on the DMS as part of an AD docket. Once we have thoroughly examined all aspects of this issue and have made a final determination, we will consider whether our current practice needs to be revised. No change to the final rule is necessary in response to this comment.

Conclusion

We have carefully reviewed the available data, including the comment received, and determined that air safety and the public interest require adopting the AD as proposed.

Costs of Compliance

The following table provides the estimated costs for U.S. operators to comply with this AD.

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Inspection	2	\$80	\$160	7	\$1,120

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The Federal Aviation Administration (FAA) amends § 39.13 by adding the following new airworthiness directive (AD):

2006-25-06 Fokker Services B.V.:
Amendment 39-14847. Docket No. FAA-2006-25086; Directorate Identifier 2006-NM-019-AD.

Effective Date

(a) This AD becomes effective January 16, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Fokker Model F27 Mark 500 airplanes, certificated in any category.

Unsafe Condition

(d) This AD results from a report that, due to fatigue cracking from an improperly machined radius of the inner tube, a drag stay broke, and, consequently, led to the collapse of the main landing gear (MLG) during landing. We are issuing this AD to prevent such fatigue cracking, which could result in reduced structural integrity or collapse of the MLG.

Compliance

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

Inspections of the Drag Stay Units

(f) Within 60 days after the effective date of this AD: Inspect the MLG drag stay units (DSUs) to determine whether Dowty Aerospace is the manufacturer and, before further flight, inspect Dowty Aerospace MLG DSUs to determine whether part number (P/N) 200261001, 200261002, 200485001, 200485002, 200684001, or 200684002 is installed. A review of the airplane maintenance records is acceptable in lieu of these inspections if the manufacturer and the part number of the MLG DSU can be conclusively determined from that review. For airplanes equipped with MLG DSUs other than Dowty Aerospace MLG DSUs, and for airplanes equipped with Dowty Aerospace MLG DSUs having part numbers other than P/N 200261001, 200261002, 200485001, 200485002, 200684001, and 200684002, no further action is required by this AD, except as specified in paragraph (k) of this AD.

(g) For airplanes equipped with DSUs having P/N 200261001, 200485001, or 200684001: Within 60 days after the effective date of this AD, perform an ultrasonic inspection to determine if a tube having P/N 200485300 with a straight bore, or a tube having P/N 200259300 with a change in section (stepped bore), is installed on the DSUs of the MLG, in accordance with the Accomplishment Instructions of Fokker Service Bulletin F27/32-171, dated December 16, 2004.

Note 1: Fokker Service Bulletin F27/32-171, dated December 16, 2004, refers to Dowty Aerospace Landing Gear Service Bulletin 32-82W, Revision 2, including Appendix A, dated July 29, 1994, and including Appendix B, Revision 1, dated November 10, 1993; and Dowty Aerospace Landing Gear Service Bulletin 32-169B, Revision 2, including Appendix A, dated July 29, 1994, and including Appendix B, Revision 1, dated November 10, 1993; as applicable, as appropriate sources of service information for inspecting MLG DSUs.

(h) If any tube having P/N 200485300 with a straight bore is found installed during the inspection required by paragraph (g) of this AD: Before further flight, re-identify the DSU with P/N 200261004, 200485004, or 200684004, in accordance with the Accomplishment Instructions of Dowty Aerospace Landing Gear Service Bulletin 32-82W, Revision 2, including Appendix A, dated July 29, 1994, and including Appendix B, Revision 1, dated November 10, 1993; or Dowty Aerospace Landing Gear Service Bulletin 32-169B, Revision 2, including Appendix A, dated July 29, 1994, and

including Appendix B, Revision 1, dated November 10, 1993; as applicable. After re-identifying the DSU, no further action is required by this AD for that DSU; however airplanes are still subject to the requirements specified in paragraph (k) of this AD.

(i) If any tube having P/N 200259300 with a change in section (stepped bore) is found installed during the inspection required by paragraph (g) of this AD: Before further flight, re-identify the DSU in accordance with paragraphs 2.A.(4)(a) and 2.A.(4)(b) of the Accomplishment Instructions of Dowty Aerospace Landing Gear Service Bulletin 32-82W, Revision 2, including Appendix A, dated July 29, 1994, and including Appendix B, Revision 1, dated November 10, 1993; or Dowty Aerospace Landing Gear Service Bulletin 32-169B, Revision 2, including Appendix A, dated July 29, 1994, and including Appendix B, Revision 1, dated November 10, 1993; as applicable. Following accomplishment of the re-identification, before further flight, do the inspection specified in paragraph (j) of this AD.

Ultrasonic Inspection for Cracking

(j) For airplanes equipped with re-identified DSUs having P/N 200261002, 200485002, 200684002, 200261003, 200485003, or 200684003: Within 60 days after the effective date of this AD, perform an ultrasonic inspection to detect cracking in the re-identified DSUs, in accordance with the Accomplishment Instructions of Dowty Aerospace Landing Gear Service Bulletin 32-82W, Revision 2, including Appendix A, dated July 29, 1994, and including Appendix B, Revision 1, dated November 10, 1993; or Dowty Aerospace Landing Gear Service Bulletin 32-169B, Revision 2, including Appendix A, dated July 29, 1994, and including Appendix B, Revision 1, dated November 10, 1993; as applicable.

(1) For airplanes equipped with any DSU re-identified as P/N 200684003, 200261003, or 200485003: If no crack is detected, no further action is required by this AD for that DSU; however airplanes are still subject to the requirements specified in paragraph (k) of this AD.

(2) For airplanes equipped with any DSU re-identified as P/N 200684002, 200261002, or 200485002: If no crack is detected, do the actions specified in paragraphs (j)(2)(i) and (j)(2)(ii) of this AD.

(i) Repeat the ultrasonic inspection required by paragraph (j) of this AD thereafter at intervals not to exceed 1,500 flight cycles until the actions specified in paragraph (j)(2)(ii) of this AD are done.

(ii) At the next MLG overhaul but no later than 12,000 flight cycles after the effective

date of this AD, rework and re-identify the DSU as P/N 200261003, 200485003, or 200684003, as applicable, in accordance with the applicable service bulletin.

(3) If any crack is detected and the crack signal indication of any DSU tube is greater than or equal to 80 percent, before further flight, replace the DSU with a re-identified DSU having P/N 200261004, 200485004, 200684004, 200261003, 200485003, or 200684003, in accordance with the applicable service bulletin.

(4) If any crack is detected and the crack signal indication of any DSU tube is greater than zero percent but less than 80 percent, do the actions specified in paragraphs (j)(4)(i) and (j)(4)(ii) of this AD.

(i) Repeat the ultrasonic inspection required by paragraph (j) of this AD thereafter at intervals not to exceed 1,500 flight cycles until the actions specified in paragraph (j)(4)(ii) of this AD are done.

(ii) At the next MLG overhaul but no later than 12,000 flight cycles after the effective date of this AD, replace the DSU with a DSU having P/N 200261004, 200485004, 200684004, 200261003, 200485003, or 200684003, in accordance with the applicable service bulletin.

Parts Installation

(k) As of the effective date of this AD, no person may install a MLG DSU, P/N 200261001, 200261002, 200485001, 200485002, 200684001, or 200684002, on any airplane, except as specified in paragraph (i) of this AD.

Alternative Methods of Compliance (AMOCs)

(l)(1) The Manager, International Branch, ANM-116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) Before using any AMOC approved in accordance with § 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

Related Information

(m) Dutch airworthiness directive NL-2005-003, dated April 29, 2005, also addresses the subject of this AD.

Material Incorporated by Reference

(n) You must use the applicable service bulletin listed in Table 1 of this AD to perform the actions that are required by this AD, unless the AD specifies otherwise.

TABLE 1.—MATERIAL INCORPORATED BY REFERENCE

Service Bulletin	Revision level	Date
Dowty Aerospace Landing Gear Service Bulletin 32-169B, Revision 2, including Appendix A, dated July 29, 1994, and including Appendix B, Revision 1, dated November 10, 1993.	2	July 29, 1994.
Dowty Aerospace Landing Gear Service Bulletin 32-82W, Revision 2, including Appendix A, dated July 29, 1994, and including Appendix B, Revision 1, dated November 10, 1993.	2	July 29, 1994.
Fokker Service Bulletin F27/32-171	Original	December 16, 2004.

Dowty Aerospace Landing Gear Service Bulletin 32-169B, Revision 2, including Appendix A, dated July 29, 1994, and including Appendix B, Revision 1, dated November 10, 1993, contains the following effective pages:

Page No.	Revision level shown on page	Date shown on page
1	2	July 29, 1994.
2, 3	Original	September 10, 1993.
4	1	November 10, 1993.

Appendix A

1, 5, 7	2	July 29, 1994.
2, 6	Original	September 10, 1993.
3, 4	1	November 10, 1993.

Appendix B

1-5	1	November 10, 1993.
-----------	---------	--------------------

Dowty Aerospace Landing Gear Service Bulletin 32-82W, Revision 2, including Appendix A, dated July 29, 1994, and including Appendix B, Revision 1, dated November 10, 1993, contains the following effective pages:

Page No.	Revision level shown on page	Date shown on page
1	2	July 29, 1994
2, 3	Original	September 10, 1993.
4	1	November 10, 1993.

Appendix A

1, 5, 7	2	July 29, 1994.
2, 6	Original	September 10, 1993.
3, 4	1	November 10, 1993.

Appendix B

1-5	1	November 10, 1993.
-----------	---------	--------------------

The Director of the Federal Register approved the incorporation by reference of these documents in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Fokker Services B.V., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands, for a copy of this service information. You may review copies at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Room PL-401, Nassif Building, Washington, DC; on the Internet at <http://dms.dot.gov>; or at the National Archives and Records Administration (NARA). For information on the availability of this

material at the NARA, call (202) 741-6030, or go to http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

Issued in Renton, Washington, on November 24, 2006.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6-20861 Filed 12-8-06; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2006-26400; Directorate Identifier 2006-CE-71-AD; Amendment 39-14948; AD 2006-25-08]

RIN 2120-AA64

Airworthiness Directives; Columbia Aircraft Manufacturing Models LC41-550FG and LC42-550FG Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new Airworthiness Directive (AD) for all Columbia Aircraft Manufacturing (previously The Lancair Company) Models LC41-550FG and LC42-550FG airplanes equipped with Kelly Aerospace Thermal Systems Supplemental Type Certificate (STC) SA02260CH, Thermawing Deice System (also known as E-Vade). This AD requires you to deactivate the deice system and install a placard in clear view of the pilot. This AD results from problems with the installation of the Kelly Aerospace Thermal Systems Thermawing Deice System following STC SA02260CH. We are issuing this AD to prevent a short circuit condition at the deice heater connector, which could result in damage to the wings and horizontal stabilizer. This damage could lead to reduced structural integrity of the airplane.

DATES: This AD becomes effective on December 21, 2006.

As of December 21, 2006, the Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulation.

We must receive any comments on this AD by February 9, 2007.

ADDRESSES: Use one of the following addresses to comment on this AD.

- *DOT Docket Web site:* Go to <http://dms.dot.gov> and follow the instructions for sending your comments electronically.

- *Government-wide rulemaking Web site:* Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.

- *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-0001.

- *Fax:* (202) 493-2251.

- *Hand Delivery:* Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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

To get the service information identified in this AD, contact Kelly Aerospace Thermal Systems, 1625 Lost Nation Road, Willoughby, Ohio 44094; telephone: (440) 951-4744; fax: (440) 951-4725.

To view the comments to this AD, go to <http://dms.dot.gov>. The docket number is FAA-2006-26400; Directorate Identifier 2006-CE-71-AD.

FOR FURTHER INFORMATION CONTACT: Roy Boffo, Aerospace Engineer, FAA, Chicago Aircraft Certification Office, 2300 E. Devon Avenue, Room 107, Des Plaines, IL 60018; telephone: (847) 294-7564; fax: (847) 294-7834.

SUPPLEMENTARY INFORMATION:

Discussion

We received reports of problems with the installation of the Kelly Aerospace Thermal Systems Thermawing Deice System (also known as E-Vade) on Columbia Aircraft Manufacturing Models LC41-550FG and LC42-550FG airplanes following Supplemental Type Certificate (STC) SA02260CH.

A short circuit condition at the deice heater connector to the copper mesh material imbedded in the composite airplane structure (for lightning protection) caused burning of the wings and horizontal stabilizer, which created holes in the structure.

The short circuit was caused by insufficient removal of copper mesh when the deice heater connectors were installed.

This condition, if not corrected, could cause damage to the wings and horizontal stabilizer resulting in reduced structural integrity of the airplane.

Relevant Service Information

We reviewed Kelly Aerospace Thermal Systems Service Letter Bulletin No. SL-06-001, Issue Date: November 15, 2006. The service information describes procedures for disabling the E-Vade system.

FAA's Determination and Requirements of This AD

We are issuing this AD because we evaluated all the information and determined the unsafe condition described previously is likely to exist or develop on other products of the same type design. This AD requires disabling the E-Vade system and installing a placard in clear view of the pilot.

In preparing this rule, we contacted type clubs and aircraft operators to get technical information and information on operational and economic impacts. We did not receive any information through these contacts. If received, we would have included a discussion of any information that may have influenced this action in the rulemaking docket.

FAA's Determination of the Effective Date

Since an unsafe condition exists that requires the immediate adoption of this AD, we determined that notice and opportunity for public comment before issuing this AD are impracticable, and that good cause exists for making this amendment effective in fewer than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and an opportunity for public comment. We invite you to send any written relevant data, views, or arguments regarding this AD. Send your comments to an address listed under the **ADDRESSES** section. Include the docket number "FAA-2006-26400; Directorate Identifier 2006-CE-71-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the AD. We will consider all comments received by the closing date and may amend the AD in light of those comments.

We will post all comments we receive, without change, to <http://dms.dot.gov>, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive concerning this AD.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

Examining the AD Docket

You may examine the AD docket that contains the AD, the regulatory evaluation, any comments received, and other information on the Internet at <http://dms.dot.gov>; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The

Docket Office (telephone (800) 647-5227) is located at the street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

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

Adoption of the 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 airworthiness directive (AD):

2006-25-08 Columbia Aircraft Manufacturing (Previously the Lancair Company): Amendment 39-14948; Docket No. FAA-2006-26400; Directorate Identifier 2006-CE-71-AD.

Effective Date

(a) This AD becomes effective on December 21, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Models LC41-550FG and LC42-550FG airplanes, all serial numbers equipped with Kelly Aerospace Thermal Systems Supplemental Type Certificate (STC) SA02260CH, that are certificated in any category.

Unsafe Condition

(d) This AD results from problems with the installation of the Kelly Aerospace Thermawing Deice System (also known as E-Vade) following STC SA02260CH. We are issuing this AD to prevent a short circuit condition at the deice heater connector, which could result in damage to the wings and horizontal stabilizer. This damage could lead to reduced structural integrity of the airplane.

Compliance

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

Actions	Compliance	Procedures
(1) Deactivate the Kelly Aerospace Thermal Systems Thermawing Deice System installed following STC SA02260CH.	Before further flight after December 21, 2006 (the effective date of this AD).	Follow Kelly Aerospace Thermal Systems Service Letter Bulletin No. SL-06-001, Issue Date: November 15, 2006.

Actions	Compliance	Procedures
(2) Fabricate a placard that incorporates the following words (using at least 1/4-inch black letter on a white background) and install this placard in clear view of the pilot. "DEICE SYSTEM INOPERABLE".	Before further flight after December 21, 2006 (the effective date of this AD).	The owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7) may fabricate and install the placard. Make an entry into the aircraft records showing compliance with these portions of the AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).

Alternative Methods of Compliance (AMOCs)

(f) The Manager, Chicago Aircraft Certification Office, FAA, ATTN: Roy Boffo, Aerospace Engineer, 2300 E. Devon Avenue, Room 107, Des Plaines, IL 60018; telephone: (847) 294-7564; fax: (847) 294-7834, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

Material Incorporated by Reference

(g) You must use Kelly Aerospace Thermal Systems Service Letter Bulletin No. SL-06-001, Issue Date: November 15, 2006, to do the actions required by this AD, unless the AD specifies otherwise.

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

(2) For service information identified in this AD, contact Kelly Aerospace Thermal Systems, 1625 Lost Nation Road, Willoughby, Ohio 44094; telephone: (440) 951-4744; fax: (440) 951-4725.

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

Issued in Kansas City, Missouri, on November 29, 2006.

John R. Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6-20860 Filed 12-8-06; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2006-25422; Directorate Identifier 2006-NM-095-AD; Amendment 39-14848; AD 2006-25-07]

RIN 2120-AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-135ER and -135KE Airplanes; and Model EMB-145, -145ER, -145MR, -145MP, and -145EP Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all EMBRAER Model EMB-135ER and -135KE airplanes and Model EMB-145, -145ER, -145MR, -145MP, and -145EP airplanes. This AD requires inspecting the fuel quantity indication system (FQIS) wire harness and the direct current (DC) fuel pump wire harness to determine if the harnesses are properly attached at their respective attachment points and properly separated from one another, and performing corrective actions if necessary. This AD results from a report that the FQIS wire harness may not be properly attached at its attachment points or properly separated from the DC fuel pump wire harness. We are issuing this AD to prevent chafing between those harnesses or chafing of the harnesses against adjacent airplane structure or components, which could present a potential ignition source that could result in a fire or explosion.

DATES: This AD becomes effective January 16, 2007.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of January 16, 2007.

ADDRESSES: You may examine the AD docket on the Internet at [http://](http://dms.dot.gov)

dms.dot.gov or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC.

Contact Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil, for service information identified in this AD.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 227-2125; fax (425) 227-1149.

SUPPLEMENTARY INFORMATION:

Examining the Docket

You may examine the airworthiness directive (AD) docket on the Internet at <http://dms.dot.gov> or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647-5227) is located on the plaza level of the Nassif Building at the street address stated in the **ADDRESSES** section.

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to all EMBRAER Model EMB-135 and EMB-145, -145ER, -145MR, -145LR, -145XR, -145MP, and -145EP airplanes. That NPRM was published in the **Federal Register** on July 24, 2006 (71 FR 41745). That NPRM proposed to require inspecting the fuel quantity indication system (FQIS) wire harness and the DC fuel pump wire harness to determine if the harnesses are properly attached at their respective attachment points and properly separated from one another, and performing corrective actions if necessary.

Comments

We provided the public the opportunity to participate in the development of this AD. We have considered the comments received.

Requests To Add Revised Service Information

EMBRAER advises that Revision 04, dated November 7, 2005, of EMBRAER Service Bulletin 145-28-0025, referenced in the NPRM as the appropriate source of service information for accomplishing the specified actions, has been revised. EMBRAER notes that EMBRAER Service Bulletin 145-28-0025, Revision 05, dated May 23, 2006, contains minor changes and that no additional work is required.

American Eagle (AE) asks that Revision 05 of the referenced service bulletin be added to paragraph (f) of the AD as the source of service information for accomplishing the specified actions. AE states that the only change to Revision 05 of the service bulletin is the reduced effectivity.

We agree with the commenters. We have reviewed Revision 05 of the service bulletin and agree that it does not necessitate additional work; Revision 04 of the service bulletin was referenced in the NPRM as the appropriate source of service information for accomplishing the specified actions. We have revised paragraph (f) of the AD to reflect the revised service bulletin. In addition, we have revised the table in paragraph (h) of this AD to specify that accomplishing the actions in paragraph (f) of the AD in accordance with Revision 04 of the service bulletin is also considered to be an acceptable method of compliance.

Requests To Limit Applicability

EMBRAER notes that only airplanes with dry wing stubs are affected by the service bulletin, but the NPRM applies to all EMBRAER Model EMB-135ER and EMB-145 airplanes. EMBRAER states that since only Model EMB-135ER and -135KE airplanes and Model EMB-145, -145ER, -145MR, -145MP, and -145EP airplanes have dry wing stub configurations, the applicability in the NPRM should be changed to identify only those airplanes.

AE asks that the applicability in the NPRM be limited to Model EMB-135ER and EMB-145ER airplanes only. AE also notes that only airplanes with dry wing stubs are affected by the NPRM. AE adds that it does not operate the affected airplanes.

We agree with EMBRAER for the reasons provided. We have changed the applicability throughout this AD to reflect the applicability identified by EMBRAER. We have also changed the number of affected airplanes from 494 to 35 in the Costs of Compliance section of this AD.

Request To Change Incorporation of Certain Information

The Modification and Replacement Parts Association (MARPA) states that, typically, airworthiness directives are based on service information originating with the type certificate holder or its suppliers. MARPA adds that manufacturer service documents are privately authored instruments generally having copyright protection against duplication and distribution. MARPA notes that when a service document is incorporated by reference into a public document, such as an airworthiness directive, it loses its private, protected status and becomes a public document. MARPA adds that if a service document is used as a mandatory element of compliance, it should not simply be referenced, but should be incorporated into the regulatory document; by definition, public laws must be public, which means they cannot rely upon private writings. MARPA adds that incorporated by reference service documents should be made available to the public by publication in the Document Management System (DMS), keyed to the action that incorporates them. MARPA notes that the stated purpose of the incorporated by reference method is brevity, to keep from expanding the **Federal Register** needlessly by publishing documents already in the hands of the affected individuals; traditionally, "affected individuals" means aircraft owners and operators, who are generally provided service information by the manufacturer. MARPA adds that a new class of affected individuals has emerged, since the majority of aircraft maintenance is now performed by specialty shops instead of aircraft owners and operators. MARPA notes that this new class includes maintenance and repair organizations, component servicing and repair shops, parts purveyors and distributors, and organizations manufacturing or servicing alternatively certified parts under part 21 of the Federal Aviation Regulations (14 CFR part 21), § 21.303 (parts manufacturer approval). MARPA adds that the concept of brevity is now nearly archaic as documents exist more frequently in electronic format than on paper. Therefore, MARPA asks that the service documents deemed essential to the accomplishment of the NPRM be incorporated by reference into the regulatory instrument, and published in the DMS.

We do not agree that documents should be incorporated by reference during the NPRM phase of rulemaking.

The Office of the Federal Register (OFR) requires that documents that are necessary to accomplish the requirements of the AD be incorporated by reference during the final rule phase of rulemaking. This final rule incorporates by reference the document necessary for the accomplishment of the requirements mandated by this AD. Further, we point out that while documents that are incorporated by reference do become public information, they do not lose their copyright protection. For that reason, we advise the public to contact the manufacturer to obtain copies of the referenced service information.

We are currently reviewing our practice of publishing proprietary service information. Once we have thoroughly examined all aspects of this issue, and have made a final determination, we will consider whether our current practice needs to be revised. However, we consider that to delay this AD action for that reason would be inappropriate, since we have determined that an unsafe condition exists and that the requirements in this AD must be accomplished to ensure continued safety. Therefore, we have not changed the AD in this regard.

Change to AD

We have changed paragraph (g) of this AD to specify that the actions required in that paragraph must be done in accordance with a method approved by the Manager, International Branch, ANM-116, Transport Airplane Directorate, FAA. In addition, we have clarified the specific section of the EMBRAER Standard Wiring Practices Manual and identified it as one approved method of compliance for doing the required actions.

Conclusion

We have carefully reviewed the available data, including the comments received, and determined that air safety and the public interest require adopting the AD with the changes described previously. These changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Costs of Compliance

This AD affects about 35 airplanes of U.S. registry. The actions take about 1 work hour per airplane, at an average labor rate of \$80 per work hour. Based on these figures, the estimated cost of the AD for U.S. operators is \$2,800, or \$80 per airplane.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The Federal Aviation Administration (FAA) amends § 39.13 by adding the following new airworthiness directive (AD):

2006-25-07 Empresa Brasileira De Aeronautica S.A. (EMBRAER): Amendment 39-14848. Docket No. FAA-2006-25422; Directorate Identifier 2006-NM-095-AD.

Effective Date

(a) This AD becomes effective January 16, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all EMBRAER Model EMB-135ER and -135KE airplanes and Model EMB-145, -145ER, -145MR, -145MP, and -145EP airplanes; certificated in any category.

Unsafe Condition

(d) This AD results from a report that the fuel quantity indication system (FQIS) wire harness may not be properly attached at its attachment points or properly separated from the direct current (DC) fuel pump wire harness. We are issuing this AD to prevent chafing between those harnesses or chafing of the harnesses against adjacent airplane structure or components, which could present a potential ignition source that could result in a fire or explosion.

Compliance

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

Inspecting Harnesses for Proper Attachment and Separation

(f) Within 5,000 flight hours after the effective date of this AD: Do a one-time general visual inspection of the FQIS wire harness and the DC fuel pump wire harness to determine if the harnesses are properly attached at their respective attachment points and properly separated from one another, and do all applicable corrective actions, in accordance with the Accomplishment Instructions of EMBRAER Service Bulletin 145-28-0025, Revision 05, dated May 23, 2006. All applicable corrective actions must be done before further flight.

Note 1: For the purposes of this AD, a general visual inspection is: "A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to ensure visual access to all surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked."

Further Corrective Actions

(g) If any broken, frayed, cracked, or damaged wire, or a damaged harness, is found: Before further flight, repair the damaged wire or harness in accordance with a method approved by the Manager, International Branch, ANM-116, Transport Airplane Directorate, FAA. One approved method is using Section 20-21-00 of the EMBRAER Standard Wiring Practices Manual.

Actions Accomplished Previously

(h) Actions done before the effective date of this AD in accordance with one of the service bulletins identified in Table 1 of this AD are acceptable for compliance with the corresponding actions required by this AD.

TABLE 1.—PREVIOUS ISSUES OF THE SERVICE INFORMATION

Embraer Service Bulletin	Revision level	Date
145-28-0025	Original	April 19, 2004.
145-28-0025	01	June 9, 2004.
145-28-0025	02	November 8, 2004.
145-28-0025	03	April 28, 2005.
145-28-0025	04	November 7, 2005.

Alternative Methods of Compliance (AMOCs)

(i)(1) The Manager, International Branch, ANM-116, has the authority to approve AMOCs for this AD, if requested in

accordance with the procedures found in 14 CFR 39.19.

(2) Before using any AMOC approved in accordance with § 39.19 on any airplane to which the AMOC applies, notify the

appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

Related Information

(j) Brazilian airworthiness directive 2006-03-01, dated April 19, 2006, also addresses the subject of this AD.

Material Incorporated by Reference

(k) You must use EMBRAER Service Bulletin 145-28-0025, Revision 05, dated May 23, 2006, to perform the actions that are required by this AD, unless the AD specifies otherwise. EMBRAER Service Bulletin 145-28-0025, Revision 05, dated May 23, 2006, contains the following effective pages:

Page No.	Change level shown on page	Date shown on page
1, 2, 8 ... 3-7, 9- 15.	05 04	May 23, 2006. November 7, 2005.

The Director of the Federal Register approved the incorporation by reference of this document in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil, for a copy of this service information. You may review copies at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., Room PL-401, Nassif Building, Washington, DC; on the Internet at <http://dms.dot.gov>; or at the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741-6030, or go to http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

Issued in Renton, Washington, on November 21, 2006.

Ali Bahrami,

Manager, Transport Airplane Directorate,
Aircraft Certification Service.

[FR Doc. E6-20862 Filed 12-8-06; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF HOMELAND SECURITY**Coast Guard****33 CFR Part 165**

[CGD01-06-142]

RIN 1625-AA11

Regulated Navigation Area; East Rockaway Inlet to Atlantic Beach Bridge, Nassau County, Long Island, NY

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is issuing another temporary final rule to continue a temporary regulated navigation area (RNA) from the entrance of East

Rockaway Inlet to the Atlantic Beach Bridge, Nassau County, New York. Significant shoaling in this area has reduced the depths of the navigable channel and has increased the risk of vessels with drafts of greater than 5 feet carrying petroleum products as cargo grounding in the channel, and the potential for a significant oil spill. This rule will continue to restrict passage of commercial vessels carrying petroleum products with a loaded draft in excess of 5 feet.

DATES: This rule is effective from December 1, 2006, until June 1, 2007.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket CGD01-06-142 and will be available for inspection or copying at Sector Long Island Sound, New Haven, CT, between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant D. Miller, Waterways Management Division, Coast Guard Sector Long Island Sound at (203) 468-4596.

SUPPLEMENTARY INFORMATION:**Regulatory Information**

On December 16, 2005, we published a temporary final rule (TFR) entitled “Regulated Navigation Area; East Rockaway Inlet to Atlantic Beach Bridge, Nassau County, Long Island, NY” in the **Federal Register** (70 FR 74676). The effective period for that rule was November 29, 2005, to May 31, 2006. That rule was later revised and extended to December 1, 2006. (71 FR 31085, June 1, 2006). This temporary final rule will continue a temporary regulated navigation area (RNA) in the same location until June 1, 2007.

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. The original TFR was urgently needed to protect the maritime public from shoaling hazards in East Rockaway Inlet. Specifically, action was needed to prevent vessels carrying petroleum products as cargo with a loaded draft of greater than 5 feet from transiting the area so as to avoid the potential hazards associated with a grounding of a vessel.

East Rockaway Inlet has experienced significant shoaling causing the channel to migrate towards the west. Water depths in the federal navigation channel have been reduced in some areas to as low as 5 feet. This channel was last dredged by the Army Corps of Engineers during the winter of 2004-2005. However, the shoaling in this area has

reduced depths to a point where transit for vessels drawing greater than 5 feet increases the immediate risk of grounding. Therefore, the Coast Guard has relocated the channel buoys to the west to account for channel migration. While these aids now mark the deepest water in the channel, this channel has experienced rapid shoaling in the past, and is expected to experience the same in the future. The potential for significant shoaling continues to present a danger to the maritime public and thus appropriate regulatory measures are needed to continue to protect the maritime public from those hazards in East Rockaway Inlet. Accordingly, the Coast Guard anticipates that permanent regulations will be needed to protect the maritime users from the risk of grounding as well as the general public from the grounding hazards and resultant potential consequences of discharging petroleum into the navigable channel and surrounding area. We anticipate that by June 2007 we will be able to complete a notice-and-comment rulemaking proposing that the RNA be made permanent.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The measures contemplated by this rule were designed to prevent vessels carrying petroleum products as cargo with a loaded draft of greater than 5 feet from transiting the area so as to avoid the potential hazards associated with a grounding of a vessel and potential resultant discharge of petroleum products. The delay inherent in the NPRM process for developing a permanent rule is contrary to the public interest insofar as it may render vessels at risk for grounding in the interim. The Coast Guard has begun the process to publish an NPRM to establish a permanent regulated navigation area addressing the passage of commercial vessels carrying petroleum products with a loaded draft in excess of 5 feet through East Rockaway Inlet. The Coast Guard has continued to encounter delays in the processing of the NPRM. This temporary final rule will allow for the continued protection of the maritime public from the particular grounding hazards that continue to affect the Rockaway Inlet while permanent rules are developed.

In the last temporary final rule extending the effective period of the RNA, we requested post-promulgation comments. The Coast Guard has received no written comments or complaints to suggest any modification of the scope of the RNA.

Background and Purpose

East Rockaway Inlet is on the South Shore of Long Island, in Nassau County, New York. The Inlet has experienced significant shoaling since dredging was completed in the late winter of 2004–2005, causing the channel to migrate towards the west. Water depths in the area designated by the Army Corps of Engineers as the Federal navigation channel have been reduced in some areas to as low as 5 feet. This channel was last dredged by the Army Corps of Engineers during the winter of 2004–2005. The channel buoys were relocated to the west to account for channel migration. East Rockaway Inlet is frequented by small coastal tankers and tugs towing oil barges supplying two facilities: Sprague Energy Oceanside, located in Oceanside, Long Island, New York, a supplier of home heating oil for Long Island, New York, and Keyspan E.S. Barrett, an electrical power generation facility, located in Island Park, Long Island, New York. The shoaling in this area has reduced depths to a point where transit for vessels drawing greater than 5 feet increases the risk of immediate grounding, and the potential for a significant oil spill resulting from a grounding. Similar shoaling led to the groundings in late 2003 and in 2004 of small coastal tankers carrying home heating oil. Additional time is necessary to ensure the public has sufficient time to participate in the rulemaking process. The Coast Guard is continuing a temporary RNA in place until June 1, 2007, to allow the establishment of a permanent regulated navigation area by notice-and-comment rulemaking.

Discussion of Rule

This rule will continue to provide for the safety of vessel traffic and the maritime public in and around East Rockaway Inlet, Long Island, New York. This regulation establishes a temporary RNA on the navigable waters of the East Rockaway Inlet in an area bounded by lines drawn from the approximate position of the Silver Point breakwater buoy (LLN 31500) at 40°34'56" N, 073°45'19" W, running north to a point of land on the northwest side of the inlet at position 40°35'28" N, 073°46'12" W, thence easterly along the shore to the east side of the Atlantic Beach Bridge, State Route 878, over East Rockaway Inlet, thence across said bridge to the south side of East Rockaway Inlet, thence westerly along the shore and across the water to the beginning.

The rule described herein prohibits the transit of vessels carrying petroleum products as cargo, with a loaded draft

greater than 5 feet, through the RNA. Operators of vessels carrying petroleum products as cargo with a loaded draft greater than five feet who wish to transit the regulated navigation area must request permission from the Captain of the Port, Long Island Sound. They should seek permission at least 48 hours prior to transiting the area to prevent delays and minimize the risk of denial of entry.

As under the current TFR, the COTP will consider the following factors when considering requests to enter or transit the RNA; environmental and safety factors, including but not limited to: Weather conditions affecting transit (*e.g.* sea state, state of the tide, winds and visibility), the loaded draft of the particular vessel seeking to transit the area, and the minimum under keel clearance of the particular vessel.

The Coast Guard is continuing a temporary regulated navigation area until June 1, 2007, because we anticipate we will need this much time to allow for public participation and comment on a proposed rulemaking for a permanent rule. This temporary final rule will be in effect from December 1, 2006 until June 1, 2007.

Any violation of the RNA described herein, is punishable by, among others, civil and criminal penalties, in rem liability against the offending vessel, and license sanctions.

In addition to publishing this TFR in the **Federal Register**, the Captain of the Port Long Island Sound will notify the maritime community of the requirements of this regulated navigation area via broadcast notifications and notifications in the local notice to mariners.

Regulatory Evaluation

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

We expect the economic impact of this rule will be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. This regulation may have some impact on the public, but the potential impact will be minimized for the following reasons: The regulated navigation area limits only vessels carrying petroleum products as cargo with a loaded draft of

greater than 5 feet; operators of vessels with a loaded draft of greater than 5 feet may request permission to transit the regulated navigation area from the Captain of the Port, Long Island Sound. Recreational and other maritime traffic not covered by this rule is not prohibited from transiting this area.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule may affect the following entities, some of which may be small entities: The owners or operators of vessels carrying petroleum products intending to transit or anchor in those portions of the East Rockaway Inlet covered by the regulated navigation area; Sprague Energy Oceanside, located in Oceanside, Long Island, New York, a supplier of home heating oil, and Keyspan E.S. Barrett, an electrical power generation facility, located in Island Park, Long Island, New York, which receive the vessels affected by this regulated navigation area. For the reasons outlined in the Regulatory Evaluation section above, this rule will not have a significant impact on a substantial number of small entities.

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

Assistance for Small Entities

Under subsection 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 [Pub. L. 104–121], the Coast Guard wants to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking process. If this rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call Lieutenant Junior Grade D. Miller, Waterways Management

Division, Coast Guard Sector Long Island Sound, at (203) 468-4596.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247).

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health

Risks and Safety Risks. This rule is not an economically significant rule and will not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

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

To help the Coast Guard establish regular and meaningful consultation and collaboration with Indian and Alaskan Native tribes, we published a notice in the **Federal Register** (66 FR 36361, July 11, 2001) requesting comments on how to best carry out the Order. We invite your comments on how this rule might impact tribal governments, even if that impact may not constitute a "tribal implication" under the Order.

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this rule under Commandant Instruction M16475.1D and Department of Homeland Security Management Directive 5100.1, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2-1, paragraph (34)(g), of the Instruction, from further environmental documentation. This rule fits the category selected from paragraph (34)(g), as it would establish a regulated navigation area. A final "Environmental Analysis Check List" and a final "Categorical Exclusion Determination" will be available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1225, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. From December 1, 2006, until June 1, 2007, add temporary § 165.T01-142 to read as follows:

§ 165.T01-142 Regulated Navigation Area, East Rockaway Inlet to Atlantic Beach Bridge, Nassau County, Long Island, New York.

(a) *Location.* The following area is established as a regulated navigation area (RNA): All waters of East Rockaway Inlet in an area bounded by lines drawn from the approximate position of the Silver Point breakwater buoy (LLN 31500) at 40°34'56" N, 073°45'19" W, running north to a point of land on the northwest side of the inlet at position 40°35'28" N, 073°46'12" W, thence easterly along the shore to the east side of the Atlantic Beach Bridge, State Route 878, over East Rockaway Inlet,

thence across the bridge to the south side of East Rockaway Inlet, thence westerly along the shore and across the water to the beginning.

(b) *Regulations.* (1) Vessels carrying petroleum products as cargo, with a loaded draft greater than 5 feet, are prohibited from transiting within the regulated navigation area.

(2) Operators of vessels carrying petroleum products as cargo with a loaded draft greater than 5 feet must request to transit the regulated navigation area to the Captain of the Port, Long Island Sound (COTP). They should seek permission at least 48 hours prior to transiting the area to prevent delays and minimize the risk of denial of entry. Factors the COTP will consider before granting permission to enter or transit the RNA described in paragraph (a) of this section are: Environmental and safety factors, including, but not limited to: Weather conditions affecting transit (e.g. sea state, state of the tide, winds, and visibility,) the loaded draft of the particular vessel seeking to transit the area, and the minimum under keel clearance of the particular vessel.

(c) *Effective period.* This section is effective from December 1, 2006, until June 1, 2007.

Dated: November 27, 2006.
Timothy S. Sullivan,
Rear Admiral, U.S. Coast Guard, Commander,
First Coast Guard District.
 [FR Doc. E6-20921 Filed 12-8-06; 8:45 am]
BILLING CODE 4910-15-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2006-0630; FRL-8243-9]

Approval and Promulgation of Implementation Plans; Revisions to the Nevada State Implementation Plan; Monitoring and Volatile Organic Compound Rules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing full approval of certain revisions and a limited approval/limited disapproval of other revisions to the Nevada Department of Conservation and Natural Resources portion of the Nevada State Implementation Plan (SIP). This action was proposed in the **Federal Register** on August 31, 2006 and addresses definitions, organic solvent controls, and various monitoring provisions. Under authority of the Clean Air Act as amended in 1990 (CAA or the Act), this action approves seventeen provisions

and approves and simultaneously disapproves two other provisions and recommends that Nevada correct the rule deficiencies.

DATES: *Effective Date:* This rule is effective on January 10, 2007.

ADDRESSES: EPA has established docket number EPA-R09-OAR-2006-0630 for this action. The index to the docket is available electronically at <http://regulations.gov> and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Julie A. Rose, EPA Region IX, (415) 947-4126, rose.julie@epa.gov.

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

I. Proposed Action

On August 31, 2006 (71 FR 51793), EPA proposed approval of the provisions of chapter 445B of the Nevada Administrative Code (NAC) listed below in Table 1.

TABLE 1.—PROVISIONS PROPOSED FOR APPROVAL

NAC No.	NAC title	Adopted	Submitted
445B.015	“Alternative method” defined	10/03/95	01/12/06
445B.062	“Equivalent method” defined	10/03/95	01/12/06
445B.063	“Excess emissions” defined	10/04/05	01/12/06
445B.084	“Hazardous air pollutant” defined	11/03/93	01/12/06
445B.134	“Person” defined	09/16/76	01/12/06
445B.153	“Regulated air pollutant” defined	10/04/05	01/12/06
445B.202	“Volatile organic compounds” defined	03/03/94	01/12/06
445B.22093	Organic solvents and other volatile organic compounds	10/04/05	01/12/06
445B.256	Monitoring systems: Calibration, operation and maintenance of equipment.	10/03/95	01/12/06
445B.257	Monitoring systems: Location	09/16/76	01/12/06
445B.258	Monitoring systems: Verification of operational status	09/16/76	01/12/06
445B.259	Monitoring systems: Performance evaluations	09/16/76	01/12/06
445B.260	Monitoring systems: Components contracted for before September 11, 1974.	09/16/76	01/12/06
445B.261	Monitoring systems: Adjustments	09/16/76	01/12/06
445B.263	Monitoring systems: Frequency of operation	09/16/76	01/12/06
445B.264	Monitoring systems: Recordation of data	08/22/00	01/12/06
445B.265	Monitoring systems: Records; reports	04/26/84	01/12/06

We proposed to approve these regulations because we determined that they complied with the relevant CAA requirements. Our proposed action

contains more information on the regulations and our evaluation. On August 31, 2006 (71 FR 51793), EPA also proposed a limited approval

and limited disapproval of the provisions listed in Table 2.

TABLE 2.—PROVISIONS PROPOSED FOR LIMITED APPROVAL/DISAPPROVAL

NAC No.	NAC title	Adopted	Submitted
445B.262	Monitoring systems: Measurement of opacity	09/18/03	01/12/06
445B.267	Alternative monitoring procedures or requirements	09/18/03	01/12/06

We proposed a limited approval because we determined that these provisions improve the SIP and are largely consistent with the relevant CAA requirements. We simultaneously proposed a limited disapproval because, in certain respects, these provisions conflict with section 110 of the Act. Specifically, these provisions provide inappropriate Director's discretion in NAC 445B.262, paragraph 1, and NAC 445B.267, paragraph 1, which are discussed in greater detail in our proposed action.

II. Public Comments and EPA Responses

EPA's proposed action provided a 30-day public comment period. During this period, we received comments from Jennifer L. Carr and Michael Elges, Division of Environmental Protection, State of Nevada Department of Conservation & Natural Resources, by letter dated September 25, 2006. We summarize the comments and provide our responses in the paragraphs that follow. Note that some of the comments in the September 25, 2006 letter are directed only at a related EPA proposal published on August 28, 2006 (71 FR 50875), and these comments will be addressed in a separate final action we expect to publish in the near future.

Comment #1: The first comment from the Nevada Division of Environmental Protection (NDEP) indicates that our proposed rule should have identified two SIP revisions that have been submitted by NDEP in addition to the one dated January 12, 2006 and should have explained how they provide support for our proposed action on the monitoring and volatile organic compound (VOC) rules published on August 31, 2006. These two submittals include one dated February 16, 2005 and another dated March 24, 2006.

Response #1: We agree and provide a more complete discussion of the relevant SIP submittals below.

On February 16, 2005, NDEP submitted a large revision to the applicable Nevada SIP. The February 16, 2005 SIP submittal includes new and amended statutes and rules as well as requests for rescission of certain rules in the existing SIP. The February 16, 2005 SIP submittal also contains documentation of public participation (i.e., notice and public hearing) and

adoption for all of the submitted rules through the hearing on November 30, 2004 held by the State Environmental Commission.

On January 12, 2006, NDEP submitted an amended version of the February 16, 2005 SIP submittal. The January 12, 2006 SIP submittal contains updated regulatory materials including new and amended rules adopted by the State Environmental Commission on October 4, 2005 but otherwise contains the same materials as the earlier submittal with the exception of the documentation of public participation. The January 12, 2006 SIP submittal only contains documentation of public participation for rule amendments adopted by the State Environmental Commission on October 4, 2005 but did not re-submit the related documentation included in the earlier submittal. Therefore, the January 12, 2006 SIP submittal supersedes the earlier SIP revision submittal dated February 16, 2005 for all purposes except for the documentation of public participation for adoption dates from November 30, 2004 and earlier.

Our consideration of the rules submitted on January 12, 2006 and proposed for approval or limited approval on August 31, 2006 takes into account the public participation documentation contained in the earlier submittal (except, as noted, for the rules adopted on October 4, 2005 for which documentation was provided by NDEP in the January 12, 2006 SIP submittal). CAA section 110(l) requires reasonable notice and public hearing prior to adoption of SIP revisions by States for subsequent submittal to EPA for approval or disapproval under CAA section 110(k)(3). The public participation documentation provided by NDEP in the February 16, 2005 SIP submittal (and in the January 12, 2006 SIP submittal package for the October 4, 2005 rule amendments) is sufficient for the purposes of CAA section 110(l).

NDEP's SIP submittal dated March 24, 2006 includes a definition of the term "person" in section 0.039 of title 0—Preliminary Chapter—General Provisions of the Nevada Revised Statutes (NRS). The general definition of "person" in NRS 0.039 is the State's basic definition of this term, and other statutory and regulatory provisions that cite "person" need only define the term

for the specific purposes therein as necessary to add or subtract entities listed in the basic definition of "person" in NRS 0.039. We approved NRS 0.039, as submitted on March 24, 2006, and NRS 445.150 ("Person"), in a final rule published on August 31, 2006 (71 FR 51766). NDEP's submittal, and EPA's approval, of the basic definition of "person" in NRS 0.039 and the expanded definition of "person" for air pollution control purposes in NRS 445B.150, together with NDEP's submittal, and EPA's approval, of NAC 445B.134 ("Person"), which was included in the proposal finalized herein, provide the complete definition of "person" for the purposes of Nevada's air pollution regulatory program.

Comment #2: NDEP disagrees with EPA's characterization that Nevada eliminated some terms in the definition of "person" and explains that the Nevada State Legislature created a basic definition of "person" and put it in the General Provisions chapter of the State statutes and that, together with that action, the NRS definition of "person" in the air control chapter (currently NRS 445B) was revised to refer to the basic definition, not repeat it, and include only those additional terms that expanded the basic definition. NDEP also indicates that, on September 6, 2006, the State Environmental Commission adopted amendments to the term "person" in NAC 445B.134 to refer directly to the basic definition in the General Provisions of the NRS and that NDEP expects to submit the amended definition to EPA in the near future.

Response #2: EPA appreciates the distinction and understands that the complete definition of "person" for the purposes of Nevada's air pollution regulatory program and as codified at NAC 445B.134, which was proposed for approval in our August 31, 2006 notice (71 FR 51793), relies on the basic definition in NRS 0.039 as expanded by the definition of "person" in NRS 445B.150. We approved both NRS 0.039 and NRS 445B.150 as a revision to the Nevada applicable SIP in a notice also published on August 31, 2006 (71 FR 51766).

EPA also appreciates the State's effort to amend NAC 445B.134 to further clarify the reliance of the regulatory

definition of "person" on both the general definition in NRS 0.039, which NAC 445B.134 (as submitted on January 12, 2006) does not cite, as well as the air-pollution-specific definition in NRS 445B.150, which NAC 445B.134 (as submitted on January 12, 2006) does cite, and will take action on the amended definition when it is submitted.

Comment #3: NDEP comments that EPA's recommendation to revise the definition of "volatile organic compounds" in NAC 445B.202 by linking the related definition in the Code of Federal Regulations (CFR) to a particular date is unnecessary because NAC 445B.202 refers to the CFR definition as adopted by reference in NAC 445B.221, which contains a specific date for the CFR definition.

Response #3: We agree that amending NAC 445B.202 to include a specific date for the cited CFR definition is unnecessary given the link in NAC 445B.202 to NAC 445B.221 where such a date is specified.

Comments #4: NDEP indicates that several minor clarifications and editorial corrections suggested by EPA were adopted into the NAC by the State Environmental Commission on September 6, 2006 and will be submitted in the near future.

Response #4: We appreciate these revisions, and will take action when they are submitted to EPA.

III. EPA Action

No comments were submitted that change our assessment of the rules as described in our proposed action. Therefore, as authorized in sections 110(k)(3) and 301(a) of the Act, EPA is finalizing the approval of the provisions listed in Table 1 and also finalizing the limited approval of the provisions listed in Table 2. This action incorporates the submitted rules into the Nevada SIP, including those provisions identified as deficient. As authorized under section 110(k)(3), EPA is simultaneously finalizing a limited disapproval of the rules listed in Table 2. EPA recommends that Nevada revise the deficient provisions to exclude the director's discretion conditions. No sanctions are associated with this action because this is not a required submittal.

Note that the submitted provisions have all been adopted by the State Environmental Commission, and EPA's final limited disapproval does not prevent EPA or the state agency from enforcing them.

IV. Statutory and Executive Order Reviews

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

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves state rules implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus

standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 9, 2007. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: November 2, 2006.

Jane Diamond,

Acting Regional Administrator, Region IX.

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

PART 52—[AMENDED]

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

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

Subpart DD—Nevada

■ 2. Section 52.1470 is amended by adding paragraph (c)(56)(i) (A)(5), (6), and (7) to read as follows:

§ 52.1470 Identification of plan.

* * * * *

- (c) * * *
- (56) * * *
- (i) * * *
- (A) * * *

(5) The following sections of the Nevada Air Quality Regulations were adopted on the dates listed below and recodified as Chapter 445B of the Nevada Administrative Code in November 1994:

(i) September 16, 1976: 445B.134, 445B.257, 445B.258, 445B.259, 445B.260, 445B.261, and 445B.263.

(6) The following sections of Chapter 445 of the Nevada Administrative Code were adopted on the dates listed below and recodified as Chapter 445B of the Nevada Administrative Code in November 1994:

- (i) April 26, 1984: 445B.265.
- (ii) November 3, 1993: 445B.084.
- (iii) March 3, 1994: 445B.202.

(7) The following sections of Chapter 445B of the Nevada Administrative Code were adopted on the dates listed below:

- (i) October 3, 1995: 445B.015, 445B.062, and 445B.256.
- (ii) August 22, 2000: 445B.264.
- (iii) September 18, 2003: 445B.262 and 445B.267.
- (iv) October 4, 2005: 445B.063, 445B.153, and 445B.22093.

* * * * *

[FR Doc. E6-20895 Filed 12-8-06; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA-R01-OAR-2006-OAR-0226; FRL-8253-4]

Approval and Promulgation of Air Quality Implementation Plans; Maine; Redesignation of the Portland, Maine and the Hancock, Knox, Lincoln and Waldo Counties, Maine Ozone Nonattainment Areas to Attainment and Approval of These Areas' Maintenance Plans

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a redesignation request and a State Implementation Plan (SIP) revision submitted by the State of Maine. The Maine Department of Environmental Protection (ME DEP) is requesting that the Portland, Maine and the Hancock, Knox, Lincoln and Waldo Counties, Maine (also known as the Midcoast area) ozone nonattainment areas be redesignated as attainment for the 8-hour ozone national ambient air quality standard (NAAQS). In conjunction with its redesignation request, the ME DEP submitted a SIP revision consisting of maintenance plans for the Portland, Maine and the Hancock, Knox, Lincoln and Waldo Counties, Maine areas that provide for continued attainment of the 8-hour ozone NAAQS for the next 10 years. EPA is approving the redesignation requests and the maintenance plan as revisions to the Maine SIP in accordance with the requirements of the Clean Air Act. EPA is also approving the motor vehicle emission budgets (MVEBs) that are identified in the 8-hour maintenance plan for these areas for purposes of transportation conformity.

DATES: *Effective Date:* This rule is effective on January 10, 2007.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R01-OAR-2006-OAR-0226. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding legal holidays. Copies of the documents relevant to this action are also available for public inspection during normal business hours, by appointment at the Bureau of Air Quality Control, Department of Environmental Protection, First Floor of

the Tyson Building, Augusta Mental Health Institute Complex, Augusta, ME 04333-0017.

FOR FURTHER INFORMATION CONTACT: Richard P. Burkhart, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100 (CAQ), Boston, MA 02114-2023, telephone number (617) 918-1664, fax number (617) 918-0664, e-mail Burkhart.Richard@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On October 17, 2006 (71 FR 60937), EPA published a notice of proposed rulemaking (NPR) for the State of Maine. The NPR proposed approval of Maine's request to redesignate the Portland, Maine and the Hancock, Knox, Lincoln and Waldo Counties, Maine 8-hour ozone nonattainment areas and a SIP revision that establishes separate maintenance plans for these areas. The maintenance plans set forth how each area will maintain attainment of the 8-hour ozone NAAQS for the next 10 years in accordance with Section 175A of the Clean Air Act (CAA). The NPR also proposed approval of the motor vehicle emission budgets (MVEBs) associated with the maintenance plans. The formal SIP revision was submitted by the ME DEP on August 3, 2006. Other specific requirements of Maine's redesignation requests, the 175A maintenance plans, and the MVEBs, and the rationale for EPA's proposed action are explained in the NPR and will not be restated here. No adverse public comments were received on the NPR, however, two commenters did discover minor typographical errors in the NPR. EPA agrees with these commenters that there were typographical errors in the NPR. Some of the values for monitored ozone levels were misstated in two tables in the NPR. These misstatements were minor, and did not affect EPA's conclusions on the redesignation requests, that the design values for these areas qualify for redesignation. A response to comments document correcting the record was placed into the docket for this action.

II. Final Action

EPA is approving the State of Maine's August 3, 2006 redesignation requests and maintenance plans for the Portland, Maine and the Hancock, Knox, Lincoln and Waldo Counties, Maine areas, because the requirements for approval have been satisfied for each area. EPA has evaluated Maine's redesignation requests, and determined that they meet the redesignation criteria set forth in

section 107(d)(3)(E) of the Clean Air Act. EPA believes that the redesignation requests and monitoring data demonstrate that the Portland, Maine and the Hancock, Knox, Lincoln and Waldo Counties, Maine areas have attained the 8-hour ozone standard. The final approval of this redesignation request will change the designation of the Portland, Maine and the Hancock, Knox, Lincoln and Waldo Counties, Maine area from nonattainment to attainment for the 8-hour ozone standard. EPA is approving the associated maintenance plans for these areas, submitted on August 3, 2006, as a revision to the Maine SIP. EPA is approving the maintenance plans for the Portland, Maine and the Hancock, Knox, Lincoln and Waldo Counties, Maine area because they meet the requirements of section 175A of the CAA. EPA is also approving the MVEBs associated with these maintenance plans.

III. Statutory and Executive Order Reviews

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

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States,

on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*)

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 9, 2007. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it

extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: November 30, 2006.

Robert W. Varney,

Regional Administrator, EPA New England.

■ 40 CFR parts 52 and 81 are amended as follows:

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

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

Subpart U—Maine

■ 2. Section 52.1023 is amended by adding paragraphs (g) and (h) to read as follows:

§ 52.1023 Control strategy: Ozone.

* * * * *

(g) Approval. EPA is approving a redesignation request for the Portland, Maine 8-hour ozone nonattainment area. Maine submitted this request on August 3, 2006. The request contains the required Clean Air Act Section 175A maintenance plan. The plan establishes motor vehicle emissions budgets for 2016 of 16.659 tons per summer day (tpsd) of volatile organic compound and 32.837 tpsd of nitrogen oxide (NO_x) to be used in transportation conformity determinations in the Portland area.

(h) Approval. EPA is approving a redesignation request for the Hancock, Knox, Lincoln and Waldo Counties, Maine 8-hour ozone nonattainment area. Maine submitted this request on August 3, 2006. The request contains the required Clean Air Act Section 175A maintenance plan. The plan establishes motor vehicle emissions budgets for 2016 of 3.763 tons per summer day (tpsd) of volatile organic compound and 6.245 tpsd of nitrogen oxide (NO_x) to be used in transportation conformity determinations in the Hancock, Knox, Lincoln and Waldo Counties area.

PART 81—[AMENDED]

■ 1. The authority citation for part 81 continues to read as follows:

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

■ 2. Section 81.320 is amended by revising the entries for the Portland, Maine and the Hancock, Knox, Lincoln and Waldo Counties, Maine area in the

8-hour ozone standard table to read as follows:

§ 81.320 Maine.

* * * * *

MAINE—OZONE (8-HOUR STANDARD)

Designated area	Designation ^a		Category/classification	
	Date ¹	Type	Date ¹	Type
Hancock, Knox, Lincoln and Waldo Cos., ME:				
Hancock County (part) (includes only the following cities and towns): Bar Harbor, Blue Hill, Brooklin, Brooksville, Cranberry Isle, Deer Isle, Frenchboro, Gouldsboro, Hancock, Lamoine, Mount Desert, Sedgwick, Sorrento, Southwest Harbor, Stonington, Sullivan, Surry, Swans Island, Tremont, Trenton, and Winter Harbor.	January 10, 2007 ...	Attainment.		
Knox County (part) (includes only the following cities and towns): Camden, Criehaven, Cushing, Friendship, Isle au Haut, Matinicus Isle, Muscle Ridge Shoals, North Haven, Owls Head, Rockland, Rockport, St. George, South Thomaston, Thomaston, Vinalhaven, and Warren.	January 10, 2007 ...	Attainment.		
Lincoln County (part) (includes only the following cities and towns): Alna, Boothbay, Boothbay Harbor, Breman, Bristol, Damariscotta, Dresden, Edgecomb, Monhegan, Newcastle, Nobleboro, South Bristol, Southport, Waldoboro, Westport, and Wiscasset.	January 10, 2007 ...	Attainment.		
Waldo County (part) (includes only the following town): Islesboro.	January 10, 2007 ...	Attainment.		
Portland, ME:				
Androscoggin County (part) (includes only the following town): Durham.	January 10, 2007 ...	Attainment.		
Cumberland County (part) (includes only the following cities and towns): Brunswick, Cape Elizabeth, Casco, Cumberland, Falmouth, Freeport, Frye Island, Gorham, Gray, Harpswell, Long Island, New Gloucester, North Yarmouth, Portland, Pownal, Raymond, Scarborough, South Portland, Standish, Westbrook, Windham, and Yarmouth.	January 10, 2007 ...	Attainment.		
Sagadahoc County (includes all cities & towns)	January 10, 2007 ...	Attainment.		
York County (part) (includes only the following cities and towns): Alfred, Arundel, Berwick, Biddeford, Buxton, Dayton, Elliot, Hollis, Kennebunk, Kennebunkport, Kittery, Limington, Lyman, North Berwick, Ogunquit, Old Orchard Beach, Saco, Sanford, South Berwick, Wells, and York.	January 10, 2007 ...	Attainment.		
* * * * *				

^a Includes Indian country located in each county or area, except otherwise specified.

¹ This date is June 15, 2004, unless otherwise noted.

* * * * *

[FR Doc. E6-20901 Filed 12-8-06; 8:45 am]

BILLING CODE 6560-50-P

Proposed Rules

Federal Register

Vol. 71, No. 237

Monday, December 11, 2006

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-2006-26558; Directorate Identifier 2006-NM-206-AD]

RIN 2120-AA64

Airworthiness Directives; Bombardier Model DHC-8-102, -103, and -106 Airplanes; and Model DHC-8-200 and DHC-8-300 Series Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Bombardier Model DHC-8-100 (as described above), DHC-8-200, and DHC-8-300 series airplanes. This proposed AD would require doing a one-time inspection for damage of the electrical cable harness assembly located on the left and right wing root to fuselage aft seal, and repair if necessary; and reworking the fuselage aft seal assembly (left and right) to create a clearance between the electrical cable assemblies and the edge of the fairing panel. This proposed AD results from a report that an airplane encountered an uncommanded propeller feathering during climb, which resulted in an emergency landing. We are proposing this AD to prevent chafing or grounding of the wiring against the aft seal assemblies, which, if not corrected, could interrupt the operation of various systems, including the propeller feather control, alternating current (AC) electrical power, and standby hydraulic power, and result in reduced controllability of the airplane.

DATES: We must receive comments on this proposed AD by January 10, 2007.

ADDRESSES: Use one of the following addresses to submit comments on this proposed AD.

- *DOT Docket Web site:* Go to <http://dms.dot.gov> and follow the instructions for sending your comments electronically.

- *Government-wide rulemaking Web site:* Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.

- *Mail:* Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, room PL-401, Washington, DC 20590.

- *Fax:* (202) 493-2251.

- *Hand Delivery:* Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Contact Bombardier, Inc., Bombardier Regional Aircraft Division, 123 Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada, for service information identified in this proposed AD.

FOR FURTHER INFORMATION CONTACT:

Douglas Wagner, Aerospace Engineer, Airframe and Propulsion Branch, ANE-172, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, suite 410, Westbury, New York 11590; telephone (516) 228-7306; fax (516) 794-5531.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number "FAA-2006-26558; Directorate Identifier 2006-NM-206-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to <http://dms.dot.gov>, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of that Web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment 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), or you may visit <http://dms.dot.gov>.

Examining the Docket

You may examine the AD docket on the Internet at <http://dms.dot.gov>, or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647-5227) is located on the plaza level of the Nassif Building at the DOT street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after the Docket Management System receives them.

Discussion

Transport Canada Civil Aviation (TCCA), which is the airworthiness authority for Canada, notified us that an unsafe condition may exist on certain Bombardier Model DHC-8-102, -103, and -106 airplanes, and Model DHC-8-200 and DHC-8-300 series airplanes. TCCA advises that a Model DHC-8 airplane encountered an uncommanded propeller feathering during climb, which resulted in an emergency landing. Investigation showed that the wing-to-fuselage aft seal assembly had chafed through the wires associated with the auto-feather control system. Chafing or grounding of the wiring against the aft seal assemblies, if not corrected, could interrupt the operation of various systems, including the propeller feather control, alternating current (AC) electrical power, and standby hydraulic power, and result in reduced controllability of the airplane.

Relevant Service Information

Bombardier has issued Service Bulletin 8-24-83, Revision A, dated August 2, 2005. The service bulletin describes procedures for inspecting for damage of the electrical cable harness assembly located at the left and right wing root to fuselage aft seal, and repair if necessary. The service bulletin also describes procedures for reworking the fuselage aft seal assembly (left and right) to create a clearance between the electrical cable assemblies and the edge of the fairing panel. The rework described in Service Bulletin 8-24-83, Revision A, contains the instructions for

incorporating Bombardier Modification Summary Package 8Y122031, Revision B, dated December 2, 2004. (The technical content of Bombardier Modification Summary Package IS8Q2400005, Revision C, dated January 7, 2005, is equivalent to Modification Summary Package 8Y122031, Revision B.) The rework includes removing a rivet and installing a new rivet, installing new anchor nuts with a clamp, and winding a protective layer of "spiral wrap" around the affected electrical cable assemblies. Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition. TCCA mandated the service information and issued Canadian airworthiness directive CF-2006-15, dated June 14, 2006, to ensure the continued airworthiness of these airplanes in Canada.

FAA's Determination and Requirements of the Proposed AD

These airplane models are manufactured in Canada and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, TCCA has kept the FAA informed of the situation described above. We have examined TCCA's findings, evaluated all pertinent information, and determined that we need to issue an AD for airplanes of this type design that are certificated for operation in the United States.

Therefore, we are proposing this AD, which would require accomplishing the actions specified in the service information described previously.

Clarification of Inspection Terminology

Where the TCCA airworthiness directive specifies to "visually inspect" and the service bulletin specifies to "inspect" the electrical cable harness assembly, this proposed AD refers to the inspection as a general visual inspection. We have included the definition for a general visual inspection in a note in the proposed AD.

Costs of Compliance

This proposed AD would affect about 136 airplanes of U.S. registry. The proposed actions would take about 4 work hours per airplane, at an average labor rate of \$80 per work hour. Required parts would cost about \$75 per airplane. Based on these figures, the estimated cost of the proposed AD for U.S. operators is \$53,720, or \$395 per airplane.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, 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 Federal Aviation Administration (FAA) amends § 39.13 by adding the following new airworthiness directive (AD):

Bombardier, Inc. (Formerly de Havilland, Inc.): Docket No. FAA-2006-26558; Directorate Identifier 2006-NM-206-AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by January 10, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Bombardier Model DHC-8-102, -103, and -106 airplanes, and Model DHC-8-200 and DHC-8-300 series airplanes, certificated in any category; serial numbers 003 through 606, inclusive.

Unsafe Condition

(d) This AD results from a report that an airplane encountered an uncommanded propeller feathering during climb, which resulted in an emergency landing. We are issuing this AD to prevent chafing or grounding of the wiring against the aft seal assemblies, which, if not corrected, could interrupt the operation of various systems, including the propeller feather control, alternating current (AC) electrical power, and standby hydraulic power, and result in reduced controllability of the airplane.

Compliance

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

Inspection and Rework

(f) Within 6,000 flight hours after the effective date of this AD, do the actions in paragraphs (f)(1) and (f)(2) of this AD. Do all actions in accordance with Bombardier Service Bulletin 8-24-83, Revision A, dated August 2, 2005. The actions in paragraph (f)(1) of this AD must be done before the rework in paragraph (f)(2) of this AD.

Note 1: Bombardier Service Bulletin 8-24-83, Revision A, contains the instructions for incorporating Bombardier Modification Summary Package 8Y122031, Revision B, dated December 2, 2004. (The technical content of Bombardier Modification Summary Package IS8Q2400005, Revision C, dated January 7, 2004, is equivalent to Bombardier Modification Summary Package 8Y122031, Revision B.)

(1) Do a general visual inspection for damage of the electrical cable harness assembly located on the left and right wing root-to-fuselage aft seal. If any damage is found, repair the damage before further flight.

(2) Rework the fuselage aft seal assembly (left and right) to create a clearance between the electrical cable assemblies and the edge of the fairing panel.

Note 2: For the purposes of this AD, a general visual inspection is: "A visual

examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to ensure visual access to all surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.”

Actions Accomplished in Accordance With Previous Revision of Service Bulletin

(g) Actions done before the effective date of this AD in accordance with Bombardier Service Bulletin 8–24–83, dated December 23, 2004, are acceptable for compliance with the corresponding requirements in paragraph (f) of this AD.

Alternative Methods of Compliance (AMOCs)

(h)(1) The Manager, New York Aircraft Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) Before using any AMOC approved in accordance with § 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

Related Information

(i) Canadian airworthiness directive CF–2006–15, dated June 14, 2006, also addresses the subject of this AD.

Issued in Renton, Washington, on December 1, 2006.

Kevin M. Mullin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–20969 Filed 12–8–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–26075;
Directorate Identifier 2006–CE–55–AD]

RIN 2120–AA64

Airworthiness Directives; Raytheon Aircraft Company (The Beech Aircraft Company and BEECH Previously Held Type Certificate Nos. 3A15, 3A16, 5A3, and A–777) Models 35–33, 35–A33, 35–B33, 35–C33, E33, F33, G33, 35–C33A, E33A, F33A, E33C, F33C, 35, A35, B35, C35, D35, E35, F35, G35, H35, J35, K35, M35, N35, P35, S35, V35, V35A, V35B, 36, A36, A45 (T–34A, B45), D45 (T–34B), 95–55, 95–A55, 95–B55, 95–B55A, 95–B55B (T–42A), 95–C55, 95–C55A, D55, D55A, E55, E55A, 56TC, A56TC, 58, 95, B95, B95A, D95A, and E95 Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede Airworthiness Directive (AD) 72–22–01, which applies to certain Raytheon Aircraft Company (RAC) (The Beech Aircraft Company and BEECH previously held Type Certificate Nos. 3A15, 3A16, 5A3, and A–777) Models 33, 35, 36, 45, and 95 series airplanes. AD 72–22–01 currently requires you to determine if each uplock roller is of the greasable type (one having a drilled and grooved inner race), replace any nongreasable uplock roller (one having a solid inner race) with the greasable type before further flight, install hollow zerken-ended mounting bolts on the uplock rollers, and repetitively lubricate the uplock mechanism. Since we issued AD 72–22–01, there was a recent incident involving a RAC Model 95–B55B (T–42A) airplane where a seizure of the uplock rollers occurred. This malfunction of the uplock rollers is addressed in AD 72–22–01. Thus, the FAA has determined that the actions of AD 72–22–01 should also apply to certain serial numbers of the Model 95–B55B (T–42A) airplanes. Consequently, this proposed AD would retain all the actions of AD 72–22–01, would add those Model 95–B55B (T–42A) airplanes to the applicability of this proposed AD, and would list out the specific serial numbers. We are proposing this AD to decrease the possibility of gear-up landings caused by seizure of the uplock rollers.

DATES: We must receive comments on this proposed AD by February 9, 2007.

ADDRESSES: Use one of the following addresses to comment on this proposed AD:

- DOT Docket web site: Go to <http://dms.dot.gov> and follow the instructions for sending your comments electronically.

- Government-wide rulemaking web site: Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.

- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.

- Fax: (202) 493–2251.

- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Raytheon Aircraft Company, P.O. Box 85, Wichita, Kansas 67201–0085; telephone: (800) 429–5372 or (316) 676–3140.

FOR FURTHER INFORMATION CONTACT:

Anthony Flores, Aerospace Engineer, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Wichita, Kansas 67209; telephone: (316) 946–4174; facsimile: (316) 946–4107.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments regarding this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include the docket number, “FAA–2006–26075; Directorate Identifier 2006–CE–55–AD” at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to <http://dms.dot.gov>, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive concerning this proposed AD.

Discussion

Reports of RAC 33, 35, 36, 45, and 95 series airplanes equipped with non-greasable uplock rollers having a solid inner race that renders lubrication of the uplock roller mechanism ineffective

caused us to issue AD 72-22-01, Amendment 39-1544 (37 FR 22371, October 19, 1972). AD 72-22-01 currently requires the following on certain RAC 33, 35, 36, 45, and 95 series airplanes:

- Determining if each uplock roller is of the greasible type (one having a drilled and grooved inner race);
- Replacing any nongreasible uplock roller (one having a solid inner race) with the greasible type before further flight;
- Installing a hollow zerk-ended mounting bolts on the uplock rollers; and
- Repetitively lubricating the uplock mechanism.

Since we issued AD 72-22-01, there was a recent incident involving a RAC Model 95-B55B (T-42A) airplane where a seizure of the uplock rollers occurred. The design of the uplock rollers is the same as those uplock rollers on the airplanes addressed by AD 72-22-01.

This condition, if not corrected, could result in a gear-up landing.

Relevant Service Information

We have reviewed Beechcraft Service Instructions No. 0448-211, Rev. I, and Beechcraft Service Instructions No. 0448-211.

The service information describes procedures for:

- Determining if each uplock roller is of the greasible type (one having a drilled and grooved inner race);
- Replacing any nongreasible uplock roller (one having a solid inner race) with the greasible type before further flight;
- Installing a hollow zerk-ended mounting bolts on the uplock rollers; and
- Repetitively lubricating the uplock mechanism.

FAA’s Determination and Requirements of the Proposed AD

We are proposing this AD because we evaluated all information and determined the unsafe condition described previously is likely to exist or develop on other products of the same type design. This proposed AD would supersede AD 72-22-01 with a new AD that would retain all the actions of AD

72-22-01, would add those Model 95-B55B (T-42A) airplanes to the applicability of this proposed AD, and would list out the specific serial numbers. This proposed AD would require you to use the service information described previously to perform these actions.

Costs of Compliance

We estimate that this proposed AD would affect 9,714 airplanes in the U.S. registry.

The differences in costs between this proposed AD and AD 72-22-01 are the costs associated with the number of Model 95-B55B (T-42A) airplanes that were not affected by AD 72-22-01.

We estimate the following costs to do the proposed actions to determine if each uplock roller is of the greasible type (one having a drilled and grooved inner race), replace any nongreasible uplock roller (one having a solid inner race) with the greasible type before further flight, install hollow zerk-ended mounting bolts on the uplock rollers, and initially lubricate the uplock mechanism:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
2 work-hours × \$80 per hour = \$160	\$30	\$190	\$1,845,660

We estimate the following costs for each lubrication of the uplock mechanism.

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
1 work-hour × \$80 per hour = \$80	None	\$80	\$777,120

Authority for This Rulemaking

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

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

because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

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

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

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

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

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

Examining the AD Docket

You may examine the AD docket that contains the proposed AD, the regulatory evaluation, any comments received, and other information on the Internet at <http://dms.dot.gov>; or in person at the Docket Management Facility between 9 a.m. and 5 p.m.,

Monday through Friday, except Federal holidays. The Docket Office (telephone (800) 647-5227) is located at the street address stated in the ADDRESSES section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 72-22-01, Amendment 39-1544, and adding the following new AD:

Raytheon Aircraft Company (The Beech Aircraft Company and BEECH previously held Type Certificate Nos. 3A15, 3A16, 5A3, and A-777): Docket No. FAA-2006-26075; Directorate

Identifier 2006-CE-55-AD; Supersedes AD 72-22-01; Amendment 39-1544.

Comments Due Date

(a) We must receive comments on this airworthiness directive (AD) action by February 9, 2007.

Affected ADs

(b) This AD supersedes AD 72-22-01, Amendment 39-1544.

Unsafe Condition

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

(1) Group 1 (maintains the actions from AD 72-22-01):

Model	SNs
(i) 35-33, 35-A33, 35-B33, 35-C33, E33, F33, and G33	CD-1 through CD-1256.
(ii) 35-C33A, E33A, and F33A	CE-1 through CE-349.
(iii) E33C and F33C	CJ-1 through CJ-30.
(iv) 35, A35, B35, C35, D35, E35, F35, G35, H35, J35, K35, M35, N35, P35, S35, V35, V35A, and V35B	D-1 through D-9287.
(v) 36 and A36	E1 through E-283.
(vi) A45 (T-34A, B45) and D45 (T-34B)	All.
(vii) 95-55, 95-A55, 95-B55, and 95-B55A	TC-1 through TC-1402.
(viii) 95-C55, 95-C55A, D55, D55A, E55, and E55A	TE-1 through TE-846.
(ix) 56TC and A56TC	TG-1 through TG-94.
(x) 58	TH-1 through TH-174.
(xi) 95, B95, B95A, D95A, and E95	TD-2 through TD-721.

(2) Group 2: Model 95-B55B (T-42A) airplanes, SNs TF-1 through TF-70.

Unsafe Condition

(d) This AD results from a recent incident involving a Raytheon Aircraft Company

(RAC) Model 95-B55B (T-42A) airplane where a seizure of the uplock rollers occurred. We are issuing this AD to decrease the possibility of gear-up landings caused by seizure of the uplock rollers.

Compliance

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

Actions	Compliance	Procedures
(1) Determine if each uplock roller is of the greasable type (one having a drilled and grooved inner race).	(A) <i>For Group 1 airplanes:</i> Within 300 hours time-in-service (TIS) after October 25, 1972 (the effective date of AD 72-22-01). (B) <i>For Group 2 airplanes:</i> Within 300 hours TIS after the effective date of this AD.	Follow Beechcraft Service Instructions No. 0448-211, Rev. I, or Beechcraft Service Instructions No. 0448-211.
(2) Replace any nongreasable uplock roller (one having a solid inner race) with the greasable type.	(A) <i>For Group 1 airplanes:</i> Before further flight after the determination required by paragraph (e)(1)(A) of this AD. (B) <i>For Group 2 airplanes:</i> Before further flight after the determination required by paragraph (e)(1)(B) of this AD.	Follow Beechcraft Service Instructions No. 0448-211, Rev. I, or Beechcraft Service Instructions No. 0448-211.
(3) Install hollow zerk-ended mounting bolts on the uplock rollers.	(A) <i>For Group 1 airplanes:</i> Within 300 hours TIS after October 25, 1972 (the effective date of AD 72-22-01). (B) <i>For Group 2 airplanes:</i> Within 300 hours TIS after the effective date of this AD.	Follow Beechcraft Service Instructions No. 0448-211, Rev. I, or Beechcraft Service Instructions No. 0448-211.
(4) Lubricate the uplock mechanism	(A) <i>For Group 1 airplanes:</i> Initially within 300 hours TIS after October 25, 1972 (the effective date of AD 72-22-01). Repetitively lubricate thereafter at intervals not to exceed 100 hours TIS. (B) <i>For Group 2 airplanes:</i> Initially within 300 hours TIS after the effective date of this AD. Repetitively lubricate thereafter at intervals not to exceed 100 hours TIS.	Follow Beechcraft Service Instructions No. 0448-211, Rev. I, or Beechcraft Service Instructions No. 0448-211.

Alternative Methods of Compliance (AMOCs)

(f) The Manager, Wichita Aircraft Certification Office, FAA, ATTN: Anthony

Flores, Aerospace Engineer, 1801 Airport Road, Wichita, Kansas 67209; telephone: (316) 946-4174; facsimile: (316) 946-4107, has the authority to approve AMOCs for this

AD, if requested using the procedures found in 14 CFR 39.19.

(g) AMOCs approved for AD 72-22-01 are approved for this AD.

Related Information

(h) To get copies of the service information referenced in this AD, contact Raytheon Aircraft Company, P.O. Box 85, Wichita, Kansas 67201-0085; telephone: (800) 429-5372 or (316) 676-3140. To view the AD docket, go to the Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC, or on the Internet at <http://dms.dot.gov>. The docket number is Docket No. FAA-2006-26075; Directorate Identifier 2006-CE-55-AD.

Issued in Kansas City, Missouri, on December 4, 2006.

John R. Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6-20970 Filed 12-8-06; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 39**

[Docket No. FAA-2006-26371; Directorate Identifier 2006-CE-70-AD]

RIN 2120-AA64

Airworthiness Directives; Pilatus Aircraft Limited PC-12 and PC-12/45 Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for the products listed above. This proposed AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as executive seats equipped with pedestal legs that were produced using a material that deviates from the approved design data. 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 January 10, 2007.

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

- *DOT Docket Web Site:* Go to <http://dms.dot.gov> and follow the instructions for sending your comments electronically.

- *Fax:* (202) 493-2251.

- *Mail:* Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building,

Room PL-401, Washington, DC 20590-0001.

- *Hand Delivery:* Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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

Examining the AD Docket

You may examine the AD docket on the Internet at <http://dms.dot.gov>; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647-5227) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT:

Doug Rudolph, Aerospace Engineer, 901 Locust, Room 301; telephone (816) 329-4059; fax (816) 329-4090.

SUPPLEMENTARY INFORMATION:**Streamlined Issuance of AD**

The FAA is implementing a new process for streamlining the issuance of ADs related to MCAI. The streamlined process will allow us to adopt MCAI safety requirements in a more efficient manner and will reduce safety risks to the public. This process continues to follow all FAA AD issuance processes to meet legal, economic, Administrative Procedure Act, and **Federal Register** requirements. We also continue to meet our technical decision-making responsibilities to identify and correct unsafe conditions on U.S.-certificated products.

This proposed AD references the MCAI and related service information that we considered in forming the engineering basis to correct the unsafe condition. The proposed AD contains text copied from the MCAI and for this reason might not follow our plain language principles.

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-2006-26371; Directorate Identifier 2006-CE-70-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the

closing date and may amend this proposed AD because of those comments.

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

Discussion

The Federal Office of Civil Aviation (FOCA), which is the aviation authority for Switzerland, has issued FOCA AD HB-2006-444, dated November 7, 2006 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states that executive seats equipped with pedestal legs were produced using a material that deviates from the approved design data. As a consequence the pedestal legs may not perform as intended under emergency landing conditions. In order to correct and control the situation, this AD requires a one time inspection to identify the Vendor Part Number (VPN) of the pedestal legs and the Serial Number (S/N) of the executive seat and the replacement of the pedestal legs if necessary. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Pilatus Aircraft Limited has issued Service Bulletin No.: 25-032, dated October 2, 2006, and DeCrane Aircraft Seating Company, Inc. has issued Mandatory Service Bulletin SB05147 Revision B, dated June 26, 2006. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of the Proposed AD

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

Differences Between This Proposed AD and the MCAI or Service Information

We have reviewed the MCAI and related service information and, in

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

We might also have proposed different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are described in a separate paragraph of the proposed AD. These requirements, if ultimately adopted, will take precedence over the actions copied from the MCAI.

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 394 products of U.S. registry. We also estimate that it would take about 0.5 work-hours per product to comply with the inspection requirement of the proposed AD. In addition, we estimate this proposed AD would affect about 59 seats and take about 1 work-hour per seat to comply with the parts replacement requirement of the proposed AD. The average labor rate is \$80 per work-hour. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these costs. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be \$15,760, or \$40 per product for inspection and \$4,720, or \$80 per seat for parts replacement.

Authority for This Rulemaking

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

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

products identified in this rulemaking action.

Regulatory Findings

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, Under the Authority Delegated to Me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Pilatus Aircraft Limited: Docket No. FAA-2006-26371; Directorate Identifier 2006-CE-70-AD.

Comments Due Date

(a) We must receive comments by January 10, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to PC-12 and PC-12/45 airplanes, serial numbers 101 through 683, that are:

- (1) Certificated in any category; and
- (2) Equipped with executive passenger seats Model Number 4006 manufactured by DeCrane Aircraft Seating Company, Inc. Vendor Part Number (VPN) 403150-1 or

403150-2 with Serial Numbers (S/N) identified in DeCrane Aircraft Mandatory Service Bulletin SB05147 Revision B, dated June 26, 2006.

Reason

(d) The mandatory continuing airworthiness information (MCAI) states that executive seats equipped with pedestal legs were produced using a material that deviates from the approved design data. As a consequence the pedestal legs may not perform as intended under emergency landing conditions. In order to correct and control the situation, this AD requires a one time inspection to identify the VPN of the pedestal legs and the S/N of the executive seat and the replacement of the pedestal legs if necessary.

Actions and Compliance

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

(1) Within 30 days after the effective date of this AD:

(i) Perform an inspection to identify the VPN of the pedestal legs and the S/N of the executive seat following the accomplishment instructions in Pilatus PC-12 Service Bulletin No.: 25-032, dated October 2, 2006.

(ii) If during the inspection required by paragraph (e)(1)(i) of this AD any pedestal legs with a VPN and executive seats with a S/N which correspond with the data in DeCrane Aircraft Mandatory Service Bulletin SB05147 Revision B, dated June 26, 2006 are found, prior to further flight, replace the affected pedestal legs following the accomplishment instructions in Pilatus PC-12 Service Bulletin No.: 25-032, dated October 2, 2006, with new pedestal legs with VPN 431005-17 and 431005-18. The removed parts must be returned to Pilatus.

(2) As of the effective date of this AD, no person shall install any executive seats model number 4006 produced by DeCrane Aircraft Seating Company, Inc., VPN 403150-1 or 403150-2 with S/Ns identified in DeCrane Aircraft Mandatory Service Bulletin SB05147 Revision B, dated June 26, 2006, on any Pilatus Models PC-12 and PC-12/45 airplane, unless the mandatory actions of this AD have been implemented.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Staff, FAA, ATTN: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329-4059; fax: (816) 329-4090, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they

are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

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

Related Information

(g) Refer to Federal Office of Civil Aviation (FOCA) AD HB-2006-444, dated November 7, 2006; Pilatus Aircraft Limited Service Bulletin No.: 25-032, dated October 2, 2006; and DeCrane Aircraft Mandatory Service Bulletin SB05147 Revision B, dated June 26, 2006, for related information.

Issued in Kansas City, Missouri, on December 4, 2006.

John R. Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6-20971 Filed 12-8-06; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2006-26285; Directorate Identifier 2006-CE-69-AD]

RIN 2120-AA64

Airworthiness Directives; Pacific Aerospace Corporation Ltd Model 750XL Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for the products listed above. This proposed AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as possible undersize rivets in the fuselage roof at STN 180.85, BL 19.67, WL 86.2. 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 January 10, 2007.

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

- **DOT Docket Web Site:** Go to <http://dms.dot.gov> and follow the

instructions for sending your comments electronically.

- **Fax:** (202) 493-2251.

- **Mail:** Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-0001.

- **Hand Delivery:** Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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

Examining the AD Docket

You may examine the AD docket on the Internet at <http://dms.dot.gov>; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647-5227) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329-4146; fax: (816) 329-4090.

SUPPLEMENTARY INFORMATION:

Streamlined Issuance of AD

The FAA is implementing a new process for streamlining the issuance of ADs related to MCAI. The streamlined process will allow us to adopt MCAI safety requirements in a more efficient manner and will reduce safety risks to the public. This process continues to follow all FAA AD issuance processes to meet legal, economic, Administrative Procedure Act, and **Federal Register** requirements. We also continue to meet our technical decision-making responsibilities to identify and correct unsafe conditions on U.S.-certificated products.

This proposed AD references the MCAI and related service information that we considered in forming the engineering basis to correct the unsafe condition. The proposed AD contains text copied from the MCAI and for this reason might not follow our plain language principles.

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-2006-26285; Directorate Identifier 2006-CE-69-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

The Civil Aviation Authority (CAA), which is the aviation authority for New Zealand, has issued CAA AD DCA/750XL/8, Drafted: May 9, 2006; Effective Date: August 31, 2006 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states the finding of the possible installation of undersize rivets in the fuselage roof at STN 180.85, BL 19.67, WL 86.2. The MCAI requires that you inspect the rivets in the fuselage roof at STN 180.85, BL 19.67, WL 86.2, and replace undersize rivets. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Pacific Aerospace Corporation Ltd has issued PAC Pacific Aerospace Corporation Mandatory Service Bulletin PACSB/XL/019, Date Issued: April 21, 2006. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of the Proposed AD

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

Differences Between This Proposed AD and the MCAI or Service Information

We have reviewed the MCAI and related service information and, in general, agree with their substance. But

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

We might also have proposed different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are described in a separate paragraph of the proposed AD. These requirements, if ultimately adopted, will take precedence over the actions copied from the MCAI.

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 7 products of U.S. registry. We also estimate that it would take about 16 work-hours per product to comply with the proposed AD. The average labor rate is \$80 per work-hour. Required parts would cost about \$100 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these costs. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be \$9,660, or \$1,380 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:

Pacific Aerospace Corporation Ltd: Docket No. FAA-2006-26285; Directorate Identifier 2006-CE-69-AD.

Comments Due Date

- (a) We must receive comments by January 10, 2007.

Affected ADs

- (b) None.

Applicability

- (c) This AD applies to Model 750XL airplanes, serial numbers 102, 104 through 120, 122, and 125, certificated in any category.

Reason

- (d) The mandatory continuing airworthiness information (MCAI) states the finding of the possible installation of undersize rivets in the fuselage roof at STN 180.85, BL 19.67, WL 86.2.

Actions and Compliance

- (e) Unless already done, within the next 150 hours time-in-service after the effective date of this AD, inspect the rivets in the fuselage roof at STN 180.85, BL 19.67, WL

86.2, and replace undersize rivets, following PAC Pacific Aerospace Corporation Mandatory Service Bulletin PACSB/XL/019, Date Issued: April 21, 2006.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) Alternative Methods of Compliance (AMOCs): The Manager, Standards Staff, FAA, ATTN: Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329-4146; fax: (816) 329-4090, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

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

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

Related Information

(g) Refer to MCAI Civil Aviation Authority AD DCA/750XL/8, Drafted: May 9, 2006; Effective Date: August 31, 2006; and PAC Pacific Aerospace Corporation Mandatory Service Bulletin PACSB/XL/019, Date Issued: April 21, 2006, for related information.

Issued in Kansas City, Missouri, on December 4, 2006.

John R. Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6-20976 Filed 12-8-06; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Parts 538 and 560

Comment Request Regarding the Effectiveness of Licensing Procedures for Exportation of Agricultural Commodities, Medicine, and Medical Devices to Sudan and Iran

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Request for comments.

SUMMARY: The Office of Foreign Assets Control ("OFAC") of the U.S.

Department of the Treasury is soliciting comments on the effectiveness of OFAC's licensing procedures for the exportation of agricultural commodities, medicine, and medical devices to Sudan and Iran. Pursuant to section 906(c) of the Trade Sanctions Reform and Export Enhancement Act of 2000 (Title IX of Pub. L. 106-387, 22 U.S.C. 7201 *et seq.*) (the "Act"), OFAC is required to submit a biennial report to the Congress on the operation of licensing procedures for such exports.

DATES: Written comments should be received on or before January 10, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to the Licensing Division, Office of Foreign Assets Control, Department of the Treasury, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

FOR FURTHER INFORMATION CONTACT: Requests for additional information about these licensing procedures should be directed to the Licensing Division, Office of Foreign Assets Control, Department of the Treasury, 1500 Pennsylvania Avenue, NW., Washington, DC 20220, telephone: (202) 622-2480. Additional information about these licensing procedures is also available under the heading "Other OFAC Sanctions Programs" at <http://www.treas.gov/ofac>.

SUPPLEMENTARY INFORMATION: The current procedures used by OFAC for authorizing the export of agricultural commodities, medicine, and medical devices to Sudan and Iran are set forth in 31 CFR 538.523-526 and 31 CFR 560.530-533. Under the provisions of section 906(c) of the Act, OFAC must submit a biennial report to the Congress on the operation, during the preceding two-year period, of the licensing procedures required by section 906 of the Act for the export of agricultural commodities, medicine, and medical devices to Sudan and Iran. This report is to include:

- (1) The number and types of licenses applied for;
- (2) The number and types of licenses approved;
- (3) The average amount of time elapsed from the date of filing of a license application until the date of its approval;
- (4) The extent to which the licensing procedures were effectively implemented; and
- (5) A description of comments received from interested parties about the extent to which the licensing procedures were effective, after holding a public 30-day comment period.

This notice solicits comments from interested parties regarding the

effectiveness of OFAC's licensing procedures for the export of agricultural commodities, medicine, and medical devices to Sudan and Iran. Interested parties submitting comments are asked to be as specific as possible. All comments received on or before January 10, 2007 will be considered by OFAC in developing the report to the Congress. In the interest of accuracy and completeness, OFAC requires written comments. Comments received after the end of the comment period will be considered, if possible, but their consideration cannot be assured. OFAC will not accept comments accompanied by a request that part or all of the comments be treated confidentially because of their business proprietary nature or for any other reason. OFAC will return such comments when submitted by regular mail to the person submitting the comments and will not consider them. All comments made will be a matter of public record. Copies of the public record concerning these regulations may be obtained from OFAC's Web site (<http://www.treas.gov/ofac>). If that service is unavailable, written requests may be sent to: Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Ave., NW., Washington, DC 20220, Attn: Merete Evans.

Effective September 21, 2004, Executive Order 13357 terminated the national emergency declared in Executive Order 12543 of January 7, 1986, with respect to the policies and actions of the Government of Libya and revoked Executive Orders 12543, 12544 of January 8, 1986, and 12801 of April 15, 1992 (all of which had imposed sanctions against Libya in response to the national emergency). Consequently, the prohibitions of the Libyan Sanctions Regulations, 31 CFR Part 550 (the "LSR"), have been lifted, and all property and interests in property blocked under the LSR have been unblocked. Accordingly, specific licenses issued by OFAC for the export of agricultural commodities, medicine, and medical devices to Libya are no longer required pursuant to the LSR and, therefore, OFAC is not soliciting comments on its licensing procedures under that program. This termination of the Libya Sanctions does not, however, eliminate the need to comply with other provisions of law, including the Export Administration Regulations, 15 CFR parts 730 *et seq.*, which are administered by the U.S. Department of Commerce.

Approved: November 28, 2006.

Adam J. Szubin,

Director, Office of Foreign Assets Control.
[FR Doc. E6-21005 Filed 12-8-06; 8:45 am]

BILLING CODE 4810-25-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

42 CFR Part 1001

Solicitation of New Safe Harbors and Special Fraud Alerts

AGENCY: Office of Inspector General (OIG), HHS.

ACTION: Notice of intent to develop regulations.

SUMMARY: In accordance with section 205 of the Health Insurance Portability and Accountability Act (HIPAA) of 1996, this annual notice solicits proposals and recommendations for developing new and modifying existing safe harbor provisions under the Federal anti-kickback statute (section 1128B(b) of the Social Security Act), as well as developing new OIG Special Fraud Alerts.

DATES: To assure consideration, public comments must be delivered to the address provided below by no later than 5 p.m. on February 9, 2007.

ADDRESSES: Please mail or deliver your written comments to the following address: Office of Inspector General, Department of Health and Human Services, Attention: OIG-111-N, Room 5246, Cohen Building, 330 Independence Avenue, SW., Washington, DC 20201.

We do not accept comments by facsimile (FAX) transmission. In commenting, please refer to file code OIG-111-N. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room 5541 of the Office of Inspector General at 330 Independence Avenue, SW., Washington, DC, on Monday through Friday of each week from 8 a.m. to 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Joel Schaer, (202) 619-0089, OIG Regulations Officer.

SUPPLEMENTARY INFORMATION:

I. Background

A. OIG Safe Harbor Provisions

Section 1128B(b) of the Social Security Act (the Act) (42 U.S.C. 1320a-7b(b)) provides criminal penalties for

individuals or entities that knowingly and willfully offer, pay, solicit or receive remuneration in order to induce or reward business reimbursable under the Federal health care programs. The offense is classified as a felony and is punishable by fines of up to \$25,000 and imprisonment for up to 5 years. OIG may also impose civil money penalties, in accordance with section 1128A(a)(7) of the Act (42 U.S.C. 1320a-7a(a)(7)), or exclusion from the Federal health care programs, in accordance with section 1128(b)(7) of the Act (42 U.S.C. 1320a-7(b)(7)).

Since the statute on its face is so broad, concern has been expressed for many years that some relatively innocuous commercial arrangements may be subject to criminal prosecution or administrative sanction. In response to the above concern, the Medicare and Medicaid Patient and Program Protection Act of 1987, section 14 of Public Law 100-93, specifically required the development and promulgation of regulations, the so-called "safe harbor" provisions, specifying various payment and business practices which, although potentially capable of inducing referrals of business reimbursable under the Federal health care programs, would not be treated as criminal offenses under the anti-kickback statute and would not serve as a basis for administrative sanctions. OIG safe harbor provisions have been developed "to limit the reach of the statute somewhat by permitting certain non-abusive arrangements, while encouraging beneficial and innocuous arrangements" (56 FR 35952, July 29, 1991). Health care providers and others may voluntarily seek to comply with these provisions so that they have the assurance that their business practices will not be subject to liability under the anti-kickback statute or related administrative authorities.

Existing OIG safe harbors describing those practices that are sheltered from liability are codified in 42 CFR 1001.

B. OIG Special Fraud Alerts

OIG has also periodically issued Special Fraud Alerts to give continuing guidance to health care providers with respect to practices OIG finds potentially fraudulent or abusive. The Special Fraud Alerts encourage industry compliance by giving providers guidance that can be applied to their own practices. OIG Special Fraud Alerts are intended for extensive distribution

directly to the health care provider community, as well as to those charged with administering the Federal health care programs.

In developing these Special Fraud Alerts, OIG has relied on a number of sources and has consulted directly with experts in the subject field, including those within OIG, other agencies of the Department, other Federal and State agencies, and those in the health care industry.

C. Section 205 of Public Law 104-191

Section 205 of Public Law 104-191 requires the Department to develop and publish an annual notice in the **Federal Register** formally soliciting proposals for modifying existing safe harbors to the anti-kickback statute and for developing new safe harbors and Special Fraud Alerts.

In developing safe harbors for a criminal statute, OIG is required to engage in a thorough review of the range of factual circumstances that may fall within the proposed safe harbor subject area so as to uncover potential opportunities for fraud and abuse. Only then can OIG determine, in consultation with the Department of Justice, whether it can effectively develop regulatory limitations and controls that will permit beneficial and innocuous arrangements within a subject area while, at the same time, protecting the Federal health care programs and their beneficiaries from abusive practices.

II. Solicitation of Additional New Recommendations and Proposals

In accordance with the requirements of section 205 of Public Law 104-191, OIG last published a **Federal Register** solicitation notice for developing new safe harbors and Special Fraud Alerts on December 9, 2005 (70 FR 73186). As required under section 205, a status report of the public comments received in response to that notice is set forth in Appendix F to the OIG's Semiannual Report covering the period April 1, 2006, through September 30, 2006.¹ OIG is not seeking additional public comment on the proposals listed in Appendix F at this time. Rather, this notice seeks additional recommendations regarding the development of proposed or modified safe harbor regulations and new Special Fraud Alerts beyond those summarized

¹ The OIG Semiannual Report can be accessed through the OIG Web site at <http://oig.hhs.gov/publications/semiannual.html>.

in Appendix F to the OIG Semiannual Report referenced above.

A. Criteria for Modifying and Establishing Safe Harbor Provisions

In accordance with section 205 of HIPAA, we will consider a number of factors in reviewing proposals for new or modified safe harbor provisions, such as the extent to which the proposals would effect an increase or decrease in—

- Access to health care services,
- The quality of services,
- Patient freedom of choice among health care providers,
- Competition among health care providers,
- The cost to Federal health care programs,
- The potential overutilization of the health care services, and
- The ability of health care facilities to provide services in medically underserved areas or to medically underserved populations.

In addition, we will also take into consideration other factors, including, for example, the existence (or nonexistence) of any potential financial benefit to health care professionals or providers that may take into account their decisions whether to (1) order a health care item or service or (2) arrange for a referral of health care items or services to a particular practitioner or provider.

B. Criteria for Developing Special Fraud Alerts

In determining whether to issue additional Special Fraud Alerts, we will also consider whether, and to what extent, the practices that would be identified in a new Special Fraud Alert may result in any of the consequences set forth above, as well as the volume and frequency of the conduct that would be identified in the Special Fraud Alert.

A detailed explanation of justifications for, or empirical data supporting, a suggestion for a safe harbor or Special Fraud Alert would be helpful and should, if possible, be included in any response to this solicitation.

Dated: December 6, 2006.

Daniel R. Levinson,

Inspector General.

[FR Doc. E6-20994 Filed 12-8-06; 8:45 am]

BILLING CODE 4150-04-P

Notices

Federal Register

Vol. 71, No. 237

Monday, December 11, 2006

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

December 5, 2006.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104-13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), OIRA_Submission@OMB.EOP.GOV or fax (202) 395-5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250-7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720-8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to

the collection of information unless it displays a currently valid OMB control number.

Animal & Plant Health Inspection Service

Title: Certification Program for Imported Articles of *Pelargonium* spp. and *Solanum* spp. to Prevent Introduction of Potato Brown Rot.

OMB Control Number: 0579-0221.

Summary of Collection: Under the Plant Protection Act (7 U.S.C. 7701-7772), the Secretary of Agriculture is authorized to prohibit or restrict the importation of plants, plant products, and plant pest and other articles to prevent the introduction of plant pest into the United States. The regulations in 7 CFR part 319 include a certification program for articles of *Pelargonium* spp. and *Solanum* spp. imported from countries where the bacterium *Ralstonia solanacearum* race 3 biovar 2 is known to occur. This bacterial strain causes potato brown rot, which causes potatoes to rot through, making them unusable and seriously affecting potato yields.

Need and Use of the Information: The Animal Plant and Health Inspection Service (APHIS) require the collection of information through a phytosanitary certificate (foreign), trust funds, and compliance agreements. If the information is not collected, potato fields could become infected with the strain of *R. solanacearum* and this could drastically reduce or eliminate potato fields.

Description of Respondents: Business or other for-profit; State, Local or Tribal Government.

Number of Respondents: 27.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 1,022.

Ruth Brown,

Departmental Information Collection
Clearance Officer.

[FR Doc. E6-20938 Filed 12-8-06; 8:45 am]

BILLING CODE 3410-34-P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

December 5, 2006.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the

Paperwork Reduction Act of 1995, Pub. L. 104-13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), OIRA_Submission@OMB.EOP.GOV or fax (202) 395-5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250-7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720-8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB Control Number.

Forest Service

Title: Visitor Permit and Visitor Registration Card.

OMB Control Number: 0596-0019.

Summary of Collection: The Organic Administration Act (30 stat. 11), the Wilderness Act (78 stat. 890), the Wild and Scenic River Act (82 stat. 906) and Executive Order 11644, all authorize the Forest Service (FS) to manage the forests to benefit both land and people. The information collected from the Visitor's Permit Form (FS-2300-30) and Visitor Registration Card (FS-2300-32) help the Forest Service ensure that visitors' use of National Forest System lands is in the public interest and compatible with the mission of the agency. The information

is collected from National Forest System land visitors, who will be asked to describe their intended use of the land and the estimated duration of their visit.

Need and Use of the Information: FS will collect the visitor's name, address, area to be visited, date of visit, length of stay, method of travel, number of people, and number of pack and saddle stock. The permit and registration card allows managers to identify heavily used areas to prepare restoration and monitoring plans that reflect where use is occurring, and in extreme cases, to develop plans to move forest users to lesser-impacted areas. The completed forms also provide managers with information useful in locating lost forest visitors. Not being able to use these forms could result in overuse and site deterioration in environmentally sensitive areas.

Description of Respondents: Individuals or households; business or other for-profit; not-for profit institutions.

Number of Respondents: 368,400.

Frequency of Responses: Reporting: Other (per visit).

Total Burden Hours: 19,320.

Forest Service

Title: Youth Conservation Corps Application & Medical History Forms.

OMB Control Number: 0596-0084.

Summary of Collection: Under Pub. L. 93-408, the Youth Conservation Corps Act (YCC), the Forest Service (U.S. Department of Agriculture), and agencies within the Department of the Interior (the Fish and Wildlife Service, National Park Service, and Bureau of Land Management) cooperate to provide seasonal employment for eligible youth 15 to 18 years old.

Need and Use of the Information: Youth, ages 15-18, who seek training and employment with participating agencies through the YCC must complete an application form (FS-1800-18) and once selected for employment must complete a medical history form (FS-1800-3). The applicant's parents or guardian must sign both forms. The application form is used in the random selection process and the medical history form provides information needed to determine certification of suitability, any special medical or medication needs, and a file record for the Federal Government and participants.

If these forms were not used, the Federal Government's ability to oversee the Youth Conservation Corps program would be greatly impaired. The organizational and liability issues that would result from inability to collect the information needed to manage the

program would be virtually insurmountable.

Description of Respondents: Individuals or households.

Number of Respondents: 20,000.

Frequency of Responses: Annually.

Total Burden Hours: 2,267.

Forest Service

Title: Agreement to Initiate (ATI) and Exchange Agreement (EA).

OMB Control Number: 0596-0105.

Summary of Collection: Land exchanges are discretionary, voluntary real estate transactions between the Secretary of Agriculture (acting by and through the Forest Service) and a non-Federal exchange party (or parties). Land exchanges can be initiated by a non-Federal party (or parties), and agent of a landowners, a broker, a third party, or a non-Federal public agency. Each land exchange requires preparation of an Agreement to Initiate, as required by Title 36 Code of Federal Regulations (CFR), part 254, subpart C, section 254.4—Agreement to Initiate and Exchange. As the exchange proposal develops, the exchange parties may enter into a binding Exchange Agreement, pursuant to Title 36 CFR part 254, subpart A, section 254.14—Exchange Agreement.

Need and Use of the Information: The Agreement to Initiate document specifies the preliminary and on-bidding intentions of the non-Federal land exchange party and the Forest Service in pursuing a land exchange. The Agreement to Initiate contains information such as the description of properties considered for exchange, an implementation schedule of action items, identification of the party responsible for each action item, and target dates for completion of action items.

The Exchange Agreement documents the conditions necessary to complete the exchange. It contains information identifying parties, description of lands and interests to be exchanged, identification of all reserved and outstanding interests, and all other terms and conditions necessary to complete the exchange.

Description of Respondents: Business or other for-profit; individuals or households; State, local or tribal government.

Number of Respondents: 120.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 120.

Forest Service

Title: Objection to New Land Management Plans, Plan Amendments, and Plan Revisions.

OMB Control Number: 0596-0158.

Summary of Collection: The process for submitting objections to new land management plans, plan amendments, and plan revisions is set forth in Title 36 CFR 219.13. An objector must provide their name, mailing address, telephone number, and identify the specific proposed plan, amendment, or revision that is the subject of the objection. This is the minimum information needed for a citizen or organization to explain the nature of and rationale for objections to new land management plans, plan amendments, and plan revisions.

This information must accompany a concise statement explaining how the environmental disclosure documents, if any, and proposed plan, amendment, or revision are inconsistent with law, regulation, Executive Order, or policy and any recommendations for change. The Reviewing Officer then reviews the objection(s) and relevant information and responds to the objector(s) in writing.

Need and Use of the Information: The information collected (objections to new land management plans, plan amendments, and plan revisions) is analyzed and responded to by a Forest Service official. At times, this information is used to modify land and resource management planning decisions. Forest supervisors and regional forests that make decisions on land and resource management planning also use the information. Without this information, the agency's decision-making will suffer from a reduction in public input and agency relationships with the public will deteriorate.

Description of Respondents: Individuals or households; business or other for-profit; not-for-profit institutions; State, local or tribal government.

Number of Respondents: 1,210.

Frequency of Responses: Reporting: Other (once).

Total Burden Hours: 1,210.

Forest Service

Title: Economic, Social, and Cultural Aspects of Livestock Ranching on the Santa Fe and Carson National Forests.

OMB Control Number: 0596-0171.

Summary of Collection: Management of federal lands is hampered in many cases because land managing agencies lack sufficient information to understand and monitor socio-cultural values and changing attitude toward land and resource use. The lack of up-to-date information impedes efforts of the Forest Service (FS) to work with livestock ranchers who graze their cattle

under permit on FS managed land (permittees). Cultural differences and historic problems over land use contribute to disagreements and misunderstanding between the permittees and federal land managers. Information on the economic, social, and cultural contributions of livestock ownership to federal permittees is of interest to land managers, policy makers, social scientists, the general public, and the permittees themselves. FS will use a questionnaire to collect information from livestock permittees from the Santa Fe and Carson National Forest.

Need and Use of the Information: FS will collect data on economic, social, and cultural contributions of livestock ownership to the permittees of northern New Mexico. The information will help FS personnel manage the land more effectively and work more cooperatively with the permittees by increasing understanding of the local culture and the role of livestock ownership in that culture. If the data is not collected, grazing allotment plans and forest plan revisions will not be based on the most current and appropriate socio-cultural and economic information.

Description of Respondents: Individuals or households; farms; business or other for-profit.

Number of Respondents: 150.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 225.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. E6-20947 Filed 12-8-06; 8:45 am]

BILLING CODE 3410-11-P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

December 6, 2006.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104-13. Comments regarding (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information

on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395-5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250-7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720-8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Food Safety and Inspection Service

Title: Electronic Animal Disease Reporting System.

OMB Control Number: 0583-NEW.

Summary of Collection: The Food Safety and Inspection Service (FSIS) has been delegated the authority to exercise the functions of the Secretary as provided in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*), the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451 *et seq.*). These statutes mandate that FSIS protect the public by ensuring that meat and poultry products are safe, wholesome, unadulterated, and properly labeled and packaged. In accordance with 9 CFR 320, 381.175, 180, 303.1(b)(3), 352.15, and 354.91, establishments that slaughter meat, poultry, exotic animals, and rabbits are required to maintain certain records regarding their business operations and to report this information to the Agency as required. For the Agency's electronic Animal Disease Reporting System (eADRS), establishments report (by shift) slaughter totals in number of heads and weight by animal category. EADRS is an information system that tracks and reports data on the number of animals slaughtered, animal diseases, and animal welfare information in the United States.

Need and Use of the Information: For eADRS, establishments report orally to FSIS inspection personnel in the plant slaughter totals (by shift) in number of

heads and weight by animal category. FSIS uses this information to plan inspection activities, to develop sampling plans for testing, to target establishments for testing, for Agency budget planning, and in its reports to Congress.

Description of Respondents: Business or other for-profit.

Number of Respondents: 1,159.

Frequency of Responses: Reporting: Other (daily).

Total Burden Hours: 23,180.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. E6-20968 Filed 12-8-06; 8:45 am]

BILLING CODE 3410-DM-P

BROADCASTING BOARD OF GOVERNORS

Sunshine Act Meeting Notice

DATE AND TIME: Wednesday, December 6, 2006, 2:15 p.m.-3:15 p.m.

PLACE: Cohen Building, Room 3360, 330 Independence Ave., SW., Washington, DC 20237.

Closed Meeting: The members of the Broadcasting Board of Governors (BBG) will meet in a special session to review and discuss budgetary issues relating to U.S. Government-funded non-military international broadcasting. This meeting is closed because if open it likely would either disclose matters that would be properly classified to be kept secret in the interest of foreign policy under the appropriate executive order (5 U.S.C. 552b(c)(1)) or would disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action. (5 U.S.C. 552b(c)(9)(B)). In addition, part of the discussion will relate solely to the internal personnel and organizational issues of the BBG or the International Broadcasting Bureau. (5 U.S.C. 552b(c)(2) and (6)).

CONTACT PERSON FOR MORE INFORMATION:

Persons interested in obtaining more information should contact Carol Booker at (202) 203-4545.

Dated: December 6, 2006.

Carol Booker,

Legal Counsel.

[FR Doc. 06-9634 Filed 12-7-06; 10:22 am]

BILLING CODE 8230-01-P

DEPARTMENT OF COMMERCE**Office of the Secretary**

[Docket No.: 061121305-6305-01]

Privacy Act of 1974: System of Records**AGENCY:** Department of Commerce.**ACTION:** Notice of Amendment of Privacy Act System of Records: COMMERCE/DEPARTMENT-18, Employees Personnel Files Not Covered by Notices of Other Agencies.

SUMMARY: In accordance with the Privacy Act of 1974, as amended, 5 U.S.C.552a(e)(4) and (11), the Department of Commerce is issuing notice of intent to amend the system of records under COMMERCE/DEPARTMENT-18, Employees Personnel Files Not Covered by Notices of Other Agencies. This amendment adds to this system those records compiled in conjunction with the Department of Commerce's Drug and Alcohol-Free Workplace Program. We invite public comment on the proposed changes in this publication.

DATES: To be considered, written comments must be submitted on or before January 10, 2007. Unless comments are received, the amendments to the system of records will become effective as proposed on the date of publication of a subsequent notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Phyllis Alexander, Office of Human Resources Management, U.S. Department of Commerce, Washington, DC 20230, 202-482-4807.

ADDRESSES: Comments may be mailed to Phyllis Alexander, Office of Human Resources Management, Room 5001, 1401 Constitution Avenue, NW., Washington, DC 20230. Comments may be submitted electronically to the following electronic mail address: *pAlexander@doc.gov*.

SUPPLEMENTARY INFORMATION: This amendment adds to the referenced system those files containing records compiled in accordance with the Drug and Alcohol-Free Workplace Program under the requirements of Executive Order 12564: Public Law 100-71, dated July 11, 1987.

COMMERCE/DEPARTMENT-18**SYSTEM NAME:** ***SECURITY CLASSIFICATION:** ***SYSTEM LOCATION:**

Under location d., after "Human Resources Management, International

Trade Administration," delete "Room 3512," and insert "Room 7060,".

Under location e., after "National Institute of Standards and Technology, Administration Building," delete "Room A-123, Gaithersburg, Maryland, 20899-3550." and insert "100 Bureau Drive, Stop 1720, Gaithersburg, Maryland 20899-1720."

Under location f., after "For employees of National Oceanic and Atmospheric Administration:" delete "Human Resources Management Office," and insert "NOAA Workforce Management Office,". After "and the following Administrative Support Centers:" delete "DOC/NOAA/Eastern Administrative Support Center, Norfolk Federal Building, 200 Granby Street, Room 815, Norfolk, Virginia 23510; DOC/NOAA/Mountain Administrative Support Center, 325 Broadway, Room GB109, Boulder, Colorado 80305-3328; DOC/NOAA/Western Administrative Support Center, Operations, 7600 Sand Point Way, NE., Seattle, Washington 98115-6349; and DOC/NOAA/Central Administrative Support Center, Federal Building, 601 E. 12th Street, Room 1737, Kansas City, Missouri 64106." and insert "NOAA Workforce Management Office, UNSEC Client Services Division, 1305 East-West Highway, Silver Spring, MD 20910; NOAA Workforce Management Office, NOS/NMAO Client Services Division, Norfolk Federal Building, 200 Granby Street, Room 839, Norfolk, Virginia 23510; NOAA Workforce Management Office, NWS Client Services Division, Federal Building, 601 E. 12th Street, Room 1737, Kansas City, Missouri 64106; NOAA Workforce Management Office, OAR/NESDIS Client Services Division, 325 Broadway, Room GB109, Boulder, Colorado 80305-3328; and NOAA Workforce Management Office, NMFS Client Services Division, 7600 Sand Point Way, NE., Seattle, Washington 98115-6349."

Under location g., after "For employees of U.S. Patent and Trademark Office, Office of Human Resources, U.S. Patent and Trademark Office, U.S. Department of Commerce," delete "Suite 707, 2011 Crystal Drive, Arlington, Virginia 22202." and insert "550 Elizabeth Lane, ETH04A85, Arlington, Virginia 22314."

Under location h., after "For employees of Office of Inspector General, Human Resources Management Division," delete "Room 7713," and insert "Room 7711,".

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM: ***CATEGORIES OF RECORDS IN THE SYSTEM:**

After "Student Loan Repayment Program (SLRP) records; Continuity of Operations Plan (COOP) records; Automated Notification System records, and Employee Emergency Call Center records." and add "; Drug and Alcohol-Free Workplace Program records."

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

After "DAO 210-110," add "; Executive Order 12564; Public Law 100-71, dated July 11, 1987."

PURPOSE(S): ***ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

After "(15) A record in this system of records may be disclosed to Senior State Department officials at U.S. Embassies, including the Ambassador, Deputy Chief of Mission, Administrative Counselor and Human Resource Officers, for matters relating to employment or security issues pertaining to Department of Commerce employees working in U.S. Embassies or facilities overseas." add "(16) A record in this system of records may be disclosed to the U.S. Coast Guard for National Oceanic and Atmospheric Administration wage marine employees for the purpose of complying with the requirements of the Drug and Alcohol-Free Workplace Program. (17) A record in this system of records may be disclosed to the U.S. Department of Transportation for employees in transportation positions for the purpose of complying with the requirements of the Omnibus Transportation Employee Testing Act of 1991 and 49 CFR Part 40."

DISCLOSURE TO CONSUMER REPORTING AGENCIES: ***POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:** ***STORAGE:** ***RETRIEVABILITY:** ***SAFEGUARDS:** ***RETENTION AND DISPOSAL:** ***SYSTEM MANAGER(S) AND ADDRESS:** ***NOTIFICATION PROCEDURE:**

Delete "For all other records at locations a and b, information may be obtained from Departmental Privacy Act Officer, Office of Executive Assistance Management, U.S. Department of Commerce, Washington, DC 20230;" and insert "For all other records at locations a and b, information may be

obtained from Departmental Privacy Act Officer, Office of Management and Organization, U.S. Department of Commerce, Washington, DC 20230;"

RECORD ACCESS PROCEDURES: *

CONTESTING RECORD PROCEDURES: *

RECORD SOURCE CATEGORIES: *

EXEMPTIONS CLAIMED FOR THE SYSTEM: *

* Indicates that there are no changes to that paragraph of the notice.

Dated: December 5, 2006.

Brenda Dolan,

Department of Commerce, Freedom of Information/Privacy Act Office.

[FR Doc. E6-20975 Filed 12-8-06; 8:45 am]

BILLING CODE 3510-BS-P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1494]

Grant of Authority for Subzone Status, Pfizer Inc, (Pharmaceutical Products), Terre Haute, Indiana

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones Act provides for "...the establishment... of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," and authorizes the Foreign-Trade Zones Board to grant qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs and Border Protection ports of entry;

Whereas, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and when the activity results in significant public benefit and is in the public interest;

Whereas, the Indiana Port Commission, grantee of Foreign-Trade Zone 177, has made application to the Board for authority to establish a special-purpose subzone at the pharmaceutical products manufacturing and warehousing facilities of Pfizer Inc, located in Terre Haute, Indiana (FTZ Docket 14-2006, filed 4/12/06);

Whereas, notice inviting public comment was given in the **Federal Register** (71 FR 20645, 4/21/06); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds the requirements of the FTZ Act and the

Board's regulations are satisfied, and that approval of the application would be in the public interest;

Now, therefore, the Board hereby grants authority for subzone status for activity related to pharmaceutical products manufacturing at the facilities of Pfizer Inc, located in Terre Haute, Indiana (Subzone 177C), as described in the application and **Federal Register** notice, and subject to the FTZ Act and the Board's regulations, including Section 400.28.

Signed at Washington, DC, this 1st day of December 2006.

David M. Spooner,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Andrew McGilvray,

Acting Executive Secretary.

[FR Doc. E6-20943 Filed 12-8-06; 8:45 am]

BILLING CODE: 3510-DS-S

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1495]

Grant Of Authority For Subzone Status, DNP IMS America Corporation, (Thermal Media and Digital Printer Cartridges and Components), Concord, North Carolina

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones Act provides for "... the establishment . . . of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs and Border Protection ports of entry;

Whereas, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and when the activity results in a significant public benefit and is in the public interest;

Whereas, the North Carolina Department of Commerce, grantee of FTZ 57, has made application to the Board for authority to establish special-purpose subzone status at the thermal media and digital printer cartridge and components manufacturing plant of DNP IMS America Corporation, located

in Concord, North Carolina (FTZ Docket 48-2005, filed 09-30-05);

Whereas, notice inviting public comment has been given in the **Federal Register** (70 FR 59315, 10/12/2005); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby grants authority for subzone status for activity related to thermal media and digital printer cartridge and component manufacturing at the DNP IMS America Corporation plant, located in Concord, North Carolina (Subzone 57C), as described in the application and **Federal Register** notice, and subject to the FTZ Act and the Board's regulations, including Section 400.28.

Signed at Washington, DC, this 1st day of December 2006.

David M. Spooner,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Andrew McGilvray,

Acting Executive Secretary.

[FR Doc. E6-20948 Filed 12-8-06; 8:45 am]

BILLING CODE: 3510-DS-S

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1493]

Expansion of Foreign-Trade Zone 181-Site 2, Warren (Trumbull County), Ohio

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Northeast Ohio Trade & Economic Consortium, grantee of Foreign-Trade Zone No. 181, submitted an application to the Board for authority to expand FTZ 181-Site 2, Warren (Trumbull County), Ohio, within the Cleveland Customs and Border Protection (CBP) port of entry (FTZ Docket 3-2006, filed 1/31/2006);

Whereas, notice inviting public comment was given in the **Federal Register** (71 FR 7008, 2/10/2006) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the

Board's regulations are satisfied, and that the proposal is in the public interest;

Now, therefore, the Board hereby orders:

The application to expand and reorganize FTZ 181 is approved, subject to the Act and the Board's regulations, including Section 400.28, and further subject to the Board's standard 2,000-acre activation limit for the overall general-purpose zone project, and a sunset provision that would terminate authority for the additional parcel at Site 2 on December 31, 2011, unless the parcel is activated during that time period pursuant to 19 CFR Part 146 of the CBP regulations.

Signed at Washington, DC, this 1st day of December 2006.

David M Spooner,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Andrew McGilvray,

Acting Executive Secretary.

[FR Doc. E6-20944 Filed 12-8-06; 8:45 am]

BILLING CODE: 3510-DS-S

DEPARTMENT OF COMMERCE

Foreign Trade Zones Board

[Order No. 1492]

Grant of Authority for Subzone Status, A. Wimpfheimer & Bro., Inc. (Textile Finishing), Blackstone, Virginia

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones Act provides for "... the establishment ... of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," and authorizes the Foreign-Trade Zones Board (the Board) to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs and Border Protection ports of entry;

Whereas, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and when the activity results in a significant public benefit and is in the public interest;

Whereas, the Capital Region Airport Commission, grantee of Foreign-Trade Zone 207 (Richmond, Virginia), has made application for authority to establish special-purpose subzone

status at the textile finishing plant of A. Wimpfheimer & Bro., Inc., located in Blackstone, Virginia (FTZ Docket 11-2006, filed 4-4-2006);

Whereas, notice inviting public comment was given in the **Federal Register** (71 FR 19479, 4-14-2006);

Whereas, the application seeks FTZ authority for only the following processes: dyeing, printing, shrinking, sanferizing, desizing, sponging, bleaching, cleaning/laundrying, calendaring, hydroxylating, decatizing, fulling, mercerizing, chintzing, moiring, framing/beaming, stiffening, weighting, crushing, tubing, thermofixing, anti-microbial finishing, flame retardation, and embossing; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations would be satisfied, and that approval of the application would be in the public interest if approval were subject to the restrictions listed below;

Now, therefore, the Board hereby grants authority for subzone status for fabric dyeing and printing activity at the textile finishing plant of A. Wimpfheimer & Bro., Inc., located in Blackstone, Virginia (Subzone 207C), as described in the application and **Federal Register** notice, and subject to the FTZ Act and the Board's regulations, including Section 400.28, and further subject to the following restrictions:

1. Privileged foreign status (19 CFR § 146.41) shall be elected on all foreign status fabric admitted to the subzone;
2. No activity under FTZ procedures shall be permitted that would result in a change in textile quota category, country of origin, and/or alter applicable U.S. quota/visa requirements; and,
3. All FTZ activity shall be subject to Section 146.63(d) of the Bureau of Customs and Border Protection regulations (19 CFR Part 146).

Signed at Washington, DC, this 1st day of December 2006.

David M. Spooner,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Andrew McGilvray,

Acting Executive Secretary.

[FR Doc. E6-20945 Filed 12-8-06; 8:45 am]

BILLING CODE: 3510-DS-S

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Deemed Export Advisory Committee; Notice to Solicit Meeting Speakers and Presentations

The Deemed Export Advisory Committee (DEAC), which advises the Secretary of Commerce on deemed export licensing policy, will meet on January 22, 2007 from 8 a.m. to 12 p.m. and again on January 23, 2007 from 8 a.m. to noon. The DEAC is a Federal Advisory Committee that was established under the auspices of the Federal Advisory Committee Act, as amended, 5 U.S.C. app. 2. The meeting location will be in Santa Clara, CA, with exact details to be announced in a subsequent **Federal Register** Notice. At this time, the Department of Commerce, Bureau of Industry and Security (BIS), would like to solicit speakers from industry, academia and all other stakeholders to address the DEAC members on January 22nd in an open session on issues related to deemed exports and, in particular, their organizations' perspective and concerns related to U.S. deemed export control policies. Stakeholders are those individuals or organizations who have some experience in or knowledge of export control regulations and policies, who must apply these rules in the course of normal business or whose operations are directly impacted by those exports regulations and policies mandated by the U.S. Government. BIS seeks to have an equal number of presenters from industry, academia, and other stakeholders. There may be up to three presenters from each group and speaking time may be limited to 10 minutes or less per speaker depending on the number of interested parties. Speakers may be selected on the basis of one or more of the following criteria (not in any order of importance): (1) Demonstrated experience in and knowledge of export control regulations; (2) demonstrated ability to provide DEAC members with relevant information related to deemed export policies and issuers; (3) the degree to which the organization is impacted by the U.S. Government's export policies and regulations; and (4) industry area or academic type of institution represented. BIS reserves the right to limit the number of participants based on time considerations. For planning purposes, BIS requests that (1) that interested parties inform BIS of their commitment, via e-mail or telephone call, to address the DEAC no later than 5 p.m. EST December 22, 2006, as well

as provide a brief outline of the topics to be discussed by this same deadline; and, (2) that once interested parties receive confirmation of their participation at the meeting, they provide either an electronic or paper copy of any prepared remarks/presentations no later than 5 p.m. EST January 12, 2007. Interested speakers parties contact Ms. Yvette Springer at Yspringer@bis.doc.gov or (202) 482-2813. The purposes of this solicitation is only to accept speakers for the January 22, 2007 DEAC meeting. However, all members of the public may submit written comment to BIS at any time for the DEAC's consideration.

Dated: December 6, 2006.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. 06-9623 Filed 12-8-06; 8:45 am]

BILLING CODE 3510-JT-M

DEPARTMENT OF COMMERCE

International Trade Administration

A-570-868

Folding Metal Tables and Chairs from the People's Republic of China: Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce ("the Department") published its preliminary results of administrative review of the antidumping duty order on folding metal tables and chairs ("FMTCs") from the People's Republic of China ("PRC") on July 10, 2006. The period of review ("POR") is June 1, 2004, through May 31, 2005. We invited interested parties to comment on our preliminary results. Based on our analysis of the comments received, we have made changes to our margin calculations. Therefore, the final results differ from the preliminary results. The final dumping margins for this review are listed in the "Final Results of Review" section below.

EFFECTIVE DATE: December 11, 2006.

FOR FURTHER INFORMATION CONTACT: Laurel LaCivita or Matthew Quigley, 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) 482-4243 or (202) 482-4551, respectively.

Background

SUPPLEMENTARY INFORMATION: On July 10, 2006, the Department published its preliminary results. See *Folding Metal Tables and Chairs from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review* 71 FR 38852 (July 10, 2006) ("Preliminary Results"). On July 26, 2006, Meco Corporation ("Meco"), the petitioner in the underlying investigation, requested an extension of the briefing schedule, and on August 4, 2006, the Department granted a two-week extension of the briefing schedule. On August 23, 2006, we received case briefs from Meco, New-Tec Integration Co., Ltd. ("New-Tec"), and Feili Group (Fujian) Co., Ltd. and Feili Furniture Development Limited Quanzhou City (collectively "Feili"). On August 30, 2006, Meco, New-Tec, and Feili submitted rebuttal briefs.

We have conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended ("the Act"), and 19 CFR 351.213.

Scope of Order

The products covered by this order consist of assembled and unassembled folding tables and folding chairs made primarily or exclusively from steel or other metal, as described below:

1) Assembled and unassembled folding tables made primarily or exclusively from steel or other metal (folding metal tables). Folding metal tables include square, round, rectangular, and any other shapes with legs affixed with rivets, welds, or any other type of fastener, and which are made most commonly, but not exclusively, with a hardboard top covered with vinyl or fabric. Folding metal tables have legs that mechanically fold independently of one another, and not as a set. The subject merchandise is commonly, but not exclusively, packed singly, in multiple packs of the same item, or in five piece sets consisting of four chairs and one table. Specifically excluded from the scope of the order regarding folding metal tables are the following:

- a. Lawn furniture;
- b. Trays commonly referred to as "TV trays";
- c. Side tables;
- d. Child-sized tables;
- e. Portable counter sets consisting of rectangular tables 36" high and matching stools; and,
- f. Banquet tables. A banquet table is a rectangular table with a plastic or laminated wood table top approximately 28" to 36" wide by

48" to 96" long and with a set of folding legs at each end of the table. One set of legs is composed of two individual legs that are affixed together by one or more cross-braces using welds or fastening hardware. In contrast, folding metal tables have legs that mechanically fold independently of one another, and not as a set.

2) Assembled and unassembled folding chairs made primarily or exclusively from steel or other metal (folding metal chairs). Folding metal chairs include chairs with one or more cross-braces, regardless of shape or size, affixed to the front and/or rear legs with rivets, welds or any other type of fastener. Folding metal chairs include: those that are made solely of steel or other metal; those that have a back pad, a seat pad, or both a back pad and a seat pad; and those that have seats or backs made of plastic or other materials. The subject merchandise is commonly, but not exclusively, packed singly, in multiple packs of the same item, or in five piece sets consisting of four chairs and one table. Specifically excluded from the scope of the order regarding folding metal chairs are the following:

- a. Folding metal chairs with a wooden back or seat, or both;
- b. Lawn furniture;
- c. Stools;
- d. Chairs with arms; and
- e. Child-sized chairs.

The subject merchandise is currently classifiable under subheadings 9401.71.0010, 9401.71.0030, 9401.79.0045, 9401.79.0050, 9403.20.0010, 9403.20.0030, 9403.70.8010, 9403.70.8020, and 9403.70.8030 of the Harmonized Tariff Schedule of the United States ("HTSUS"). Although the HTSUS subheadings are provided for convenience and customs purposes, the Department's written description of the merchandise is dispositive.

Analysis of Comments Received

All issues raised in the post-preliminary comments by parties in this review are addressed in the memorandum from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, to David M. Spooner, Assistant Secretary for Import Administration, "Issues and Decision Memorandum for the 2004-2005 Administrative Review of Folding Metal Tables and Chairs from the People's Republic of China," (December 1, 2006) ("Issues and Decision Memorandum"), which is hereby adopted by this notice. A list of the issues that parties raised and to which we responded in the Issues and Decision Memorandum is

attached to this notice as an appendix. The Issues and Decision Memorandum is a public document and is on file in the Central Records Unit ("CRU") in room B-099 in the main Department building, and is also accessible on the Web at <http://ia.ita.doc.gov/frn>. The paper copy and electronic version of the memorandum are identical in content.

Changes Since the Preliminary Results

Based on our analysis of comments received, we have made changes in the margin calculations for Feili and New-Tec. See Issues and Decision Memorandum, at Comments 1-15.

- We revised the calculation of the surrogate value for water to use the correct inflation factor.
- We revised the calculation of the surrogate value for air freight in the zero-priced transactions to account for the total weight of each shipment.
- We excluded the zero-priced transactions for all of Feili's and New-Tec's customers that otherwise made no purchases of the same merchandise for consideration during the POR.
- We applied Feili's by-product offset to the cost of direct materials rather than to normal value.

Final Results of Review

We determine that the following dumping margins exist for the period June 1, 2004, through May 31, 2005:

Exporter/Manufacturer	Weighted-Average Margin Percentage
Feili*	0.24
New-Tec *	0.08
The PRC-Wide Entity**	70.71

* These rates are *de minimis*.

** This includes Anji Jiu, Xiamen Zehui, and Yixiang.

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 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. For Feili and New-Tec, we divided the total amount of antidumping duties calculated for each importer by the total entered value of the sales to each importer to calculate *ad valorem* assessment rates. Where the assessment rate is above *de minimis*, we will direct CBP to assess the resulting assessment rates against the entered customs values for the subject merchandise on each importer's entries during the POR.

Where an importer-specific *ad valorem* rate is zero or *de minimis*, we

will order CBP to liquidate appropriate entries without regard to antidumping duties.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of FMTCs from the PRC entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by Section 751(a)(1) of the Act: (1) As the final weight-averaged margins for New-Tec and Feili are less than 0.5 percent and, therefore, *de minimis*, no cash deposit of estimated antidumping duties will be required; (2) for previously reviewed or investigated companies not listed above that have a separate rate, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) the cash deposit rate for all other PRC exporters will be 70.71 percent, the current PRC-wide rate; and (4) the cash deposit rate for all non-PRC exporters will be the rate applicable to the PRC exporter that supplied that exporter. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

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)(1) and 777(i)(1) of the Act.

Dated: December 01, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

Appendix

List of Comments and Issues in the Decision Memorandum

Comment 1: Market-Economy Purchases

Comment 2: Verification

Comment 3: Common-Leg Tables

Comment 4: Inclusion of Zero-Priced Transactions in the Margin Analysis

Comment 5a: Treatment of Zero-Priced Transactions as Indirect Selling Expenses

Comment 5b: Calculation of Freight Expenses for Zero-Priced Transactions on a Shipment-Specific Basis

Comment 5c: Zero-Priced Merchandise That Was Not Subsequently Sold for Consideration

Comment 5d: Calculation of the Importer-Specific Assessment Rates

Comment 5e: Negative Values Derived from the Calculation of the Zero-Priced Transactions

Comment 6: Material Inputs Provided Free of Charge

Comment 7: Additional Charges for Origin Receiving Charge ("ORC") and Automated Manifest System ("AMS")

Comment 8: Scrap Offset

Comment 9: The Surrogate Value for Polyester Fabric with Down

Comment 10: The Inflation Factor for Water

Comment 11: Regression-Based Surrogate Value for Labor

[FR Doc. E6-21009 Filed 12-8-06; 8:45 am]

Billing Code: 3510-DS-S

DEPARTMENT OF COMMERCE

International Trade Administration

A-570-831

Fresh Garlic from the People's Republic of China: Partial Rescission and Preliminary Results of the Eleventh Administrative Review and New Shipper Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce ("the Department") is conducting an administrative review and new shipper review of the antidumping duty order on fresh garlic from the People's Republic of China ("PRC") both covering the period of review ("POR") of November 1, 2004, through October 31, 2005.

The Department initiated an administrative review of 34¹ producers/exporters of subject merchandise from the PRC. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 70 FR 76024 (December 22, 2005) (“*Administrative Review Initiation*”). On December 28, 2005, the Department also initiated new shipper reviews with respect to Shandong Longtai Fruits & Vegetables Co., Ltd. (“Longtai”), Qingdao Camel Trading Co., Ltd. (“Qingdao Camel”), Qingdao Saturn, Qingdao Xintianfeng Foods Co., Ltd. (“QXF”), and XuZhou Simple.² Therefore, this reviews covers 39 companies (34 administrative review companies and 5 new shipper companies).³

On June 20, 2006, in accordance with section 351.213(d)(1) of the Department’s regulations, we rescinded the administrative review with respect to nineteen companies: Chengshun, Shanghai LJ, Tianshan, Xi’an, Anqiu Friend, Clipper, H&T, Huaiyang, Yun

¹ Anqiu Friend Food Co., Ltd. (“Anqiu Friend”), Clipper Manufacturing Ltd. (“Clipper”), Fook Huat Tong Kee Foodstuffs Co., Ltd. (“FHTK”), Heze Ever-Best International Trade Co., Ltd. (“Ever-Best”), who also requested a review on their own behalf, H&T Trading Company (“H&T”), Huaiyang Huamei Foodstuff Co., Ltd. (“Huaiyang”), Huaiyang Hongda Dehydrated Vegetable Company (“Hongda”), Jinxiang Dongyun Freezing Storage Co., Ltd. (“Dongyun”), who also requested a review on their own behalf, Jinxiang Shanyang Freezing Storage Co., Ltd. (“Shanyang Freezing”), who also requested a review on their own behalf, Jinxiang Hongyu Freezing and Storing Co., Ltd. (“Hongyu”), Jinxiang Tianshan Foodstuff Co., Ltd. (“Tianshan”), Jinan Yipin Corporation, Ltd. (“Jinan Yipin”), Jining Trans-High Trading Co., Ltd. and its supplier Jining Yunfeng Agricultural Products Co., Ltd. (collectively, “Trans-High”), Jining Yun Feng Agriculture Products Co., Ltd. (“Yun Feng”), Linshu Dading Private Agricultural Products Co., Ltd. (“Linshu Dading”), Linyi Sanshan Import & Export Trading Co., Ltd. (“Sanshan”), Pizhou Guangda Import and Export Co., Ltd. (“Pizhou Guangda”), Qingdao Saturn International Trade Co., Ltd. (“Qingdao Saturn”), Qufu Dongbao Import & Export Trade Co., Ltd. (“Qufu Dongbao”), Shandong Chengshun Farm Produce Trading Co., Ltd. (“Chengshun”), Shandong Dongyue Produce Co., Ltd. (“Dongyue”), Shandong Jining Jinshan Textile Co., Ltd. (“Shandong Jining”), Shanghai Ever Rich Trade Company (“Ever-Rich”), Shanghai LJ International Trading Co., Ltd. (“Shanghai LJ”), Shenzhen Fanhui Import & Export Co., Ltd. (“Fanhui”), Sunny Import & Export Limited (“Sunny”), Taiyan Ziyang Food Co., Ltd. (“Ziyang”), Tancheng County Dexing Foods Co., Ltd. (“Dexing”), Weifang Shennong Foodstuff Co., Ltd. (“Weifang Shennong”), Xi’an XiongLi Foodstuff Co., Ltd. (“Xi’an”), Xiangcheng Yisheng Foodstuffs Co. (“Yisheng”), XuZhou Simple Garlic Industry Co., Ltd. (“XuZhou Simple”), Zhangqui Qingyuan Vegetable Co., Ltd. (“Qingyuan”), and Zhengzhou Harmoni Spice Co., Ltd. (“Harmoni”).

² *See Fresh Garlic from the People’s Republic of China; Initiation of New Shipper Reviews*, 70 FR 76765 (December 28, 2005) (“*New Shipper Initiation*”).

³ Included in this list of 34 companies is the concurrent new shipper reviews for Qingdao Saturn and XuZhou Simple.

Feng, Hongyu, Sanshan, Qingdao Saturn, Qufu Dongbao, Dongyue, Shandong Jining, Fanhui, Dexing, Yisheng and Harmoni. In addition, the Department published a notice of intent to rescind the review in part with respect to two additional companies: Weifang Shennong and Jinan Yipin. The Department is preliminarily rescinding the review with respect to Weifang Shennong and Jinan Yipin (see “Preliminary Partial Rescissions of Administrative Reviews” section below). *See Fresh Garlic from the People’s Republic of China: Notice of Intent to Rescind and Partial Rescission of the 11th Administrative Review*, 71 FR 37537 (June 30, 2006) (“*Rescission Notice*”).

Therefore, this review covers fifteen⁴ producers/exporters of the subject merchandise and the PRC-wide entity. Also included in these fifteen companies is Xuzhou Simple, who has a concurrent administrative and new shipper review. For these preliminary results, we have calculated an antidumping margin in the new shipper review, which will be the margin also applicable to Xuzhou Simple in this administrative review (see “Xuzhou Simple” section below).

As a result, we preliminarily determine that fifteen (five new shipper review companies and ten administrative review companies)⁵ of these companies have made sales in the United States at prices below normal value. If these preliminary results are adopted in our final results of review, we will instruct U.S. Customs and Border Protection (“CBP”) to assess antidumping duties on entries of subject merchandise during the POR for which the importer-specific assessment rates are above *de minimis*.

EFFECTIVE DATE: December 11, 2006.

FOR FURTHER INFORMATION CONTACT: Irene Gorelik, AD/CVD Operations, Office 9, Import Administration,

⁴ During the course of this review, the Department obtained information from Pizhou Guangda and its exporter, Ever-Rich, that Pizhou was not an exporter of subject merchandise during this POR. Therefore, the Department is preliminarily rescinding this review with respect to Pizhou Guangda (see “Preliminary Partial Rescissions of Administrative Reviews” section below). Additionally, Ever-Rich claimed that it did not make shipments of subject merchandise to the United States during the POR, which was confirmed by the Department at verification. Therefore, the Department is preliminarily rescinding the review with respect to Ever-Rich (see “Preliminary Partial Rescissions of Administrative Reviews” section below).

⁵ Further, we preliminarily determine to use total adverse facts available to determine the rate for QXF and the PRC-wide entity, which included Qingyuan (see the “QXF” and “Qingyuan” sections below).

International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone: (202) 482-6905.

SUPPLEMENTARY INFORMATION:

General Background

On November 16, 1994, the Department published in the **Federal Register** the antidumping duty order on fresh garlic from the PRC. *See Antidumping Duty Order: Fresh Garlic From the People’s Republic of China*, 59 FR 59209 (November 16, 1994). On November 1, 2005, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on fresh garlic from the PRC for the period November 1, 2004, through October 31, 2005. *See Notice of Opportunity to Request Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation*, 70 FR 65883 (November 1, 2005).

New Shipper Review Requests

On October 3, 2005, we received a request for a new shipper review of Qingdao Camel. On November 2, 2005, we received a request for a new shipper review of QXF. On November 17, 2005, we received a request for a new shipper review of XuZhou Simple. On November 29, 2005, we received a request for a new shipper review of Qingdao Saturn. On November 30, 2005, we received a request for a new shipper review of Longtai.

Administrative Review Requests

On November 15, 2005, we received a request from Heze Ever-Best International Trade Co., Ltd. (“Ever-Best”) for an administrative review. On November 30, 2006, we received a request from Petitioners for an administrative review of 34 companies.⁶ On November 30, 2006, we also received requests from Trans-High,

⁶ Petitioners are the members of the Fresh Garlic Producers Association: Christopher Ranch L.L.C.; The Garlic Company; Valley Garlic; and Vessey and Company, Inc. (hereinafter referred to as “Petitioners”). Petitioners requested an administrative review of the following companies: Anqiu Friend, Clipper, FHTK, Ever-Best, who also requested a review on their own behalf, H&T, Huaiyang, Hongda, Dongyun, who also requested a review on their own behalf, Shanyang Freezing, who also requested a review on their own behalf, Hongyu, Tianshan, Jinan Yipin, Trans-High, Yun Feng, Linshu Dading, Sanshan, Pizhou Guangda, Qingdao Saturn, Qufu Dongbao, Chengshun, Dongyue, Shandong Jining, Ever-Rich, Shanghai LJ, Fanhui, Sunny, Ziyang, Dexing, Weifang Shennong, Xi’an, Yisheng, XuZhou Simple, Qingyuan, and Harmoni.

Dongyun and FHTK for an administrative review.

On December 22, 2005, the Department published a notice of initiation of a review for fresh garlic from the PRC, covering the period November 1, 2004, through October 31, 2005. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 70 FR 76024 (December 22, 2005).⁷ On December 28, 2005, the Department published a notice of initiation of new shipper reviews of fresh garlic from the PRC covering the period November 1, 2004, through October 31, 2005. *See Fresh Garlic from the People's Republic of China: Initiation of New Shipper Reviews*, 70 FR 76765 (December 28, 2005).

On February 13, 2006, the Department issued antidumping duty questionnaires to the five companies participating in the new shipper review. On February 24, 2006, the Department issued a memorandum on respondent selection for the administrative review. *See Memorandum to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration from James C. Doyle, Director, Office 9: Antidumping Duty Administrative Review of Fresh Garlic from the People's Republic of China: Selection of Respondents* (February 24, 2006) (“*Respondent Selection Memo*”).⁸ The Department selected the four largest companies as selected respondents based on export volume of fresh garlic from the PRC under review.⁹ On February 28, 2006, the Department issued Section A questionnaires to the companies not chosen as selected respondents.

The Department subsequently issued supplemental questionnaires to all companies under review between March 2006 and August 2006.

Alignment of Reviews

On April 28, 2006, the Department aligned the statutory time lines of this administrative review and all but one of the new shipper reviews.¹⁰ On August

14, 2006, QXF agreed to waive the new shipper time limits.¹¹ On August 14, 2006, the Department aligned the statutory time lines of QXF's new shipper review with this administrative review.

Extension of Preliminary Results Deadline

On June 14, 2006, the Department published a notice extending the preliminary results time limits of this administrative review and new shipper reviews to October 2, 2006. *See Fresh Garlic from the People's Republic of China: Extension of Time Limits for the Preliminary Results of the 11th Administrative Review and New Shipper Reviews*, 71 FR 34304 (June 14, 2006). On September 19, 2006, the Department published a second notice extending the preliminary results time limits of this administrative review and new shipper reviews to November 16, 2006. *See Fresh Garlic from the People's Republic of China: Extension of Time Limits for the Preliminary Results of the 11th Administrative Review and New Shipper Reviews*, 71 FR 54796 (September 19, 2006). On November 15, 2006, the Department published a third notice extending the preliminary results time limits of this administrative review and new shipper reviews to November 30, 2006. *See Fresh Garlic from the People's Republic of China: Extension of Time Limits for the Preliminary Results of the 11th Administrative Review and New Shipper Reviews*, 71 FR 65502 (November 15, 2006). The final results continue to be due 120 days after the publication of these preliminary results.

Surrogate Country and Surrogate Values

On August 31, 2006, September 12, 2006, October 19, 2006, and November 2, 2006, Petitioners submitted surrogate value comments related, in part, to the valuation of the intermediate factor of production, fresh garlic bulbs. On August 31, 2006, October 31, 2006, and November 7, 2006, Linshu, Shanyang Freezing, Sunny and Trans-High (collectively, “LSST”) provided their own comments on this factor and also provided comments on Petitioners' submissions. Likewise, on September 8, 2006, and October 30, 2006, Dongyun provided comments on Petitioners' submissions with respect to the valuation of fresh garlic bulbs.

Preliminary Partial Rescissions of Administrative Reviews

Withdrawal of Review Requests

On March 20, 2006, Petitioners withdrew their request for an administrative review on four companies: Chengshun, Shanghai LJ, Tianshan, and Xi'an. On May 30, 2006, Petitioners withdrew their request for an administrative review on sixteen additional companies: Anqui Friend, Clipper, H&T, Huaiyang, Yun Feng, Hongyu, Sanshan, Pizhou, Qingdao Saturn, Qufu Dongbao, Dongyue, Shandong Jining, Fanhui, Dexing, Yisheng and Harmoni. On May 30, 2006, Harmoni withdrew its own request for an administrative review. Therefore, because Petitioners' and Harmoni's requests were timely, in accordance with section 351.213(d)(1) of the Department's regulations, we rescinded this review with respect to Chengshun, Shanghai LJ, Tianshan, Xi'an, Anqui Friend, Clipper, H&T, Huaiyang, Yun Feng, Hongyu, Sanshan, Qingdao Saturn, Qufu Dongbao, Dongyue, Shandong Jining, Fanhui, Dexing, Yisheng and Harmoni. *See Rescission Notice*.

Weifang Shennong and Jinan Yipin

On January 17, 2006, Weifang Shennong notified the Department that it had no shipments of subject merchandise to the United States during the POR. On January 27, 2006, Jinan Yipin notified the Department that it had no shipments of subject merchandise to the United States during the POR. The Department reviewed CBP's garlic entry data from the POR, and found no evidence to contradict these statements of no entries or sales of subject merchandise by Weifang Shennong or Jinan Yipin into the United States during the POR. *See Memorandum to the File from Paul Walker, Analyst; 11th Administrative Review of Fresh Garlic from the People's Republic of China: Customs Entry Packages*, dated June 20, 2006. Therefore, absent the submission of any evidence that Weifang Shennong or Jinan Yipin had U.S. entries or sales of subject merchandise during the POR, the Department is preliminarily rescinding the administrative review with respect to these companies.

Pizhou Guangda

As noted above, Petitioners requested an administrative review of Pizhou Guangda. *See Administrative Review Initiation*. However, through the course of the review and subsequent verification, the Department was notified by Ever-Rich, an exporter also

⁷ The Department initiated an administrative review of 34 companies.

⁸ Of the 34 named firms for which the Department initiated an administrative review, 18 firms had both an active request for review and an appropriately submitted Q&V questionnaire response. The following 18 companies were considered in the selection of respondents for this administrative review: Anqui Friend; Dong Yun; FHTK; Heze; Hongda; Shanyang Freezing; Jinan Yipin; Linshu Dading; Qingdao Saturn; Qufu Dongbao; Ever-Rich; Fanhui; Sunny; Ziyang; Weifang Shennong; Trans-High; XuZhou Simple; and Harmoni.

⁹ The selected Respondents are Sunny, Shanyang Freezing, Trans-High, and Dongyun.

¹⁰ See the Department's letter to All Interested Parties, dated April 28, 2006.

¹¹ See the Department's letter to All Interested Parties, dated August 14, 2006, where the Department notes that QXF agreed to waive the new shipper time limits.

subject to this administrative review and Pizhou Guangda's exporter, that Pizhou Guangda was only a producer of subject merchandise, not an exporter.¹² Furthermore, during the verification conducted by the Department, both Ever-Rich and Pizhou Guangda stated that Pizhou Guangda had not supplied Ever-Rich with any subject merchandise for export to the United States during the POR. See the "Verification" section below. Additionally, on May 30, 2006, Petitioners withdrew their request for an administrative review with respect to Pizhou Guangda. Therefore, for these preliminary results, the Department is preliminarily rescinding the administrative review with respect to Pizhou Guangda in accordance with 19 CFR 351.213(d)(3).

Ever-Rich

Ever-Rich claimed that it did not make shipments of subject merchandise to the United States during the POR. We conducted a data query of CBP entry information on subject merchandise which may have been exported by Ever-Rich. In addition, the Department conducted a verification of Ever-Rich's export sales as well as the sales from Ever-Rich's producer of subject merchandise, Pizhou Guangda, as stated above.¹³ The Department's verification of Ever-Rich's sales and those of its supplier were consistent with Ever-Rich's statement that it made no sales to the United States. See the "Verification" section below. Therefore, based on the results of our verification, we are preliminarily rescinding the administrative review with respect to Ever-Rich because we found no evidence that it made shipments of the subject merchandise during the POR in accordance with 19 CFR 351.213(d)(3).

Trans-High

We reviewed certain entries of subject merchandise exported by Trans-High during the POR. Trans-High informed the Department that it believed that Chinese exporters and/or U.S. importers were improperly identifying Trans-High as the supplier/invoicing company on certain exports of subject merchandise

for importation into the United States. See Trans-High Section C questionnaire response dated April 20, 2006 at C-31. Additionally, Trans-High also submitted invoice documentation, which it had previously provided to CBP, highlighting its suspicion of the improper use of Trans-High's antidumping rate. See *Id.* at Exhibit C-2.

During the course of this review, the Department requested all of Trans-High's POR entry documentation from CBP. The Department reviewed the information contained within the CBP entry documents and the information provided by Trans-High in its questionnaire response. Based on the information submitted by Trans-High and the CBP entry documentation, we agree with Trans-High that certain entries were improperly classified as Trans-High shipments during the POR. For the Department's detailed analysis of the entry documentation in question and Trans-High's own information, see *Memorandum to the File, through Alex Villanueva, Program Manager, Office 9, from Nicole Bankhead, Senior Analyst, Office 9; Company Analysis Memorandum in the Antidumping Duty Administrative Review of Fresh Garlic from the People's Republic of China ("PRC"): Jining Trans-High Trading Co., Ltd. ("Trans-High") and its supplier Jining Yunfeng Agricultural Products Co., Ltd. ("Yun Feng")*, dated November 30, 2006.

Xuzhou Simple

XuZhou Simple requested a new shipper review on November 15, 2005. On December 28, 2005, the Department initiated a new shipper review with respect to XuZhou Simple. See *New Shipper Initiation*. In conducting the new shipper review for XuZhou Simple, the Department analyzed the *bona fide* nature of XuZhou Simple's sale to the United States, verified the company's sales and factors of production, and calculated an antidumping duty margin.

Additionally, Petitioners also requested an administrative review with respect to XuZhou Simple, which the Department initiated. See *Administrative Review Initiation*. Although the Department did not select XuZhou Simple as a mandatory respondent in the administrative review, it also did not opt to initiate only the new shipper review for XuZhou Simple. Accordingly, because the Department initiated both a new shipper and administrative review for XuZhou Simple, the Department will apply the rate calculated in the new shipper review for XuZhou Simple's

sales subject to the administrative review.

Scope of the Order

The products covered by this antidumping duty order are all grades of garlic, whole or separated into constituent cloves, whether or not peeled, fresh, chilled, frozen, provisionally preserved, or packed in water or other neutral substance, but not prepared or preserved by the addition of other ingredients or heat processing. The differences between grades are based on color, size, sheathing, and level of decay. The scope of this order does not include the following: (a) Garlic that has been mechanically harvested and that is primarily, but not exclusively, destined for non-fresh use; or (b) garlic that has been specially prepared and cultivated prior to planting and then harvested and otherwise prepared for use as seed. The subject merchandise is used principally as a food product and for seasoning. The subject garlic is currently classifiable under subheadings 0703.20.0010, 0703.20.0020, 0703.20.0090, 0710.80.7060, 0710.80.9750, 0711.90.6000, and 2005.90.9700 of the Harmonized Tariff Schedule of the United States ("HTSUS"). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this order is dispositive. In order to be excluded from the antidumping duty order, garlic entered under the HTSUS subheadings listed above that is (1) mechanically harvested and primarily, but not exclusively, destined for non-fresh use or (2) specially prepared and cultivated prior to planting and then harvested and otherwise prepared for use as seed must be accompanied by declarations to CBP to that effect.

Verification

Pursuant to 19 CFR 351.307(b)(iv), we conducted verifications of the sales and factors of production ("FOP") for

¹² See *Memorandum to the File through Alex Villanueva, Program Manager, Office 9 from Paul Walker, Senior Case Analyst: Administrative Review of Fresh Garlic from the People's Republic of China: Verification of Pizhou Guangda Import & Export Co., Ltd. ("Pizhou Guangda Verification Report")*.

¹³ See *Memorandum to the File through Alex Villanueva, Program Manager, Office 9 from Paul Walker, Senior Case Analyst: Administrative Review of Fresh Garlic from the People's Republic of China: Verification of Shanghai Ever Rich ("Ever-Rich Verification Report")*.

Longtai¹⁴, Qingdao Camel¹⁵, QXF¹⁶, Qingdao Saturn¹⁷, and XuZhou Simple¹⁸. The Department also conducted a sales verification of Ever-Rich and its supplier, Pizhou Guangda.¹⁹

New Shipper Reviews Bona Fide Analysis

Consistent with the Department's practice, we investigated the *bona fide* nature of the sales made by Longtai, Qingdao Saturn, Qingdao Camel, and XuZhou Simple for the new shipper reviews. We found that new shipper sales made by Longtai, Qingdao Saturn, Qingdao Camel, and XuZhou Simple

¹⁴ The verification of Longtai's sales and FOPs took place from August 7, 2006 through August 9, 2006. See Memorandum to the file through Alex Villanueva, Program Manager, Office 9, from Nicole Bankhead, Analyst, Office 9: Verification of the Sales and Factors Response of Shandong Longtai Fruits and Vegetables Co., Ltd. in the Antidumping New Shipper Review of Fresh Garlic from the People's Republic of China.

¹⁵ The verification of the FOPs for Lufeng, Qingdao Camel's producer of subject merchandise, took place from August 10, 2006 through August 11, 2006. See Memorandum to the File through Alex Villanueva, Program Manager, Office 9 from Cindy Robinson, Senior Case Analyst, Office 9: Verification of the Factors Response of Jinxiang County Lufeng Agriculture Product Material Co., Ltd. in the Antidumping Duty New Shipper Review of Fresh Garlic from the People's Republic of China ("Lufeng Verification Report"). The verification of Qingdao Camel's sales took place on August 14, 2006. See Memorandum to the File through Alex Villanueva, Program Manager, Office 9, from Cindy Robinson, Senior Case Analyst: Verification of the Sales Response of Qingdao Camel Trading Co., Ltd. in the Antidumping Duty New Shipper Review of Fresh Garlic from the People's Republic of China.

¹⁶ The verification of QXF's sales and FOPs took place from August 15, 2006 through August 18, 2006. See Memorandum to the File through Alex Villanueva, Program Manager, Office 9, from Nicole Bankhead, Analyst, Office 9: Verification of the Sales and Factors Response of Qingdao Xintianfeng Foods Co., Ltd. in the Antidumping New Shipper Review of Fresh Garlic from the People's Republic of China ("QXF Verification Report").

¹⁷ The verification of Qingdao Saturn's sales and FOPs took place from August 21, 2006 through August 24, 2006. See Memorandum to the File through Alex Villanueva, Program Manager, Office 9 from Paul Walker, Senior Case Analyst: New Shipper Review of Fresh Garlic from the People's Republic of China: Verification of Qingdao Saturn International Trade Co., Ltd. and Cangshan County Taifeng Agricultural By-Products Processing Co., Ltd. ("Taifeng").

¹⁸ The verification of XuZhou Simple's sales and FOPs took place from August 28, 2006 through August 30, 2006. See Memorandum to the File through Alex Villanueva, Program Manager, Office 9, from Irene Gorelik, Analyst, Office 9: Fresh Garlic from the People's Republic of China ("PRC"): Verification of Sales and Factors of Production for XuZhou Simple Garlic Industry Co., Ltd. ("XuZhou Simple").

¹⁹ The verification of the sales for Ever-Rich's producer of subject merchandise, Pizhou Guangda, took place on August 25, 2006 and the verification of Ever-Rich's sales took place on September 1, 2006. See Ever-Rich Verification Report and Pizhou Guangda Verification Report.

were made on a *bona fide* basis.²⁰ Based on our investigation into the *bona fide* nature of the sales, the questionnaire responses submitted by the companies, and our verifications thereof, as well the companies' eligibility for a separate rate (see Separate Rates section below) and the Department's preliminary determination that Longtai, Qingdao Saturn, Qingdao Camel, and XuZhou Simple were not affiliated with any exporter or producer that had previously shipped subject merchandise to the United States, we preliminarily determine that the above-named respondents have met the requirements to qualify as a new shipper during the POR. Therefore, for purposes of these preliminary results of the review, we are treating Longtai's, Qingdao Saturn's, Qingdao Camel's, and XuZhou Simple's respective sales of subject merchandise to the United States as an appropriate transactions for this new shipper review.²¹

Non-market Economy Country Status

In every case conducted by the Department involving the PRC, the PRC has been treated as a non-market economy ("NME") country. In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. See *Brake Rotors From the People's Republic of China: Final Results and Partial Rescission of the 2004/2005 Administrative Review and Notice of Rescission of 2004/2005 New Shipper Review*, 71 FR 66304 (November 14, 2006). None of the parties to this proceeding has contested such

²⁰ The Department did not conduct a *bona fide* analysis of QXF's sales because QXF is receiving total adverse facts available. See "QXF" section below. However, QXF did receive a separate rate as part of the Department's analysis of the absence of *de jure* and *de facto* control. See "Separate Rates Determination" below.

²¹ See Memorandum from Nicole Bankhead, Senior Analyst, Office 9, through Alex Villanueva, Program Manager, Office 9, to James C. Doyle, Director, Office 9: Bona Fide Nature of the Sale in the Antidumping Duty New Shipper Review of Fresh Garlic: Longtai, dated November 16, 2006 ("Longtai Prelim Bona Fide Memo"); Memorandum from Paul Walker, Senior Analyst, Office 9, through Alex Villanueva, Program Manager, Office 9, to James C. Doyle, Office Director, Office 9: Bona Fide Nature of the Sale in the Antidumping Duty New Shipper Review of Fresh Garlic: Qingdao Saturn Trading Co., Ltd., dated November 16, 2006 ("Qingdao Saturn Prelim Bona Fide Memo"); Memorandum from Irene Gorelik, Analyst, Office 9, through Alex Villanueva, Program Manager, Office 9, to James C. Doyle, Office Director, Office 9: Bona Fide Nature of the Sale in the Antidumping Duty New Shipper Review of Fresh Garlic from the People's Republic of China ("PRC"): XuZhou Simple Garlic Industry Co., Ltd., dated November 16, 2006 ("XuZhou Simple Prelim Bona Fide Memo").

treatment. Accordingly, we calculated normal value ("NV") in accordance with section 773(c) of the Act, which applies to NME countries.

Separate Rates Determination

A designation as an NME remains in effect until it is revoked by the Department. See section 771(18)(C) of the Act. Accordingly, there is a rebuttable presumption that all companies within the PRC are subject to government control and, thus, should be assessed a single antidumping duty rate. See e.g., *Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products From the People's Republic of China*, 71 FR 53079 (September 8, 2006) and *Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof from the People's Republic of China*, 71 FR 29303 (May 22, 2006).

It is the Department's standard policy to assign all exporters of the merchandise subject to review in NME countries a single rate unless an exporter can affirmatively demonstrate an absence of government control, both in law (*de jure*) and in fact (*de facto*), with respect to exports. To establish whether a company is sufficiently independent to be entitled to a separate, company-specific rate, the Department analyzes each exporting entity in an NME country under the test established in the *Final Determination of Sales at Less than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991), as amplified by the *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) ("*Silicon Carbide*").

A. Absence of *De Jure* Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses; and (2) any legislative enactments decentralizing control of companies.

Throughout the course of this administrative review and new shipper reviews, the new shipper companies (Longtai, Qingdao Saturn, QXF, Qingdao Camel, XuZhou Simple) and the administrative review companies (Sunny, Trans-High, Shanyang Freezing, and Dongyun) have placed sufficient evidence on the record that

demonstrate absence of *de jure* control. Additionally, FHTK, Ever-Best, Hongda, Linshu Dading, and Ziyang, the non-selected respondents seeking a separate rate, have placed on the record a number of documents to demonstrate absence of *de jure* control including the “Foreign Trade Law of the People’s Republic of China” and the “Administrative Regulations of the People’s Republic of China Governing the Registration of Legal Corporations.” The Department has analyzed such PRC laws and found that they establish an absence of *de jure* control. See, e.g., *Preliminary Results of New Shipper Review: Certain Preserved Mushrooms From the People’s Republic of China*, 66 FR 30695 (June 7, 2001). We have no information in this proceeding that would cause us to reconsider this determination. Thus, we believe that the evidence on the record supports a preliminary finding of an absence of *de jure* government control based on: (1) an absence of restrictive stipulations associated with the exporter’s business license; and (2) the legal authority on the record decentralizing control over the respondent.²²

B. Absence of *De Facto* Control

As stated in previous cases, there is some evidence that certain enactments of the PRC central government have not been implemented uniformly among different sectors and/or jurisdictions in the PRC. See *Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from the People’s Republic of China*, 63 FR 72255 (December 31, 1998). Therefore, the Department has determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of government control which would preclude the Department from assigning separate rates. The Department typically considers four factors in evaluating whether each respondent is subject to *de facto* government control of its export functions: (1) whether the exporter sets its own export prices independent of the government and without the approval of a government authority; (2) whether the respondent has the authority to negotiate and sign contracts, and other agreements; (3) whether the respondent has autonomy

from the government in making decisions regarding the selection of its management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses.

The Department conducted a separate rates analysis for (1) the new shipper companies under review: Longtai, Qingdao Saturn, QXF, Qingdao Camel, and XuZhou Simple; (2) the selected respondents chosen for an administrative review: Sunny, Trans-High, Shanyang Freezing, and Dongyun; and (3) the companies upon which an administrative review was requested but not chosen as a selected respondent: FHTK, Ever-Best, Hongda, Linshu Dading, and Ziyang.

The following new shipper review companies and administrative review selected respondents (Longtai, Qingdao Saturn, QXF, Qingdao Camel, XuZhou Simple, Sunny, Trans-High, Shanyang Freezing, and Dongyun) reported that they are limited-liability companies owned by private investors. Four of the non-selected respondents of this administrative review, Ziyang, Hongda, Linshu Dading, and Ever-Best, also reported that they are limited-liability companies owned by private investors. However, one non-selected respondent in this administrative review, FHTK, reported that it is wholly owned by foreign entities. Therefore, an additional separate-rates analysis is not necessary to determine whether FHTK’s export activities are independent from government control. See *Notice of Final Determination of Sales at Less Than Fair Value: Creatine Monohydrate from the People’s Republic of China*, 64 FR 71104, 71105 (December 20, 1999) (where the respondent was wholly foreign-owned, thus, qualified for a separate rate).

These companies have all asserted the following: (1) there is no government participation in setting export prices; (2) sales managers and authorized employees have the authority to bind sales contracts; (3) they do not have to notify any government authorities of management selections; (4) there are no restrictions on the use of export revenue; (5) each is responsible for financing its own losses. The questionnaire responses of the new shipper companies (Longtai, Qingdao Saturn, QXF, Qingdao Camel, XuZhou Simple), the selected respondents of the administrative review (Sunny, Trans-High, Shanyang Freezing, and Dongyun) and the non-selected respondents of the administrative review (Ever-Best, Hongda, Linshu Dading, and Ziyang) do not suggest that pricing is coordinated

among exporters. During our analysis of the information on the record, we found no information indicating the existence of government control. Consequently, we preliminarily determine that Longtai, Qingdao Saturn, QXF, Qingdao Camel, XuZhou Simple, Sunny, Trans-High, Shanyang Freezing, Dongyun, FHTK, Ever-Best, Hongda, Linshu Dading, and Ziyang have met the criteria for the application of a separate rate.

Surrogate Country

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs it to base NV, in most circumstances, on the NME producer’s factors of production (“FOPs”), valued in a surrogate market economy country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, in valuing the factors of production, the Department shall utilize, to the extent possible, the prices or costs of FOPs in one or more market economy countries that are: (1) at a level of economic development comparable to that of the NME country; and (2) significant producers of comparable merchandise. The sources of the surrogate factor values are discussed under the “Normal Value” section below and in *Memorandum to the File through James C. Doyle, Director, Office 9 and Alex Villanueva, Program Manager, Office 9 from Paul Walker, Senior Analyst, Office 9: Surrogate Factor Valuations for the Preliminary Results of the 11th Administrative Review and New Shipper Reviews*, November 30, 2006 (“Factor Valuation Memo”).

As discussed in the “Separate Rates” section, the Department considers the PRC to be an NME country. The Department has treated the PRC as an NME country in all previous antidumping proceedings. In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. None of the parties to this proceeding contested such treatment. Accordingly, we treated the PRC as an NME country for purposes of this review and calculated NV, pursuant to section 773(c) of the Act, by valuing the FOPs in a surrogate country.

The Department determined that India, Sri Lanka, Indonesia, Philippines, and Egypt are countries comparable to the PRC in terms of economic development. See *Memorandum from Ron Lorentzen, Director, Office of Policy, to Alex Villanueva, Program*

²² This preliminary finding applies to (1) the selected respondents of this administrative review: Sunny, Trans-High, Shanyang Freezing, and Dongyun; (2) the new shipper companies under review: Longtai, Qingdao Saturn, QXF, Qingdao Camel, and XuZhou Simple; and (3) the non-selected respondents of this administrative review seeking a separate rate: FHTK, Ever-Best, Hongda, Linshu Dading, and Ziyang.

Manager, China/NME Group, Office 9: Antidumping Administrative Review of Fresh Garlic from the People's Republic of China: Request for a List of Surrogate Countries, (January 18, 2006) ("Surrogate Country List"). Moreover, it is the Department's practice to select an appropriate surrogate country based on the availability and reliability of data from the countries. See *Department Policy Bulletin No. 04.1: Non-Market Economy Surrogate Country Selection Process*, (March 1, 2004) ("Policy Bulletin"). In this case, we have found that India and Egypt are both significant producers of comparable merchandise. Therefore, we find India to be a reliable source for surrogate values because India is at a similar level of economic development pursuant to 773(c)(4) of the Act, is a significant producer of comparable merchandise, and has publically available and reliable data. See *Memorandum to the File, through James C. Doyle, Office Director, Office 9, Import Administration, and Alex Villanueva, Program Manager, Office 9, from Cindy Lai Robinson, Senior Analyst, Subject: Antidumping Duty New Shipper Reviews and 11th Administrative Review of Fresh Garlic from the People's Republic of China: Selection of a Surrogate Country*, (November 30, 2006) ("Surrogate Country Memo"). Furthermore, we note that India has been the primary surrogate country in past segments and both Petitioners and Respondents submitted surrogate values based on Indian import data that are contemporaneous to the POR, which gives further credence to the use of India as a surrogate country.

In accordance with 19 CFR 351.301(c)(3)(ii), for the final results in an antidumping administrative review and a new shipper review, interested parties may submit publicly available information to value FOPs within 20 days after the date of publication of these preliminary results.

Adverse Facts Available

Section 776(a)(2) of the Tariff Act of 1930, as amended (the "Act"), provides that, if an interested party: (A) withholds information that has been requested by the Department; (B) fails to provide such information in a timely manner or in the form or manner requested subject to sections 782(c)(1) and (e) of the Act; (C) significantly impedes a proceeding under the antidumping statute; or (D) provides such information but the information cannot be verified, the Department shall, subject to subsection 782(d) of the Act, use facts otherwise available in reaching the applicable determination.

Section 782(c)(1) of the Act provides that if an interested party "promptly after receiving a request from {the Department} for information, notifies {the Department} that such party is unable to submit the information requested in the requested form and manner, together with a full explanation and suggested alternative form in which such party is able to submit the information," the Department may modify the requirements to avoid imposing an unreasonable burden on that party.

Section 782(d) of the Act provides that, if the Department determines that a response to a request for information does not comply with the request, the Department will inform the person submitting the response of the nature of the deficiency and shall, to the extent practicable, provide that person the opportunity to remedy or explain the deficiency. If that person submits further information that continues to be unsatisfactory, or this information is not submitted within the applicable time limits, the Department may, subject to section 782(e), disregard all or part of the original and subsequent responses, as appropriate.

Section 782(e) of the Act states that the Department shall not decline to consider information deemed "deficient" under section 782(d) if: (1) the information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

Furthermore, section 776(b) of the Act states that if the Department "finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information from the administering authority or the Commission, the administering authority or the Commission ..., in reaching the applicable determination under this title, may use an inference that is adverse to the interests of that party in selecting from among the facts otherwise available." See also Statement of Administrative Action (SAA) accompanying the URAA, H.R. Rep. No. 103-316 at 870 (1994).

Qingdao Camel

For these preliminary results, in accordance with sections 776(a)(2)(A) and 776(a)(2)(B) of the Act, we have determined that the use of facts available is appropriate for Qingdao

Camel's reported labor and electricity usage. In addition, we have determined that facts available is appropriate for Qingdao Camel's reported distances between the individual factor supplier and Qingdao Camel's producer, Jinxiang County Lufeng Agriculture Product Material Co., Ltd. ("Lufeng") in accordance with section 776(a)(2)(D) of the Act. Finally, we have also determined that in accordance with section 776(a)(2)(A) of the Act, the use of facts available is appropriate for Qingdao Camel's unreported consumption of mesh bags.

Labor

In these preliminary results, because Lufeng was unable to provide the requested supporting documentation concerning the actual number of labor hours used to process and pack the subject merchandise, we applied facts available to Lufeng's usage of processing and packing labor pursuant to section 776(a)(2)(A) of the Act.

In Qingdao Camel's original section D questionnaire response dated April 4, 2006, Lufeng stated that it records the labor time and the processed and packed product quantity of garlic it produced in the pay bills. The Department issued two supplemental questionnaires requesting Lufeng to provide the actual labor hours usage for processing and packing. In its first section D supplemental response, Lufeng provided certain labor worksheets but none of the worksheets recorded the actual labor hours used for processing and packing the subject merchandise. See Qingdao Camel's May 1, 2006 submission at 11 and Exhibits 9 and 10. In its second section D supplemental response, Lufeng stated again that its labor hours for processing and packing is calculated based on pay bills, and the corresponding exhibit indicated that the processing labor was reported based on processing quantity. See Qingdao Camel's July 19, 2006 submission at 10 and Exhibit 9. At verification, Lufeng stated that its processing and packing is a continuous operation and its workers were paid by the weight of garlic processed, but no records were kept to track the actual hours worked. See *Lufeng Verification Report* at 11. See also *Memorandum to the File through Alex Villanueva, Program Manager, Office 9 from Cindy Lai Robinson, Senior Analyst, Office 9; Company Analysis Memorandum in the Antidumping Duty New Shipper Review of Fresh Garlic from the People's Republic of China ("PRC")*: Qingdao Camel Trading Co., Ltd. at 5 ("Qingdao Camel Analysis Memo"). Because Lufeng did not provide the actual labor

hours used for processing and packing the subject merchandise after the Department's repeated requests, we applied facts available to Lufeng's labor pursuant to section 776(a)(2)(A) of the Act.

Because Lufeng could not provide the requested information in the form or manner requested concerning processing and packing labor, in accordance with section 776(a)(2)(B) of the Act, we found it appropriate to apply facts available to Lufeng's consumption of processing and packing labor.

As stated above, Lufeng could not provide the consumption of processing and packing labor in the form or manner that the Department requested. The Department provided Lufeng with additional opportunities to submit the requested information. However, Lufeng still did not do so. The Department cannot rely on Lufeng's submitted information for processing and packing labor to derive an accurate dumping margin. It is the Department's practice to calculate the dumping margin based on the actual processing and packing labor hours worked. *See Fresh Garlic from the People's Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative Review and Final Results of New Shipper Reviews*, 71 FR 26329, 26330 (May 4, 2006) ("10th Review Final Results"). Because Lufeng could not provide the necessary information in the form or manner requested, we applied facts available to Lufeng's processing and packing labor pursuant to sections 776(a)(2)(A) and (B) of the Act.

Electricity

In these preliminary results, because Lufeng could not provide the requested supporting documentation concerning its usage of electricity during the packing stage ("packing electricity"), we applied facts available to Lufeng's consumption of packing electricity pursuant to sections 776(a)(2)(A) and (B) of the Act.

Lufeng did not provide any explanation or supporting documents concerning its usage of packing electricity in its original Section D questionnaire response dated April 4, 2006. In its May 1, 2006, supplemental response, Lufeng noted that its packing electricity is an estimated figure but it did not provide any supporting documents. *See Qingdao Camel's May 1, 2006 submission at 12.* At verification, the Department requested supporting documentation for Lufeng's reported packing electricity. Lufeng again indicated that its reported electricity consumption for packing is an estimate

which is calculated based on the packing machine's capacity and the quantity packed. Lufeng also stated that it does not have any records tracking the actual electricity consumption for packing. *See Lufeng Verification Report at 10. See also Qingdao Camel Analysis Memo at 5.* Because Lufeng did not provide the requested supporting documents for its consumption of packing electricity, we applied facts available to Lufeng's packing electricity pursuant to section 776(a)(2)(A) of the Act.

Because Lufeng could not provide the requested information in the form or manner requested concerning packing electricity, we found it appropriate to apply facts available to Lufeng's consumption of packing electricity in accordance with section 776(a)(2)(B) of the Act.

As stated above, Lufeng could not provide the packing electricity consumption in the form or manner that the Department requested. The Department provided Lufeng with additional opportunities to submit the requested information. However, Lufeng still did not do so. The Department cannot rely on Lufeng's submitted information for packing electricity to derive an accurate dumping margin. It is the Department's practice to calculate the dumping margin based on the actual packing electricity. *See 10th Review Final Results.* Therefore, we applied facts available to Lufeng's electricity consumption pursuant to sections 776(a)(2)(A) and (B) of the Act.

Supplier Distance

In these preliminary results, because Lufeng could not provide the requested supporting documentation concerning its supplier distance at verification, we applied facts available to Lufeng's supplier distance pursuant to section 776(a)(2)(D) of the Act.

Lufeng provided its suppliers' information in Exhibit 7 of Qingdao Camel's May 1, 2006 submission. At verification, we requested that Lufeng provide information to support its reported supplier distances, but Lufeng did not provide such information and therefore, it cannot be verified. *See Lufeng Verification Report at 12. See also Qingdao Camel Analysis Memo at 5.* Because the Department could not verify the supplier distances submitted by Lufeng, the Department cannot rely on Lufeng's submitted information for supplier distances to derive an accurate dumping margin. Therefore, we applied facts available to Lufeng's supplier distances pursuant to section 776(a)(2)(D) of the Act.

Mesh Bags

In these preliminary results, because Lufeng withheld information concerning mesh bags used to pack the subject merchandise, we applied facts available to Lufeng's usage of mesh bags pursuant to section 776(a)(2)(A) of the Act.

Lufeng did not report mesh bags consumption in Qingdao Camel's three submissions of FOP data dated April 4, 2006, May 1, 2006, and July 19, 2006, respectively. At verification, we discovered that Lufeng did use mesh bags to pack the subject merchandise. *See Lufeng Verification Report at 11. See also Qingdao Camel Analysis Memo at 6.* Because Lufeng withheld this data and failed to report its actual mesh bags consumption to the Department, despite the Department's giving Lufeng three additional opportunities to correct its FOP data, we applied facts available for Lufeng's mesh bags consumption pursuant to section 776(a)(2)(A) of the Act.

Use of partial adverse facts available ("AFA")

Section 776(b) of the Act states that if the Department "finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information from the administering authority or the Commission, the administering authority or the Commission ..., in reaching the applicable determination under this title, may use an inference that is adverse to the interests of that party in selecting from among the facts otherwise available." *See also Statement of Administrative Action (SAA) accompanying the URAA, H.R. Rep. No. 103-316 at 870 (1994).* An adverse inference may include reliance on information derived from the Petition, the final determination in the investigation, any previous review, or any other information placed on the record. *See section 776(b) of the Act.*

In this instance, Lufeng failed to act to the best of its ability to comply with the Department's repeated requests for information for all four factors discussed above: labor for processing and packing, packing electricity, supplier distances, and mesh bags. Lufeng reported consumption figures in the factors of production database for three of these four factors. However, it was only at verification that it became clear that the numbers Lufeng provided in its response for these factors had no basis in documentary evidence of actual consumption and moreover, that a previously unreported factor of production existed. Lufeng was given

several opportunities to provide the requested information but it failed to do so. Throughout the proceeding, Lufeng did not indicate that it was unable to submit the information requested in the requested form and manner, neither did Lufeng provide a full explanation or suggest an alternative form in which to submit the information, in accordance with section 782(c)(1) of the Act. Therefore, we find it appropriate to apply a partial AFA for these four factors used by Lufeng in these preliminary results, pursuant to section 776(b) of the Act.

As partial AFA for labor, electricity, and mesh bags, we averaged the top three usage ratios of each of the three inputs, reported by other respondents subject to this administrative review and new shipper reviews, and applied that average usage ratio to Lufeng's reported consumption of labor, electricity, and mesh bags. See *Malleable Iron Pipe Fittings From the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 71 FR 37051 (June 29, 2006) (where the Department assigned partial AFA to a respondent's FOP data due to its failure to cooperate to the best of its ability in reporting accurate FOP consumption data).

With respect to Lufeng's suppliers distance, we are applying Lufeng's reported sigma distance (distance from plant to port) for all of Lufeng's applicable factors. See *Certain Preserved Mushrooms from the People's Republic of China: Final Results and Final Rescission, in Part, of Antidumping Duty Administrative Review*, 70 FR 54361 (September 14, 2005). See also *Qingdao Camel Analysis Memo* at 6.

Notably, all of the information used as partial AFA with respect to Lufeng's calculations are derived from other reviewed respondents' information on the record and, therefore, the requirements involving secondary information of section 776(c) of the Act do not apply in this case.

QXF

For these preliminary results, in accordance with sections 776(a)(2)(A),(B),(C)&(D) of the Act, we have determined that the use of facts available is appropriate for QXF.²³ Specifically, we find that facts available is warranted under section 776(a)(2)(A) of the Act because QXF withheld information pertaining to affiliations, its relationship with its United States customer, and its reported usage rate of certain factors of production, including

the garlic bulb. Second, we find that facts available is warranted under section 776(a)(2)(B) of the Act because QXF did not provide the above information in a timely manner. Additionally, facts available is warranted under section 776(a)(2)(C) of the Act because QXF impeded the instant proceeding regarding the overpayment it received for its POR sale, its unreported affiliations, its relationship with its U.S. customer, and its reporting of certain factors of production. Finally, we find that facts available is warranted under section 776(a)(2)(D) of the Act because we were unable to verify the overpayment QXF received during the POR and its affiliations. See *Memorandum to James Doyle, Director, Office 9 through Alex Villanueva, Program Manager, Office 9, from Nicole Bankhead, Senior Case Analyst, Office 9; New Shipper Review of Fresh Garlic from People's Republic of China: Application of Adverse Facts Available to Qingdao Xintianfeng Foods Co., Ltd.*, dated November 30, 2006 ("QXF AFA Memo").

AFA

In selecting from among facts available, pursuant to section 776(b) of the Act, an adverse inference is warranted when the Department has determined that a respondent has "failed to cooperate by not acting to the best of its ability to comply with a request for information." Section 776(b) of the Act goes on to note that an adverse inference may include reliance on information derived from (1) the petition; (2) a final determination in the investigation under this title; (3) any previous review under section 751 or determination under section 753, or (4) any other information on the record.

Adverse inferences are appropriate "to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully." See SAA accompanying the URAA, H.R. Doc. No. 103-316, Vol. 1 at 870 (1994); *Mannesmannrohren-Werke AG v. United States*, 77 F. Supp. 2d 1302 (CIT 1999). The Court of Appeals for the Federal Circuit (CAFC), in *Nippon Steel Corporation v. United States*, 337 F. 3d 1373, 1382 (Fed. Cir. 2003), provided an explanation of the "failure to act to the best of its ability" standard, stating that the ordinary meaning of "best" means "one's maximum effort," and that the statutory mandate that a respondent act to the "best of its ability" requires the respondent to do the maximum it is able to do. *Id.* The CAFC acknowledged, however, that "deliberate concealment or inaccurate reporting" would certainly

be sufficient to find that a respondent did not act to the best of its ability, although it indicated that inadequate responses to agency inquiries "would suffice" as well. *Id.* Compliance with the "best of the ability" standard is determined by assessing whether a respondent has put forth its maximum effort to provide the Department with full and complete answers to all inquiries in an investigation. *Id.* The CAFC further noted that while the standard does not require perfection and recognizes that mistakes sometimes occur, it does not condone inattentiveness, carelessness, or inadequate record keeping. *Id.*

As discussed below, we determine that, within the meaning of section 776(b) of the Act, QXF failed to cooperate by not acting to the best of its ability to comply with the Department's requests for information, and that the application of adverse facts available ("AFA") is warranted. The Department finds that QXF failed to cooperate to the best of its ability because it did not respond accurately to the Department's questions on such basic information as payment received for its POR sale, affiliations, and production data. QXF could have complied with the Department's request to respond accurately to the Department's initial questionnaire, requests for supplemental information, and questions asked at verification. In numerous cases, it did not. Instead it provided conflicting answers, inaccurate responses, or simply withheld information altogether.

For example, the Department's original questionnaire on page D1 requested that QXF contact the official in charge should it have questions concerning the reporting of factors of production. See the Department's original questionnaire dated February 13, 2006. We note that at no time in the course of this proceeding did QXF contact the Department with respect to reporting requirements for factors of production. However, at verification the Department discovered that QXF withheld information from the Department pertaining to purchases of garlic (other than that from its own farms) because it did not think it was "relevant." See QXF Verification Report at 11.

Similarly, QXF withheld information concerning its affiliations. During verification, QXF stated that it had no affiliations other than the ones reported in its questionnaire responses. However, during the course of verification the Department discovered a business license for another company. When the team questioned QXF about this other

²³ As stated above, QXF is receiving a separate rate.

company, QXF provided information regarding this affiliate to the Department. Thus, QXF withheld information concerning its affiliate until the Department discovered information to the contrary at verification.

In light of the sheer volume of missing, contradictory, or withheld information from the record by QXF, the Department has determined that there is a “pattern of behavior” by QXF that warrants an application of adverse inferences in this case. *See Borden, Inc. v. United States*, 22 C.I.T. 1153, 1154 (1998) (affirming the Department’s application of adverse facts available based on the respondent’s “pattern of behavior”). QXF did not act to the best of its ability in responding to numerous, important questionnaires during the administrative review and as a result, the Department has little confidence in the record before it. Furthermore, the extent of the discrepancies and questionable data is so great, that the Department has determined that it must apply total AFA to the record for QXF, pursuant to section 776(b) of the Act. *See Steel Authority of India, Ltd. v. United States*, 25 C.I.T. 482, 149 F.Supp. 2d 921, 928 (CIT 2001) (“Moreover, if the Department were forced to use the partial information submitted by respondents, interested parties would be able to manipulate the process by submitting only beneficial information. Respondents, not the Department, would have the ultimate control to determine what information would be used for the margin calculation. This is in direct contradiction to the policy behind the use of facts available. *See Rhone Poulenc, Inc. v. United States*, 13 CIT 218, 225, 710 F.Supp. 341, 347 (1989), aff’d, *Rhone Poulenc*, 899 F.2d 1185 (holding that the BIA rule, the forerunner to facts available, is designed to “prevent a respondent from controlling the results of an administrative review by providing partial information”). As a result, the Department’s interpretation of the statute is consistent with the purpose of the anti-dumping provisions, demonstrating the reasonableness of its interpretation.”); *see also Steel Authority of India, Ltd. v. U.S.*, 25 C.I.T. 1390 (2001) (affirming the Department’s remand).

QXF consistently failed to provide the Department with truthful and/or complete responses during the new shipper review and the application of total AFA in this case is therefore appropriate because it should not be rewarded by “obtaining a more favorable result by failing to cooperate

than had it cooperated fully.” *SAA* at 870.

Section 776(c) of the Act requires that the Department corroborate, to the extent practicable, secondary information used as facts available. Secondary information is defined as “information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.” *See SAA* at 870 and 19 CFR 351.308(d).

The information used in calculating this margin was based on “best information available” from the LTFV investigation. This rate is the current PRC-wide rate. Moreover, as there is no information on the record of this review that demonstrates that this rate is not appropriate to use as AFA in the current review. Accordingly, we determine that this rate has relevance. As this rate is both reliable and relevant, we determine that it has probative value. Accordingly, we have determined that the selected rate of 376.67 percent, the highest rates from any segment of this proceeding (*i.e.*, the calculated and current PRC-wide rate), is in accordance with section 776(c)’s requirement that secondary information be corroborated (*i.e.*, that it have probative value). For more information, *see QXF AFA Memo*.

PRC-Wide Entity/Qingyuan

As mentioned in the “Summary” section above, the Department initiated an administrative review with respect to Qingyuan. Subsequently, on January 6, 2006, and January 13, 2006, respectively, the Department made two requests for Qingyuan’s quantity and value information, which the Department never received. Qingyuan did not submit comments during the course of the review regarding its status in this proceeding. As such, we find it appropriate to apply facts available to Qingyuan in accordance with sections 776(a)(2)(A) and (B) of the Act. Moreover, we find that Qingyuan did not cooperate to the best of its ability and therefore, adverse facts available is appropriate. As Qingyuan did not provide the information necessary to conduct a separate rates analysis, we also consider Qingyuan as part of the PRC-wide entity. Therefore, an adverse inference is appropriate to the PRC-wide entity (including Qingyuan) in accordance with section 776(b) of the Act.

Under section 782(c) of the Act, a respondent has a responsibility not only to notify the Department if it is unable to provide the requested information but also to provide a full explanation as to

why it cannot provide the information and suggest alternative forms in which it is able to submit the information. Because Qingyuan did not establish its entitlement to a separate rate and failed to provide requested information, we find that, in accordance with sections 776(a)(2)(A) and (B) of the Act, it is appropriate to base the PRC-wide margin in these reviews on facts available.²⁴

Section 776(b) of the Act permits the Department to use as AFA information derived in the LTFV investigation or any prior review. In selecting an AFA rate, where warranted, the Department’s practice has been to assign respondents who fail to cooperate with the Department’s requests for information the highest margin determined for any party in the LTFV investigation or in any administrative review.²⁵ As AFA, we are assigning to the PRC-wide entity’s sales of fresh garlic 376.67 percent. As stated above, the Department notes that, pursuant to section 776(c) of the Act, the PRC-wide rate of 376.67 percent has been corroborated. As there is no information on the record of this review that demonstrates that this rates is not appropriate to use as AFA, we determine that this rate has relevance. As this rate is both reliable and relevant, we determine that it has probative value and has been corroborated, to the extent practicable and as necessary, in accordance with section 776(c) of the Act.

U.S. Price

In accordance with section 772(a) of the Act, we calculated the export price (“EP”) for sales to the United States for Longtai, Qingdao Camel, Qingdao Saturn, XuZhou Simple, Trans-High, Sunny, Shanyang Freezing, and Dongyun because the first sale to an unaffiliated party was made before the date of importation and the use of

²⁴ *See, e.g., Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, From the People’s Republic of China: Final Results of Antidumping Duty Administrative Reviews and Final Rescission and Partial Rescission of Antidumping Duty Administrative Reviews*, 71 FR 54269 (September 14, 2006) and *Final Results of Antidumping Duty Administrative Review for Two Manufacturers/ Exporters: Certain Preserved Mushrooms from the People’s Republic of China*, 65 FR 50183, 50184 (August 17, 2000).

²⁵ *See, e.g., Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, From the People’s Republic of China: Final Results of Antidumping Duty Administrative Reviews and Final Rescission and Partial Rescission of Antidumping Duty Administrative Reviews*, 71 FR 54269 (September 14, 2006) and *Stainless Steel Plate in Coils from Taiwan: Preliminary Results and Rescission in Part of Antidumping Duty Administrative Review*, 67 FR 5789 (February 7, 2002).

constructed EP (“CEP”) was not otherwise warranted. We calculated EP based on the price to unaffiliated purchasers in the United States. In accordance with section 772(c) of the Act, as appropriate, we deducted from the starting price to unaffiliated purchasers foreign inland freight and brokerage and handling. For Qingdao Saturn, Qingdao Camel, XuZhou Simple, Sunny, Trans-High, Dongyun, and Shanyang Freezing, each of these services was either provided by an NME vendor or paid for using an NME currency. Thus, we based the deduction of these movement charges on surrogate values. See *Factors Valuation Memo* for details regarding the surrogate values for movement expenses. Additionally, Longtai reported expenses beyond foreign inland freight and brokerage and handling that must be deducted from the starting price to unaffiliated purchasers. Accordingly, we will deduct the U.S. brokerage and handling expense and the U.S. customs duty expense from the starting price to unaffiliated purchasers, as reported by Longtai. See *Memorandum to the File, through Alex Villanueva, Program Manager, Office 9, from Nicole Bankhead, Senior Analyst, Office 9; Company Analysis Memorandum in the Antidumping Duty New Shipper Review of Fresh Garlic from the People’s Republic of China (“PRC”): Shandong Longtai Fruits & Vegetables Co., Ltd. (“Longtai”)*, dated November 30, 2006.

Normal Value

1. Methodology

The Department’s general policy, consistent with section 773(c)(1)(B) of the Act, is to calculate NV using each of the FOPs that a respondent consumes in the production of a unit of the subject merchandise. There are circumstances, however, in which the Department will modify its standard FOP methodology, choosing to apply a surrogate value to an intermediate input instead of the individual FOPs used to produce that intermediate input. In some cases, a respondent may report factors used to produce an intermediate input that accounts for an insignificant share of total output. When the potential increase in accuracy to the overall calculation that results from valuing each of the FOPs is outweighed by the resources, time, and burden such an analysis would place on all parties to the proceeding, the Department has valued the intermediate input directly using a surrogate value. See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Polyvinyl Alcohol from the People’s Republic of China*, 68

FR 4753 (August 11, 2003), and accompanying Issues and Decision Memorandum at Comment 1 (“PVA”) (which cites to *Certain Preserved Mushrooms from the People’s Republic of China: Final Results of First New Shipper Review and First Antidumping Duty Administrative Review*, 66 FR 31204 (June 11, 2001), and accompanying Issues and Decision Memorandum at Comment 2 (“Mushrooms”).

In the 9th Review *Final Results*, the Department recognized that there were serious discrepancies between the reported FOPs of the different respondents and that the standard FOP methodology might not be adequate to apply in future reviews.²⁶ For the final results of the tenth administrative review, the Department determined that, to capture the complete costs of producing fresh garlic, the methodology of valuing the intermediate product, fresh garlic bulb, would more accurately capture the complete costs of producing subject merchandise.²⁷ In the 10th administrative review, we also stated that “should a respondent be able provide sufficient factual evidence that it maintains the necessary information in its internal books and records that would allow us to establish the completeness and accuracy of the reported FOPs, we will revisit this issue and consider whether to use its reported FOPs in the calculation of NV.” See 10th Review *Final Results* at 26331.

In the course of this review, the Department has requested and obtained a vast amount of detailed information from the respondents with respect to each company’s garlic production practices. Based on our analysis of the information on the record and for the reasons outlined in the *Memorandum to the File through James C. Doyle, Director, Office 9 and Alex Villanueva, Program Manager, Office 9 from Paul Walker, Senior Analyst, Office 9: 11th Administrative Review and New Shipper Review of the Antidumping Duty Order on Fresh Garlic From the People’s Republic of China: Intermediate Input Methodology*, November 30, 2006 (“*Intermediate Product Memo*”), we continue to believe that the respondents were unable to accurately record and substantiate the complete costs of growing garlic during the POR.

²⁶ See *Fresh Garlic from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review*, 70 FR 34082 (June 13, 2005) (“9th Review *Final Results*”).

²⁷ See 10th Review *Final Results* and accompanying Issues and Decision Memorandum at Comment 1.

Thus, in the preliminary results of review, in order to eliminate the distortions in our calculation of NV for all of the reasons identified above and described in the *Intermediate Product Memo*, we applied an “intermediate-product valuation methodology” to all companies. Using this methodology, we calculated NV by starting with a surrogate value for the garlic bulb (*i.e.*, the “intermediate product”), adjusted for yield losses during the processing stages, and adding the respondents’ processing costs, which were calculated using their reported usage rates for processing fresh garlic. For a complete explanation of the Department’s analysis, and for a more detailed analysis of these issues with respect to each respondent, see *Intermediate Product Memo*.

2. Factor Valuations

In accordance with section 773(c) of the Act, we calculated NV based on the intermediate product value and processing FOPs reported by the respondents for the POR. To calculate NV, we multiplied the reported per-unit factor quantities by publicly available surrogate values in India with the exception of the surrogate value for ocean freight, which we obtained from an international freight company. In selecting the surrogate values, we considered the quality, specificity, and contemporaneity of the data. As appropriate, we adjusted input prices by including freight costs to make them delivered prices. We calculated these freight costs based on the shorter of the reported distance from the domestic supplier to the factory or the distance from the port in accordance with the decision in *Sigma Corporation v. United States*, 117 F.3d 1401 (Fed. Cir. 1997) (“*Sigma*”). We made currency conversions into U.S. dollars, in accordance with section 773A(a) of the Act, based on the exchange rates in effect on the dates of the U.S. sale(s) as certified by the U.S. Federal Reserve Bank.

Garlic Bulb Value

In applying the intermediate input methodology, the Department sought foremost to identify the best available SV for the fresh garlic bulb input to production, as opposed to identifying a surrogate value for garlic seed. Therefore, we have valued the fresh garlic bulb using prices for the “super-A” grade garlic bulb in India, as published by Azadpur Agriculture Produce Marketing Committee (“APMC”) in its “Market Information

Bulletin” (the “Bulletin”).²⁸ Azadpur APMC is the largest fruit and vegetable market in Asia and has become a “National Distribution Centre” for important Indian agricultural products such as garlic. We note that the “super-A” grade denotes a garlic bulb which is over 40 millimeters (“mm”) in diameter and that the Respondents’ subject merchandise is, on average, greater than 40 mm in diameter, as identified within the Respondents’ questionnaire responses. As the Department determined in past reviews, the price at which garlic is sold is heavily dependent upon physical characteristics, such as bulb size and number of cloves. See *9th Review Final Results* at Comment 2; see also *10th Review Final Results* at Comment 2. For these preliminary results, we find that the “super-A” data from Azadpur APMC is the best available and most appropriate information on the record to value the garlic bulb input, pursuant to section 773(c) of the Act.

To value fresh garlic bulb in the last administrative review, the Department used information from the Agricultural Marketing Information Network (“Agmarknet”) database. The database on the Agmarknet website contains daily prices from APMCs throughout India and has information on prices and varieties of garlic sold in India, but does not contain information on the grade/size of the bulb. In the last administrative review, the Department concluded that the “China” variety bulb, found in the Agmarknet database, is reflective of the larger bulb used by the Respondents in the production of subject merchandise. See *10th Review Final Results* at Comment 2. The Department believes the Azadpur APMC data to be a superior source of information for purposes of this review for the reasons stated below.

The Department’s practice when selecting the “best available information” for valuing FOPs, in accordance with section 773(c)(1) of the Act, is to select, to the extent practicable, surrogate values which are publicly available, product-specific,

representative of a broad market average, tax-exclusive and contemporaneous with the POR. See *Final Determination of Sales at Less Than Fair Value: Certain Artist Canvases from the People’s Republic of China*, 71 FR 16116 (March 30, 2006) and accompanying Issues and Decision Memorandum at Comment 2.

(1) Publicly Available

We note that the Bulletin is published for public distribution on each trading day (six days per week) and contains daily information on agricultural products sold at the APMC. In addition, the Bulletin is available electronically upon request from Azadpur APMC. Thus, we find that the Bulletin is publicly available information.

(2) Quality and Specificity

With respect to garlic prices, the Bulletin contains count size-specific data such as the grade of the bulb and prices (minimum, maximum and modal) in rupees of the various grades of garlic. As we have explained in past cases, this is extremely important data for purposes of our analysis, as Respondents’ garlic bulb products/inputs are, on average, over 40mm in diameter, and most Indian garlic is not that large. “Super-A” garlic, however, is defined to be that size. Thus, the Department finds that the “super-A” garlic pricing information in the Bulletin to be more specific to the input in question than the Agmarknet data because it provides a surrogate value based on a quantifiable bulb size (grade) with which to value the intermediate product.

(3) Broad Market Average

As noted above, Azadpur APMC is a “National Distribution Centre” for agricultural products. A careful examination of the Bulletin shows that agricultural products from all over India are sold at Azadpur APMC, which claims to be the largest fruit and vegetable market (by quantity) in the world. See Azadpur APMC’s website www.apmcazadpurdelhi.com. Thus, we find the Bulletin’s “super-A” garlic prices to be representative of a broad market average. Furthermore, there is no record evidence which suggests that the

prices included in the Bulletin are inclusive of taxes or duties.

Adjustments

In selecting the best available and most appropriate surrogate value for the fresh garlic bulb, the Department considered all surrogate value comments submitted by Petitioners, LSST and Dongyun and have determined that certain adjustments are necessary.

With respect to contemporaneity, we note that the Azadpur APMC data is not contemporaneous with the POR. We note that the data points for “super-A” garlic in the Azadpur Bulletin started being recorded in May 2006. However, we are able to adjust the post-POR surrogate value of “super-A” garlic by deflating the data points. The Department’s methodology for deflation is described in detail in the *Factor Valuation Memo*. Thus, we believe such deflation addresses our concerns about the contemporaneity of the data.

With respect to the markets within India used by the Department, it is the Department’s practice to use country-wide data instead of regional data when the former is available. See *Wuhan Bee Healthy Co., Ltd. v. United States*, Slip Op. 05-142 (CIT 2005) at 5. Thus, we have included all data points for “super-A” garlic in calculating a surrogate value for fresh garlic bulbs.

In addition, the Department used a simple average, as suggested by the Respondents in their submissions, rather than a weighted average of all “super-A” garlic prices to calculate the fresh bulb surrogate value, because daily arrivals are not recorded on a size basis and we were unable to determine the weight of the “super-A” garlic versus the weight of the other grades of garlic.

Finally, the Department deducted a six percent market fee imposed by Azadpur APMC on sales made at the APMC, as indicated on the APMC website.

Preliminary Results of the Reviews

The Department has determined that the following preliminary dumping margins exist for the period November 1, 2004, through October 31, 2005:

²⁸ For information concerning this surrogate value, see Petitioners’ August 31 and September 12, 2006 submissions.

FRESH GARLIC FROM THE PRC

Manufacturer/Exporter	Weighted-Average Margin (Percent)
Produced by Jinxiang County Lufeng Agricultural Production Material Co., Ltd. and Exported by Qingdao Camel Trading Co., Ltd.	63.87
Produced and Exported by Shandong Longtai Fruits and Vegetables Co., Ltd.	37.32
Produced and Exported by Qingdao Xintianfeng Foods Co., Ltd.	376.67
Produced by Cangshan County Taifeng Agricultural By-Products Processing Co., Ltd. and Exported by Qingdao Saturn International Trade Co., Ltd.	2.87
Produced and Exported by XuZhou Simple Garlic Industry Co., Ltd.	62.74
Sunny Import & Export Limited	23.28
Jining Trans-High Trading Co., Ltd.	21.72
Jinxiang Dongyun Freezing Storage Co., Ltd.	85.04
Jinxiang Shanyang Freezing Storage Co., Ltd.	56.78
Fook Huat Tong Kee Foodstuffs Co., Ltd.	43.66
Heze Ever-Best International Trade Co., Ltd.	43.66
Huaiyang Hongda Dehydrated Vegetable Company	43.66
Linshu Dading Private Agricultural Products Co., Ltd.	43.66
Taiyan Ziyang Food Co., Ltd.	43.66
PRC-wide Rate ²⁹	376.67

²⁹ The PRC-Wide entity includes Qingyuan.

The Department will disclose calculations performed for these preliminary results to the parties within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication of these preliminary results of review. See 19 CFR 351.309(c)(ii). Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed no later than 37 days after the date of publication of these preliminary results of review. See 19 CFR 351.309(d).

Any interested party may request a hearing within 30 days of publication of these preliminary results. See 19 CFR 351.310(c). Requests should contain the following information: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If we receive a request for a hearing, we plan to hold the hearing seven days after the deadline for submission of the rebuttal briefs at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

The Department will issue the final results of this administrative review and new shipper reviews, which will include the results of its analysis of issues raised in any such comments, within 120 days of publication of these preliminary results, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon issuance of the final results, the Department will determine, and CBP

shall assess, antidumping duties on all appropriate entries. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of review. If these preliminary results are adopted in our final results of review, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. Pursuant to 19 CFR 351.212(b)(1), we will calculate importer-specific (or customer) ad valorem duty assessment rates based on the ratio of the total amount of the dumping margins calculated for the examined sales to the total entered value of those same sales. We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if any importer-specific assessment rate calculated in the final results of this review is above de minimis.

For Weifang Shennong and Jinan Yipin, companies for which this review is preliminarily rescinded, antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(2). As discussed above, we are also preliminarily rescinding the administrative review with respect to Ever-Rich because we found no evidence that it made shipments of the subject merchandise during the POR, despite the CBP entry data analyzed by the Department, which showed possible exports by Ever-Rich. Therefore, for entries of subject merchandise exported by Ever-Rich, antidumping duties shall be assessed at the PRC-Wide rate required at the time of entry, or withdrawal from warehouse, for

consumption, in accordance with Department practice and 19 CFR 351.212(c)(2). See *Notice of Final Results and Final Rescission, In Part of Antidumping Administrative Review: Honey from the People's Republic of China ("Honey from the PRC")*, 70 FR 38873, 38881 (July 6, 2005). Lastly, for all shipments of subject merchandise exported by Trans-High and imported by companies other than those identified by Trans-High as its customers/importers in this administrative review, antidumping duties shall be assessed at the PRC-Wide rate required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with Department practice and 19 CFR 351.212(c)(2). See *Id.*

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of these new shipper reviews for all shipments of subject merchandise from Qingdao Camel, Qingdao Saturn, Longtai, and XuZhou Simple entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) for subject merchandise produced and exported by XuZhou Simple, produced and exported by Longtai, produced and exported by QXF, produced by Lufeng and exported by Qingdao Camel, or produced by Taifeng and exported by Qingdao Saturn, the cash-deposit rate will be that established in these final results of reviews; (2) for subject merchandise exported by Qingdao Camel but not manufactured by Lufeng and for subject merchandise exported by Qingdao Saturn but not manufactured

by Taifeng, the cash deposit rate will continue to be the PRC-wide rate (*i.e.*, 376.67 percent); and (3) for subject merchandise exported by Qingdao Camel, Qingdao Saturn, QXF, Longtai, and XuZhou Simple, but manufactured by any other party, the cash deposit rate will be the PRC-wide rate (*i.e.*, 376.67 percent).

Further, the following cash deposit requirements will be effective upon publication of the final results of the administrative review for shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results, as provided by section 751(a)(2)(C) of the Act: (1) For subject merchandise exported by Dongyun, Sunny, Trans-High, and Shanyang Freezing, the cash-deposit rate will be that established in these final results of review; (2) for previously reviewed or investigated companies not listed above that have separate rates, FHTK, Ever-Best, Hongda, Linshu Dading Ziyang and Ever-Rich, the cash-deposit rate will continue to be the company-specific rate published for the most recent period; (3) for all other PRC exporters of subject merchandise, including Qingyuan, which have not been found to be entitled to a separate rate, the cash-deposit rate will be the PRC-wide rate of 376.67 percent; (4) for all non-PRC exporters of subject merchandise, the cash-deposit rate will be the rate applicable to the PRC exporter that supplied that exporter. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review, the new shipper reviews and this notice are in accordance with sections 751(a)(1), 751(a)(2)(B), and 777(i) of the Act, and 19 CFR 351.213(g), 351.214(h) and 352.221(b)(4) of the Department's regulations.

Dated: November 30, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E6-21011 Filed 12-8-06; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

International Trade Administration

A-421-807

Certain Hot-Rolled Carbon Steel Flat Products from the Netherlands; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: In response to requests from Nucor Corporation, Mittal Steel USA ISG Inc. (Mittal) and United States Steel Corporation (USS) (collectively, petitioners), the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain hot-rolled carbon steel flat products (hot-rolled steel) from the Netherlands. This administrative review covers imports of subject merchandise from Corus Staal BV (Corus Staal). The period of review (POR) is November 1, 2004, through October 31, 2005.

We preliminarily determine that sales of hot-rolled steel from the Netherlands in the United States have been made below normal value (NV). If these preliminary results are adopted in our final results of administrative review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties based on the difference between the export price (EP) or constructed export price (CEP) and NV. Interested parties are invited to comment on these preliminary results. Parties who submit argument in this proceeding are requested to submit with the argument: 1) a statement of the issues, 2) a brief summary of the argument, and 3) a table of authorities.

EFFECTIVE DATE: December 11, 2006.

FOR FURTHER INFORMATION CONTACT:

David Cordell or Robert James, Antidumping and Countervailing Duty Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, telephone: (202) 482-0408 or (202) 482-0649, respectively.

SUPPLEMENTARY INFORMATION:

Background

On November 29, 2001, the Department published the antidumping duty order on hot-rolled steel from the Netherlands. See *Antidumping Duty Order: Certain Hot-Rolled Carbon Steel Flat Products from the Netherlands*, 66 FR 59565 (November 29, 2001). Subsequently, on December 23, 2003, the order was amended. See *Notice of Amended Antidumping Duty Order; Certain Hot-Rolled Carbon Steel Flat Products From The Netherlands*, 68 FR 74214 (December 23, 2003).

On November 1, 2005, the Department published the opportunity to request administrative review of, *inter alia*, hot-rolled steel from the Netherlands for the period November 1, 2004 through October 31, 2005. See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 70 FR 65883 (November 1, 2005).

In accordance with 19 CFR 351.213(b)(1), on November 30, 2005, petitioners requested that we conduct an administrative review of sales of the subject merchandise made by Corus Staal, a producer and exporter of the subject merchandise.¹ On December 22, 2005, the Department published in the **Federal Register** a notice of initiation of this antidumping duty administrative review covering the period November 1, 2004, through October 31, 2005. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 70 FR 76024 (December 22, 2005).

On January 3, 2006, the Department issued its antidumping duty questionnaire to Corus Staal. Corus Staal submitted its response to sections A, B, C, D, and E of the questionnaire on February 9, 2006.

On January 23, 2006, USS requested that the Department determine whether antidumping duties have been absorbed during the period of review by the respondent Corus Staal. On January 24, 2006, the Department issued a letter inviting Corus Staal to submit on the record evidence that unaffiliated purchasers will pay the antidumping duties that may be assessed on entries during the period of review. On February 9, 2006, Corus Staal submitted its response to the Department's letter.

On January 31, 2006, Corus Staal requested the Department to excuse certain affiliates, Corus Vlietjonge BV, Ijzerleeuw BV and Multisteel, from reporting home market sales. On August 1, 2006, the Department granted Corus's

¹ Nucor, Mittal Steel USA, and United States Steel Corporation each submitted a separate request for review.

request not to report downstream home market sales by these three companies.

On April 7, 2006, the Department issued a supplemental section A, B and C questionnaire, to which Corus Staal responded on April 28, 2006. On May 4, 2006, the Department issued a section D supplemental questionnaire. Corus Staal responded on May 25, 2006. On June 16, USS submitted comments on Corus Staal's April 7, 2006, response. On June 27, 2006, the Department issued a second section A, B and C supplemental questionnaire and on June 28, 2006 the Department issued a section D supplemental. Corus Staal filed a response to these supplementals on July 14, 2006. On June 30, 2006, Corus Staal filed quantity and value reconciliations as requested in section A of the questionnaire and on July 25, 2006, Corus Staal filed its 2005 annual report. On September 8, 2006 and September 27, 2006, Corus filed its responses to the Department's third and fourth section D supplemental questionnaires, which the Department had issued on August 14, 2006, and September 6, 2006. Mittal provided comments on the section D supplemental questionnaires on June 29, August 11, August 18, September 27 and October 20, 2006.

On March 6, 2006, Mittal filed comments concerning Corus's utilization of simplified reporting for the merchandise further manufactured by its U.S. affiliates, Thomas Steel Strip (Thomas Steel) and Hille & Mueller USA, Inc. (HMU). On March 13, 2006, Corus responded to Mittal's request that the Department require Corus to supply a section E response for these sales. On March 22, March 27, April 7, April 28, May 12, May 16, May 17, May 22 and May 24, 2006, both Mittal and Corus made numerous submissions on this topic, each of which is reviewed in the Department's June 15, 2006, memorandum to preliminarily accept Corus's simplified reporting for Thomas Steel and HMU in this segment of the proceeding. See Memorandum to Richard Weible, Office Director 7 from David Cordell, Case Analyst, and Robert James, Program Manager, regarding Certain Hot-Rolled Carbon Steel Flat Products from the Netherlands: "Simplified Reporting" and Value Added in the United States by Thomas Steel, dated June 15, 2006. On June 23, 2006, Mittal responded to the Department's preliminary decision to accept Corus's "simplified reporting," arguing that the law precludes the Department from relying on the dumping margin to be determined for imports of Corus's non-further-manufactured imports as a reasonable

surrogate for the dumping margin for its further-manufactured imports. On August 14, 2006, Mittal submitted further comments on this issue. Mittal reiterated its contentions concerning Corus Staal's simplified reporting and went on to argue that there is not substantial evidence on the record to show the value added in the United States by Thomas Steel and HMU exceeds substantially the value of the imported subject merchandise. On August 23, 2006, Corus responded to Mittal's comments, rebutting Mittal's arguments about the value added in the United States. According to Corus, Mittal has raised no new issues, Corus has reported its value added data in a manner consistent with the Department's reporting methodologies, and the value added on Corus's sales of steel that is further manufactured in the United States exceeds the statutory and regulatory standards for relying on simplified reporting.

On October 20, 2006, Mittal submitted comments in response to Corus's fourth supplemental section D questionnaire. Mittal asked the Department to obtain additional information from Corus on the steel produced by the conventional hot-rolling plant (HRM) and steel produced in a Direct Sheet Plant (DSP). The Department addresses this issue in section E of the NV section of this Notice: Price-to-Price Comparisons, below. On November 13, 2006, Mittal submitted pre-preliminary determination comments to which Corus Staal responded on November 21, 2006.

Because it was not practicable to complete this review within the normal time frame, on July 12, 2006, we published in the **Federal Register** our notice of extension of time limit for this review. See *Certain Hot-Rolled Carbon Steel Flat Products from the Netherlands; Antidumping Duty Administrative Review; Extension of Time Limit*, 71 FR 39304 (July 12, 2006). This extension established the deadline for these preliminary results as November 30, 2006.

Period of Review

The POR is November 1, 2004, through October 31, 2005.

Scope of the Review

For purposes of this order, the products covered are certain hot-rolled carbon steel flat products of a rectangular shape, of a width of 0.5 inch or greater, neither clad, plated, nor coated with metal and whether or not painted, varnished, or coated with plastics or other non-metallic substances, in coils (whether or not in

successively superimposed layers), regardless of thickness, and in straight lengths, of a thickness of less than 4.75 millimeters (mm) and of a width measuring at least 10 times the thickness. Universal mill plate (*i.e.*, flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm, but not exceeding 1250 mm, and of a thickness of not less than 4.0 mm, not in coils and without patterns in relief) of a thickness not less than 4.0 mm is not included within the scope of this review. Specifically included within the scope of this order are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels, high strength low alloy (HSLA) steels, and the substrate for motor lamination steels. IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium or niobium (also commonly referred to as columbium), or both, added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, vanadium, and molybdenum. The substrate for motor lamination steels contains micro-alloying levels of elements such as silicon and aluminum.

Steel products to be included in the scope of this order, regardless of definitions in the Harmonized Tariff Schedule of the United States (HTS), are products in which: i) iron predominates, by weight, over each of the other contained elements; ii) the carbon content is 2 percent or less, by weight; and iii) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

- 1.80 percent of manganese, or
- 2.25 percent of silicon, or
- 1.00 percent of copper, or
- 0.50 percent of aluminum, or
- 1.25 percent of chromium, or
- 0.30 percent of cobalt, or
- 0.40 percent of lead, or
- 1.25 percent of nickel, or
- 0.30 percent of tungsten, or
- 0.10 percent of molybdenum, or
- 0.10 percent of niobium, or
- 0.15 percent of vanadium, or
- 0.15 percent of zirconium.

All products that meet the physical and chemical description provided above are within the scope of this order unless otherwise excluded. The following products, by way of example, are outside or specifically excluded from the scope of this order:

- Alloy hot-rolled steel products in which at least one of the chemical elements exceeds those listed above (including, *e.g.*, ASTM specifications A543, A387, A514, A517, A506).

- Society of Automotive Engineers (SAE)/American Iron and Steel Institute (AISI) grades of series 2300 and higher.
- Ball bearings steels, as defined in the HTS.
- Tool steels, as defined in the HTS.
- Silico-manganese (as defined in the HTS) or silicon electrical steel with a silicon level exceeding 2.25 percent.
- ASTM specifications A710 and A736.
- USS Abrasion-resistant steels (USS AR 400, USS AR 500).
- All products (proprietary or otherwise) based on an alloy ASTM specification (sample specifications: ASTM A506, A507).
- Non-rectangular shapes, not in coils, which are the result of having been processed by cutting or stamping and which have assumed the character of articles or products classified outside chapter 72 of the HTS.

The merchandise subject to this order is classified in the HTS at subheadings: 7208.10.15.00, 7208.10.30.00, 7208.10.60.00, 7208.25.30.00, 7208.25.60.00, 7208.26.00.30, 7208.26.00.60, 7208.27.00.30, 7208.27.00.60, 7208.36.00.30, 7208.36.00.60, 7208.37.00.30, 7208.37.00.60, 7208.38.00.15, 7208.38.00.30, 7208.38.00.90, 7208.39.00.15, 7208.39.00.30, 7208.39.00.90, 7208.40.60.30, 7208.40.60.60, 7208.53.00.00, 7208.54.00.00, 7208.90.00.00, 7211.14.00.90, 7211.19.15.00, 7211.19.20.00, 7211.19.30.00, 7211.19.45.00, 7211.19.60.00, 7211.19.75.30, 7211.19.75.60, and 7211.19.75.90. Certain hot-rolled flat-rolled carbon steel flat products covered by this order, including: vacuum degassed fully stabilized; high strength low alloy; and the substrate for motor lamination steel may also enter under the following tariff numbers: 7225.11.00.00, 7225.19.00.00, 7225.30.30.50, 7225.30.70.00, 7225.40.70.00, 7225.99.00.90, 7226.11.10.00, 7226.11.90.30, 7226.11.90.60, 7226.19.10.00, 7226.19.90.00, 7226.91.50.00, 7226.91.70.00, 7226.91.80.00, and 7226.99.00.00. Subject merchandise may also enter under 7210.70.30.00, 7210.90.90.00, 7211.14.00.30, 7212.40.10.00, 7212.40.50.00, and 7212.50.00.00. Although the HTS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

Affiliated-Party Sales

During the POR, Corus Staal sold the foreign like product to several affiliated resellers in the home market. These include Namascor BV (Namascor), a service center wholly owned by Corus Staal, and Laura Metaal Holding BV (Laura), a manufacturer and service center in which Corus Staal's parent company, Corus Nederland BV, has a shareholder interest. For purposes of our analysis, we utilized Namascor's and Laura's sales to unaffiliated customers and, where Laura consumed the subject merchandise purchased from Corus Staal in its manufacturing operations, we utilized Corus Staal's sales to Laura. In addition, Corus Staal sold the foreign like product to affiliated companies Corus Vlietjonge BV (Vlietjonge),² a service center, Ijzerleeuw BV (Ijzerleeuw) and Multisteel. Vlietjonge is affiliated with Corus Staal through the former British Steel companies, whose parent, British Steel PLC, merged with Koninklijke Hoogovens NV (now Corus Nederland BV) in October 1999 to form the Corus Group PLC. Vlietjonge has a financial interest in Ijzerleeuw, but has no reported management or operational control over Ijzerleeuw. Multisteel is a business unit of Corus Service Center Maastricht, which is a steel service center that Corus states almost exclusively sells cold-rolled steel products. In a letter dated January 31, 2006, Corus Staal requested an exemption from reporting downstream sales by Vlietjonge, Ijzerleeuw and Multisteel because of the nature and quantity of the products sold. On August 1, 2006, the Department excused Corus Staal from reporting downstream sales by Vlietjonge, Ijzerleeuw and Multisteel because of the reasons set out in the Department's letter to Corus Staal, dated August 1, 2006. See Letter from Robert James, Program Manager, to Corus Staal dated August 1, 2006. Therefore, we have used Corus Staal's home market sales to Vlietjonge, Ijzerleeuw and Multisteel and applied our arm's-length test to these sales.

In the U.S. market, Corus Staal sold subject merchandise to Thomas Steel, a further manufacturer of battery-quality hot band steel, who in turn also shipped a small portion of this material to HMU, after further processing the product. Thomas Steel is wholly owned by Corus USA Inc., which in turn is wholly owned by Corus Staal's parent company, Corus Nederland BV. Claiming the value-added in the United

States by Thomas Steel exceeded substantially the value of the subject merchandise as imported, Corus Staal utilized the "simplified reporting" option for the merchandise further processed by Thomas Steel.

Pursuant to section 772(e) of the Tariff Act of 1930, as amended (the Act), when the subject merchandise is imported by an affiliated person and the value added in the United States by the affiliated person is likely to exceed substantially the value of the subject merchandise, we will determine the CEP for such merchandise using the price of identical or other subject merchandise, if there is a sufficient quantity of sales to provide a reasonable basis for comparison and we determine that the use of such sales is appropriate. If there is not a sufficient quantity of such sales or if we determine that using the price of identical or other subject merchandise is not appropriate, we may use any other reasonable basis to determine the CEP. See, e.g., *Preliminary Results and Rescission in Part of Antidumping Duty Administrative Review: Gray Portland Cement and Clinker From Mexico*, 67 FR 57379, 57381 (September 10, 2002) (unchanged for final results, 68 FR 1816 (January 14, 2003)). Consistent with the Department's regulations, we have determined for these preliminary results that the estimated value added in the United States by Thomas Steel accounted for at least 65 percent of the price charged to the first unaffiliated customer for the merchandise as sold in the United States, and therefore, the value added is likely to exceed substantially the value of the subject merchandise. We have also preliminarily determined there is a sufficient quantity of sales remaining to provide a reasonable basis for comparison. See Memorandum to Richard Weible, Office Director 7 from David Cordell, Case Analyst, and Robert James, Program Manager, regarding "Simplified Reporting" and Value Added in the United States by Thomas Steel," dated June 15, 2006.

Duty Absorption

On January 23, 2006, USS requested that the Department determine whether antidumping duties had been absorbed during the POR by the respondent. Section 751(a)(4) of the Act provides for the Department, if requested, to determine, during an administrative review initiated two or four years after the publication of the order, whether antidumping duties have been absorbed by a foreign producer or exporter, if the subject merchandise is sold in the United States through an affiliated importer. Because Corus Staal BV sold

² Namascor also resold some of the foreign like product to Vlietjonge.

to unaffiliated customers in the United States through itself as the importer of record, and because this review was initiated four years after the publication of the order, we have made a duty absorption determination in this segment of the proceeding in accordance with section 751(a)(4) of the Act.

In determining whether the antidumping duties have been absorbed by the respondent during the POR, we presume the duties will be absorbed for those sales that have been made at less than NV. This presumption can be rebutted with evidence (e.g., an agreement between the affiliated importer and unaffiliated purchaser) that the unaffiliated purchaser will pay the full duty ultimately assessed on the subject merchandise. See, e.g., *Certain Stainless Steel Butt-Weld Pipe Fittings from Taiwan: Preliminary Results of Antidumping Duty Administrative Review and Notice of Intent to Rescind*, 70 FR 39735, 39737 (July 11, 2005). On January 24, 2006, the Department invited evidence from Corus Staal to demonstrate that its U.S. purchasers will pay any antidumping duties ultimately assessed on entries during the POR. In its response, submitted on February 9, 2006, Corus Staal argued that the Department's decision to initiate a duty absorption inquiry is contrary to law as Corus Staal is both the producer and exporter and cannot be affiliated with itself as the importer. Furthermore, Corus Staal argued that the evidence it has submitted shows Corus Staal "passes along, and its unaffiliated U.S. customers pay, the costs associated with antidumping duties on subject merchandise."

Corus Staal claims it has negotiated terms with its customers intending to pass dumping duties on to its customers. Corus, however, concedes that "these provisions do not allow for the retroactive collection of any additional antidumping duties ultimately assessed on the subject merchandise." See Corus Staal's response dated February 9, 2006 at page 9. Furthermore, Corus Staal failed to provide an agreement between Corus Staal and its unaffiliated purchaser stating the unaffiliated purchaser will pay the full duty ultimately assessed on the subject merchandise. With respect to Corus's claim that Corus Staal is both the producer and exporter and cannot be affiliated with itself as the importer, the Department notes that the Court of International Trade (CIT) addressed this issue when it decided "Commerce's interpretation of 'affiliated' to include exporters importing through themselves has been found to be a permissible

construction of the statute." See *Corus Staal BV v. United States*, Slip Op. 06-112 at note 10 (CIT July 25, 2006) citing *Agro Dutch Indus., Ltd. v. United States*, Slip. Op. 06-40, 2006 WL 785463 at 13 (CIT March 28, 2006) in which the CIT stated:

Commerce's interpretation of subsection 1675(a)(4) appears to be a reasonable, common-sense solution to what Congress attempted to accomplish with its enactment. This conclusion is inherent from the statute's focus—upon duty absorption in the foreign producer or exporter—and therefore even if the meaning of "affiliate" were clear, and resort to legislative history unnecessary, to find that the statute does not address the circumstance of the foreign producer or exporter itself acting as the importer of record would result in an apparent absurdity.

Therefore, because Corus Staal did not rebut the duty absorption presumption with evidence that the unaffiliated purchaser will pay the full duty ultimately assessed on the subject merchandise, we preliminarily find that antidumping duties have been absorbed by Corus Staal on all U.S. sales made through its importer of record, namely Corus Staal.

Fair Value Comparisons

To determine whether sales of hot-rolled steel from the Netherlands to the United States were made at less than fair value, we compared the EP or CEP to the NV, as described in the "Export Price and Constructed Export Price" and "Normal Value" sections of this notice, below. In accordance with section 777A(d)(2) of the Act, we compared the EPs and CEPs of individual U.S. transactions to monthly weighted-average NVs.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced by the respondent, covered by the descriptions in the "Scope of the Review" section of this notice, to be foreign like products for the purpose of determining appropriate product comparisons to U.S. sales of hot-rolled steel from the Netherlands.

We have relied on the following 11 criteria to match U.S. sales of subject merchandise to comparison market sales of the foreign like product: whether painted or not, quality, carbon content level, yield strength, thickness, width, whether coil or cut-to-length sheet, whether temper rolled or not, whether pickled or not, whether mill or trimmed

edge, and whether the steel is rolled with or without patterns in relief.

Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the characteristics and reporting instructions listed in the Department's, January 3, 2006, questionnaire.

Export Price and Constructed Export Price

Section 772(a) of the Act defines EP as "the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States, as adjusted under subsection (c)." Section 772(b) of the Act defines CEP as "the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted under sections 772(c) and (d)."

Corus Staal reported each of its U.S. sales of subject merchandise as EP transactions. However, after reviewing the evidence on the record of this review, we have preliminarily determined, as we did in the 2002-2003 review, that certain of Corus Staal's reported EP transactions are properly classified as CEP sales because these sales occurred after importation. This determination is consistent with section 772(c) and (d) of the Act.

During the POR, Corus Staal executed all agreements with U.S. customers, and amendments related to those agreements, in the Netherlands. See Corus Staal's February 9, 2006, questionnaire response (February 9, 2006 QR) at 23, note 18. In addition, Corus Staal also served as the importer of record for these sales of subject merchandise entered during the POR.

However, in the case of "just in time" (JIT) sales to one unaffiliated customer, the invoice was issued after the subject merchandise had entered the United States. In its response to the Department's section C questionnaire, dated February 9, 2006, Corus Staal stated that due to a cancellation by the JIT customer, Corus found it necessary to sell certain steel to another customer in the United States. In exhibit C-26 of its April 28, 2006, supplemental response, Corus provided both the

invoices and the frame agreements governing this transaction. Because Corus and its unaffiliated customer did not agree on the price and quantity terms until the invoice was issued, the JIT sales fail to meet the criteria for EP sales which arise where the “the first sale to an unaffiliated person occurs before the goods are imported into the United States.” See the Department’s January 4, 2006, Questionnaire at I–7.

Additionally, we do not agree with Corus Staal’s claim that the relevant frame agreement governs the sale between the JIT customer and Corus, because, as the aforementioned JIT sale demonstrates, an order was cancelled after importation and sold to another customer in the United States. Furthermore, in this review, Corus Staal has maintained it is upon invoicing “that the final quantity, price and product sold are ultimately determined.” See Corus Staal’s February 9, 2006, QR at C–19. Corus Staal further argues “until this point, both the customer and Corus can and do make changes that affect the price and quantity of the product shipped and/or the product supplied. Therefore, there is no date other than the invoice date that better reflects the time at which the material terms of a transaction are fixed.” *Id.* at C–20. Furthermore, Corus reiterated its position in its supplemental response when it stated “for the POR, use of invoice date most accurately reflects commercial reality as to the time that the sale took place and at which the material terms of sale become final and fixed. Use of any earlier date would ignore the many subsequent changes in terms prior to invoicing and shipping.” See Corus Staal’s April 28, 2006, SQR at 21.

Thus, Corus Staal’s responses indicate that the invoice date is the appropriate date to use in determining when a sale or agreement of sale first occurs, as changes often do occur between the frame agreement and the date of invoice. See Corus Staal’s April 28, 2006 SQR at 21. Therefore, the Department does not find that the frame agreement is the governing document in determining when a sale is agreed upon or when it is executed. The statute defines EP sales as those where the goods are “first sold (or agreed to be sold) before the date of importation” and because the material terms of sale are fixed in the invoice, which is issued by Corus after importation, it is clear that in the case of the JIT sales, the sales do not meet the criterion of having been made before importation.

Furthermore, the CIT recently decided this issue in the second administrative

review of this proceeding when it held that:

turning to the application of the law to the facts of this case, Commerce properly applied the definition of ‘sold (or agreed to be sold)’ to the case at hand. As the material terms of the sale or agreement to sell were not fixed until the final invoice, Commerce could properly conclude that the final invoices determined when a sale or agreement to sell first occurred. It follows that the sale or agreement to sell occurred after importation in the United States. Therefore, Commerce correctly classified the JIT transactions as CEP transactions pursuant to 19 U.S.C. § 1677a(a) and (b). See *Corus Staal BV v. United States*, Slip Op. 06–112 at 20 (*Corus Staal*) (CIT July 25, 2006).

In accordance with the CIT’s recent decision in *Corus Staal*, the Department has preliminarily determined the sales classified as JIT sales should continue to be reclassified as CEP sales for the purposes of this review. The price and quantity were not fixed until the invoice to the U.S. customer was issued as evidenced in the example of one order to the JIT customer, which was cancelled after importation and where such goods were then resold to another U.S. customer. Furthermore, the goods in JIT inventory are physically in the United States when the invoices containing the fixed price and quantity terms to the unaffiliated customers are issued. The Department determines such sales are CEP sales because section 772(b) of the Act defines CEP as “the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter.” EP sales are clearly defined as taking place “before the date of importation” whereas CEP sales are defined as taking place “before or after the date of importation”.

With respect to the remainder of Corus Staal’s reported EP sales (*i.e.*, those sales to unaffiliated U.S. customers made between November 1, 2004 and October 31, 2005), we have continued to classify these as EP transactions because the contracts governing these sales were signed by Corus Staal in the Netherlands, and because such sales were invoiced before importation.

For those sales which we are classifying as EP transactions, we calculated EP in accordance with

section 772(a) of the Act. We based EP on the packed, delivered, duty paid prices for export to end users and service centers in the U.S. market. We adjusted gross unit price for billing errors, freight revenue, and early payment discounts, where applicable. We also made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act; these included, where appropriate, foreign inland freight, foreign brokerage and handling, international freight, marine insurance, U.S. customs duties, U.S. inland freight, U.S. brokerage expenses, and U.S. warehousing expenses.

For CEP sales, we calculated price in conformity with section 772(b) of the Act. We based CEP on the packed, delivered, duty paid prices to unaffiliated purchasers in the United States. Where applicable, we made adjustments to gross unit price for billing errors, freight revenue, and early payment discounts. We also made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act; these included, where appropriate, foreign inland freight, foreign brokerage and handling, international freight, marine insurance, U.S. customs duties, U.S. inland freight, U.S. brokerage expenses, and U.S. warehousing expenses. In accordance with section 772(d)(1) of the Act, we deducted those selling expenses associated with economic activities occurring in the United States, including direct selling expenses (imputed credit, warranty, *etc.*), inventory carrying costs, and indirect selling expenses. For CEP sales, we also made an adjustment for profit in accordance with section 772(d)(3) of the Act.

Level of Trade

In accordance with section 773(a)(1)(B)(i) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade (LOT) as the EP/CEP transaction. The NV LOT is that of the starting price of the comparison sales in the home market or, when NV is based on constructed value (CV), that of the sales from which we derive selling, general, and administrative (SG&A) expenses and profit. For EP, the LOT is also the level of the starting price sale, which is usually from the exporter to the importer. For CEP, it is the level of the constructed sale from the exporter to the importer, after adjustments under section 772(d) of the Act.

To determine whether NV sales are at a different LOT than EP/CEP sales, we examine stages in the marketing process and selling functions along the chain of

distribution between the producer and the customer. If the comparison market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales at different levels of trade in the home country, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the differences in the levels between NV and CEP sales affect price comparability, we adjust NV under section 773(a)(7)(B) of the Act (*i.e.*, the CEP offset provision).

In implementing these principles in the instant review, we obtained information from Corus Staal about the marketing stages involved in its reported U.S. and home market sales, including a description of the selling activities performed by Corus Staal and the level to which each selling activity was performed for each channel of distribution. In identifying LOTs for U.S. CEP sales, we considered the selling functions reflected in the starting price after any adjustments under section 772(d) of the Act.

In the home market, Corus Staal reported two channels of distribution (sales by Corus Staal and sales through its affiliated service centers Namascor and Laura) and three customer categories (end users, steel service centers, and trading companies). *See, e.g.*, Corus Staal's February 9, 2006, QR at A-21. For both channels of distribution in the home market, Corus Staal performed similar selling functions, including strategic and economic planning, advertising, freight and delivery arrangements, technical/warranty services, and sales logistics support. The remaining selling activities performed did not differ significantly by channel of distribution, with the exception of market research and research and development activities, which were performed only by Corus Staal. *See* Corus Staal's February 9, 2006, QR at Exhibit A-8 and pages A-21 through A-44. Because the selling activities among the channels of distribution are sufficiently similar, we find that one LOT exists for Corus Staal's home market sales.

In the U.S. market, Corus Staal reported a single channel of distribution for its sales of subject merchandise during the POR. For EP sales made directly to U.S. customers, Corus Staal reported two customer categories, end users and steel service centers. *See, e.g.*, Corus Staal's February 9, 2006, QR at A-23. Corus noted that it shipped subject merchandise to one affiliated customer

in the United States, Thomas Steel, which in turn shipped a small portion of this material, after further processing, to HMU. *See Id.* at A-24. However, as explained elsewhere in this notice, Thomas Steel and HMU provided data in simplified reporting format and thus detailed information was not provided on Thomas Steel's sales activities. Corus notes that it treats Thomas Steel in the same manner as all unaffiliated U.S. customers for all purposes. *See Id.* at A-44.

As noted in the "Export Price and Constructed Export Price" section of this notice, we have preliminarily determined that certain of Corus Staal's reported EP transactions (*i.e.*, sales where invoicing took place after date of entry) are properly classified as CEP sales.

As to these Corus Staal sales to customers in the United States which we have reclassified as CEP transactions, we considered whether such sales were made at the same level of trade. Comparing the selling activities performed and services offered by Corus Staal on its CEP sales to customers in the United States to those activities performed on its home market sales, we found there to be few differences in the selling functions performed by Corus Staal on its sales to customers in the United States and those performed for sales in the home market. For example, on sales to both home market customers and to U.S. customers, Corus Staal provided similar strategic and economic planning, freight and delivery services, technical/warranty assistance, research and development, and sales logistics support. *See, e.g.*, Corus Staal's February 9, 2006, QR at pages A-22 through A-60. As a result, we preliminarily find that there is not a significant difference in selling functions performed in the U.S. and home markets on these sales. Thus, for those sales which we have preliminarily determined are CEP sales, we find that Corus Staal's home market sales and sales to customers in the United States were made at the same LOT. Accordingly, no LOT adjustment or CEP offset adjustment to NV is warranted for these CEP sales.

Finally, for those sales which we are continuing to classify as EP, we compared the selling activities performed and services offered by Corus Staal on its sales to unaffiliated customers in the United States to those activities performed on its home market sales, we found there to be few differences in the selling functions performed by Corus Staal. Thus, we find that Corus Staal's home market sales and sales to unaffiliated customers in

the United States were made at the same LOT. Accordingly, no LOT adjustment is necessary.

Normal Value

A. Selection of Comparison Market

To determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product is greater than five percent of the aggregate volume of U.S. sales), we compared the respondent's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(B) of the Act. Because the respondent's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales for the subject merchandise, we determined that the home market was viable. *See, e.g.*, Corus Staal's February 9, 2006 QR at Attachment A-2 and Corus Staal's July 14, 2006 SQR at Attachment A-35.

B. Affiliated Party Transactions and Arm's-Length Test

Corus Staal reported sales in the home market to affiliated resellers and end-users. Sales to affiliated customers in the home market not made at arm's-length prices are excluded from our analysis because we consider them to be outside the ordinary course of trade. *See* 19 CFR 351.102(b). Prior to performing the arm's-length test on Corus Staal's sales to affiliated customers, we aggregated multiple customer codes reported for individual affiliates in order to treat them as single entities. *See Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186, 69194 (November 15, 2002) (*Modification to Affiliated Party Sales*). To test whether the sales to affiliates were made at arm's-length prices, we compared, on a model-specific basis, the starting prices of sales to affiliated and unaffiliated customers net of all direct selling expenses, discounts and rebates, movement charges, and packing. Where prices to the affiliated party were, on average, within a range of 98 to 102 percent of the price of identical or comparable merchandise to the unaffiliated parties, we determined that the sales made to the affiliated party were at arm's length. *See Modification to Affiliated Party Sales* at 69187-88. In accordance with the Department's practice, we only included in our margin analysis those sales to affiliated parties that were made at arm's length.

C. Cost of Production Analysis

Because we disregarded sales of certain products made at prices below the cost of production (COP) in the most recently completed segment of the proceeding at the time of initiation of this review, *i.e.*, the 2002–2003 review of hot-rolled steel from the Netherlands (see *Certain Hot-Rolled Carbon Steel Flat Products from the Netherlands; Final Results of Antidumping Duty Administrative Review*, 70 FR 18366 (April 11, 2005)), we have reasonable grounds to believe or suspect that Corus Staal made sales of the foreign like product at prices below the COP, as provided by section 773(b)(2)(A)(ii) of the Act. Therefore, pursuant to section 773(b)(1) of the Act, we initiated a COP investigation of sales by Corus Staal.

In accordance with section 773(b)(3) of the Act, we calculated the weighted-average COP for each model based on the sum of Corus Staal's material and fabrication costs for the foreign like product, plus amounts for SG&A and packing costs. The Department relied on the COP data reported by Corus Staal.

For a list of the product characteristics considered in our analysis, see the section "Product Comparisons" above. We compared the weighted-average COP figures to the home market sales prices of the foreign like product as required under section 773(b) of the Act, to determine whether these sales had been made at prices below COP. On a product-specific basis, we compared the COP to home market prices net of billing adjustments, freight revenue, certain minor processing expenses, discounts and rebates, and any applicable movement charges.

In determining whether to disregard home market sales made at prices below the COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Act whether, within an extended period of time, such sales were made in substantial quantities and whether such sales were made at prices which did not permit the recovery of all costs within a reasonable period of time in the normal course of trade. Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of the respondent's home market sales of a given model were at prices below the COP, we did not disregard any below-cost sales of that model because we determined that the below-cost sales were not made within an extended period of time and in "substantial quantities." Where 20 percent or more of the respondent's home market sales of a given model were at prices less than COP, we disregarded the below-cost sales because: (1) they were made within an extended period of time in "substantial

quantities," in accordance with sections 773(b)(2)(B) and (C) of the Act, and (2) based on our comparison of prices to the weighted-average COPs for the POR, they were at prices which would not permit the recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act.

Our cost test for Corus Staal revealed that for home market sales of certain models, less than 20 percent of the sales of those models were at prices below the COP. We retained all such sales in our analysis and used them as the basis for determining NV. Our cost test also indicated that for other models sold by Corus Staal, more than 20 percent of the home market sales of those models were sold at prices below COP within an extended period of time and were at prices which would not permit the recovery of all costs within a reasonable period of time. In accordance with section 773(b)(1) of the Act, we excluded these below-cost sales from our analysis and used the remaining above-cost sales as the basis for determining NV.

D. Constructed Value (CV)

While in this preliminary determination no sales are compared to CV, we nevertheless calculated CV in accordance with section 773(e) of the Act. We based CV on the sum of the Corus Staal's material and fabrication costs, SG&A expenses, profit, and U.S. packing costs. We calculated the COP component of CV and weight-averaged the CVs reported for identical products produced in both the conventional hot-rolling mill and direct sheet plant as described above in the "Cost of Production Analysis" section of this notice. In accordance with section 773(e)(2)(A) of the Act, we based SG&A expenses and profit on the amounts incurred and realized by the respondent in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the foreign country. For selling expenses, we used the actual weighted-average home market direct and indirect selling expenses.

E. Price-to-Price Comparisons

We relied on our model match criteria in order to match U.S. sales of subject merchandise to comparison sales of the foreign like product based on the reported physical characteristics of the subject merchandise. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the following characteristics and

reporting instructions listed in the Department's questionnaire. These characteristics are: painted, quality, carbon, yield strength, thickness, width, cut-to-length vs coil, temper rolled, pickled, edge trim, and patterns in relief. See section 771(16) of the Act.

As indicated earlier, on October 20, 2006, Mittal asked the Department to obtain additional information from Corus on products produced by the DSP mill and hot-rolled mill to ensure that the Department calculates the most accurate margin possible. However, the Department has already addressed this issue in the 2001–2002 administrative review of this case where the Department determined "because the information on the record does not establish sufficient differences in physical characteristics between conventional hot-rolled mill and DSP products, we have not made any changes to our model match criteria for these final results." See *Certain Hot-Rolled Carbon Steel Flat Products from the Netherlands; Final Results of Antidumping Duty Administrative Review*, 70 FR 18366 (April 11, 2005) and the accompanying Issues and Decisions Memorandum at Comment 1. The Department has no information on the record of this proceeding, other than Mittal's October 20, 2006, submission, that would support the Department reexamining our model match criteria for this preliminary determination.

We calculated NV based on prices to unaffiliated customers or prices to affiliated customers we determined to be at arm's length. We adjusted gross unit price for billing adjustments, early payment discounts, rebates, freight revenue, interest revenue and tolling revenues, where appropriate. We made deductions, where appropriate, for foreign inland freight and warehousing, pursuant to section 773(a)(6)(B) of the Act. In addition, we made adjustments for differences in cost attributable to differences in physical characteristics of the merchandise (*i.e.*, difmer) pursuant to section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411, as well as for differences in circumstances of sale (COS) in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. We made COS adjustments for imputed credit expenses, warranty expenses, and credit insurance. Finally, we deducted home market packing costs and added U.S. packing costs in accordance with sections 773(a)(6)(A) and (B) of the Act.

F. Price-to-CV Comparisons

In accordance with section 773(a)(4) of the Act, we base NV on CV if we are unable to find a home market match of

such or similar merchandise. Where appropriate, we make adjustments to CV in accordance with section 773(a)(8) of the Act. Where we compare CV to CEP, we deduct from CV the weighted-average home market direct selling expenses. However, in this review we have preliminarily found contemporaneous matches for all U.S. sales, and therefore, have not based NV on CV.

Currency Conversion

We made currency conversions into U.S. dollars based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank, in accordance with section 773A(a) of the Act.

Preliminary Results of Review

As a result of our review, we preliminarily determine the weighted-average dumping margin for the period November 1, 2004, through October 31, 2005, to be as follows:

Manufacturer / Exporter	Margin (percent)
Corus Staal BV (Corus Staal)	2.52

The Department will disclose calculations performed in connection with these preliminary results of review within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication of these preliminary results of review. Rebuttal briefs and rebuttals to written comments, limited to issues raised in the case briefs and comments, may be filed no later than 35 days after the date of publication of this notice. Parties who submit argument in these proceedings are requested to submit with the argument: 1) a statement of the issue, 2) a brief summary of the argument, and (3) a table of authorities. An interested party may request a hearing within 30 days of publication. See 19 CFR 351.310(c). Any hearing, if requested, will be held 37 days after the date of publication, or the first business day thereafter, unless the Department alters the date pursuant to 19 CFR 351.310(d). The Department will issue the final results of these preliminary results, including the results of our analysis of the issues raised in any such written comments or at a hearing, within 120 days of publication of these preliminary results.

Assessment Rates

Upon completion of this administrative review, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of review.

The Department clarified its "automatic assessment" regulation on May 6, 2003. See *Notice of Policy Concerning Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003) (*Assessment-Policy Notice*). This clarification will apply to entries of subject merchandise during the period of review produced by Corus Staal BV for which Corus Staal BV did not know that the merchandise it sold to an intermediary (e.g., a reseller, trading company, or exporter) was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the 2.59 percent all-others rate established in the original less than fair value (LTFV) investigation, if there is no rate for the intermediary involved in the transaction. See the *Assessment-Policy Notice* for a full discussion of this clarification.

Furthermore, the following deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) the cash deposit rate for the reviewed company will be the rate established in the final results of the administrative review (except that no deposit will be required if the rate is zero or *de minimis*, i.e., less than 0.5 percent); (2) if the exporter is not a firm covered in this review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be that established for the most recent period for the manufacturer of the merchandise; and (3) if neither the exporter nor the manufacturer is a firm covered in this review, any previous reviews, or the LTFV investigation, the cash deposit rate will be 2.59 percent, the "all others" rate established in the LTFV investigation. See *Antidumping Duty Order: Certain Hot-Rolled Carbon Steel Flat Products from the Netherlands*, 67 FR 59565 (November 29, 2001).

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding

the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: November 30, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E6-20923 Filed 12-8-06; 8:45 am]

Billing Code: 3510-DS-S

DEPARTMENT OF COMMERCE

International Trade Administration

[A-475-828, A-557-809, A-565-801]

Continuation of Antidumping Duty Orders: Stainless Steel Butt-Weld Pipe Fittings from Italy, Malaysia, and the Philippines

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: As a result of the determinations by the Department of Commerce (the Department) and the International Trade Commission (the Commission) that revocation of these antidumping duty orders would be likely to lead to continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act), the Department hereby orders the continuation of the antidumping duty orders on stainless steel butt-weld pipe fittings from Italy, Malaysia, and the Philippines. The Department is publishing notice of the continuation of these antidumping duty orders.

EFFECTIVE DATE: December 11, 2006.

FOR FURTHER INFORMATION CONTACT: Deborah L. Scott or Robert James, AD/CVD Operations, Office 7, or Dana Mermelstein, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW, Washington, DC 20230; telephone: (202) 482-2657, 482-0649, or (202) 482-1391, respectively.

SUPPLEMENTARY INFORMATION:

Background

On January 3, 2006, the Department initiated and the Commission instituted

sunset reviews of the antidumping duty orders on stainless steel butt-weld pipe fittings from Italy, Malaysia, and the Philippines pursuant to section 751(c) of the Act. *See Initiation of Five-year ("Sunset") Reviews*, 71 FR 91 (January 3, 2006) and *Stainless Steel Butt-Weld Pipe Fittings From Italy, Malaysia, and the Philippines*, 71 FR 140 (January 3, 2006). As a result of its review, the Department found that revocation of the antidumping duty orders would likely lead to continuation or recurrence of dumping and notified the Commission of the magnitude of the margins likely to prevail if the orders were revoked. *Steel Butt-Weld Pipe Fittings from Italy, Malaysia, and the Philippines; Final Results of the Expedited Five-year ("Sunset") Reviews of Antidumping Duty Orders*, 71 FR 26748 (May 8, 2006).

On October 31, 2006, the Commission determined, pursuant to section 751(c) of the Act, that revocation of the antidumping duty orders on stainless steel butt-weld pipe fittings from Italy, Malaysia, and the Philippines would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. *See Certain Stainless Steel Butt-Weld Pipe Fittings From Italy, Malaysia, and the Philippines*, 71 FR 67904 (November 24, 2006), and USITC Publication 3889 (November 2006) (Inv. Nos. 731-TA-865-867 (Review)).

Scope of the Orders

For purposes of these orders, the product covered is certain stainless steel butt-weld pipe fittings (butt-weld fittings). Butt-weld pipe fittings are under 14 inches in outside diameter (based on nominal pipe size), whether finished or unfinished. The product encompasses all grades of stainless steel and "commodity" and "specialty" fittings. Specifically excluded from the definition are threaded, grooved, and bolted fittings, and fittings made from any material other than stainless steel.

The butt-weld fittings subject to these orders are generally designated under specification ASTM A403/A403M, the standard specification for Wrought Austenitic Stainless Steel Piping Fittings, or its foreign equivalents (*e.g.*, DIN or JIS specifications). This specification covers two general classes of fittings, WP and CR, of wrought austenitic stainless steel fittings of seamless and welded construction covered by the latest revision of ANSI B16.9, ANSI B16.11, and ANSI B16.28. Butt-weld fittings manufactured to specification ASTM A774, or its foreign equivalents, are also covered by these orders.

These orders do not apply to cast fittings. Cast austenitic stainless steel pipe fittings are covered by specifications A351/A351M, A743/743M, and A744/A744M.

The butt-weld fittings subject to these orders are currently classifiable under subheading 7307.23.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of these orders is dispositive.

Determination

As a result of the determinations by the Department and the Commission that revocation of these antidumping duty orders would be likely to lead to continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, the Department hereby orders the continuation of the antidumping duty orders on stainless steel butt-weld pipe fittings from Italy, Malaysia, and the Philippines.

U.S. Customs and Border Protection will continue to collect antidumping duty deposits at the rates in effect at the time of entry for all imports of subject merchandise from all manufacturers and exporters of stainless steel butt-weld pipe fittings from Italy, Malaysia, and the Philippines. The effective date of continuation of these orders is the date of publication in the **Federal Register** of this Notice of Continuation. The Department intends to initiate the next five-year review of these antidumping orders not later than 30 days prior to the fifth anniversary of the effective date of continuation.

These sunset reviews and this continuation notice are in accordance with section 751(c) of the Act. This notice is published pursuant to 777(i) of the Act and 19 CFR 351.218(f)(4).

Dated: December 1, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E6-20925 Filed 12-8-06; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board

AGENCY: Department of Defense.

ACTION: Notice of closed advisory committee meetings.

SUMMARY: The Defense Science Board Task Force on Software Assurance will

meet the closed session on *December 14-15, 2006*; at Science Applications International Corporation (SAIC), 4001 N. Fairfax Drive, Arlington, VA. This meeting is to assess the future direction of space requirements and identify the industrial base to meet the Nation's future requirements.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings, the Defense Science Board Task Force will: Assess the health of the U.S. space industrial base and determine if there is any adverse impact from export controls, in particular, on the health of lower-tier contractors; anticipate future space requirements and the shape of the space industrial base required to achieve the anticipated capabilities; and recommend improvements to current policies and processes, where applicable, while also identifying policies and processes that can shape the space industrial base to deliver future capabilities.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. 92-463, as amended (5 U.S.C. App. II), it has been determined that these Defense Board Task Force meetings concern matters listed in 5 U.S.C. 552b(c)(1) and that, accordingly, the meetings will be closed to the public.

FOR FURTHER INFORMATION CONTACT:

LCDR Clifton Phillips, USN, Defense Science Board, 3140 Defense Pentagon, Room 3C553, Washington, DC 20301-3140, via e-mail at clifton.phillips@osd.mil, or via phone at (703) 571-0083.

Due to scheduling and work burden difficulties, there is insufficient time to provide timely notice required by Section 10(a) of the Federal Advisory Committee Act and Subsection 102-3.150(b) of the GSA Final Rule on Federal Advisory Committee Management, 41 CFR 102-3.150(b), which further requires publication at least 15 calendar days prior to the meeting.

Dated: December 5, 2006.

C.R. Choate,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 06-9615 Filed 12-8-06; 8:45 am]

BILLING CODE 5001-06-M

DEPARTMENT OF DEFENSE**Office of the Secretary****Defense Science Board****AGENCY:** Department of Defense.**ACTION:** Notice of closed advisory committee meetings.

SUMMARY: The Defense Science Board Task Force on National Guard and Reserves in the GWOT will meet in closed session on January 3–4, 2006; at the Strategic Analysis Inc., 3601 Wilson Boulevard, Arlington, VA.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings, the Defense Science Board Task Force will: Assess the consequences for force structure, morale, and mission capability of deployments of members of the National Guard and the Reserves in the course of the global war on terrorism that are lengthy, frequent, or both.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. 92–463, as amended (5 U.S.C. App. II), it has been determined that these Defense Science Board Task Force meetings concern matters listed in 5 U.S.C. 552b(c)(1) and that, accordingly, the meetings will be closed to the public.

FOR FURTHER INFORMATION CONTACT: LCDR Clifton Phillips, USN, Defense Science Board, 3140 Defense Pentagon, Room 3C553, Washington, DC 20301–3140, via e-mail at clifton.phillips@osd.mil, or via phone at (703) 571–0083.

Dated: December 5, 2006.

C.R. Choate,*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 06–9616 Filed 12–8–06; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE**Office of the Secretary****Defense Science Board****AGENCY:** Department of Defense.**ACTION:** Notice of closed advisory committee meetings.

SUMMARY: The Defense Science Board Task Force on Nuclear Deterrence Skills will meet in closed session on December 11, 2006; at the Strategic Analysis Inc., 3601 Wilson Boulevard, Arlington, VA.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings, the Defense Science Board Task Force will: Assess all aspects of nuclear deterrent skills as well as the progress Department of Energy (DoE) has made since the publication of the Chiles Commission report.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. 92–463, as amended (5 U.S.C. App. II), it has been determined that these Defense Science Board Task Force meetings concern matters listed in 5 U.S.C. 552b(c)(1) and that, accordingly, the meetings will be closed to the public.

FOR FURTHER INFORMATION CONTACT: LCDR Clifton Phillips, USN, Defense Science Board, 3140 Defense Pentagon, Room 3C553, Washington, DC 20301–3140, via e-mail at clifton.phillips@osd.mil, or via phone at (703) 571–0083.

Due to scheduling difficulties, there is insufficient time to provide timely notice required by Section 10(a) of the Federal Advisory Committee Act and Subsection 102–3.150(b) of the GSA Final Rule on Federal Advisory Committee Management, 41 CFR 102–3.150(b), which further requires publication at least 15 calendar days prior to the meeting.

Dated: December 5, 2006.

C.R. Choate,*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 06–9617 Filed 12–8–06; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE**Office of Secretary of Defense**

[DOD–2006–OS–0218]

Privacy Act of 1974; Systems of Records**AGENCY:** Defense Logistics Agency, DOD.**ACTION:** Notice to alter a system of records.

SUMMARY: The Defense Logistics Agency proposes to alter a system of records notice in its existing inventory of records 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 January 10, 2007 unless comments are received which result in a contrary determination.

ADDRESSES: Send comments to the Privacy Act Officer, Headquarters, Defense Logistics Agency, ATTN: DP, 8725 John J. Kingman Road, Stop 2533, Fort Belvoir, VA 22060–6221.

FOR FURTHER INFORMATION CONTACT: Ms. Jody Sinkler at (703) 767–5045.

SUPPLEMENTARY INFORMATION: The Defense Logistics Agency 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 proposed system reports, as required by 5 U.S.C. 552a(r), of the Privacy Act of 1974, as amended, were submitted on December 1, 2006, to the House Committee on Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, “Federal Agency Responsibilities for Maintaining Records About Individuals,” dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: December 4, 2006.

C.R. Choate,*Alternate OSD Federal Register Liaison Officer, Department of Defense.***S340.10 DLA–KM****SYSTEM NAME:**

Time and Attendance Labor Exception Subsystem of APCAPS (November 16, 2004, 69 FR 67112).

CHANGES:**SYSTEM IDENTIFIER:**

Delete “DLA–KM” from entry.

SYSTEM NAME:

Delete entry and replace with “DLA Civilian Time and Attendance, Project and Workload Records.”

SYSTEM LOCATION:

Delete entry and replace with “Headquarters, Defense Logistics Agency, 8725 John J. Kingman Road, Stop 2533, Fort Belvoir, VA 22060–6221, and each Defense Logistics Agency (DLA) Field Activity. Official mailing addresses are published as an appendix to DLA’s compilation of systems of records notices.”

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with "Records maintained include individual's name, Social Security Number, User ID, citizenship; pay; educational level; emergency data; employee's status, position, supervisor, timekeeper, project manager, system access level, accounting codes, organization and office location, e-mail address and office telephone numbers; telework location and phone number, rate, leave balances; work and shift schedule, project and workload records, regular and overtime work hours and leave hours, time and attendance records (timesheet), and information on temporary duty and special assignments."

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with "5 U.S.C. Chapter 61, Hours of Work; Chapter 53, Pay Rates and Systems; Chapter 57, Travel, Transportation, and Subsistence; and Chapter 63, Leave; 5 U.S.C. 301, Departmental Regulations; 10 U.S.C. 136, Under Secretary of Defense for Personnel and Readiness; 31 U.S.C. Chapter 35, Accounting and Collection; and E.O. 9397 (SSN)."

PURPOSE(S):

Delete entry and replace with "Records are used to prepare time and attendance records, to record employee pay rates and status, including overtime, the use of leave, and work absences; to track workload, project activity for analysis and reporting purposes; for statistical reporting on leave and overtime use/usage patterns, number of employees Teleworking, etc.; and to answer employee queries on leave, overtime, and pay.

Information from this system of records is provided to the Defense Finance and Accounting Service for the purpose of issuing payroll to DLA civilian employees."

* * * * *

RETRIEVABILITY:

Delete entry and replace with "Records are retrieved by employee's name, Social Security Number or User ID."

SAFEGUARDS:

Delete entry and replace with "Records are maintained in a controlled facility. Physical entry is restricted by the use of locks, guards, and is accessible only to authorized personnel. Access to computerized data is restricted by passwords, which are changed periodically. Access to record is limited to person(s) responsible for servicing the records in the performance

of their official duties and who are properly screened and cleared for need-to-know. All individuals granted access to this system of records are required to have taken Information Assurance and Privacy Act training."

RETENTION AND DISPOSAL:

Delete entry and replace with "Initialed Leave Application Files (LAF) are destroyed at end of following pay period, un-initialed LAFs are destroyed after GAO audit or when 3 years old, whichever is sooner. Time and Attendance Source Records and Input Records are destroyed after GAO audit or when 6 years old, whichever is sooner. Leave Records are destroyed when 3 years old. Payroll system reports and data used for personnel management purposes are destroyed when 2 years old.

Project and workload records—disposition pending. Until the National Archives and Records Administration has approved the retention, treat "project and workload records" as permanent."

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with "EAGLE Project Manager, J6-UT Tailored Logistics Division, Defense Logistics Agency, 2001 Mission Drive, Suite 2, New Cumberland, PA 17070-5004. For a list of system managers at the DLA Field Activities, write to the EAGLE Project Manager."

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the Privacy Act Office, Headquarters, Defense Logistics Agency, ATTN: DP, 8725 John J. Kingman Road, Stop 2533, Fort Belvoir, VA 22060-6221 or to the Privacy Act Office in the DLA Field Activity where employed. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

Inquiry should contain the subject individual's full name, User ID, return mailing address, and organizational location of employee."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking access to information about themselves contained in this system of records should address written inquiries to the Privacy Act Office, Headquarters, Defense Logistics Agency, ATTN: DP, 8725 John J. Kingman Road, Stop 2533, Fort Belvoir, VA 22060-6221 or to the Privacy Act

Office in the DLA Field Activity where employed. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

Inquiry should contain the subject individual's full name, User ID, return mailing address, and organizational location of employee."

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The DLA rules for accessing records, for contesting contents, and appealing initial agency determinations are contained in 32 CFR part 323, or may be obtained from the Privacy Act Office, Headquarters, Defense Logistics Agency, ATTN: DP, 8725 John J. Kingman Road, Stop 2533, Fort Belvoir, VA 22060-6221."

RECORD SOURCE CATEGORIES:

Delete entry and replace with "Subject individuals, supervisors, timekeepers, leave slips, payroll office and payroll records, including automated payroll systems."

* * * * *

S340.10**SYSTEM NAME:**

DLA Civilian Time and Attendance, Project and Workload Records.

SYSTEM LOCATION:

Headquarters, Defense Logistics Agency, 8725 John J. Kingman Road, Stop 2533, Fort Belvoir, VA 22060-6221, and each Defense Logistics Agency (DLA) Field Activity. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DLA civilian employees and certain former DLA civilian employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records maintained include individual's name, Social Security Number, User ID, citizenship; pay; educational level; emergency data; employee's status, position, supervisor, timekeeper, project manager, system access level, accounting codes, organization and office location, e-mail address and office telephone numbers; telework location and phone number, rate, leave balances; work and shift schedule, project and workload records, regular and overtime work hours and leave hours, time and attendance records (timesheet), and information on temporary duty and special assignments.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. Chapter 61, Hours of Work; Chapter 53, Pay Rates and Systems; Chapter 57, Travel, Transportation, and Subsistence; and Chapter 63, Leave; 5 U.S.C. 301, Departmental Regulations; 10 U.S.C. 136, Under Secretary of Defense for Personnel and Readiness; 31 U.S.C., Chapter 35, Accounting and Collection; and E.O. 9397 (SSN).

PURPOSE(S):

Records are used to prepare time and attendance records, to record employee pay rates and status, including overtime, the use of leave, and work absences; to track workload, project activity for analysis and reporting purposes; for statistical reporting on leave and overtime use/usage patterns, number of employees Teleworking, etc.; and to answer employee queries on leave, overtime, and pay.

Information from this system of records is provided to the Defense Finance and Accounting Service for the purpose of issuing payroll to DLA civilian employees.

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 DLA'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:**

Records are stored on paper and on electronic storage media.

RETRIEVABILITY:

Records are retrieved by employee's name, Social Security Number or User ID.

SAFEGUARDS:

Records are maintained in a controlled facility. Physical entry is restricted by the use of locks, guards, and is accessible only to authorized personnel. Access to computerized data is restricted by passwords, which are changed periodically. Access to record is limited to person(s) responsible for servicing the records in the performance of their official duties and who are properly screened and cleared for need-to-know. All individuals granted access to this system of records are required to

have Information Assurance and Privacy Act training.

RETENTION AND DISPOSAL:

Initialed Leave Application Files (LAF) are destroyed at end of following pay period, un-initialed LAFs are destroyed after GAO audit or when 3 years old, whichever is sooner. Time and Attendance Source Records and Input Records are destroyed after GAO audit or when 6 years old, whichever is sooner. Leave Records are destroyed when 3 years old. Payroll system reports and data used for personnel management purposes are destroyed when 2 years old.

Project and workload records—disposition pending. Until the National Archives and Records Administration has approved the retention, treat "project and workload records" as permanent.

SYSTEM MANAGER(S) AND ADDRESS:

EAGLE Project Manager, J6-UT Tailored Logistics Division, Defense Logistics Agency, 2001 Mission Drive, Suite 2, New Cumberland, PA 17070-5004. For a list of system managers at the DLA Field Activities, write to the EAGLE Project Manager.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the Privacy Act Office, Headquarters, Defense Logistics Agency, ATTN: DP, 8725 John J. Kingman Road, Stop 2533, Fort Belvoir, VA 22060-6221 or to the Privacy Act Office in the DLA Field Activity where employed. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

Inquiry should contain the subject individual's full name, User ID, return mailing address, and organizational location of employee.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system of records should address written inquiries to the Privacy Act Office, Headquarters, Defense Logistics Agency, ATTN: DP, 8725 John J. Kingman Road, Stop 2533, Fort Belvoir, VA 22060-6221 or to the Privacy Act Office in the DLA Field Activity where employed. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

Inquiry should contain the subject individual's full name, User ID, return mailing address, and organizational location of employee.

CONTESTING RECORD PROCEDURES:

The DLA rules for accessing records, for contesting contents, and appealing initial agency determinations are contained in 32 CFR part 323, or may be obtained from the Privacy Act Office, Headquarters, Defense Logistics Agency, ATTN: DP, 8725 John J. Kingman Road, Stop 2533, Fort Belvoir, VA 22060-6221.

RECORD SOURCE CATEGORIES:

Subject individuals, supervisors, timekeepers, leave slips, payroll office and payroll records, including automated payroll systems.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E6-20979 Filed 12-8-06; 8:45 am]

BILLING CODE 5001-06-P

DEPARTMENT OF DEFENSE**Office of the Secretary of Defense**

[DOD-2006-OS-0217]

Privacy Act of 1974; System of Records

AGENCY: Defense Intelligence Agency, DoD.

ACTION: Notice to add a system of records.

SUMMARY: The Defense Intelligence Agency is proposing to add a system of records to its existing inventory of records systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: The proposed action will be effective on January 10, 2007 unless comments are received that would result in a contrary determination.

ADDRESSES: Freedom of Information Office, Defense Intelligence Agency (DAN-1A), 200 MacDill Blvd., Washington, DC 20340-5100.

FOR FURTHER INFORMATION CONTACT: Ms. Theresa Lowery at (202) 231-1193.

SUPPLEMENTARY INFORMATION: The Defense Intelligence Agency 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 proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on December 1, 2006, to the House Committee on Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to

paragraph 4c of Appendix I to OMB Circular No. A-130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: December 4, 2006.

C.R. Choate,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

LDIA 06-0001

SYSTEM NAME:

Employee Assistance Program (EAP) Case Records

SYSTEM LOCATION:

Primary location: Defense Intelligence Agency (DIA), 200 MacDill Blvd., Washington, DC 20340-5100.

Secondary location: Missile Space Intelligence Command (MSIC), 4545 Fowler Road, Redstone Arsenal, AL 35898-5500.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Civilian employees, military assignees, retirees, and family members who are actively utilizing EAP services.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records maintained include individual's name, gender, marital status, birth date, questionnaires, medical treatment, correspondence with personal physicians and practitioners, results of psychological assessments and interviews, psychiatric examination results and related reports, re-disclosure forms, and referral information.

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; E.O. 12564, Drug-free Federal Workplace; and E.O. 9397 (SSN).

PURPOSE(S):

To facilitate and record treatment on employees seeking counseling or referral services. To assist with planning and coordinating health care; to compile statistical data, conduct research, aid in preventive health programs, teach, evaluate care rendered, and determine professional certification and facility accreditation.

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

Department of Defense 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 Defense Intelligence Agency's compilation of systems of records notices apply to this system.

Note: Records of identity, diagnosis, prognosis or treatment of any client/patient, irrespective of whether or when he/she ceases to be a client/patient, maintained in connection with the performance of any alcohol or drug abuse prevention and treatment function conducted, requested, or directly or indirectly assisted by any department or agency of the United States, shall, except as provided herein, be confidential and be disclosed only for the purposes and under the circumstances expressly authorized in 42 U.S.C. 290dd-2. These statutes take precedence over the Privacy Act of 1974 in regard to accessibility of such records except to the individual to whom the report pertains. The "Blanket Routine Uses" that appear the beginning of DIA's compilation of systems of records notices do not apply to these records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records are in file folders in locked cabinets.

RETRIEVABILITY:

By last name.

SAFEGUARDS:

Secured, limited access offices and locked file cabinets. Records are accessible only to authorized personnel and must be returned by the end of day. Files are maintained in locked cabinets unless they are in use. Original signature release forms are required to disclose any information to a third party.

RETENTION AND DISPOSAL:

Disposition pending. No records will be destroyed until the National Archives and Records Administration has approved the retention and disposal of the records.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Office of Employee Assistance HCH-EAP, Defense Intelligence Agency 200 MacDill Blvd., Washington DC 20340-0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the DIA Privacy Office (DAN-1C), Defense Intelligence Agency, 200 MacDill Blvd., Washington DC 20340-5100.

Individual should provide their full name, current address, telephone number and Social Security Number.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about them contained in this system of records should address written inquiries to the DIA Privacy Official, Defense Intelligence Agency (DAN-1C), 200 MacDill Blvd., Washington, DC 20340-5100.

Individual should provide their full name, current address, telephone number and Social Security Number.

CONTESTING RECORD PROCEDURES:

The Defense Intelligence Agency's rules for accessing records, for contesting contents and appealing initial agency determinations are published in DIA Regulation 12-12 "Defense Intelligence Agency Privacy Program"; 32 CFR part 319—Defense Intelligence Agency Privacy Program; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Primary sources for records are EAP counselors, the patient and/or their family members, and employee supervisors.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E6-20980 Filed 12-8-06; 8:45 am]

BILLING CODE 5001-06-P

DEPARTMENT OF DEFENSE

Department of the Air Force

[USAF-2006-0016]

Privacy Act of 1974; System of Records

AGENCY: Department of the Air Force, DoD.

ACTION: Notice to amend systems of records.

SUMMARY: The Department of the Air Force 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 January 10, 2007 unless comments are received which result in a contrary determination.

ADDRESSES: Send comments to the Air Force Privacy Act Officer, Office of Warfighting Integration and Chief Information Officer, SAF/XCISI, 1800 Air Force Pentagon, Suite 220, Washington, DC 20330-1800.

FOR FURTHER INFORMATION CONTACT: Ms. Novella Hill at (703) 588-7855.

SUPPLEMENTARY INFORMATION: The Department of the Air Force 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: December 4, 2006.

C.R. Choate,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

F036 AETC I

SYSTEM NAME:

Cadet Records (November 23, 2005, 70 FR 70792).

CHANGES:

* * * * *

EXEMPTIONS CLAIMED FOR THIS SYSTEM:

Replace entry with 'Parts of this system may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that disclosure would reveal the identity of a confidential source.'

* * * * *

F036 AETF I

SYSTEM NAME:

Cadet Records.

SYSTEM LOCATION:

Air Force Reserve Officer Training Corps, 551 East Maxwell Boulevard, Maxwell Air Force Base, AL 36112-6110, and portions pertaining to each Reserve Officer Training Corps detachment located at respective detachments.

Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force Reserve Officer Training Corps (AFROTC) cadets applying for, or enrolled or previously enrolled within the past three years, in the professional officers course or the general military course, if the latter participation was in a scholarship status.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications for enrollment in the Air Force Reserve Officers' Training Corps (AFROTC) courses, applications for the AFROTC scholarship program substantiation records of qualification for the courses or programs, acceptances of applications, awards of scholarships, records attesting to medical, academic, moral and civic qualifications, records recording progress in flying instruction, Euro-NATO Joint Jet Pilot Training (ENJJPT) application data, academic curriculum and leadership training, counseling summaries, records of disenrollment from other officer candidate training; records of separation or discharge from officer candidate training; records of separation or discharge of prior service members; financial record data, certification of degree requirements; Regular appointment nomination data, records tendering and accepting commissions, records verifying national agency checks or background investigation, records required or proffered during investigations for disenrollment, legal opinions, letters of recommendations, corroboration by civil authorities, awards, citations; and allied papers.

Field training administration records consist of student performance reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. Chapter 33, Original Appointments of Regular Officers in Grades Above Warrant Officers; 10 U.S.C. Chapter 103, Senior Reserve Officers' Training Corps; E.O. 9397 (SSN); Air Force Instruction 36-2011, Air Force Reserve Officers Training Corps (AFROTC); and Air Force Officer Accession and Training School Instruction 36-2011, Administration of Senior Air Force Cadets.

PURPOSE(S):

Used for recruiting and qualifying a candidate for acceptance as an AFROTC cadet, continuing the cadet in the program and awarding an Air Force commission.

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 'Blanket Routine Uses' published at the beginning of the Air Force's compilation of record system notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, note books/binders, in computers and on computer output products.

RETRIEVABILITY:

Retrieved by name, Social Security Number and detachment number.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets. Those in computer storage devices are protected by computer system software.

RETENTION AND DISPOSAL:

Records at unit of assignment are destroyed one year after acceptance of commission or one year after disenrollment. Records at HQ AFROTC for disenrolled cadets are destroyed after three years. Computer records are destroyed when no longer needed. Records are destroyed by tearing into pieces, shredding, pulping, macerating or burning. Computer records are destroyed by erasing, deleting or overwriting.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Senior Program, Air Force Reserve Officer Training Corps, 551 East Maxwell Boulevard, Maxwell Air Force Base, AL 36112-6110, and Commander of appropriate AFROTC detachment.

Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records notices.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information on them should address inquiries to the AFROTC Detachment Commander at location of assignment. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records notices.

Request for information involving an investigation for disenrollment should be addressed to Commander, Air Force Reserve Officer Training Corps, 551 East Maxwell Boulevard, Maxwell Air Force Base, AL 36112-6110. Requests should include full name and SSN.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address requests to the

AFROTC Detachment Commander at locations of assignment. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records notices.

Request for information involving an investigation for disenrollment should be addressed to Commander, Air Force Reserve Officer Training Corps, 551 East Maxwell Boulevard, Maxwell Air Force Base, AL 36112-6110. Requests should include full name and SSN.

CONTESTING RECORD PROCEDURES:

The Air Force rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Air Force Instruction 33-332; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Sources of records in the system are educational institutions, secondary and higher learning; government agencies; civilian authorities; financial institutions; previous employers; individual recommendations, interviewing officers; and civilian medical authorities.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Parts of this system may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that disclosure would reveal the identity of a confidential source.

[FR Doc. 06-9621 Filed 12-8-06; 8:45 am]

BILLING CODE 5001-06-M

DEPARTMENT OF DEFENSE

Department of the Army

[USA-2006-0039]

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to Alter a System of Records.

SUMMARY: The Department of the Army is proposing to alter a system of records notice in its existing inventory of records 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 January 10, 2007 unless comments are received which result in a contrary determination.

ADDRESSES: Department of the Army, Freedom of Information/Privacy Office, U.S. Army Records Management and Declassification Agency, ATTN: AHRC-

PDD-FPZ, 7701 Telegraph Road, Casey Building, Suite 144, Alexandria, VA 22325-3905.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Dickerson at (703) 428-6513.

SUPPLEMENTARY INFORMATION: The Department of the Army 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 proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on December 1, 2006, to the House Committee on Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A-130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: December 4, 2006.

C.R. Choate,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

A0600-8-23 AHRC

SYSTEM NAME:

Standard Installation/Division Personnel System (SIDPERS) (January 6, 2004, 69 FR 790).

CHANGES:

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Add to entry "family members."

CATEGORIES OF RECORDS IN THE SYSTEM:

Add to entry "home address".

* * * * *

RECORD SOURCE CATEGORIES:

Add to the National Guard and Reserve Component entry: "from the Defense Enrollment Eligibility Reporting System (DEERS) database."

* * * * *

A0600-8-23 AHRC

SYSTEM NAME:

Standard Installation/Division Personnel System (SIDPERS).

SYSTEM LOCATION:

National Guard records are located at the Army National Guard Readiness Center, 111 South George Mason Drive, Arlington, VA 22204-1382.

Reserve Component records are located at the U.S. Army Human

Resources Command, 9700 Page Boulevard, St. Louis, MO 63132-5200.

Regular Army records are located at the Army Information Processing Centers located in Chambersburg, PA 17201-4150; Huntsville, AL 35898-7340; Rock Island, IL 61299-7210; and St. Louis, MO 63120-1798.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All active duty Army personnel, personnel attached from National Guard and/or Army reserve members of the Army National Guard, individuals currently assigned to a U.S. Army Reserve unit, and family members.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, Social Security Number, home address, sex, race, citizenship, status, religious denomination, marital status, number of dependents, date of birth, physical profile, ethnic group, grade and date of rank, term of service for enlisted personnel, security clearance, service agreement for non-regular officers, promotion data and dates, special pay and bonus, unit of assignment and identification code, military occupational specialty, civilian occupation, additional skill identifiers, civilian and military education levels, languages, military qualification, assignment eligibility, availability and termination date thereof, security status, suspension of favorable personnel action indicator, Privacy Act disputed record indicator, and similar relevant data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3013, Secretary of the Army; Army Regulation 600-8-23, Standard Installation/Division Personnel System Database Management; and E.O. 9397 (SSN).

PURPOSE(S):

To support personnel management decisions concerning the selection, distribution and utilization of all personnel in military duties, strength accounting and manpower management, promotions, demotions, transfers, and other personnel actions essential to unit readiness; to identify and fulfill training needs; and to support automated interfaces with authorized information systems for pay, mobilization, and other statistical 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 Army's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tapes, discs, microfiche, punched cards, and computer printouts.

RETRIEVABILITY:

By Name, Social Security Number, or other individually identifying characteristics.

SAFEGUARDS:

Access to data and data storage is controlled and accessible only to authorized personnel and authorized personnel with password capability for the electronic media access.

RETENTION AND DISPOSAL:

Records are maintained one year in records holding area or current file area then retired to National Personnel Records Center. Maintained there for 75 years then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

National Guard: Chief, National Guard Bureau, Army National Guard Readiness Center, 111 South George Mason Drive, Arlington, VA 22204-1382.

Reserve Component: Deputy Chief of Staff for Personnel, Headquarters, Department of the Army, 300 Army Pentagon, Washington, DC 20310-0300.

Regular Army: Commander, U.S. Army Human Resources Command, 200 Stovall Street, Alexandria, VA 22332-0400.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the appropriate address below:

National Guard individuals should address inquiries to the National Guard Bureau, Army National Guard Readiness Center, 111 South George Mason Drive, Arlington, VA 22204-1382.

Reserve individuals should address inquiries to the Commander of the Army Headquarters in which the unit is located.

Regular Army individuals should address inquiries to their local Commander.

All individuals should furnish full name, service identification number, current address and telephone number, signature, and specific information

concerning the event or incident that will assist in locating the record.

Personal visits may be made. Individual must furnish proof of identity.

RECORD ACCESS PROCEDURES:

Individuals seeking to access information about themselves contained in this system should address written inquiries to the appropriate address below:

National Guard individuals should address inquiries to the National Guard Bureau, Army National Guard Readiness Center, 111 South George Mason Drive, Arlington, VA 22204-1382.

Reserve individuals should address inquiries to the Commander of the Army Headquarters in which the unit is located.

Regular Army individuals should address inquiries to their local Commander.

All individuals should furnish full name, service identification number, current address and telephone number, signature, and specific information concerning the event or incident that will assist in locating the record.

Personal visits may be made. Individual must furnish proof of identity.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340-21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

National Guard and Reserve Component: From the individual, individual's personnel and pay files, from the Defense Enrollment Eligibility Reporting (DEERS) database, and other Army records and reports.

Regular Army: From individual, commanders, Army records and documents, other Federal agencies.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 06-9620 Filed 12-8-06; 8:45 am]

BILLING CODE 5001-06-M

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Grant Exclusive Patent License; Ekips Technologies, Inc.

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The Department of the Navy hereby gives notice of its intent to grant to Ekips Technologies, Inc., a revocable, nonassignable, exclusive license to practice in the field of use in electro-optical devices in the United States and certain foreign countries, the Government-owned invention described in U.S. Patent No. 6,593,212: METHOD FOR MAKING ELECTRO-OPTICAL DEVICES USING A HYDROGEN ION SPLITTING TECHNIQUE, Navy Case No. 79,639 and any continuations, divisionals or re-issues thereof.

DATES: Anyone wishing to object to the grant of this License must file written objections along with supporting evidence, if any, not later than December 26, 2006.

ADDRESSES: Written objections are to be filed with the Naval Research Laboratory, Code 1004, 4555 Overlook Avenue, SW, Washington, DC 20375-5320.

FOR FURTHER INFORMATION CONTACT: Rita Manak, Head, Technology Transfer Office, NRL Code 1004, 4555 Overlook Avenue, SW, Washington, DC 20375-5320, telephone 202-767-3083. Due to U.S. Postal delays, please fax 202-404-7920, e-mail: rita.manak@nrl.navy.mil or use courier delivery to expedite response.

Authority: 35 U.S.C. 207, 37 CFR part 404.

Dated: December 4, 2006.

M.A. Harvison,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. E6-20960 Filed 12-8-06; 8:45 am]

BILLING CODE 3810-FF-P

DEPARTMENT OF DEFENSE

Department of the Navy

[USN-2006-0068]

Privacy Act of 1974; System of Records

AGENCY: Department of the Navy, DoD.

ACTION: Notice to add systems of records.

SUMMARY: The Department of the Navy proposes to add a system of records to its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The proposed action will be effective on January 10, 2007 unless comments are received that would 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) 685-325-6545.

SUPPLEMENTARY INFORMATION: The Department of the Navy's notices for systems of records 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 proposed systems reports, as required by 5 U.S.C. 552a(r) of the Privacy Act, were submitted on December 1, 2006, to the House Committee on Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A-130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996, (February 20, 1996, 61 FR 6427).

Dated: December 4, 2006.

C.R. Choate,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

SYSTEM NAME:

Department of Defense Voluntary Education System (DODVES).

SYSTEM LOCATION:

Defense Activity for Non-Traditional Education Support, 6490 Saufley Field Road, Pensacola, FL 32509-5243.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former DoD and Coast Guard personnel, including Reserves and National Guard.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name; Social Security Number (SSN); date of birth; home and work e-mail addresses; phone numbers (home, office, cell, and fax); educational costs/ tuition assistance; test scores; professional qualification and skills; training courses completed; certifications received; level of education; military awards received; duty assignment; and language skills.

AUTHORITY FOR THE MAINTENANCE OF THE SYSTEM:

10 U.S.C. 5013, Secretary of the Navy; 10 U.S.C. 5041, Headquarters, Marine Corps; DoD 1322.8, Voluntary Education Programs for Military Personnel; DoD 1322.25, Voluntary Education Program; and E.O. 9397 (SSN).

PURPOSE(S):

To provide voluntary educational programs to current and former military service members. The system will

maintain educational records and track educational costs of those current and former service members who participate in the Defense Activity for Non-Traditional Education Support (DANTES) program; assist military personnel in making successful transitions to second careers in teaching; provide referral assistance and placement services to departing, qualified, military personnel for schools that serve low-income families throughout the U.S.; provide information to the Defense Finance and Accounting Service (DFAS) and to local DoD fiscal and accounting personnel for the purpose of financial management and funds disbursement; and promote partnerships between civilian and military communities through agreements with commercial testing agencies, colleges, universities, and educational associations.

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:

To United States Coast Guard Voluntary Education Program Office for the purpose of education counseling, financial management, and funds disbursement.

To DoD contractors who conduct examinations and provide the results back to DANTES, and to DoD contract counselors who provide educational counseling support to the Service member.

The DoD "Blanket Routine Uses" set forth at the beginning of the Navy's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and on electronic storage media.

RETRIEVABILITY:

Name and last four digits of Social Security Number.

SAFEGUARDS:

Access is limited to those individuals who require the records for the performance of their official duties. Paper records are maintained in buildings with controlled or monitored access. During non-duty hours, records are secured in locked or guarded

buildings, locked offices, or guarded cabinets. Password controlled system, file, and element access based on predefined need-to-know.

RETENTION AND DISPOSAL:

Records are destroyed two years after the individual completes the educational program.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Defense Activity for Non-Traditional Education Support, 6490 Saufley Field Road, Pensacola, FL 32509-5243.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Director, Defense Activity for Non-Traditional Education Support, 6490 Saufley Field Road, Pensacola, FL 32509-5243.

Individuals should submit a signed request that contains their full name and last 4 of their Social Security Number.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves is contained in this system should address written inquiries to the Director, Defense Activity for Non-Traditional Education Support, 6490 Saufley Field Road, Pensacola, FL 32509-5243.

Individuals should submit a signed request that contains their full name and last 4 of their Social Security Number.

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; DoD contractors that administer exams; colleges/universities/ educational institutions personnel, DFAS and DoD activities.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 06-9622 Filed 12-8-06; 8:45 am]

BILLING CODE 5001-06-M

DEPARTMENT OF ENERGY

Office of International Regimes and Agreements; Proposed Subsequent Arrangement

AGENCY: Department of Energy.

ACTION: Notice of proposed subsequent arrangement.

SUMMARY: This notice is being issued under the authority of section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160). The Department is providing notice of a proposed "subsequent arrangement" under the Agreement for Cooperation in the Peaceful Uses of Nuclear Energy between the United States and the European Atomic Energy Community (Euratom) and the Agreement for Cooperation in the Peaceful Uses of Nuclear Energy between the United States and Canada.

This subsequent arrangement concerns the retransfer of 325,443.8 kg of Natural UF6 (67.6% U), containing 220,000 kg of Uranium. This material will be retransferred from Cameco Corporation, Port Hope Ontario, to Urenco Ltd., Alemlo, Netherlands to be enriched and returned to the United States for use as fuel in the nuclear power plants by the Pacific Gas and Electric Company, Pismo Beach, CA. The material originally was exported to

Canada pursuant to NRC Export License Number XSOU-8798. Urenco is authorized to receive nuclear material pursuant to the U.S.-Euratom Agreement for Cooperation.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, we have determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy,
Richard Goorevich,
Director, Office of International Regimes and Agreements.
 [FR Doc. E6-20985 Filed 12-8-06; 8:45 am]

BILLING CODE 6450-01-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-8253-6]

Public Notice of Seven (7) Draft National Pollutant Discharge Elimination System (NPDES) General Permits for Storm Water Discharges From Industrial Activities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of proposed NPDES general permits for public comment.

SUMMARY: Region 8 of EPA is hereby giving notice of its tentative determination to issue seven (7) NPDES general permits for storm water discharges from regulated industrial activities. The proposed general permits are applicable to Federal Facilities within the State of Colorado and to Indian country within the Region 8 states as listed below.

State	Permit No.	Areas covered
Colorado	COR05*##F	Federal Facilities in the State of Colorado, except those located in Indian country.
Colorado	COR05*##I	Indian country within the State of Colorado, as well as the portion of the Ute Mountain Reservation located in New Mexico.
Montana	MTR05*##I	Indian country within the State of Montana.
North Dakota	NDR05*##I	Indian country within the State of North Dakota (except for the portion of the lands within the former boundaries of the Lake Traverse Reservation which is covered under permit SDR05*##I listed below), as well as that portion of the Standing Rock Reservation located in South Dakota.
South Dakota	SDR05*##I	Indian country within the State of South Dakota (except for the Standing Rock Reservation, which is covered under permit NDR05*##I listed above), as well as the portion of the Pine Ridge Reservation located in Nebraska and the portion of the lands within the former boundaries of the Lake Traverse Reservation located in North Dakota.
Utah	UTR05*##I	Indian country within the State of Utah, except Goshute and Navajo Reservation lands (permitted through EPA Region 9).
Wyoming	WYR05*##I	Indian country within the State of Wyoming.

NPDES permit coverage is required for storm water discharges from industrial activities in accordance with final EPA regulations for Phase I (55 FR 48063, Nov. 16, 1990) and Phase II (64 FR 68722, Dec. 8, 1999) storm water discharges. Operators of regulated industrial activities as defined in federal regulations at 40 CFR 122.26(b)(14) are required to submit a Notice of Intent (NOI) application and a Storm Water Pollution Prevention Plan (SWPPP) to EPA to be covered under the general permit. Upon receipt of complete NOI and EPA approval of the SWPPP, operators will be authorized to discharge storm water from their industrial activities in accordance with the terms described in the permit. Those industries which have a direct discharge of process wastewater (non storm water) and/or whose storm water discharges are subject to Effluent Limitation Guidelines (ELGs) must obtain permit

coverage for their storm water discharges under an individual permit.

In accordance with the draft general permit, operators of regulated industrial activities must implement storm water management controls which are designed to protect water quality and ensure that discharges from industrial activities do not cause or contribute to a violation of water quality standards. Several storm water management controls are required by the permit and address good housekeeping, identification of potential pollutant sources, preventative maintenance, spill prevention and response, material handling/waste management, employee training, record keeping, erosion/sediment control, illicit discharges, visual inspections, and comprehensive facility inspections. Operators must submit a pollution prevention plan to the EPA which includes a site map and describes how the storm water

management controls are being implemented at the specified location.

DATES: Public comments on this draft permit must be received or postmarked no later than January 10, 2007. A public hearing may be requested in writing (see 40 CFR 124.11) within the comment period concerning the proposed permit. EPA will hold a public hearing if on the basis of requests, a significant degree of public interest in the draft permit exists (see 40 CFR 124.12). Within 120 days following notice of EPA's final decision for the general permit under 40 CFR 124.15, any interested person may appeal the permit in the Federal Court of Appeals in accordance with section 509(b)(1) of the CWA. Persons affected by a general permit may not challenge the conditions of a general permit as a right in further Agency proceedings. They may instead either challenge the general permit in court, or apply for an individual permit as specified at 40 CFR

122.21 (and authorized at 40 CFR 122.28), and then petition the Environmental Appeals Board to review any conditions of the individual permit (40 CFR 124.19 as modified on May 15, 2000, 65 FR 30886).

ADDRESSES: Public comments or requests for a public hearing should be sent to: Greg Davis (8P-W-WW); Attention: NPDES Permits; U.S. EPA, Region 8; 999 18th Street, Suite 200; Denver, CO 80202-2466. Public comments will also be accepted via electronic mail (E-mail) at davis.gregory@epa.gov.

Public Comment Period: Public comments are invited. Comments must be received or postmarked no later than January 10, 2007. Comments should be sent to: Greg Davis at the above address. Each comment should cite the page number and, where possible, the section(s) and/or paragraph(s) in the draft permit or Fact Sheet to which each comment refers. Commenters should use a separate paragraph for each issue discussed.

FOR FURTHER INFORMATION CONTACT: For a copy of the draft permit and Fact Sheet or for further information on the draft permit, contact either Greg Davis (303) 312-6314 (davis.gregory@epa.gov) at the above address or Ellen Bonner, (303) 312-6371 (bonner.ellen@epa.gov), at U.S. EPA Region 8 (8P-W-WW); 999 18th Street, Suite 200; Denver, CO 80202-2466. Copies of the draft permit and Fact Sheet may be downloaded from the EPA Region 8 Web site at <http://www.epa.gov/region8/water/stormwater>.

SUPPLEMENTARY INFORMATION: When the final general permit is issued, it will be published by reference in the **Federal Register**. The general permit will be effective on the date specified in the **Federal Register** with an expiration five years from such date.

Administrative Record: The proposed general permit and other related documents in the administrative record are on file in the EPA Region 8 NPDES file room and may be inspected upon request any time between 8 a.m. and 4 p.m., Monday through Friday, excluding legal holidays, at the following address: U.S. EPA, Region 8; 999 18th Street, Suite 200; Denver, CO 80202-2466. Requests to view files in the Region 8 NPDES file room should be sent to Ellen Bonner, (303) 312-6371 (bonner.ellen@epa.gov).

OMB Review: Issuance of an NPDES general permit is not subject to rulemaking requirements, including the requirement for a general notice of final rulemaking, under Administrative Procedure Act (APA) Section 533 or any

other law, and is thus also not subject to the Regulatory Flexibility Act (RFA) and the Unfunded Mandates Reform Act (UMRA) requirements.

The APA defines two broad categories of agency action—"rules" and "orders." Its definition of "rule" encompasses "an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the organization, procedure, or practice requirements of an agency * * *" APA section 551(4). Its definition of "order" is residual: "a final disposition * * * of an agency in a matter other than rule making but including licensing." APA section 551(6) (emphasis added). The APA defines "license" to "include * * * an agency permit * * *" APA section 551(8). The APA thus categorizes a permit as an order, which by the APA's definition is not a rule. Section 553 of the APA establishes "rule making" requirements. The APA defines "rule making" as "the agency process for formulating, amending, or repealing a rule." APA section 551(5). By its terms, then, section 533 applies only to "rules" and not also to "orders," which include permits.

Paperwork Reduction Act: EPA has reviewed the requirements imposed on regulated facilities in these proposed general permits under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* The information collection requirements of these permits have already been approved by the Office of Management and Budget in submissions made for the NPDES permit program under the provisions of the Clean Water Act.

Authority: Clean Water Act, 33 U.S.C. 1251 *et seq.*

Dated: November 29, 2006.

Carol L. Campbell,

*Acting Assistant Regional Administrator,
Office of Partnerships and Regulatory Assistance.*

[FR Doc. E6-20986 Filed 12-8-06; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-8253-7]

Notice of Approval of the Primacy Application for National Primary Drinking Water Regulations for the State of Nebraska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of approval and solicitation of requests for a public hearing.

SUMMARY: The Environmental Protection Agency (EPA) is hereby giving notice that the State of Nebraska is revising its approved Public Water Supply Supervision Program under the Nebraska Department of Health and Human Services. EPA has determined that these revisions are no less stringent than the corresponding federal regulations. Therefore, EPA intends to approve these program revisions.

DATES: This determination to approve the Nebraska program revision is made pursuant to 40 CFR 142.12(d)(3). This determination shall become final and effective on January 10, 2007, unless (1) a timely and appropriate request for a public hearing is received or (2) the Regional Administrator elects to hold a public hearing on his own motion. Any interested person, other than federal agencies, may request a public hearing. A request for a public hearing must be submitted to the Regional Administrator at the EPA Region 7 address shown below by January 10, 2007. If a substantial request for a public hearing is made within the requested 30-day time frame, a public hearing will be held and a notice will be given in the **Federal Register** and a newspaper of general circulation. Frivolous or insubstantial requests for a hearing may be denied by the Regional Administrator. All interested parties may request a public hearing on the approval to the Regional Administrator at the EPA Region 7 address shown below.

ADDRESSES: Any request for a public hearing shall include the following information: (1) Name, address, and telephone number of the individual organization or other entity requesting a hearing; (2) a brief statement of the requesting person's interest in the Regional Administrator's determination and a brief statement about the information that the requesting person intends to submit at such hearing; (3) the signature of the individual making the request or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity. Requests for Public Hearing shall be addressed to: Regional Administrator, U.S. Environmental Protection Agency Region 7, 901 North 5th Street, Kansas City, KS 66101.

All documents relating to this determination are available for inspection between the hours of 9 a.m. and 4 p.m., Monday through Friday, at the following offices: Nebraska Department of Health and Human Services, Department of Regulation and Licensure, Environmental Health

Service, 301 Centennial Mall South, 3rd Floor, P.O. Box 95007, Lincoln, NE 68509.

U.S. Environmental Protection Agency Region 7, Water, Wetlands and Pesticides Division, Drinking Water Management Branch, 901 North 5th Street, Kansas City, KS 66101.

FOR FURTHER INFORMATION CONTACT:

Kenneth L. Deason, EPA Region 7, Drinking Water Management Branch, (913) 551-7585 or toll-free at 800-223-0425, or by e-mail at deason.ken@epa.gov.

SUPPLEMENTARY INFORMATION: Notice is hereby given that EPA has determined to approve an application by the Nebraska Department of Health and Human Services to incorporate the following EPA National Primary Drinking Water Regulations: (1) Arsenic and Clarifications to Compliance and New Source Monitoring Rule (January 22, 2001, 66 FR 6975); (2) Filter Backwash Recycling Rule (June 8, 2001, 66 FR 31086); (3) Lead and Copper Rule Minor Revisions (January 12, 2000, 65 FR 1950); (4) Long Term 1 Enhanced Surface Water Treatment Rule (January 14, 2002, 67 FR 1812); (5) Public Notification Rule (May 4, 2000, 65 FR 25982); (6) Radionuclides Rule (December 7, 2000, 65 FR 76708); and (7) Variance and Exemption Rule (August 14, 1998, 63 FR 43834). The application demonstrates that Nebraska has adopted drinking water regulations that satisfy the National Primary Drinking Water Regulations. EPA has determined that Nebraska's regulations are no less stringent than the corresponding federal regulations and that Nebraska continues to meet all requirements for primary enforcement responsibility as specified in 40 CFR 142.10.

(Authority: Section 1413 of the Safe Drinking Water Act, as amended and 40 CFR 142.10, 142.12(d) and 142.13)

Dated: November 20, 2006.

John B. Askew,

Regional Administrator, Region 7.

[FR Doc. E6-20977 Filed 12-8-06; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-8253-8]

Notice of Approval of the Primacy Application for National Primary Drinking Water Regulations for the State of Kansas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of approval and solicitation of requests for a public hearing.

SUMMARY: The Environmental Protection Agency (EPA) is hereby giving notice that the State of Kansas is revising its approved Public Water Supply Supervision Program under the Kansas Department of Health and Environment. The EPA has determined that these revisions are no less stringent than the corresponding Federal regulations. Therefore, the EPA intends to approve these program revisions.

DATES: This determination to approve the Kansas program revision is made pursuant to 40 CFR 142.12(d)(3). This determination shall become final and effective on January 10, 2007, unless (1) a timely and appropriate request for a public hearing is received or (2) the Regional Administrator elects to hold a public hearing on his own motion. Any interested person, other than Federal Agencies, may request a public hearing. A request for a public hearing must be submitted to the Regional Administrator at the address shown below by January 10, 2007. If a substantial request for a public hearing is made within the requested thirty-day time frame, a public hearing will be held and a notice will be given in the **Federal Register** and a newspaper of general circulation. Frivolous or insubstantial requests for a hearing may be denied by the Regional Administrator. All interested parties may request a public hearing on the approval to the Regional Administrator at the EPA Region 7 address shown below.

ADDRESSES: Any request for a public hearing shall include the following information: (1) Name, address and telephone number of the individual organization or other entity requesting a hearing; (2) a brief statement of the requesting person's interest in the Regional Administrator's determination and a brief statement on information that the requesting person intends to submit at such hearing; (3) the signature of the individual making the request or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity. Requests for Public Hearing shall be addressed to: Regional Administrator, Environmental Protection Agency—Region 7, 901 North 5th Street, Kansas City, Kansas 66101.

All documents relating to this determination are available for inspection between the hours of 9 a.m. and 4:30 p.m., Monday through Friday, at the following offices: Kansas Department of Health and Environment,

Bureau of Water, Public Water Supply Section, 1000 SW Jackson Street, Suite 420, Topeka, Kansas 66612-1367.

Environmental Protection Agency—Region 7, Water Wetlands and Pesticides Division, Drinking Water Management Branch, 901 North 5th Street, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT:

Neftali Hernandez-Santiago, Environmental Protection Agency—Region 7, Drinking Water Management Branch, (913) 551-7036, or by e-mail at hernandez-santiago.neftali@epa.gov.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the EPA has determined to approve an application by the Kansas Department of Health and Environment to incorporate the following EPA National Primary Drinking Water Regulations: (1) Arsenic and Clarifications to Compliance and New Source Contaminants Monitoring (January 22, 2001, 66 FR 6975); (2) Consumer Confidence Reports Rule (August 19, 1998, 63 FR 44511); (3) Filter Backwash Recycling Rule (June 8, 2001, 66 FR 31085); (4) Interim Enhanced Surface Water Treatment Rule (December 16, 1998, 63 FR 69477); (5) Lead and Copper Rule Minor Revisions (January 12, 2000, 65 FR Page 1949); (6) Long Term 1 Enhanced Surface Water Treatment Rule (January 14, 2002, 67 FR 1811); (7) Public Notification Rule (May 4, 2000, 65 FR 25981); (8) Radionuclides Rule (December 7, 2000, 65 FR 76707); and (9) Stage 1 Disinfectants and Disinfection Byproducts Rule (December 16, 1998, 63 FR 69389). The application demonstrates that Kansas has adopted drinking water regulations which satisfy the National Primary Drinking Water Regulations. The EPA has determined that Kansas's regulations are no less stringent than the corresponding Federal regulations and that Kansas continues to meet all requirements for primary enforcement responsibility.

(Authority: Section 1413 of the Safe Drinking Water Act, as amended, and 40 CFR 142.10, 142.12(d) and 142.13)

Dated: November 20, 2006.

John B. Askew,

Regional Administrator, Region 7.

[FR Doc. E6-20983 Filed 12-8-06; 8:45 am]

BILLING CODE 6560-50-P

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Regular Meeting

AGENCY: Farm Credit Administration.

SUMMARY: Notice is hereby given, pursuant to the Government in the

Sunshine Act (5 U.S.C. 552b(e)(3)), of the regular meeting of the Farm Credit Administration Board (Board).

DATE AND TIME: The regular meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on December 14, 2006, from 9 a.m. until such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Roland E. Smith, Secretary to the Farm Credit Administration Board, (703) 883-4009, TTY (703) 883-4056.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090.

SUPPLEMENTARY INFORMATION: Parts of this meeting of the Board will be open to the public (limited space available), and parts will be closed to the public. In order to increase the accessibility to Board meetings, persons requiring assistance should make arrangements in advance. The matters to be considered at the meeting are:

Open Session

A. Approval of Minutes

- November 9, 2006 (Open)

B. New Business

- Bookletter on Farm Credit Bank and Association Appointed Directors

Reports

- FCSBA Quarterly Report
- Economic and Funding Approval Update

Closed Session*

- OSMO Quarterly Report

Dated: December 6, 2006.

Roland E. Smith,

Secretary, Farm Credit Administration Board.

[FR Doc. 06-9641 Filed 12-7-06; 1:20 pm]

BILLING CODE 6705-01-P

FEDERAL COMMUNICATIONS COMMISSION

Federal Advisory Committee Act

AGENCY: Federal Communications Commission.

ACTION: Notice of charter renewal.

SUMMARY: In accordance with the Federal Advisory Committee Act (Pub. L. 92-463), the purpose of this notice is to announce that the Federal Communications Commission (FCC) has renewed the charter for the "Advisory Committee on Diversity for Communications in the Digital Age."

* Session Closed—Exempt pursuant to 5 U.S.C. 552b(c)(8) and (9).

("Diversity Committee") for a two-year period through December 5, 2008. The Diversity Committee is a federal advisory committee under the Federal Advisory Committee Act.

DATES: December 5, 2008.

ADDRESSES: A copy of the Charter is available from the Federal Communications Commission, Reference Information Center, 445 12th Street, SW., Room CY-A257, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Lisa M. Fowlkes, Designated Federal Officer for the Diversity Committee, Federal Communications Commission, 445 12th St. SW., Room 7-C753, Washington, DC 20554. Telephone (202) 418-7452. E-mail: lisa.fowlkes@fcc.gov.

SUPPLEMENTARY INFORMATION: The purpose of the Diversity Committee is to make recommendations to the FCC regarding policies and practices that will further enhance the ability of minorities and women to participate in the telecommunications and related industries. Issues or questions to be considered by the Committee will include, but are not limited to the following topic areas: (1) Financial issues, such as access to capital; (2) transactional transparency and related outreach; (3) career advancement; and (4) the impact of new and emerging technologies on diversity issues. In keeping with its advisory role, the duties of the Committee will be to provide guidance to the Commission on policies and practices that could increase the diversity of ownership and create opportunities for minorities and women to advance to managerial positions in the communications sector. The Committee will make reports and recommendations concerning the need for any guidelines, incentives, regulations or other policy approaches to promote diversity of participation in the communications sector. The Committee will also develop a description of best practices within the communications sector for promoting diversity of participation.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E6-21003 Filed 12-8-06; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting Notices

Cancellation of previously announced meetings: Tuesday, December 1, 2006, meeting closed to the public and

Thursday, December 21, 2006, meeting open to the public.

DATE AND TIME: Thursday, December 14, 2006 at 10 a.m.

PLACE: 999 E Street, NW., Washington, DC (ninth floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.
Merit and Service Awards.
Election of Officers.
Future Meeting Dates.
Advisory Opinion 2006-33: National Association of Realtors and Realtors Political Action Committee by counsel, Jan Witold Baran.
Prototype Demonstration for Searchable Advisory Opinions.
Management and Administrative Matters.

PERSON TO CONTACT FOR INFORMATION

Mr. Robert Biersack, Press Officer,
Telephone: (202) 694-1220.

Mary W. Dove,

Secretary of the Commission.

[FR Doc. 06-9648 Filed 12-7-06; 3:48 pm]

BILLING CODE 6715-01-M

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 January 5, 2007.

A. Federal Reserve Bank of St. Louis (Glenda Wilson, Community Affairs Officer) 411 Locust Street, St. Louis, Missouri 63166-2034:

1. *Tyronza Bancshares*, Marked Tree, Arkansas; to acquire up to 7.10 percent of the voting shares of Central Bank, Little Rock, Arkansas.

2. *Cross County Bancshares, Inc.*, Wynne, Arkansas; to acquire up to 10.66 percent of the voting shares of Central Bank, Little Rock, Arkansas.

3. *Lonoke Bancshares, Inc.*, Lonoke, Arkansas; to acquire up to 10.66 percent of the voting shares of Central Bank, Little Rock, Arkansas.

Board of Governors of the Federal Reserve System, December 5, 2006.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E6-20933 Filed 12-08-E6; 8:45 am]

BILLING CODE 6210-01-S

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Sunshine Act Meeting Notice

TIME AND DATE: 10 a.m. (EST); December 18, 2006.

PLACE: 4th Floor Conference Room, 1250 H Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of the minutes of the November 20, 2006 Board member meeting.
2. Thrift Savings Plan activity report by the Executive Director.
 - a. Monthly Performance Report.
 - b. Monthly Investment Report.
 - c. Legislative Report.
3. Participant Survey Update.

CONTACT PERSON FOR MORE INFORMATION: Thomas J. Trabucco, Director, Office of External Affairs, (202) 942-1640.

Dated: December 7, 2006.

Thomas K. Emswiler,

Secretary to the Board, Federal Retirement Thrift Investment Board.

[FR Doc. 06-9646 Filed 12-7-06; 1:50 pm]

BILLING CODE 6760-01-P

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

Trans No.	Acquiring	Acquired	Entities
TRANSACTIONS GRANTED EARLY TERMINATION—10/30/2006			
20070030	E. Merck OGH	Erniesio Bertarelli	Bertarelli Biotech S.A.
20070073	ValueAct Capital Master Fund, L.P	Misys plc	Misys plc.
20070079	Entergy Corporation	CMS Energy Corporation	Consumers Energy Company.
20070082	Welsh, Carson, Anderson & Stowe X, L.P.	ACS Media Income Fund	ACS Media Canada Inc.
20070083	The Goldman Sachs Group, Inc	Robyn Simon	Holdco (LLC).
20070087	Roche Holding Ltd	InterMune, Inc	InterMune, Inc.
20070090	USI Holdings Corporation	Kibble & Prentice Holding Company	Kibble & Prentice Holding Company.
20070099	Informa, Plc	Lawrence Erlbaum	Lawrence Erlbaum Associates, Inc., Publishers.
20070100	Sharad Kumar Tak	Ronald H. Van Den Heuvel	New Concept Press, Inc.
20070102	Ralcorp Holdings, Inc	Terry R. Knutson and Rose Knutson	The Analytic Press, Inc.
20070103	Sequoia Capital XI, L.P	Google, Inc	Eco Fibre, Inc.
20070106	J.C. Flowers I LP	USAgencies, L.L.C.	Oconto Falls Tissue, Inc.
20070113	Arrowpoint Capital Corp	Royal & Sun Alliance Insurance Group plc.	Recovering Aqua Resources, Inc.
20070119	Steve S. Chen	Google Inc	Cottage Bakery, Inc.
20070120	Chad M. Hurley	Google Inc	Google, Inc.
			USAgencies, L.L.C.
			Arrowpoint General Partnership.
			Google Inc.
			Google Inc.
TRANSACTIONS GRANTED EARLY TERMINATION—10/31/2006			
20060891	Watson Pharmaceuticals, Inc	Andrx Corporation	Andrx Corporation.
20061681	Joseph M. & Marie H. Field	Sumner M. Redstone	CBS Radio Inc. of Illinois.
			CBS Radio Stations Inc.
			Texas CBS Radio L.P.
TRANSACTIONS GRANTED EARLY TERMINATION—11/01/2006			
20061861	Aquila, Inc	Calpine Corporation	MEP Pleasant Hill, LLC.
20070055	J.H. Whitney VI, L.P	Landry's Restaurants, Inc	Joes' Crab Shack-Delaware, Inc.
20070094	Alimentation Couche-Tard Inc	Royal Dutch Shell plc	Equilon Enterprises LLC.

Trans No.	Acquiring	Acquired	Entities
20070095	Alimentation Couche-Tard Inc	Royal Dutch Shell plc	Motiva Enterprises LLC.
20070107	Alimentation Couche-Tard Inc	Aramco Services Company	Motiva Enterprises LLC.
20070108	IntercontinentalExchange, Inc	Board of Trade of the City of New York, Inc.	Board of Trade of the City of New York, Inc.
20070109	Sun Capital Partners IV, LP	Kirtland Capital Partners III L.P	Essex Holdings LLC.
20070112	International Business Machines Corporation.	Carmine Cacciavillani	Palisades Technology Partners LLC.
20070121	Lehman Brothers Holdings Inc	Wilton Re Holdings Limited	Wilton Re Holdings Limited.
20070128	Neways Holdings LTD	Leslie DeeAnn Mower	Cosmeceutical Creations Corporation, Ltd. LTM Enterprises, Inc. Neways DISC, Inc.
20070129	Neways Holdings Ltd	Thomas E. Mower	Cosmeceutical Creations Corporation Ltd. LTM Enterprises, Inc. Neways DISC, Inc.
20070131	Noverco Inc	Green Mountain Power Corporation	Green Mountain Power Corporation.

TRANSACTIONS GRANTED EARLY TERMINATION—11/02/2006

20070070	ADF Restaurant Group, LLC	Yum! Brands, Inc	Blue Ridge Pizza Hut, Inc. Chesapeake Bay Pizza Hut, Inc. Mountaineer Pizza Hut, Inc. Oriole Pizza Hut, Inc. Pizza Hut, Inc. Pizza Hut of Alleghany County No. 1, Inc. Pizza Hut of Alleghany County No. 2, Inc. Pizza Hut of Alleghany County No. 3, Inc. Pizza Hut of America, Inc. Pizza Hut of Charles County, Inc. Pizza Hut of Frederick County No. 1, Inc. Pizza Hut of Frederick County No. 2, Inc. Pizza Hut of Frederick County No. 3, Inc. Pizza Hut of Frederick County No. 4, Inc. Pizza Hut of Frederick County No. 5, Inc. Pizza Hut of Frederick County No. 6, Inc. Pizza Hut of St. Mary's County, Inc. Pizza Hut of Washington County, No. 1, Inc. Pizza Hut of Washington County No. 2, Inc. Pizza Hut of Washington County No. 3, Inc. Potomac Pizza Hut, Inc. Red Raider Pizza Company. MFSP, Inc.
20070080	Martinrea International Inc	ThyssenKrupp AG	ThyssenKrupp Budd Canada, Inc. ThyssenKrupp Budd Company. ThyssenKrupp Budd Systems Canada, Ltd. ThyssenKrupp Budd Systems, LLC. ThyssenKrupp Fabco Corp. ThyssenKrupp Fabco, Inc. ThyssenKrupp Hopkinsville, LLC. Arnold Logistics, LLC.
20070084	Oak Hill Capital Partners II, L.P	Arnold Logistics, LLC	Arnold Logistics, LLC.
20070088	Google Inc	YouTube, Inc	YouTube, Inc.
20070133	Blackhawk Acquisition Company	Baxter International Inc	Baxter Healthcare Corporation.

TRANSACTIONS GRANTED EARLY TERMINATION—11/03/2006

20070067	PAREXEL International Corporation	Behavioral and Medical Research, LLC	Behavioral and Medical Research, LLC.
20070071	Flextronics International Ltd	International DisplayWorks, Inc	International DisplayWorks, Inc.
20070072	McAfee, Inc	Citadel Security Software, Inc	Canberra, LLC. Canberra Operating, L.P.

Trans No.	Acquiring	Acquired	Entities
20070141	Sidney Kohl	Harold Blumenstein	Citadel Security Software International, LLC.
20070143	Thoma Cressey Fund VIII, L.P	Harvey E. Najim	EF&A Funding, L.L.C.
20070152	Acquicor Technology Inc	Jazz Semiconductor, Inc	Sirius Computer Solutions, Inc.
20070158	Mr. Andre Kudelski	Liberty Media Corporation	Jazz Semiconductor, Inc.
20070183	Chattem, Inc	Johnson & Johnson	OpenTV.
			Johnson & Johnson.

TRANSACTIONS GRANTED EARLY TERMINATION—11/07/2006

20070085	Illinois Tool Works, Inc	KPS Special Situations Fund II (A), L.P	Speedline Holdings, I, LLC.
20070110	Carl C. Icahn	Lear Corporation	Lear Corporation.
20070111	Icahn Partners Master Fund LP	Lear Corporation	Lear Corporation.
20070125	Icahn Partners LP	Lear Corporation	Lear Corporation.
20070132	Sun Capital Partners IV, LP	Big 10 Tires Stores, Inc	Big 10 Tires Stores, Inc.

TRANSACTIONS GRANTED EARLY TERMINATION—11/09/2006

20070140	Snap-on Incorporated	ProQuest Company	ProQuest Alison, Inc. ProQuest Business Solutions Inc. ProQuest Business Solutions, Ltd. ProQuest Information Access, Ltd. ProQuest UK Holdings, Ltd.
20070147	Arrow Electronics, Inc	Alternative Data Technology, Inc	Alternative Data Technology, Inc.
20070177	Banco Santander Central Hispano, S.A	HBOS plc	Drive Consumer USA, Inc.

TRANSACTIONS GRANTED EARLY TERMINATION—11/13/2006

20061796	Vivendi S.A.	Mr. Reinhard Mohn	Arvato de Mexido, S.A. de C.V. Bertelsmann AG. Bertelsmann Holding Spain, S.A. Bertelsmann Music Group Gmhb. Bertelsmann Music Group LLC. BMG Deutschland GmbH. MBG France S.A.S. BMG Music Publishing Canada Inc.
20070069	Blue Cross Blue Shield of Michigan	Regents of the Unviersity of Michigan ...	M-CAID. M-CARE. Michigan Health Insurance Company.

TRANSACTIONS GRANTED EARLY TERMINATION—11/14/2006

20070134	Healthways, Inc	AXIA Health Management, LLC	AXIA Health Management, Inc.
20070146	Kobayashi Pharmaceutical Co., Ltd	Heatmax, Inc	Heatmax, Inc.
20070149	Apollo Investment Fund, VI, L.P	Jacuzzi Brands, Inc	Jacuzzi Brands, Inc.
20070180	Unifi, Inc	Dillon Yarn Corporation	Dillon Yarn Corporation.
20070181	Old Republic International Company	Aon Corporation	Special Risk Resources Insurance Agency. Virginia Surety Company, Inc.
20070193	FRIT PINN LLC	Crown Castle International Corp	Crown Castle International Corp.
20070194	FIT GSL LLC	Crown Castle International Corp	Crown Castle International Corp.
20070196	Abrams Capital Partners II, L.P	Crown Castle International Corp	Crown Castle International Corp.
20070197	Riva Capital Partners, L.P	Crown Castle International Corp	Crown Castle International Corp.
20070198	Whitecrest Partners, L.P	Crown Castle International Corp	Crown Castle International Corp.
20070199	Trevor Lloyd	Indus International, Inc	Indus International, Inc.
20070201	Harpoon Acquisition Corporation	Open Solutions, Inc	Open Solutions, Inc.
20070205	Madison Dearborn Capital Partners V-A, L.P.	The Yankee Candle Company, Inc	The Yankee Candle Company, Inc.
20070206	Thoma Cressey Fund VIII, L.P	Harbert Private Equity Fund II, L.L.C	Community Hospices of America, Inc.
20070209	Level 3 Communications, Inc	Broadwing Corporation	Broadwing Corporation.
20070211	InterMedia Partners VII, L.P	LIN TV Corp	LIN Television of San Juan, Inc. S&E Network, Inc. WAPA America, Inc.
20070216	The James Balsillie Family Trust II	Lemieux Group, LP	Lemieux Development, LP. Pittsburgh Penguins Enterprises Company. WBS Hockey, LP.
20070217	Cap Gemini SA	Kanbay International, Inc	Kanbay International, Inc.
20070220	AT&T, Inc	Deutsche Telekom AG	T-Moblie USA, Inc.
20070225	ABRY Partners V, L.P	William Ruch	Psychological Services, Inc.
20070226	Doughty Hanson & Co. IV	Zobebe Holding S.p.A	Zobebe Holding S.p.A.
20070228	Harbinger Capital Partners Offshore Fund I, Ltd.	Applica Incorporated	Applica Incorporated.
20070230	Court Square Capital Partners II, L.P	Soros Limited Partner, LLC	AE Europe Holdings, Inc.

Trans No.	Acquiring	Acquired	Entities
20070232	Community Newspaper Holdings, Inc	Dow Jones & Company, Inc	Ottaway Newspapers of Pennsylvania, L.P. Ottaway Newspapers, Inc. The Mail Tribune, Inc. The Santa Cruz Sentinel, Inc. The Traverse City Record-Eagle, Inc.
20070233	Catlin Group Limited	Wellington Underwriting plc	Wellington Underwriting plc.
20070234	Oracle Corporation	MetaSolv, Inc	MetaSolv, Inc.
20070241	Affordable Care Holding Corp	Affordable Care, Inc	Affordable Care, Inc.
20070242	Nautic Partners V, L.P	The Resolute Fund, L.P	Precision Engineered Products Holdings, Inc.

TRANSACTIONS GRANTED EARLY TERMINATION—11/15/2006

20070114	AIG Highstar Capital II, L.P	Interstate Waste Services Holding Company, Inc.	Interstate Waste Services Holding Company, Inc.
20070179	TransMontaigne Partners, L.P	Morgan Stanley	TransMontaigne Product Services, Inc.
20070186	Oak Hill Capital Partners II, L.P	Atlas Copco AB	Atlas Copco North America, Inc.
20070187	Ripplewood Partners II, L.P	Atlas Copco AB	Atlas Copco North America, Inc.

TRANSACTIONS GRANTED EARLY TERMINATION—11/17/2006

20070191	Tenaska Power Fund, L.P	Constellation Energy Group, Inc	Big Sandy Peaker Plant, LLC. CP High Desert II, Inc. CP High Desert I, Inc. HE Supply Company, LLC. Holland Energy, LLC. Rio Nogales II, Inc. Rio Nogales I, Inc. University Park Energy, LLC. UP Supply, LLC. Wolf Hills Energy, LLC.
20070195	Fortress Pinnacle Investment Fund, LLC	Crown Castle International Corp	Crown Castle International Corp.
20070202	Merrill Lynch & Co., Inc	Petrie Parkman & Co., Inc	Petrie Parkman & Co., Inc.
20070213	AT&T, Inc	2Wire, Inc	2Wire, Inc.
20070214	Morgan Stanley	FrontPoint Partners, LLC	FrontPoint Partners, LLC.
20070229	Internap Network Services Corporation	VitalStream Holdings, Inc	VitalStream Holdings, Inc.
20070235	Berkshire Hathaway, Inc	Converium Holding AG, Zug	Converium Holdings (North America), Inc.
20070247	Signature Hospital Holding, LLC	LifePoint Hospitals, Inc	ALL. c/o LifePoint Hospitals, Inc. LifePoint WV Limited, Partner, LLC. S.J. Ventures Properties, Limited Partnership. St. Joseph's Healthcare System, Limited Partnership.
20070252	IDB Holding Corporation Ltd	Koor Industries Ltd	Koor Industries Ltd.
20070261	Coconut Palm Acquisition Corp	Equity Broadcasting Corporation	Equity Broadcasting Corporation.
20070262	Bank of America Corporation	Momentum Energy Group Inc	Momentum Energy Group Inc.
20070264	Oracle Corporation	Stellent, Inc	Stellent, Inc.
20070265	KKR European Fund II, Limited	Societe D'Investissement Familiale	Societe D'Investissement Familiale.
20070275	Lincolnshire Equity Fund III, L.P	Dawn Enterprises Incorporated	Dawn Enterprises Incorporated.
20070283	Stephen A. Wynn	Wynn Resorts, Limited	Wynn Resorts, Limited.
20070285	MMP Capital Partners (QP), L.P	TCW Special Placements Fund III	Houston Harvest Gift Products, LLC.

TRANSACTIONS GRANTED EARLY TERMINATION—11/20/2006

20070096	TPG-Axon Partners, LP	Triad Hospitals, Inc	Triad Hospitals, Inc.
20070097	TPG-Axon Partners, (Offshore), Ltd	Triad Hospitals, Inc	Triad Hospitals, Inc.
20070231	Thomas G. Dundon	HBOS plc	Drive Consumer USA Inc.
20070257	Platinum Equity Capital Partners, L.P	Henry T. Swigert	ESCO Integrated Manufacturing Concord, Inc. ESCO Integrated Manufacturing Tempe, Inc.
20070268	Automatic Data Processing, Inc	First Data Corporation	Taxware, LP.
20070273	LRI Holdings, Inc	CBRL Group, Inc.	Logan's Roadhouse, Inc.

TRANSACTIONS GRANTED EARLY TERMINATION—11/21/2006

20070130	Nautilus Holdings Acquisition Corp	General Electric Company	GE Bayer Specialties Srl. General Electric Canada. General Electric Plastics GmbH. GE NewCo Pte. Ltd-Singapore. GE OSI Industria de Silicones, Ltda.
----------------	------------------------------------------	--------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------

Trans No.	Acquiring	Acquired	Entities
			GE Quartz (China) Co. Ltd. GE Quartz Europe GmbH. GE Quartz, Inc. GE Sealants & Adhesives, Inc. GE Silicones, Inc. GE Specialty Materials Japan Co. Ltd. GE Supply Mexico, S. de R. L. de C.V. GE Toshiba Silicones Asia Pacific Ptd. Ltd. GE Toshiba Silicones Co., Ltd. Total Safety U.S., Inc.
20070182	DLJ Merchant Banking Partners IV, L.P	H.I.G. Capital Partners III, L.P	SITEL Corporation
20070185	Gerald W. Schwartz	SITEL Corporation	SITEL Corporation.
20070243	Williams Partners L.P	The Williams Companies, Inc	Williams Four Corners LLC.

TRANSACTIONS GRANTED EARLY TERMINATION—11/22/2006

20070159	Benchmark Electronics, Inc	Pemstar Inc	Pemstar Inc.
20070166	Fox Paine Capital Fund III, L.P	KPS Special Situations Fund II (A), L.P	Wire Rope Corporation of America, Inc.
20070204	Orica Limited	Close Brothers Private Equity Fund VI ..	Minova Holding Inc.
20070238	CB Richard Ellis Group, Inc	Trammell Crow Company	Trammell Crow Company.
20070239	Diamond Castle Partners IV, L.P	Barry Diller	PRC, LLC.
20070245	Colam Enterprende S.A	Robert C. Friedman and Pauline Fried- man.	Friedman Electric Supply Co., Inc.
20070253	China National Chemical Corporation ...	Rhodia S.A	Rhodia Norge A/S. Rhodia OY. Rhodia Silicones Espana S.A. Rhodia Silicones Shanghai Co. Ltd. Rhodia Silicones Inc. Rhodia Silicones SAS. Rhodia Siliconi Italia S.p.A. Rhodia Specialty Silicones GmbH. Silicone Brasis—Participacoes Servicos e Comercio.
20070255	Mitsui & Co., Ltd	Estate of Michael Zinn	SunWize Technologies, LLC.
20070288	Ryanair Holdings plc	Aer Lingus Group plc	Aer Lingus Group plc.

TRANSACTIONS GRANTED EARLY TERMINATION—11/24/2006

20061839	Nabor Industries Ltd	L. Charles Moncia, Jr	LM Industries, LLC. Moncia Well Service, Inc.
----------------	----------------------------	-----------------------------	--------------------------------------------------

For Further Information Contact:
Sandra M. Peay, Contact Representative,
or Renee Hallman, Contact
Representative, Federal Trade
Commission, Premerger Notification
Office, Bureau of Competition, Room H-
303, Washington, DC 20580, (202) 326-
3100.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 06-9618 Filed 12-8-06; 8:45 am]

BILLING CODE 6750-01-M

OFFICE OF GOVERNMENT ETHICS

**Updated OGE Senior Executive Service
Performance Review Board**

AGENCY: Office of Government Ethics
(OGE).

ACTION: Notice.

SUMMARY: Notice is hereby given of the
appointment of members of the updated
OGE Senior Executive Service (SES)
Performance Review Board.

DATES: *Effective Date:* December 11,
2006.

FOR FURTHER INFORMATION CONTACT:
Daniel D. Dunning, Deputy Director for
Administration and Information
Management, Office of Government
Ethics, Suite 500, 1201 New York
Avenue, NW., Washington, DC 20005-
3917; Telephone: 202-482-9300; TDD:
202-208-9293; FAX: 202-482-9237.

SUPPLEMENTARY INFORMATION: 5 U.S.C.
4314(c) requires each agency to
establish, in accordance with
regulations prescribed by the Office of
Personnel Management at 5 CFR part
430, subpart C and § 430.310 thereof in
particular, one or more Senior Executive
Service performance review boards. As
a small executive branch agency, OGE
has just one board. In order to ensure an
adequate level of staffing and to avoid
a constant series of recusals, the
designated members of OGE's SES
Performance Review Board are being
drawn, as in the past, in large measure
from the ranks of other agencies. The
board shall review and evaluate the

initial appraisal of each OGE senior
executive's performance by his or her
supervisor, along with any
recommendations in each instance to
the appointing authority relative to the
performance of the senior executive.
This notice updates the membership of
OGE's SES Performance Review Board
as it was last published at 70 FR 69763-
69764 (November 17, 2005).

Approved: December 5, 2006.

Robert I. Cusick,

Director, Office of Government Ethics.

The following officials have been
selected as regular members of the SES
Performance Review Board of the Office
of Government Ethics:

Joseph E. Gangloff [Chair], Deputy
Director for Agency Programs, Office of
Government Ethics;

Susan E. Propper [Alternate Chair],
Deputy General Counsel, Office of
General Counsel and Legal Policy,
Office of Government Ethics;

Stephen Epstein, Director, Standards
of Conduct Office, Department of
Defense;

Rosalind A. Knapp, Deputy General Counsel, Department of Transportation;
Daniel L. Koffsky, Special Counsel,
Office of Legal Counsel, Department of
Justice.

[FR Doc. E6-20974 Filed 12-8-06; 8:45 am]

BILLING CODE 6345-02-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Statement of Organization, Functions, and Delegations of Authority

This notice amends Part K of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (DHHS), Administration for Children and Families (ACF), as follows: Chapter KA, Office of the Assistant Secretary for Children and Families, as last amended 66 FR 52627, 10/16/01, and Chapter KN, Office of Public Affairs, as last amended 63 FR 81-87, 01/02/98. This notice adds a new office, the Office of Human Services Emergency Preparedness and Response to the Office of the Assistant Secretary for Children and Families. In addition, this notice notes the name change from the President's Committee on Mental Retardation (PCMR) to the President's Committee for People with Intellectual Disabilities (PCPID). Lastly, this notice moves the Freedom of Information Act (FOIA) Officer and Office of Inspector General (OIG) hotline functions from the Office of the Assistant Secretary for Children and Families to the Office of Public Affairs. The changes are as follows:

I. Under Chapter KA, Office of the Assistant Secretary for Children and Families, Make the Following Changes

A. Delete KA.00 Mission in its entirety and replace with the following:

KA.00 Mission. The Office of the Assistant Secretary for Children and Families (OAS) provides executive direction, leadership, and guidance for all ACF programs. OAS provides national leadership to develop and coordinate public and private initiatives for carrying out programs that promote permanency placement planning, family stability, and self-sufficiency. OAS advises the Secretary on issues affecting America's children and families, including Native Americans, persons with developmental disabilities, refugees, and legalized aliens. OAS provides leadership on human service issues and conducts emergency

preparedness and response operations during a nationally declared emergency.

B. Delete KA.10 Organization in its entirety and replace with the following:

KA.10 Organization. The Office of the Assistant Secretary for Children and Families is headed by the Assistant Secretary for Children and Families who reports directly to the Secretary and consists of:

Office of the Assistant Secretary for Children and Families (KA),
President's Committee for People with Intellectual Disabilities Staff (KAD),
Executive Secretariat Office (KAF),
Office of Human Services Emergency Preparedness and Response (KAG).

C. Delete KA.20 Functions in its entirety and replace with the following:

KA.20 Functions. A. Office of the Assistant Secretary for Children and Families (KA): The Office of the Assistant Secretary for Children and Families is responsible to the Secretary for carrying out ACF's mission and provides executive supervision of the major components of ACF. These responsibilities include providing executive leadership and direction to plan and coordinate ACF program activities to ensure their effectiveness, approving instructions, policies, publications, and grant awards issued by ACF, and representing ACF in relationships with governmental and non-governmental organizations. The Assistant Secretary for Children and Families also serves as the Director of the Office of Child Support Enforcement, and signs official child support enforcement documents as the Assistant Secretary for Children and Families. The Principal Deputy Assistant Secretary serves as an alter ego to the Assistant Secretary for Children and Families on program matters and acts in the absence of the Assistant Secretary for Children and Families.

B. President's Committee for People with Intellectual Disabilities Staff (KAD): The President's Committee for People with Intellectual Disabilities (PCPID) staff provides general staff support for a Presidential-level advisory body. It coordinates all meetings and Congressional hearing arrangements; provides such advice and assistance in the areas of intellectual disabilities as the President or the Secretary may request; prepares and issues an annual report to the President concerning intellectual disabilities and such additional reports or recommendations as the President may require or as PCPID may deem appropriate; and evaluates the national effort to prevent and ameliorate intellectual disabilities. It works with other Federal, State, local

governments, and private-sector organizations to achieve Presidential goals vis-à-vis intellectual disabilities, and develops and disseminates information to increase public awareness of intellectual disabilities to reduce its incidence and to alleviate its effects. The staff supporting PCPID reports to the Deputy Assistant Secretary for Policy and External Affairs.

C. The Executive Secretariat Office (KAF): The Executive Secretariat Office (ExecSec) ensures that issues requiring the attention of the Assistant Secretary, Deputy Assistant Secretaries and/or executive staff are addressed on a timely and coordinated basis and facilitates decisions on matters requiring immediate action, including White House, Congressional, and Secretariat assignments. ExecSec serves as the ACF liaison with the HHS Executive Secretariat. ExecSec receives, assesses, and controls incoming correspondence and assignments to the appropriate ACF component(s) for response and action and provides assistance and advice to ACF staff on the development of responses to correspondence. ExecSec provides assistance to ACF staff on the use of the controlled correspondence system. ExecSec coordinates and/or prepares Congressional correspondence; and tracks development of periodic reports; and facilitates Departmental clearances.

D. The Office of Human Services Emergency Preparedness and Response (KAG): The Office of Human Services Emergency Preparedness and Response (OHSEPR) provides general staff support for the implementation and coordination of ACF program and human services emergency planning, preparedness, and response during nationally declared emergencies. OHSEPR oversees disaster assessment, response operations and asset-management protocols. OHSEPR coordinates with ACF Central and Regional Offices, ACF State- and local grantee-funded programs, ACF program partner organizations, and the Office of the Secretary, Office of Public Health Emergency Preparedness (OPHEP). OHSEPR coordinates, through the OPHEP, with the Department of Homeland Security Federal Emergency Management Agency on human services emergency planning as part of the National Emergency Plan. The staff supporting the OHSEPR report to the Director of OHSEPR who reports to the Principal Deputy Assistant Secretary.

II. Under Chapter KN, Office of Public Affairs, Make the Following Changes

Delete KN.20 Functions, Paragraph A, in its entirety and replace with the following:

KN.20 Functions. A. Office of Director [63 FR 81–87, 01/02/98] provides leadership and direction to OPA in administering OPA's responsibilities. The Office provides direction and leadership in the areas of public relations policy and communications services. The Office serves as advisor to the Assistant Secretary for Children and Families in the areas of public affairs; provides advice on strategies and approaches to be used to improve public understanding of and access to ACF programs and policies; and coordinates and serves as ACF liaison with the Assistant Secretary for Public Affairs. The Office serves as Regional Liaison on public affairs issues. The Deputy Director assists the Director in carrying out the responsibilities of the Office. The Office serves as the Freedom of Information Act Officer for ACF and coordinates hotline calls received by the Office of Inspector General relating to ACF operations and personnel.

Dated: December 1, 2006.

Wade F. Horn,

Assistant Secretary for Children and Families.

[FR Doc. E6–21010 Filed 12–8–06; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

National Advisory Council on the National Health Service Corps; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of the following meeting:

Name: National Advisory Council on the National Health Service Corps

Dates and Times: January 4, 2007, 9 a.m.–5 p.m.; January 5, 2007, 9 a.m.–5 p.m.; and January 6, 2007, 9 a.m.–5 p.m.

Place: Embassy Suites DC Convention Center, 900 10th Street, NW., Washington, DC 20001.

Status: The meeting will be open to the public.

Agenda: The Council will be finalizing a report outlining some recommendations for the National Health Service Corps Program. Discussions will be focused on the impact of these recommendations on the program participants, communities served by these clinicians and in the administration of the program.

For Further Information Contact: Tira Robinson-Patterson, Division of National Health Service Corps, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 8A–55, 5600 Fishers Lane, Rockville, MD 20857; telephone: (301) 594–4140.

Dated: December 1, 2006.

Caroline Lewis,

Acting Associate Administrator for Administration and Financial Management.

[FR Doc. E6–20989 Filed 12–8–06; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5043–N–10]

Notice of Proposed Information Collection for Public Comment: The Survey of HUD-Approved Counseling Agencies

AGENCY: Office of Policy Development and Research, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* February 9, 2007.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control number and should be sent to: Reports Liaison Officer, Office of Policy Development & Research, Department of Housing and Urban Development, 451 7th Street, SW., Room 8226, Washington, DC 20410–5000.

FOR FURTHER INFORMATION CONTACT: Marina L. Myhre, (202) 708–3700, extension 5705 for copies of the proposed forms and other available documents. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended). This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have

practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology (e.g., permitting electronic submission of responses).

This Notice also lists the following information:

Title of Proposal: Survey of HUD-Approved Counseling Agencies.

Description of the need for the information and proposed use: This request is for the clearance of a survey instrument designed to provide a broad, statistically accurate picture of the current state of the HUD-approved counseling industry in the United States. This survey would be based on the population of approximately 2,173 HUD-approved counseling agencies. The purpose of the survey is to: Provide an accurate picture of the current HUD-approved housing counseling industry, including but not limited to, organizational information, the range of counseling provided, how counseling activities are funded, how agencies manage client intake, who is providing the counseling, who is being counseled, what type of counseling/education are counselees receiving.

OMB Approval Number: Pending.

Agency form numbers: None.

Members of Affected Public: HUD-Approved Counseling Agencies.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: 2,173 HUD-Approved Counseling Agencies will be surveyed. Average time to complete the survey is 45 minutes. Respondents will only be contacted once. Total burden hours are 1,630.

Status of the proposed information collection: Pending OMB approval.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Date: December 1, 2006.

Darlene F. Williams,

Assistant Secretary for Policy Development and Research.

[FR Doc. E6–20932 Filed 12–8–06; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5043-N-11]

Notice of Proposed Information Collection for Public Comment: Survey of Agencies Receiving Funding Under HUD's Fair Housing Initiative Program (FHIP)**AGENCY:** Office of the Policy Development and Research, HUD.**ACTION:** Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* February 9, 2007.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control number and should be sent to: Report Liaison Officer, Office of Policy Development and Research, Department of Housing and Urban Development, 451 7th Street, SW., Room 8226, Washington, DC 20410-5000.

FOR FURTHER INFORMATION CONTACT: Todd M. Richardson, (202) 708-3700, extension 5706, (this is not a toll-free number) for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended). This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology (e.g., permitting electronic submission of responses).

This Notice also lists the following information:

Title of Proposal: Survey of Agencies Receiving Funding Under HUD's Fair Housing Initiative Program (FHIP)

Description of the need for the information and proposed use: This request is for the clearance of a survey instrument designed to provide a broad, statistically accurate picture of the activities of FHIP agencies nationwide. This survey would be based on the population of approximately 168 FHIP agencies. The purpose of the survey is to characterize the nature of the organizations that receive FHIP grants and the types of activities they undertake. The proposed survey includes questions on agency size, budget, mission, experience, governance/administrative structure, staff, and funding history. The proposed survey will also look specifically at the grantee's process of implementing its FHIP grant.

OMB Approval Number: Pending.*Agency form numbers:* None.*Members of Affected Public:* FHIP Agencies.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: 168 FHIP agencies will be surveyed. Average time to complete the survey is 45 minutes. Respondents will only be contacted once. Total burden hours are 126.

Status of the proposed information collection: New.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Date: December 1, 2006.

Darlene F. Williams,*Assistant Secretary for Policy Development and Research.*

[FR Doc. E6-20934 Filed 12-8-06; 8:45 am]

BILLING CODE 4210-67-P**DEPARTMENT OF THE INTERIOR****Bureau of Land Management**

[MT-039-1020-PK]

Notice of Public Meeting, Dakotas Resource Advisory Council Meeting**AGENCY:** Bureau of Land Management, Interior.**ACTION:** Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM), Dakotas

Resource Advisory Council will meet as indicated below.

DATES: A meeting will be held January 10 and 11, 2007, at the Holiday Inn, at I90 Exit 14, Spearfish, SD 57783, beginning at 1 p.m. The public comment period will begin at 8 a.m. on Thursday, January 11, 2007.

SUPPLEMENTARY INFORMATION: The 15-member Council advises the Secretary of the Interior, through the Bureau of Land Management, on a variety of planning and management issues associated with public land management in North and South Dakota. All meetings are open to the public. The public may present written comments to the Council. Each formal Council meeting will also have time allocated for hearing public comments. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited. Individuals who plan to attend and need special assistance, such as sign language interpretation, or other reasonable accommodations, should contact the BLM as provided below. The Council will hear updates to Recreation Resource Advisory Committee roles, Sage Grouse Conservation, and upcoming resource management planning efforts.

FOR FURTHER INFORMATION CONTACT: Marian Atkins, Field Manager, South Dakota Field Office, 310 Roundup St., Belle Fourche, South Dakota, 605-892-7000, or Lonny Bagley, Field Manager, North Dakota Field Office, 99 23rd Ave., W. Suite A, Dickinson, North Dakota, 701-227-7700.

Dated: December 5, 2006.

Michael A. Nash,*Acting, Field Manager.*

[FR Doc. E6-20972 Filed 12-8-06; 8:45 am]

BILLING CODE 4310-40-P**DEPARTMENT OF THE INTERIOR****Bureau of Land Management**

[MT-060-01-1020-PG]

Notice of Public Meeting; Central Montana Resource Advisory Council**AGENCY:** Bureau of Land Management, Interior.**ACTION:** Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972, the U.S. Department of the Interior, Bureau of Land Management (BLM) Central Montana Resource Advisory Council (RAC) will meet as indicated below.

DATES: The meeting will be held January 9 & 10, 2007, at the Bureau of Land Management's Lewistown Field Office, 920 NE Main Street, in Lewistown, Montana. The January 9 session will begin at 10 a.m. with a 30-minute public comment period. This meeting is scheduled to adjourn at 6 p.m. The January 10 meeting will begin at 8 a.m. with a 30-minute public comment period. This meeting is scheduled to adjourn at 3 p.m.

SUPPLEMENTARY INFORMATION: This 15-member council advises the Secretary of the Interior on a variety of management issues associated with public land management in Montana. At this meeting the council will discuss/act upon:

The minutes of their preceding meeting;

A review of the RAC charter;

An orientation session for new and current members;

An update concerning the Missouri River Breaks National Monument RMP

Orientation for serving as a recreation resource advisory committee;

A review of Undaunted Stewardship programs;

A review of livestock grazing regulations;

A presentation concerning the Kipp Business Plan;

Information concerning Revised Statute 2477;

An oil and gas activity briefing;

An update on the Valley Wind Farm;

A report concerning the initial Malta RMP scoping comments;

And administrative details.

All RAC meetings are open to the public. The public may present written comments to the RAC. Each formal RAC meeting will also have time allocated for hearing public comments. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited.

FOR FURTHER INFORMATION CONTACT: June Bailey, Lewistown Field Manager, Lewistown Field Office, P.O. Box 1160, Lewistown, Montana 59457 406/538-1900.

Dated: December 5, 2006.

June Bailey,

Lewistown Field Manager.

[FR Doc. E6-20973 Filed 12-8-06; 8:45 am]

BILLING CODE 4310-40-P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent (NOI) To Prepare a Draft Environmental Impact Statement (DEIS) for an Off-Road Vehicle Management Plan (ORV Management Plan) for Cape Hatteras National Seashore, NC

SUMMARY: Notice is hereby given in accordance with the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4332, and Council on Environmental Quality regulations, 40 CFR 1506.6, that the U.S. Department of the Interior, National Park Service (NPS), will prepare an ORV Management Plan/EIS. The ORV Management Plan/EIS will be used to guide the management and control of ORVs at Cape Hatteras National Seashore (the Seashore), North Carolina, for approximately the next 10 to 15 years. It will also form the basis for a special regulation that would regulate ORV use at the Seashore. The ORV Management Plan/EIS will assess potential environmental impacts associated with a range of reasonable alternatives for managing ORV impacts on park resources such as threatened and endangered species, soils, wetlands, wildlife, and cultural resources. Socioeconomic impacts and effects on visitor experience and public safety will also be analyzed.

DATES: To determine the scope of issues to be addressed in the ORV Management Plan/EIS and to identify significant issues related to the ORV management at the Seashore, the NPS will conduct public scoping meetings in North Carolina at Buxton, Kill Devil Hills, and Raleigh, North Carolina and in Washington, DC. Representatives of the NPS will be available to discuss issues, resource concerns, and the planning process at each of the public meetings. When public scoping meetings have been scheduled, their locations, dates, and times will be published in local newspapers and posted on the NPS Planning, Environment and Public Comment (PEPC) Web site at <http://parkplanning.nps.gov/CAHA>.

ADDRESSES: Written comments or requests for information should be addressed to Mike Murray, Superintendent, Outer Banks Group, 1401 National Park Drive, Manteo, North Carolina 27954. Comments may also be hand delivered to Mike Murray, Superintendent, Outer Banks Group, 1401 National Park Drive, Manteo, North Carolina. In addition comments may be entered on-line in the NPS PEPC Web site at <http://>

parkplanning.nps.gov/CAHA. To comment using PEPC, select the "Cape Hatteras National Seashore ORV Management Plan/DEIS project," select "documents," select this "Notice of Intent," and then select "Comment" and enter your comments.

FOR FURTHER INFORMATION CONTACT: Mike Murray, Superintendent, at 252-473-2111, extension 148. E-mail Mike_Murray@nps.gov. Further information about this project may also be found on the PEPC Web site at <http://parkplanning.nps.gov/CAHA> including links to information about the NEPA planning process and the regulatory negotiation process.

SUPPLEMENTARY INFORMATION: The ORV use on the Seashore beaches predates establishment of the park in 1953. The ORVs (mostly 4-wheel drive pickup trucks and sport utility vehicles) are used to provide vehicular access onto the Seashore beaches for recreational and commercial purposes, including surf fishing, surfing, sunbathing, swimming, bird watching, scenic driving, commercial fishing, etc. Ranger counts of ORVs on the beach have reached as high as 2,200 a day on summer holiday weekends.

Executive Order 11644, issued in 1972 and amended by Executive Order 11989 in 1977, states that Federal agencies allowing ORV use must designate the specific areas and trails on public lands on which the use of ORVs may be permitted, and areas in which the use of ORVs may not be permitted. Agency regulations to authorize ORV use shall provide that designation of such areas and trails will be based upon the protection of the resources of the public lands, promotion of the safety of all users of those lands, and minimization of conflicts among the various uses of those lands. Executive Order 11644 was issued in response to the widespread and rapidly increasing use of ORV on the public lands—"often for legitimate purposes but also in frequent conflict with wise land and resource management practices, environmental values, and other types of recreational activity." Therefore, in accordance with the Executive Order, the purpose of this action is to develop an ORV Management Plan/EIS that considers alternative management strategies consistent with the park's enabling legislation, and park mandates for preservation of resources and values.

An ORV Management Plan is needed because lack of an approved plan over time has led to inconsistent management of ORV use. As the popularity of the Seashore continues to grow, conflicts between visitors who

seek access to the Seashore by means of an ORV and those desiring a variety of other experiences has increased. Related to the need to provide consistency in ORV management is the need to provide consistency in resource protection in areas of ORV use, particularly as required under the Endangered Species Act of 1973. Compounding these issues, the Seashore is also subject to dynamic weather-related events that continually change the beach, and sometimes limit the area that can be accessed safely by ORVs. Therefore, the need for action is to: (1) Provide a comprehensive plan that complies with Executive Orders 11644 and 11989 respecting ORV use, and with laws (e.g. the NPS Organic Act, park enabling legislation, Endangered Species Act, Migratory Bird Treaty Act), NPS regulations (36 CFR 4.10), and policies to minimize impacts to park resources and values; and, (2) Develop and assess a range of options within the plan that provides for a variety of visitor experiences, including access for ORV use, to the degree these experiences are consistent with the park's enabling legislation.

The ORV Management Plan/EIS will cover lands administered by the NPS on Bodie, Hatteras, and Ocracoke Islands on the Outer Banks of North Carolina. The 5,880 acre Pea Island National Wildlife Refuge (Refuge), located at the northern end of Hatteras Island, is part of the Seashore, but is administered for refuge purposes by the U.S. Fish and Wildlife Service (USFWS) in accordance with the National Wildlife Refuge System Administration Act, 16 U.S.C. 668dd *et seq.* The USFWS is responsible for determining whether ORVs are compatible with the purposes of the Refuge; therefore Refuge lands are excluded from the Seashore ORV Management Plan/EIS.

During initial internal scoping the NPS interdisciplinary team identified a number of draft objectives for the ORV Management Plan/EIS, including:

Management Methodology: Identify criteria to designate appropriate ORV use areas and routes.

Visitor Use and Experience: Manage ORV use to allow for a variety of visitor use experiences. Minimize conflicts between ORV use and other uses. Provide for ORV use for those activities consistent with park resource conservation as recognized under the Seashore's enabling legislation.

Threatened, Endangered, and Species of Special Concern: Provide protection for threatened, endangered, and sensitive species and their habitats from adverse impacts related to ORV use.

Because the management of ORVs at the Seashore has been controversial, the

NPS has arranged through an interagency agreement with the U.S. Institute for Environmental Conflict Resolution for a neutral facilitation team to assess the feasibility of using negotiated rulemaking to reach a consensus agreement among interested parties that may be used as a basis for an NPS ORV special regulation. Based on the feasibility assessment, the NPS is developing a Notice of Intent to Establish a Negotiated Rulemaking Committee which would be published separately in the **Federal Register** for public comment. If a committee is established, the negotiated rulemaking and NEPA planning processes would be conducted concurrently.

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

The draft and final ORV Management Plan/EIS will be made available to all known interested parties and appropriate agencies. Full public participation by Federal, State, and local agencies as well as other concerned organizations and private citizens is invited throughout the preparation process of this document.

The responsible official for this ORV Management Plan/EIS is Patricia A. Hooks, Regional Director, Southeast Region, National Park Service, 100 Alabama Street, SW., 1924 Building, Atlanta, Georgia 30303.

Dated: December 1, 2006.

Paul B. Hartwig,

Acting Regional Director, Southeast Region.

[FR Doc. E6-20961 Filed 12-8-06; 8:45 am]

BILLING CODE 4310-X3-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 November 25, 2006.

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 December 26, 2006.

John W. Roberts,

Acting Chief, National Register/National Historic Landmarks Program.

KENTUCKY

Ballard County

Trimble House, 725 N. 4th St., Wickliffe, 06001203

Bourbon County

West Millersburg Rural Historic District, Millersburg—Ruddels Mills Rd. and Steele Ford Rd., Millersburg, 06001197

Clark County

Hood-Tucker House, 19 French Ave., Winchester, 06001201

Fulton County

Whitesell, Jesse, Farm (Boundary Increase), KY 116, W of Purchase Parkway, Fulton, 06001200

Graves County

Lyles, Pete, House, 302 KY 348 E, Symsonia, 06001202

Taylor County

Campbellsville School, Stadium and Athletic Field, 230 W. Main St., Campbellsville, 06001195

Warren County

Smith Grove Historic District (Boundary Increase), Roughly bounded by Smiths Grove Cemetery, RR, Hedge St. and Kentucky St., Smiths Grove, 06001194

MISSOURI

St. Louis County

Hi-Pointe-De Mun Historic District (Boundary Increase), Roughly bounded by Clayton Rd., De Mun Ave., San Bonita Ave., and Big Bend Blvd., Clayton, 06001207

NEW YORK

Erie County

Garret Club, 91 Cleveland Ave., Buffalo, 06001212

Nash, Rev. J. Edward, Sr., House, 36 Nash St., Buffalo, 06001210

Herkimer County

Sunset Hill, 102 NY 167, Warren, 06001205

Livingston County

Sparta First Presbyterian Church, 4687 Scottsburg Rd., Groveland Station, 06001209

Oneida County

Camroden Presbyterian Church, 8049 E.
Floyd Rd., Floyd, 06001204

Onondaga County

Borodino District School #8, 1845 Rose Hill
Rd., Borodino, 06001206

Schenectady County

Swart House and Tavern, 130 Johnson Rd.,
Glenville, 06001211

Suffolk County

Wereholme, 5500 S. Bay Ave., Islip,
06001208

TENNESSEE**Obion County**

Whitesell, Jesse Farm (Boundary Increase),
KY 116 W of Purchase Pkwy., Fulton,
06001199

VIRGINIA**Richmond Independent City**

Lee, Robert E., Monument, 1700 Monument
Ave., jct. of Monument and Allen Aves.,
Richmond (Independent City), 06001213

WASHINGTON**Clark County**

Vancouver National Historic Reserve Historic
District, Roughly bounded by an alley N of
Officers' Row, East Reserve St., Columbia
River, and I-5, Vancouver, 06001216

King County

YWCA Building—Seattle, 1118 Fifth Ave.,
Seattle, 06001215

Pierce County

Balfour Dock Building, 705 Dock St.,
Tacoma, 06001214

To assist in the preservation of this
historic property the comment period
has been shortened to five (5) days:

KENTUCKY**Jefferson County**

Bannon, Martin Jeff (M.J.), House, 5112
Bannon Crossing, Louisville, 06001196

[FR Doc. E6-20926 Filed 12-8-06; 8:45 am]

BILLING CODE 4312-51-P

**INTERNATIONAL TRADE
COMMISSION**

[Inv. No. 337-TA-491; Inv. No. 337-TA-481
(consolidated) Enforcement Proceeding]

**In the Matter of Certain Display
Controllers and Products Containing
Same and Certain Display Controllers
With Upscaling Functionality and
Products Containing Same; Notice of
Commission Decision Not To Review
an Initial Determination of the
Administrative Law Judge Terminating
the Enforcement Proceeding Based on
a Settlement Agreement**

AGENCY: U.S. International Trade
Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that
the U.S. International Trade
Commission has determined not to
review the presiding administrative law
judge's ("ALJ") initial determination
("ID") (Order No. 46) terminating the
above-captioned enforcement
proceeding based on a settlement
agreement.

FOR FURTHER INFORMATION CONTACT:

Michael Liberman, Esq., Office of the
General Counsel, U.S. International
Trade Commission, 500 E Street, SW.,
Washington, DC 20436, telephone (202)
205-3061. Copies of all nonconfidential
documents filed in connection with this
investigation are or will be available for
inspection during official business
hours (8:45 a.m. to 5:15 p.m.) in the
Office of the Secretary, U.S.

International Trade Commission, 500 E
Street, SW., Washington, DC 20436,
telephone 202-205-2000. General
information concerning the Commission
may also be obtained by accessing its
Internet server (<http://www.usitc.gov>).
The public record for this investigation
may be viewed on the Commission's
electronic docket (EDIS) at [http://
edis.usitc.gov/](http://edis.usitc.gov/). Hearing-impaired
persons are advised that information on
the matter can be obtained by contacting
the Commission's TDD terminal on 202-
205-1810.

SUPPLEMENTARY INFORMATION: On August
20, 2004, the Commission terminated
the above-captioned investigation and
issued a limited exclusion order ("the
Order") which denies entry to certain
display controllers manufactured, inter
alia, by respondent MStar
Semiconductor, Inc. ("MStar") and
covered by claims 2, 3, 5, 6, 12, 13, 16,
17, 33-36, 38, and 39 of U.S. Patent
5,739,867. On April 24, 2006,
complainant Genesis Microchip
(Delaware) Inc. ("Genesis") filed a
complaint for enforcement of the

Commission's Order under Commission
Rule 210.75. Genesis asserted that
respondent MStar had violated the
Commission's Order by importing its
allegedly infringing Tsunami display
controllers into the United States.

On June 23, 2006, the Commission
issued a "Notice of Institution of Formal
Enforcement Proceeding." See 71 Fed.
Reg. 37096 (June 29, 2006). On October
25, 2006, complainant Genesis and
respondent MStar filed a joint motion to
terminate the enforcement proceeding
on the basis of a settlement agreement
pursuant to Commission Rule 210.21.
See 19 CFR. 210.21. On November 6,
2006, the Commission investigative
attorney filed a response in support of
the motion.

On November 8, 2006, the ALJ issued
an ID (Order No. 46) granting the
motion. No party petitioned for review
of Order No. 46.

The Commission has determined not
to review Order No. 46.

The authority for the Commission's
determination is contained in section
337 of the Tariff Act of 1930, as
amended (19 U.S.C. 1337), and in
section 210.42(h) of the Commission's
Rules of Practice and Procedure (19 CFR
210.42(h)).

By order of the Commission.

Dated: December 6, 2006.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E6-21008 Filed 12-8-06; 8:45 am]

BILLING CODE 7020-02-P

**INTERNATIONAL TRADE
COMMISSION**

[Investigation Nos. 731-TA-471 and 472
(Second Review)]

Silicon Metal From Brazil and China**Determinations**

On the basis of the record¹ developed
in the subject five-year reviews, the
United States International Trade
Commission (Commission) determines,
pursuant to section 751(c) of the Tariff
Act of 1930 (19 U.S.C. 1675(c)) (the
Act), that revocation of the antidumping
duty order on silicon metal from Brazil
would not be likely to lead to
continuation or recurrence of material
injury to an industry in the United
States within a reasonably foreseeable
time. The Commission also determined
that revocation of the antidumping duty
order on silicon metal from China
would be likely to lead to continuation

¹ The record is defined in sec. 207.2(f) of the
Commission's Rules of Practice and Procedure (19
CFR 207.2(f)).

or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission instituted these reviews on January 3, 2006 (71 FR 138) and determined on April 10, 2006 that it would conduct full reviews (71 FR 23947, April 25, 2006). Notice of the scheduling of the Commission's reviews and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on July 17, 2006 (71 FR 40543). The hearing was held in Washington, DC, on September 19, 2006, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these reviews to the Secretary of Commerce on December 6, 2006. The views of the Commission are contained in USITC Publication 3892 (December 2006), entitled *Silicon Metal from Brazil and China: Investigation* Nos. 731-TA-471 and 472 (Second Review).

By order of the Commission.

Issued: December 6, 2006.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E6-21007 Filed 12-8-06; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[OMB Number 1117-0042]

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-Day Notice of Information Collection Under Review; National Clandestine Laboratory Seizure Report.

The Department of Justice (DOJ), Drug Enforcement Administration (DEA), has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted until February 9, 2007. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Clark R. Fleming, Field Division Counsel, El Paso Intelligence Center, 11339 SSG Sims Blvd., El Paso, TX 79908.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* National Clandestine Laboratory Seizure Report.

(3) *Agency form number, if any and the applicable component of the Department sponsoring the collection:* Form number: EPIC Form 143.

Component: El Paso Intelligence Center, Drug Enforcement Administration, U.S. Department of Justice.

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

Primary: State, Local or Tribal Government.

Other: None.

Abstract: Records in this system are used to provide clandestine laboratory seizure information to the El Paso Intelligence Center, Drug Enforcement Administration, and other Law enforcement agencies, in the discharge

of their law enforcement duties and responsibilities.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There are ninety-two (92) total respondents for this information collection. Seven thousand three hundred twenty-eight (7328) responded using paper at 1 hour a response and one thousand one hundred sixty-three (1163) responded electronically at 1 hour a response, for eight thousand four hundred ninety-one (8491) annual responses.

(6) *An estimate of the total public burden (in hours) associated with the collection:* It is estimated that there are 8491 annual burden hours associated with this collection.

If additional information is required contact: Lynn Bryant, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street NW., Washington, DC 20530.

Dated: December 6, 2006.

Lynn Bryant,

Department Clearance Officer, Department of Justice.

[FR Doc. E6-21006 Filed 12-8-06; 8:45 am]

BILLING CODE 4410-09-P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Orlando Wholesale, L.L.C. Denial of Application

On November 18, 2005, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, issued an Order to Show Cause to Orlando Wholesale, L.L.C., of Orlando, Florida (Respondent). The Show Cause Order proposed to deny Respondent's pending application for a DEA Certificate of Registration as a distributor of List I chemicals on the ground that its registration would be inconsistent with the public interest. See 21 U.S.C. 823(h) and 824(a).

The Show Cause Order specifically alleged that Respondent was proposing to distribute List I chemical products containing pseudoephedrine, a precursor chemical which is used to manufacture methamphetamine, to convenience stores in the Orlando area and that methamphetamine manufacturers often obtain the chemical from convenience stores. See Show Cause Order at 1-2. The Show Cause Order alleged that during DEA's pre-

registration investigation, investigators had determined that one of Respondent's co-owners had previously been involved in a firm that distributed List I chemicals without obtaining a proper registration. See *id.* The Show Cause Order further alleged that DEA Diversion Investigators (DIs) had requested that Respondent's owner provide them with information regarding his immigration status, his business licenses, and the nature of the co-owner's involvement in Respondent. See *id.* The Show Cause Order alleged that Respondent had failed to provide any of the requested information. See *id.*

On November 25, 2005, the Government attempted to serve the Show Cause Order on Respondent by certified mail, return receipt requested, at the address of its proposed registered location, 9500 Satellite Blvd., #230, Orlando, FL. The mailing was returned with a notation that Respondent's forwarding address was 1167 Doss Ave., Orlando, FL. Thereafter, on December 30, 2005, two DEA DIs went to the latter address and personally served Respondent's owner, Mr. Shakil Isani, with the Show Cause Order. Since that time, neither Respondent, nor anyone purporting to represent it, has responded. Because (1) more than thirty days have passed since Respondent's receipt of the Show Cause Order, and (2) no request for a hearing has been received, I conclude that Respondent has waived its right to a hearing. See 21 CFR 1309.53(c). I therefore enter this final order without a hearing based on relevant material found in the investigative file and make the following findings.

Findings

Pseudoephedrine is a List I chemical that, while having a therapeutic use, is easily extracted from lawful products and used in the illicit manufacture of methamphetamine, a schedule II controlled substance. See 21 U.S.C. 802(34); 21 CFR 1308.12(d). As noted in numerous DEA orders, "methamphetamine is an extremely potent central nervous system stimulant." *Sujak Distributors*, 71 FR 50102, 50103 (2006); *A-1 Distribution Wholesale*, 70 FR 28573 (2005). Methamphetamine is highly addictive; its abuse has destroyed lives and families and ravaged communities. Moreover, because of the toxic nature of the chemicals used to make the drug, its manufacture creates serious environmental harms. *David M. Starr*, 71 FR 39367 (2006).

Respondent is a Florida corporation which has been in business since October 2003. On March 22, 2004,

Respondent applied for a registration as a distributor of List I chemicals and gave as the address of its proposed registered location: 9500 Satellite Blvd., # 230, Orlando, FL. On June 15, 2004, two DEA DIs conducted a pre-registration investigation at this address. At some point thereafter, Respondent changed its address to 1167 Doss Avenue, Orlando. Respondent did not, however, notify DEA.

During the pre-registration investigation, the DIs met with Respondent's owner, Mr. Shakil Isani. Mr. Isani told the DIs that Respondent is a wholesale distributor of some 700 different items to approximately 109 convenience stores in the greater Orlando area. Mr. Isani further advised the DIs that he is the owner and only officer of Respondent. When the DIs asked Mr. Isani for a copy of Respondent's Articles of Incorporation, Mr. Isani stated that three other individuals were listed as being managing members of the firm but that he planned on removing them. One of these individuals had previously come to the attention of DEA because he was operating a business (on behalf of his brother who had been convicted of several federal criminal offenses and was then serving a sentence of incarceration) which distributed List I chemicals without a valid DEA registration.

The DIs asked Mr. Isani to provide them with documentation regarding the removal of the other members of his firm. The DIs also asked Mr. Isani for personal data such as date, place of birth, and social security numbers for the other members. Mr. Isani agreed to provide the information. Mr. Isani has not, however, provided the information.

The DIs also asked Mr. Isani about his immigration status. Mr. Isani told the DIs that he was in the country under a work permit but that he did not have the documentation on him. The DIs then asked Mr. Isani to provide them with documentation of his status. Subsequently, the DIs conducted a check of Mr. Isani's status and determined that he was not legally in the United States and appeared to be subject to removal proceedings. The check, however, also showed that Mr. Isani had applied for an adjustment of status to become a resident alien. According to the investigative file, Mr. Isani has not provided the DIs with updated information on his status.

During the on-site inspection, the DIs also asked Mr. Isani to provide copies of his business licenses. Again, Mr. Isani has not provided any of the information that the DIs requested.

Discussion

Under 21 U.S.C. 823(h), an applicant to distribute List I chemicals is entitled to be registered unless the registration would be "inconsistent with the public interest." In making this determination, Congress directed that I consider the following factors:

- (1) Maintenance by the applicant of effective controls against diversion of listed chemicals into other than legitimate channels;
- (2) Compliance by the applicant with applicable Federal, State, and local law;
- (3) Any prior conviction record of the applicant under Federal or State laws relating to controlled substances or to chemicals controlled under Federal or State law;
- (4) Any past experience of the applicant in the manufacture and distribution of chemicals; and
- (5) Such other factors as are relevant to and consistent with the public health and safety.

Id.

"These factors are considered in the disjunctive." *Joy's Ideas*, 70 FR 33195, 33197 (2005). I may rely on any one or a combination of factors, and may give each factor the weight I deem appropriate in determining whether an application for registration should be denied. See, e.g., *Starr*, 71 FR at 39367; *Energy Outlet*, 64 FR 14269 (1999). Moreover, I am "not required to make findings as to all of the factors." *Hoxie v. DEA*, 419 F.3d 477, 482 (6th Cir. 2005); *Morall v. DEA* 412 F.3d 165, 173-74 (D.C. Cir. 2005).

Here, I conclude that an analysis of each factor is unnecessary and that Respondent's application should be denied for two reasons. First, Respondent's owner has failed to submit necessary information regarding three issues: (1) His business licenses, (2) his immigration status, and (3) the role of persons listed as managing members of the firm including one individual who has previously come to the attention of DEA. Second, Respondent changed its address—without notifying DEA—and after the on-site inspection was conducted.

DEA regulations expressly provide that "[t]he Administrator may require an applicant to submit such documents * * * relevant to the application as [she] deems necessary to determine whether the application should be granted." 21 CFR 1309.35. The information sought by the DIs regarding Respondent's business licenses and its owner's immigration status was reasonably necessary to evaluate Respondent's compliance with applicable laws. See 21 U.S.C. 823(h)(2). In light of Respondent's failure to produce this information (as well as the information contained in the

investigative file), I conclude that Respondent was not in compliance with federal immigration laws and that Respondent does not possess the required state and/or local business licenses. Moreover, the information sought with respect to Respondent's managing members was essential to evaluate whether the firm would maintain "effective controls against diversion." *Id.* § 823(h)(1). Based on the information contained in the investigative file that one of Respondent's managing members had previously operated a business which distributed List I chemicals without a valid registration and Respondent's failure to provide any documentation showing that this individual no longer has a management or ownership interest in it, I conclude that Respondent does not maintain effective control against diversion.

Respondent's change of address provides further reason to deny its application. Under the Controlled Substances Act, a registration is location specific. See 21 U.S.C. 822(e) ("A separate registration shall be required at each principal place of business * * * where the applicant * * * distributes * * * list I chemicals."). Respondent applied for a registration at 9500 Satellite Blvd., # 230, Orlando, Fl. It was at this location that the pre-registration investigation was conducted and the adequacy of Respondent's security controls was evaluated. See 21 CFR 1309.71(b). Respondent's change of its location after DEA conducted the pre-registration inspection renders moot the information obtained regarding its security measures and its application for registration at its prior place of business. Furthermore, Respondent has not submitted an application for its new location. Because Respondent applied to distribute List I chemicals from the Satellite Blvd. location and it is no longer in business at that location, I conclude that granting its application for a registration would be inconsistent with the public interest.

Order

Pursuant to the authority vested in me by 21 U.S.C. 823(h), and 28 CFR 0.100(b) & 0.104, I hereby order that the application of Respondent Orlando Wholesale L.L.C., for a DEA Certificate of Registration as a distributor of List I chemicals be, and it hereby is, denied. This order is effective January 10, 2007.

Dated: December 1, 2006.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. E6-20981 Filed 12-8-06; 8:45 am]

BILLING CODE 4410-09-P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Taby Enterprises of Osceola, Inc.; Denial of Application

On November 23, 2005, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, issued an Order to Show Cause to Taby Enterprises of Osceola, Inc., of Plant City, Florida (Respondent). The Show Cause Order proposed to deny Respondent's pending application for a DEA Certificate of Registration as a distributor of the List I chemicals ephedrine and pseudoephedrine on the ground that its registration would be inconsistent with the public interest. See 21 U.S.C. 823(h) & 824(a).

The Show Cause Order specifically alleged that Respondent was proposing to distribute List I chemical products to convenience stores, which are non-traditional retailers of these products. See Show Cause Order at 2. The Show Cause Order further alleged that Respondent had no experience in the distribution of List I chemical products. See *id.* The Show Cause Order also alleged that Respondent provided a customer list which he represented as including his "established customers." *Id.* The Show Cause Order alleged, however, that when DEA investigators contacted these establishments, several "were out of business" and only a small number of them "expressed any interest in acquiring listed chemical products from" Respondent. *Id.* The Show Cause Order thus alleged that Respondent had "not provided complete and accurate information to DEA," and that DEA therefore could not determine whether Respondent would comply with federal law and protect against the diversion of listed chemical products. *Id.*

The Show Cause Order was served by certified mail, return receipt requested. On December 3, 2005, Respondent acknowledged receipt of the Show Cause Order as evidenced by the signed Return Receipt Card. Since that time, neither Respondent, nor anyone purporting to represent it, has responded. Because (1) More than thirty days have passed since Respondent's receipt of the Show Cause Order, and (2) no request for a hearing has been received, I conclude that Respondent has waived its right to a hearing. See 21 CFR 1309.53(c). I therefore enter this final order without a hearing based on relevant material found in the investigative file and make the following findings.

Findings

Ephedrine and pseudoephedrine are List I chemicals that, while having therapeutic uses, are easily extracted from lawful products and used in the illicit manufacture of methamphetamine, a schedule II controlled substance. See 21 U.S.C. 802(34); 21 CFR 1308.12(d). As noted in numerous DEA orders, "methamphetamine is an extremely potent central nervous system stimulant." Sujak Distributors, 71 FR 50102, 50103 (2006); A-1 Distribution Wholesale, 70 FR 28573 (2005). Methamphetamine abuse has destroyed lives and families and ravaged communities. Moreover, because of the toxic nature of the chemicals used to make the drug, its manufacture creates serious environmental harms. David M. Starr, 71 FR 39367 (2006).

Respondent is a Florida corporation which is located at 1912 Jim Redman Parkway, Plant City, Fl., 33566. Respondent has been in business since December 2002; its President and Owner is Mr. Muhammad Aslam Butt.

On May 2, 2005, Respondent applied for a registration as a distributor of the List I chemicals pseudoephedrine and ephedrine. Thereafter, on June 17, 2005, two DEA Diversion Investigators (DIs) went to Respondent's proposed registered location to conduct a pre-registration investigation. The DIs inspected Respondent's facility and interviewed Respondent's owner.

The DIs determined that Respondent sells sundry items including tobacco products, lighters, various over-the-counter drugs, batteries and small toys, etc., to local convenience stores and gas stations. Respondent also operates a retail store at the same location.

During the interview, Respondent informed the DIs that he wanted to expand his product line to include cold medicines that contain pseudoephedrine such as Advil, Nyquil/Dayquil, Tylenol Sinus, Tylenol Cold, Contact and Tylenol Flu. Respondent also told the DIs that he intended to sell Mini-Thins Two Way and other ephedrine products. Mr. Butt further stated that he would be the only individual who would handle List I chemical products and that he would purchase the products from F & S Distributing, Inc., and Price Master Corp.

According to the investigative file, Mr. Butt has no prior experience in the wholesale distribution of List I chemicals. Moreover, Mr. Butt told the DIs that he does not verify the identity of his customers by asking them to present an ID.

The DIs also explained to Mr. Butt DEA's recordkeeping requirements. The DIs then sought and obtained a list of the firm's established customers; the DIs subsequently attempted to visit eleven of them. Only two of these establishments expressed any interest in buying List I products from Respondent. As for the other nine stores visited by the DIs, two of the stores could not be found at the address given by Mr. Butt. At another two stores, the owner/manager could not recall whether he had ever purchased merchandise from Respondent. At a third location, the owner stated that he had never purchased any merchandise from Respondent. At three other stores, the owners told the DIs that they had only purchased a limited amount of items from Respondent and would not consider buying any List I products from it as they already had other suppliers. Finally, at another store, the owner had never heard of Respondent.

Discussion

Under 21 U.S.C. 823(h), an applicant to distribute List I chemicals is entitled to be registered unless the registration would be "inconsistent with the public interest." In making this determination, Congress directed that I consider the following factors:

- (1) Maintenance by the applicant of effective controls against diversion of listed chemicals into other than legitimate channels;
- (2) Compliance by the applicant with applicable Federal, State, and local law;
- (3) Any prior conviction record of the applicant under Federal or State laws relating to controlled substances or to chemicals controlled under Federal or State law;
- (4) Any past experience of the applicant in the manufacture and distribution of chemicals; and
- (5) Such other factors as are relevant to and consistent with the public health and safety.

Id.

"These factors are considered in the disjunctive." *Joy's Ideas*, 70 FR 33195, 33197 (2005). I may rely on any one or a combination of factors, and may give each factor the weight I deem appropriate in determining whether an application for registration should be denied. See, e.g., *Starr*, 71 FR at 39367; *Energy Outlet*, 64 FR 14269 (1999). Moreover, I am "not required to make findings as to all of the factors." *Hoxie v. DEA*, 419 F.3d 477, 482 (6th Cir. 2005); *Morall v. DEA*, 412 F.3d 165, 173-74 (D.C. Cir. 2005). In this case, I conclude that Factors One, Four, and Five, establish that granting Respondent's application would be inconsistent with the public interest and that its application should be denied.

Factor One—Maintenance of Effective Controls Against Diversion

The investigative file establishes that Respondent does not have in place effective controls against diversion. According to the file, Respondent does not verify the identity of his customers. Verifying the identity of purchasers of List I chemicals is essential to ensuring that these products are being bought to meet legitimate consumer demand and not for use in the illicit manufacture of methamphetamine. See 21 CFR 1309.71(b)(8) (requiring the assessment of "[t]he adequacy of the registrant's or applicant's systems for monitoring the receipt, distribution, and disposition of List I chemicals in its operations"). Respondent's practice of failing to identify its customers thus raises a substantial risk that if it was granted a registration, its products would be diverted. *Cf. Alra Laboratories, Inc. v. DEA*, 54 F.3d 450, 451 (7th Cir. 1995) ("[a]n agency rationally may conclude that past performance is the best predictor of future performance"). I thus conclude that Respondent, if granted a registration, would not maintain effective controls against diversion.

In support of this finding, I further note the discrepancies between the customer information Respondent provided and what the DIs found during the customer verifications. This is not a case where there are slight variances, but rather material differences between the information provided by an applicant and that discovered by DEA investigators. While Respondent represented that the list included his established customers, four of the stores did not appear to have had a business relationship with Respondent, and even among those that did have a relationship, most of them had no interest in purchasing List I chemical products from it. Finally, some of the stores could not be found at the address provided by Respondent. This information does not inspire confidence that the products Respondent would handle would remain within the legitimate chain of distribution. I thus conclude that this factor establishes that Respondent's application should be denied.

Factors Two and Three—Compliance With Applicable Law and the Applicant's Prior Record of Relevant Criminal Convictions

The file does not contain any evidence that Respondent has failed to comply with applicable Federal, State or local laws. The file also does not contain any evidence that Respondent,

or its owner, has been convicted of any drug related criminal offense.

Factor Four—The Applicant's Past Experience in the Manufacture or Distribution of Chemicals

According to the investigative file, neither Respondent, nor its owner, has any experience in the wholesale distribution of List I chemical products. Numerous DEA final orders have made clear that because of the potential for diversion, an applicant's (and its controlling person's) lack of experience in distributing List I chemicals is a factor which weighs heavily against granting an application for a registration. *Tri-County Bait Distributors*, 71 FR 52160, 52613 (2006); *Jay Enterprises*, 70 FR 24620, 24621 (2005); *ANM Wholesale*, 69 FR 11652, 11653 (2004).

Factor Five—Other Factors That Are Relevant To and Consistent With Public Health and Safety

Numerous DEA orders recognize that convenience stores and gas-stations constitute the non-traditional retail market for legitimate consumers of products containing pseudoephedrine and ephedrine. See, e.g., *Tri-County Bait Distributors*, 71 FR at 52161; *D & S Sales*, 71 FR 37607, 37609 (2006); *Branex, Inc.*, 69 FR 8682, 8690-92 (2004). DEA orders also establish that the sale of certain List I chemical products by non-traditional retailers is an area of particular concern in preventing diversion of these products into the illicit manufacture of methamphetamine. See, e.g., *Joey Enterprises*, 70 FR 76866, 76867 (2005). As *Joey Enterprises* explains, "[w]hile there are no specific prohibitions under the Controlled Substances Act regarding the sale of listed chemical products to [gas stations and convenience stores], DEA has nevertheless found that [these entities] constitute sources for the diversion of listed chemical products." *Id.* See also *TNT Distributors*, 70 FR 12729, 12730 (2005) (special agent testified that "80 to 90 percent of ephedrine and pseudoephedrine being used [in Tennessee] to manufacture methamphetamine was being obtained from convenience stores"); *OTC Distribution Co.*, 68 FR 70538, 70541 (2003) (noting "over 20 different seizures of [gray market distributor's] pseudoephedrine product at clandestine sites," and that in eight month period distributor's product "was seized at clandestine laboratories in eight states, with over 2 million dosage units seized in Oklahoma alone."); *MDI Pharmaceuticals*, 68 FR 4233, 4236 (2003) (finding that "pseudoephedrine

products distributed by [gray market distributor] have been uncovered at numerous clandestine methamphetamine settings throughout the United States and/or discovered in the possession of individuals apparently involved in the illicit manufacture of methamphetamine”).

Moreover, during clandestine lab seizures, DEA has frequently found high count List I chemical products, thus indicating that these are the preferred products for illicit methamphetamine manufacturers. See OTC Distribution, 68 FR at 70541, MDI Pharmaceuticals, 68 FR at 4236. While Respondent proposed to sell traditional products, he also sought to sell similar high count products.

Significantly, all of Respondent’s proposed customers participate in the non-traditional market for ephedrine and pseudoephedrine products. DEA orders recognize that there is a substantial risk of diversion of List I chemicals into the illicit manufacture of methamphetamine when these products are sold by non-traditional retailers. See, e.g., Joy’s Ideas, 70 FR at 33199 (finding that the risk of diversion was “real, substantial and compelling”); Jay Enterprises, 70 FR at 24621 (noting “heightened risk of diversion” should application be granted). Under DEA precedents, an applicant’s proposal to sell into the non-traditional market weighs heavily against the granting of a registration under factor five. So too here.

Because of the methamphetamine epidemic’s devastating impact on communities and families throughout the country, DEA has repeatedly denied an application when an applicant proposed to sell into the non-traditional market and analysis of one of the other statutory factors supports the conclusion that granting the application would create an unacceptable risk of diversion. Thus, in Xtreme Enterprises, 67 FR 76195, 76197 (2002), my predecessor denied an application observing that the respondent’s “lack of criminal record, compliance with the law and willingness to upgrade her security system are far outweighed by her lack of experience with selling List I chemicals and the fact that she intends to sell ephedrine almost exclusively in the gray market.” More recently, I denied an application observing that the respondent’s “lack of a criminal record and any intent to comply with the law and regulations are far outweighed by his lack of experience and the company’s intent to sell ephedrine and pseudoephedrine exclusively to the gray market.” Jay Enterprises, 70 FR at

24621. Accord Prachi Enterprises, 69 FR 69407, 69409 (2004).

Here, Respondent clearly lacks effective controls against diversion, has no experience in the wholesale distribution of List I chemical products, and yet intends to distribute these products to non-traditional retailers, a market in which the risk of diversion is substantial. Given these findings, it is indisputable that granting Respondent’s application would be “inconsistent with the public interest.” 21 U.S.C. 823(h).

Order

Pursuant to the authority vested in me by 21 U.S.C. 823(h), and 28 CFR 0.100(b) & 0.104, I hereby order that the application of Respondent Taby Enterprises of Osceola, Inc., for a DEA Certificate of Registration as a distributor of List I chemicals be, and it hereby is, denied. This order is effective January 10, 2007.

Dated: December 1, 2006.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. E6-20978 Filed 12-8-06; 8:45 am]

BILLING CODE 4410-09-P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[DEA #290E]

Controlled Substances: Established Initial Aggregate Production Quotas for 2007

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Notice of aggregate production quotas for 2007.

SUMMARY: This notice establishes initial 2007 aggregate production quotas for controlled substances in schedules I and II of the Controlled Substances Act (CSA).

DATES: *Effective Date:* December 11, 2006.

FOR FURTHER INFORMATION CONTACT: Christine A. Sannerud, Ph.D., Chief, Drug & Chemical Evaluation Section, Drug Enforcement Administration, Washington, DC 20537, Telephone: (202) 307-7183.

SUPPLEMENTARY INFORMATION: Section 306 of the CSA Title 21 United States Code section 826 (21 U.S.C. 826) requires that the Attorney General establish aggregate production quotas for each basic class of controlled substance listed in schedules I and II. This responsibility has been delegated to the Administrator of the DEA by 28 Code of Federal Regulations (CFR)

0.100. The Administrator, in turn, has re delegated this function to the Deputy Administrator, pursuant to 28 CFR 0.104.

The 2007 aggregate production quotas represent those quantities of controlled substances that may be produced in the United States in 2007 to provide adequate supplies of each substance for: The estimated medical, scientific, research, and industrial needs of the United States; lawful export requirements; and the establishment and maintenance of reserve stocks (21 U.S.C. 826(a) and 21 CFR 1303.11). These quotas do not include imports of controlled substances for use in industrial processes.

On August 29, 2006, a notice of the proposed initial 2007 aggregate production quotas for certain controlled substances in schedules I and II was published in the **Federal Register** (71 FR 51214). All interested persons were invited to comment on or object to these proposed aggregate production quotas on or before September 19, 2006.

Five responses were received within the published comment period resulting in comments on a total of 25 schedule I and II controlled substances. The responses commented that the proposed aggregate production quotas for alfentanil, aminorex, cocaine, codeine (for conversion), dihydrocodeine, ecgonine, fentanyl, hydrocodone, hydromorphone, levorphanol, methadone, methadone intermediate, methamphetamine, methylphenidate, morphine (for conversion), nabilone, noroxymorphone (for conversion), oxycodone, oxycodone (for conversion), oxymorphone, oxymorphone (for conversion), remifentanyl, sufentanyl, tetrahydrocannabinols and thebaine were insufficient to provide for the estimated medical, scientific, research and industrial needs of the United States, for export requirements and for the establishment and maintenance of reserve stocks.

DEA has taken into consideration the above comments along with the relevant 2006 manufacturing quotas, current 2006 sales and inventories, 2007 export requirements, additional applications received, and research and product development requirements. Based on this information, the DEA has adjusted the initial aggregate production quotas for alfentanil, aminorex, amobarbital, codeine (for conversion), dextropropoxyphene, dihydrocodeine, gamma hydroxybutyric acid, ibogaine, hydrocodone, metazocine, nabilone, noroxymorphone (for conversion), oxycodone, oxycodone (for conversion), oxymorphone, oxymorphone (for conversion), remifentanyl, sufentanyl,

and thebaine to meet the legitimate needs of the United States.

Regarding cocaine, ecgonine, fentanyl, hydromorphone, levorphanol, methadone, methadone intermediate, methamphetamine, methylphenidate, morphine (for conversion) and tetrahydrocannabinols, the DEA has determined that the proposed initial 2007 aggregate production quotas are sufficient to meet the current 2007 estimated medical, scientific, research

and industrial needs of the United States.

Pursuant to 21 CFR Part 1303, the Deputy Administrator of the DEA will, in 2007, adjust aggregate production quotas and individual manufacturing quotas allocated for the year based upon 2006 year-end inventory and actual 2006 disposition data supplied by quota recipients for each basic class of schedule I or II controlled substance.

Therefore, under the authority vested in the Attorney General by Section 306 of the CSA (21 U.S.C. 826), and delegated to the Administrator of the DEA by 28 CFR 0.100, and redelegated to the Deputy Administrator pursuant to 28 CFR 0.104, the Deputy Administrator hereby orders that the 2007 initial aggregate production quotas for the following controlled substances, expressed in grams of anhydrous acid or base, be established as follows:

Basic Class—Schedule I	Established initial 2007 quotas
2,5-Dimethoxyamphetamine	2,001,000 g
2,5-Dimethoxy-4-ethylamphetamine (DOET)	2 g
2,5-Dimethoxy-4-(n)-propylthiophenethylamine (2C-T-7)	10 g
3-Methylfentanyl	2 g
3-Methylthiofentanyl	2 g
3,4-Methylenedioxyamphetamine (MDA)	20 g
3,4-Methylenedioxy-N-ethylamphetamine (MDEA)	10 g
3,4-Methylenedioxymethamphetamine (MDMA)	22 g
3,4,5-Trimethoxyamphetamine	2 g
4-Bromo-2,5-dimethoxyamphetamine (DOB)	2 g
4-Bromo-2,5-dimethoxyphenethylamine (2-CB)	7 g
4-Methoxyamphetamine	77 g
4-Methylaminorex	2 g
4-Methyl-2,5-dimethoxyamphetamine (DOM)	12 g
5-Methoxy-3,4-methylenedioxyamphetamine	2 g
5-Methoxy-N,N-diisopropyltryptamine	5 g
Acetyl-alpha-methylfentanyl	2 g
Acetyldihydrocodeine	2 g
Acetylmethadol	2 g
Allylprodine	2 g
Alphacetylmethadol	2 g
Alpha-ethyltryptamine	2 g
Alphameprodine	2 g
Alphamethadol	3 g
Alpha-methylfentanyl	2 g
Alpha-methylthiofentanyl	2 g
Alpha-methyltryptamine	5 g
Aminorex	8 g
Benzylmorphine	2 g
Betacetylmethadol	2 g
Beta-hydroxy-3-methylfentanyl	2 g
Beta-hydroxyfentanyl	2 g
Betameprodine	2 g
Betamethadol	2 g
Betaprodine	2 g
Bufotenine	8 g
Cathinone	3 g
Codeine-N-oxide	302 g
Diethyltryptamine	2 g
Difenoxin	50 g
Dihydromorphine	2,549,000 g
Dimethyltryptamine	3 g
Gamma-hydroxybutyric acid	13,100,000 g
Heroin	5 g
Hydromorphinol	3,000 g
Hydroxypethidine	2 g
Ibogaine	1 g
Lysergic acid diethylamide (LSD)	61 g
Marihuana	4,500,000 g
Mescaline	2 g
Methaqualone	10 g
Methcathinone	4 g
Methyldihydromorphine	2 g
Morphine-N-oxide	310 g
N,N-Dimethylamphetamine	7 g
N-Ethylamphetamine	2 g
N-Hydroxy-3,4-methylenedioxyamphetamine	2 g
Noracymethadol	2 g
Norlevorphanol	52 g

Basic Class—Schedule I	Established initial 2007 quotas
Normethadone	2 g
Normorphine	16 g
Para-fluorofentanyl	2 g
Phenomorphane	2 g
Pholcodine	2 g
Psilocybin	7 g
Psilocyn	7 g
Tetrahydrocannabinols	312,500 g
Thiofentanyl	2 g
Trimeperidine	2 g
Basic Class—Schedule II	Established initial 2007 quotas
1-Phenylcyclohexylamine	2 g
Alfentanil	7,200 g
Alphaprodine	2 g
Amobarbital	3 g
Amphetamine	17,000,000 g
Cocaine	286,000 g
Codeine (for sale)	39,605,000 g
Codeine (for conversion)	59,000,000 g
Dextropropoxyphene	120,000,000 g
Dihydrocodeine	2,435,000 g
Diphenoxylate	828,000 g
Ecgonine	83,000 g
Ethylmorphine	2 g
Fentanyl	1,428,000 g
Glutethimide	2 g
Hydrocodone (for sale)	42,000,000 g
Hydrocodone (for conversion)	1,500,000 g
Hydromorphone	3,300,000 g
Isomethadone	2 g
Levo-alphaacetylmethadol (LAAM)	6 g
Levomethorphan	5 g
Levorphanol	6,000 g
Meperidine	9,753,000 g
Metazocine	1 g
Methadone (for sale)	25,000,000 g
Methadone Intermediate	26,000,000 g
Methamphetamine	3,130,000 g
680,000 grams of levo-desoxyephedrine for use in a non-controlled, non-prescription product; 2,405,000 grams for methamphetamine mostly for conversion to a schedule III product; and 45,000 grams for methamphetamine (for sale)].	
Methylphenidate	35,000,000 g
Morphine (for sale)	35,000,000 g
Morphine (for conversion)	110,774,000 g
Nabilone	3,002 g
Noroxymorphone (for sale)	1,002 g
Noroxymorphone (for conversion)	11,000,000 g
Opium	1,400,000 g
Oxycodone (for sale)	56,000,000 g
Oxycodone (for conversion)	25,000,000 g
Oxymorphone	1,800,000 g
Oxymorphone (for conversion)	15,300,000 g
Pentobarbital	28,000,000 g
Phencyclidine	2,021 g
Phenmetrazine	2 g
Racemethorphan	2 g
Remifentanyl	5,000 g
Secobarbital	2 g
Sufentanyl	12,300 g
Thebaine	102,000,000 g

The Deputy Administrator further orders that aggregate production quotas for all other schedules I and II controlled substances included in 21

CFR 1308.11 and 1308.12 be established at zero.

The Office of Management and Budget has determined that notices of aggregate production quotas are not subject to

centralized review under Executive Order 12866.

This action does not preempt or modify any provision of state law; nor does it impose enforcement

responsibilities on any state; nor does it diminish the power of any state to enforce its own laws. Accordingly, this action does not have federalism implications warranting the application of Executive Order 13132.

The Deputy Administrator hereby certifies that this action will have no significant impact upon small entities whose interests must be considered under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* The establishment of aggregate production quotas for schedules I and II controlled substances is mandated by law and by international treaty obligations. The quotas are necessary to provide for the estimated medical, scientific, research and industrial needs of the United States, for export requirements and the establishment and maintenance of reserve stocks. While aggregate production quotas are of primary importance to large manufacturers, their impact upon small entities is neither negative nor beneficial. Accordingly, the Deputy Administrator has determined that this action does not require a regulatory flexibility analysis.

This action meets the applicable standards set forth in Sections 3(a) and 3(b)(2) of Executive Order 12988 Civil Justice Reform.

This action will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$118,000,000 or more in any one year, and 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.

This action is not a major rule as defined by Section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This action 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.

Dated: December 1, 2006.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. E6-20920 Filed 12-8-06; 8:45 am]

BILLING CODE 4410-09-P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

DEPARTMENT OF THE TREASURY

Internal Revenue Service

PENSION BENEFIT GUARANTY CORPORATION

RIN 1210-AB14

Proposed Revision of Annual Information Return/Reports

AGENCIES: Employee Benefits Security Administration, Labor, Internal Revenue Service, Treasury, Pension Benefit Guaranty Corporation.

ACTION: Notice of Supplemental Proposed Forms Revisions.

SUMMARY: This document contains a proposal to make changes required by the Pension Protection Act of 2006 (PPA) to the Form 5500 Annual Return/Report filed for employee benefit plans under the Employee Retirement Income Security Act of 1974 (ERISA) and the Internal Revenue Code (Code). The proposed changes supplement proposed revisions to the Form 5500 Annual Return/Report published, prior to the enactment of the PPA, by the Department of Labor, the Internal Revenue Service, and the Pension Benefit Guaranty Corporation (Agencies) in the **Federal Register** on July 21, 2006, at 71 FR 41616 (July 2006 Proposal). This supplemental proposal replaces the Schedule B, "Actuarial Information," with separate actuarial schedules for single-employer plans (Schedule SB) and multiemployer plans (Schedule MB) to reflect PPA changes in funding and annual reporting requirements; adds new questions to the Schedule R, "Retirement Plan Information," to collect additional information regarding single and multiemployer defined benefit pension plans required by the PPA; and proposes having the Form 5500-SF Annual Return/Report (Short Form 5500) included in the July 2006 Proposal serve as the simplified report required by the PPA for plans with fewer than 25 participants. The revisions are being proposed for 2008 plan year filings and would affect employee pension and welfare benefit plans, plan sponsors, administrators, and service providers to plans subject to annual reporting requirements under ERISA and the Code.

DATES: Written comments must be received by the Department of Labor on or before January 10, 2007.

ADDRESSES: Commenters are encouraged to submit comments electronically to <http://www.regulations.gov> (follow instructions for submission) or [e-ORI@dol.gov](mailto:ORI@dol.gov). Comments also may be addressed to the Office of Regulations and Interpretations, Employee Benefits Security Administration, Room N-5669, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, Attn: Supplemental Form 5500 Revision (RIN 1210-AB14). If comments are submitted electronically, paper submissions are not necessary.

Comments will be available to the public at <http://www.dol.gov/ebsa> and <http://www.regulations.gov>. Comments also will be available for public inspection at the Public Disclosure Room, N-1513, Employee Benefits Security Administration, 200 Constitution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Ann Junkins, Internal Revenue Service (IRS), (202) 283-0722, for questions relating to Schedules SB, MB, and Schedule R, as well as general questions relating to reporting under the Internal Revenue Code; Amy Viener, Pension Benefit Guaranty Corporation (PBGC), (202) 326-4080 for questions relating to Schedules SB and MB, and Michael Packard, PBGC, 202 326-4080 for questions relating to the Schedule R, as well as questions relating to the general reporting requirements under Title IV of ERISA; Elizabeth A. Goodman or Yolanda Wartenberg, Employee Benefits Security Administration (EBSA), U.S. Department of Labor, (202) 693-8523, for questions relating to the Short Form 5500-SF, as well as general reporting requirements under Title I of ERISA. The telephone numbers referenced above are not toll-free numbers.

To enable the public to better evaluate the proposed changes, the Department is making available on its Web site at <http://www.dol.gov/ebsa>, mock ups of the Schedules SB, MB and R. Copies of the mock ups may also be obtained by calling the EBSA's Public Disclosure Room at 1.866.444.EBSA (3272).

SUPPLEMENTARY INFORMATION:

A. Background

Sections 101 and 104 of Title I and section 4065 of Title IV of the Employee Retirement Income Security Act of 1974 (ERISA), as amended, sections 6058(a) and 6059(a) of the Internal Revenue Code of 1986 (Code), as amended, and the regulations issued under those sections, impose certain annual reporting and filing obligations on pension and welfare benefit plans, as

well as on certain other entities.¹ The Department of Labor's (Department) annual reporting regulations, including 29 CFR 2520.103-1, are promulgated under the provisions of ERISA that authorize the creation of limited exemptions and simplified reporting and disclosure for welfare plans under ERISA section 104(a)(3), simplified annual reports under ERISA section 104(a)(2)(A) for pension plans that cover fewer than 100 participants, and alternative methods of compliance for all pension plans under ERISA section 110(a). Plan administrators, employers, and others generally satisfy these annual reporting obligations by the filing of the Form 5500 "Annual Return/Report of Employee Benefit Plan," together with any required attachments and schedules (Form 5500 Annual Return/Report), in accordance with the instructions and related regulations.

The Form 5500 Annual Return/Report is the principal source of information and data available to the Department, the IRS, and the PBGC (Agencies) concerning the operations, funding, and investments of more than 800,000 pension and welfare benefit plans. These plans cover an estimated 150 million participants and hold an estimated \$4.3 trillion in assets. Accordingly, the Form 5500 Annual Return/Report necessarily constitutes an integral part of each Agency's enforcement, research, and policy formulation programs, and is a source of information and data for use by other federal agencies, Congress, and the private sector in assessing employee benefit, tax, and economic trends and policies. The Form 5500 Annual Return/Report also serves as the primary means by which plan operations can be monitored by participants and beneficiaries and by the general public.

The Pension Protection Act of 2006, Pub. L. 109-280, 120 Stat. 780 (2006) (PPA), enacted on August 17, 2006, changed certain annual reporting rules under ERISA and funding requirements under ERISA and the Code for pension plans. The PPA also required the Treasury Department/IRS and the Department to provide a simplified annual return for certain retirement plans that cover fewer than 25 participants. The Form 5500 Annual Return/Report, therefore, needs to be updated to reflect these PPA changes. The changes proposed in this document are limited to those needed to reflect the PPA annual reporting requirements and

do not attempt to address comments received in connection with the July 2006 Proposal.² One exception, however, is the movement of proposed asset allocation questions for certain large defined benefit plans to the Schedule R in conjunction with the proposal to eliminate the existing Schedule B and create two new Schedules—the Schedule SB and the Schedule MB.

B. Need To Expedite Adoption of Supplemental Proposed Revisions

These supplemental proposed revisions to the Form 5500 Annual Return/Report, as well as the July 2006 Proposal, are part of the Agencies' move to a fully electronic filing and processing system to replace the existing paper-based ERISA Filing Acceptance System (EFAST). As part of that initiative, the Department published a final rule in the **Federal Register** on July 21, 2006, establishing an electronic filing requirement for the Form 5500 Annual Return/Report for plan years beginning on or after January 1, 2008 (Electronic Filing Rule). 71 FR 41359. The Department also published a Request for Proposal on September 1, 2006, seeking bids to develop the new wholly electronic system, known as EFAST2, to electronically receive, process, store, publicly disclose, distribute, and archive the Form 5500 Annual Return/Report filings that will be submitted electronically starting with 2008 plan year filings. See Solicitation Number DOL069RP20266 for EFAST2 at <http://www.fedbizopps.gov> (*FedBizOpPs.gov* is the single government point-of-entry for federal government procurement opportunities over \$25,000). In order for supplemental form revisions to be incorporated into the EFAST2 procurement process in a timely fashion, the supplemental form changes need to be finalized by the February 2007 target for finalizing the July 2006 Proposal.

Furthermore, in light of the time constraints, the Agencies are publishing in this Notice charts listing the line item data elements on the new actuarial schedules (Schedule SB and Schedule MB) and the new line item data elements for the Schedule R, as well as an indication of which items on the

Schedule SB and Schedule MB are the same, similar to, or different from existing Schedule B data items. To enable the public to better evaluate the proposed changes, the Department is also making available on its Web site at <http://www.dol.gov/ebsa>, mock ups of the Schedules SB, MB and R (copies of the mock ups may also be obtained by calling the EBSA's Public Disclosure Room at 1.866.444.EBSA (3272)). The Agencies believe the information being published will provide an adequate basis for public comments on the supplemental proposed form changes. The instructions for the new Schedules SB and MB and the new Schedule R questions will be subject to a later publication so that they can be developed based on guidance to be issued by the IRS or PBGC implementing the PPA requirements underlying the Form 5500 Annual Return/Report data elements. For example, guidance may explain the manner in which the employer makes elections with respect to the carryover and/or prefunding balances.

C. Discussion of Supplemental Proposed Revisions

1. Replacing Schedule B With Separate Schedules for Single-Employer Plans (Schedule SB) and Multiemployer Plans (Schedule MB)

The PPA significantly changed the funding requirements applicable to defined benefit pension plans. These changes rendered the existing Schedule B largely obsolete, especially for single-employer defined benefit pension plans. While the PPA changes for multiemployer defined benefit pension plans allowed for continued use of a reporting scheme similar to the existing Schedule B, a number of Schedule B changes were required even for multiemployer plans. The Agencies believe that the appropriate way to address the PPA changes is to eliminate the existing Schedule B and create two new Schedules—the Schedule SB, "Single-employer Defined Benefit Plan Actuarial Information," and the Schedule MB, "Multiemployer Defined Benefit Plan and Money Purchase Plan Actuarial Information."

a. New Schedule SB "Actuarial Information Single-Employer Defined Benefit Plans"

The proposed Schedule SB would be filed by all single-employer defined benefit plans (including multiple-employer defined benefit plans).³ The

¹ Other filing requirements not within the scope of this proposal may apply to certain employee benefit plans and multiple employer welfare arrangements under ERISA or to other benefit arrangements under the Code.

² The term "July 2006 Proposal" used throughout this Notice refers to two documents: The Notice of the Proposed Revision of Annual Information Return/Reports contained at 71 FR 41615 (July 21, 2006) (sometimes referred to as "July 2006 Notice"); and the proposed rule regarding Annual Reporting and Disclosure contained at 71 FR 41392 (July 21, 2006) (sometimes referred to as "July 2006 Proposed Rules"), which were necessary to conform the annual reporting and disclosure regulations to the proposed revisions.

³ Unlike multiemployer plans within the meaning of ERISA sections 3(37) and 4001(a)(3) to which

Schedule SB will capture identifying information about the plan and plan sponsor, the type of plan, and number of participants. It will have basic information about plan assets, number of participants, and funding target information. Like the existing Schedule B, it will have a statement by an enrolled actuary, modified to reflect that the enrolled actuary no longer will be certifying as to the reasonableness of certain actuarial assumptions, which are prescribed by statute or regulation.

The remaining data elements are to be in a similar format to the current Schedule B and consist of basic actuarial worksheets designed to allow the Agencies to evaluate the plan's compliance with the funding requirements as amended by sections 101, 102, 111, and 112 of the PPA, and to ensure that the reporting requirements under ERISA, as amended by section 503 of the PPA, are included on the schedule. The material is divided into sections consisting of "Basic Information," "Beginning of Year Carryover and Prefunding Balances," "Funding Percentages," "Contributions and Liquidity Shortfalls," "Assumptions Used to Determine Funding Target and Target Normal Cost," "Miscellaneous Items," "Reconciliation of Unpaid Minimum Required Contributions for Prior Years," and "Minimum Required Contribution for Current Year." Plans for which the effective date of the new PPA funding rules is delayed (e.g., airlines that have frozen pension plans electing the alternate funding schedule, PBGC settlement plans, certain defense contractors, certain rural electrical cooperatives, etc.) will not be required to fill out all of these sections. Instead, additional information related to the applicable funding rules for such plans will be provided as an attachment. In addition to the supplemental schedules required in the past, additional attachments may be required as a result of the PPA. For example, if a plan is in at-risk status, additional information (e.g., whether the expense load applies, a breakdown by category of the at-risk funding target without regard to the five-year phase-in) may be required.

Section 107 of the PPA amended section 103(d)(11) of ERISA to require

more than one employer is required to contribute, which must be maintained pursuant to one or more collective bargaining agreements between one or more employee organization and more than one employer, and which must satisfy other requirements prescribed in regulations issued by the Department of Labor at 29 CFR 2510.3-37, multiple-employer plans are plans that cover the employees of two or more unrelated employers but are treated as single-employer plans for various purposes under ERISA.

disclosure of the ratio of the current value of the assets of the plan to (A) the plan's funding target (as defined in section 303(d)(1) of the PPA, in the case of a single-employer plan), or (B) the plan's current liability (as defined in section 304(c)(6)(D) of the PPA, in the case of a multiemployer plan), if that ratio is less than 70 percent. This requirement is included in Part III, Line 17, of Schedule SB.⁴ The Agencies also concluded that, although the PPA did not amend section 103(d)(3) or section 103(d)(7), the proposal would eliminate the requirement to report "normal costs," "accrued liabilities," and "certification of the contribution necessary to reduce the accumulated funding deficiency to zero" for single-employer plans because these terms do not have continued relevance after the PPA amendments to ERISA. Instead, Schedule SB requires reporting the "funding target," "target normal cost," and the "amount of unpaid minimum required contribution," which are the post-PPA terms that most closely relate to the information required by section 103(d)(3) and 103(d)(7).

b. New Schedule MB, "Actuarial Information Multiemployer Defined Benefit Plans and Money Purchase Plans"

Because the PPA changes to the actuarial information reporting requirements were less substantial for multiemployer plans and money purchase plans, the Agencies are proposing to use the existing Schedule B as the structure for the proposed new Schedule MB, which is to be used for multiemployer defined benefit pension plans and all money purchase plans (single-employer and multiemployer). The proposed Schedule MB would use the same basic identifying information as on the existing Schedule B, although revising the check boxes for type of plans and eliminating the check box that in the past was used to indicate whether the plan had 100 or fewer participants in the prior year. The statement of the enrolled actuary would be modified to reflect that the actuarial assumptions must be individually reasonable.

Lines 1 through 3 of the existing Schedule B would remain essentially the same, except for the addition of a new element 1c(3) to report accrued liability under the unit credit cost method. To comply with section 503 of the PPA, the existing line 4 would be deleted and replaced with a new line 4 to identify information about whether

the plan is in endangered, seriously endangered, or critical status, and, if so, whether the plan is complying with the applicable requirements for its funding improvement or rehabilitation plan. The current line 5 identifying the actuarial cost method would be revised to incorporate alternative methods available only to multiemployer plans, which were previously reported under item 8b, and to reflect additional information required by section 503 of the PPA for plans using the shortfall method. Similarly, the Schedule MB would incorporate most of Schedule B current lines 6 through 9, but would eliminate information on the weighted average retirement age and annual withdrawal rates. New items would be added to Item 8 to reflect information required under section 503 of the PPA pertaining to extensions of periods to amortize bases and the use of the shortfall method. In addition, the requirement to provide a schedule of active participant data would be extended to multiemployer plans. With respect to Item 9, lines pertaining to additional interest charges due to late quarterly contributions, and any adjusted funding charges would be eliminated. Schedule MB would also revise the questions regarding the bases for which amortization periods are extended and revise the questions to conform to sections 201, 202, 211, and 212 of the PPA the questions on the reconciliation account. The Part II of the current Schedule B, which does not relate to multiemployer plans, would be deleted.

2. Additional Schedule R Questions for Single-employer and Multiemployer Defined Benefit Pension Plans

Section 503 of the PPA amended ERISA by adding ERISA section 103(f)(2), which requires multiemployer plans to report the amount of assets transferred in a multiemployer plan merger, information on withdrawing employers and their withdrawal liability, information on employers contributing to multiemployer plans, and information on participants for whom no employers made contributions.

The Agencies' July 2006 Proposal required plan administrators to identify major contributing employers to multiemployer defined benefit pension plans so that the PBGC could improve its ability to assess the financial condition of the plan and the financial risk posed to the plan by the financial collapse or withdrawal of one or more contributing employers. For these employers, the plan would be required to report on Schedule R: (1) Name of the

⁴ It is also included on Part I, Line 2c, of Schedule MB.

contributing employer; (2) the employer identification number (EIN); (3) dollar amount contributed; (4) contribution rate; (5) type of base units for the contribution; and (6) expiration date for the collective bargaining agreement pursuant to which contributions are required to be made to the plan. These questions are shown here on the new Schedule R because they are now also required by section 503 of the PPA. To conform the language of the questions to that of the PPA, the question now requires identification of those employers contributing more than five percent, rather than those contributing five percent or more, as in the July 2006 proposal. In addition, the July 2006 Proposal would have added a question on the Form 5500 seeking the total number of contributing employers to multiemployer plans as well as all other types of plans, a data item now also required by section 503 of the PPA.

Several additional new questions would be added to the Schedule R to comply with section 503 of the PPA. The Schedule R, new Part V, under this proposal, would now be expanded to provide more information on multiemployer defined benefit plans. It would ask for information regarding participants for whom no employer contributions were made for the current plan year and the two preceding plan years and information regarding the number of employers withdrawing from the plan and the assessed and estimated withdrawal liability. A new Part VI would be added to Schedule R to collect funded percentage information for single-employer and multiemployer defined benefit pension plans with liabilities arising from mergers or transfers of assets during the plan year.

This proposal also moves to Part VI of Schedule R the asset allocation questions for large defined benefit plans (1000 or more participants) included on the Schedule B in the July 2006 Proposal. Under this supplemental proposal, the Schedule R would include a new section requiring such plans to report the percentage of total plan assets held as stock; debt (with break-outs for government, investment-grade, and high yield debt); real estate; and other. The plan would also be required to provide a Macaulay duration of aggregate debt investments. As part of the development of the new Schedules SB and MB, the Agencies decided to move these questions to the Schedule R from the Schedule B (where they appeared in the July 2006 Proposal) because the Agencies concluded that this essentially financial information should not be subject to the enrolled actuary certification requirement applicable to

other Schedule SB and MB information. This supplemental proposal to include these asset distribution questions for certain large defined benefit plans on the Schedule R should not be construed as a determination by the Agencies regarding public comments received in response to the July 2006 Proposal on the substance of the proposed questions themselves.

3. Simplified Annual Reporting for Plans With Fewer Than 25 Participants

Section 1103(b) of the PPA requires the Secretary of the Treasury/IRS and the Secretary of Labor to provide for the filing of a simplified annual return for any retirement plan which covers fewer than 25 participants on the first day of the plan year and which (1) meets the minimum coverage requirements of section 410(b) of the Code without being combined with any other plan of the business that covers the employees of the business; (2) does not cover a business that is a member of an affiliated service group, a controlled group of corporations, or a group of businesses under common control; and (3) does not cover a business that uses the services of leased employees (within the meaning of section 414(n) of the Code). The PPA provision does not include specific requirements as to the form or content of the simplified filing.

As noted above, the July 2006 Proposal included, among other changes: (1) The establishment of a Form 5500-SF Annual Return/Report (Short Form or Short Form 5500) as a new simplified report for certain small plans. The Short Form is a new two-page form for small plans (generally, plans with fewer than 100 participants) with secure and easy to value investment portfolios. As set forth in greater detail in the July 2006 Proposal, a plan would be eligible to file the Short Form if the plan: (1) Covers fewer than 100 participants or would be eligible to file as a small plan under the 80 to 120 rule in 29 CFR 2520.103-1(d); (2) is eligible for the small plan audit waiver under 29 CFR 2520.104-46 (but not by virtue of enhanced bonding); (3) holds no employer securities; and (4) has 100% of its assets in investments that have a readily ascertainable fair market value. Because the Agencies believe that all multiemployer plans should be required to answer newly proposed questions on the Form 5500 Annual Return/Report and the Schedule R regarding contributing employers, as proposed, multiemployer plans were not to be eligible to file the Short Form. Most Short Form filers would not be required to file any schedules, although defined benefit pension plans would

continue to be required to file Schedule SB, where applicable. Those small plans not eligible to use the Short Form could still avail themselves of the current simplified reporting alternatives for small pension plans.

The Agencies believe that the requirement in the PPA to provide "simplified" reporting for plans with fewer than 25 participants is satisfied by the simplified reporting scheme in the July 2006 Proposal. The Agencies believe that the Short Form 5500, as proposed, was targeted to provide a simplified report for plans with fewer than 25 employees because we estimate that approximately 75% of all plans eligible to file the Short Form cover fewer than 25 participants. The Agencies propose to continue to prohibit plans that invest in employer securities or other hard to value assets and multiemployer plans from being eligible to use the Short Form 5500. The Agencies believe this conclusion is consistent with the PPA's emphasis on increasing transparency, accurate measurement of assets, greater participant control over the disposition of employer securities in defined contribution plans, and expanding the annual reporting requirements for multiemployer plans. As under the July 2006 Proposal, small plans not eligible to use the Short Form 5500 still would be able to avail themselves of the other simplified reporting options available to small plans under the Form 5500 Annual Return/Report and its schedules.⁵

⁵ The PPA provision requiring a simplified report for plans that cover fewer than 25 participants only applies to plans that meet the minimum coverage requirements of Code section 410(b) without being combined with any other plan that covers business' employees; does not cover a business that is a member of an affiliates service group, a controlled group of corporations, or a group of businesses under common control; and does not cover a business that uses leased employees (within the meaning of section 414(n) of such Code). Since these PPA conditions focus on tax qualification rules under the Code, and because the PPA did not prohibit the Department of providing those plans with a simplified report pursuant to its general authority under ERISA section 104(a)(2)(A) to establish simplified reports for pension plans that cover fewer than 100 participants, the Department concluded that it did not need to restrict the simplified report being proposed under Title I of ERISA with those conditions. The Department also notes the elimination of IRS-only schedules from the Form 5500 and from the Short Form 5500 as a part of the Department's adoption of a wholly electronic filing requirement under Title I of ERISA diminishes the relevance of the above PPA conditions to Form 5500 filings under EFAS. However, as explained in the Department's Electronic Filing Final Rule, 71 FR 41359 (July 21, 2006), the IRS intends to permit plans that cover only sole proprietors or partners (and their spouses) that are not subject to Title I of ERISA but file the Form 5500-EZ to satisfy the annual reporting and

A list of the proposed data elements for the Short Form 5500 and a mock-up of the Short Form and the instructions were published in the **Federal Register** as part of the July 2006 Proposal. The July 2006 Proposal can be viewed on the Department's Web site at <http://www.dol.gov/ebsa>.

Section 1103(b) of the PPA requires a simplified report to be available for 2007 plan year filings, i.e., filings for plan years beginning after December 31, 2006. This proposal addresses the simplified report requirement for 2008 plan years, i.e., those beginning after December 31, 2007. For the 2007 plan year, the Agencies will allow plans covering fewer than 25 participants that would meet the conditions for being eligible to file the Short Form 5500 if those conditions applied to 2007 filings to file an abbreviated version of the current Form 5500 Annual Return/Report available for "small plan" filers. Specifically, the Department anticipates that the simplified report will to a large extent replicate within the context of the existing Form 5500 Annual Return/Report structure the information that would be required to be reported on the proposed Short Form 5500 (Form 5500-SF), possibly by allowing certain schedules to be excluded from the filing or requiring only certain line items to be completed on required schedules. The Department understands that some eligible small plan filers may want to wait until the 2008 plan year to file the Short Form in order to avoid having to implement changes to their annual reporting systems and procedures for their 2007 plan year filings and then adjust them again in 2008 to file the Short Form, and, accordingly, the Department intends that these plans will have the option of continuing to file in accordance with the normal rules for the 2007 plan year. Specific guidance regarding this simplified reporting option will be included in the instructions to the 2007 Form 5500. The Agencies currently anticipate posting information copies of the 2007 forms and instructions in July 2007.

4. Electronic Filing and Web Site Display of Form 5500 Information

Section 504 of the PPA requires that, for defined benefit pension plans, the basic plan identifying information and actuarial information included in the annual report must be filed with the Department in an electronic format that accommodates display on the Internet.

filing obligations imposed by the Code, to satisfy the requirement to file the Form 5500-EZ with the IRS or by filing the Form 5500-SF electronically with the EFAST system.

As noted above, the Department has an ongoing initiative to move to a wholly electronic filing and processing system for all Form 5500 reports filed with the Department starting with reporting years beginning on or after January 1, 2008. The Department's Request for Proposal on the EFAST2 system published on September 1st already calls for the system to be capable of electronic public disclosure of all Form 5500 filings. The Department intends that the new EFAST2 system and the Electronic Filing Rule will satisfy section 504 of the PPA's requirement regarding electronic filing with and display of information by the Department.

D. Findings on the Revised Form 5500 Annual Return/Report (Including Short Form 5500) as a Limited Exemption and Alternative Method of Compliance

Section 104(a)(2)(A) of ERISA authorizes the Secretary of Labor (Secretary) to prescribe by regulation simplified reporting for pension plans that cover fewer than 100 participants. Section 104(a)(3) authorizes the Secretary to exempt any welfare plan from all or part of the reporting and disclosure requirements of Title I of ERISA or to provide simplified reporting and disclosure if the Secretary finds that such requirements are inappropriate as applied to such plans. Section 110 permits the Secretary to prescribe for pension plans alternative methods of complying with any of the reporting and disclosure requirements if the Secretary finds that: (1) The use of the alternative method is consistent with the purposes of Title I of ERISA, provides adequate disclosure to plan participants and beneficiaries, and provides adequate reporting to the Secretary; (2) application of the statutory reporting and disclosure requirements would increase costs to the plan or impose unreasonable administrative burdens with respect to the operation of the plan; and (3) the application of the statutory reporting and disclosure requirements would be adverse to the interests of plan participants in the aggregate. For purposes of Title I of ERISA, the filing of a completed Form 5500 Return/Report, including the filing of the proposed Short Form 5500, in accordance with the instructions and related regulations, generally would constitute compliance with the limited exemption and alternative method of compliance in 29 CFR 2520.103-1(b).

The Department finds under sections 104(a)(3) and 110 of ERISA that the use of the proposed Short Form 5500, the Schedule SB and MB to replace the Schedule B, and the revised Schedule R,

along with the previously proposed revised Form 5500 Annual Return/Report, is consistent with the purposes of Title I of ERISA and provides adequate disclosure to participants and beneficiaries and adequate reporting to the Secretary. While the information that would be required to be reported on or in connection with the revised Form 5500 Annual Return/Report and the proposed Short Form 5500 deviates, as before, in some respects, from that delineated in section 103 of ERISA, the information essential to ensuring adequate disclosure and reporting under Title I is required to be included on or as part of the Form 5500 Annual Return/Report, as proposed to be revised, and the proposed Short Form 5500.

The use of the Form 5500 Annual Return/Report, as revised, or the proposed Short Form 5500 will relieve plans subject to the annual reporting requirements from increased costs and unreasonable administrative burdens by providing a standardized format that facilitates reporting, eliminates duplicative reporting requirements, and simplifies the content of the annual report in general. The Form 5500 Annual Return/Report, under the proposed revision, including the proposed Short Form, is intended to further reduce the administrative burdens and costs attributable to compliance with the annual reporting requirements.

Taking into account the above, the Department has determined that application of the statutory annual reporting and disclosure requirements without the availability of the Form 5500 Annual Return/Report, including the proposed Short Form 5500, would be adverse to the interests of participants in the aggregate. The proposed revised Form 5500 Annual Return/Report provides for the reporting and disclosure of financial and other plan information described in section 103 of ERISA in a uniform, efficient, and understandable manner, thereby facilitating the disclosure of such information to plan participants and beneficiaries.

Finally, the Department has determined that the use of the Short Form 5500 is a simplified means of reporting for purposes of the requirements of section 1103 of the PPA that takes into account the appropriate balance of reducing filing burdens for plans with fewer than 25 participants without impairing enforcement, research, and policy needs, and providing adequate disclosure to participants and beneficiaries, which balance is required by section 104(a) of ERISA.

E. Regulatory Impact Analysis

Executive Order 12866 Statement

Under Executive Order 12866, the Department must determine whether a regulatory action is “significant” and therefore subject to the requirements of the Executive Order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a “significant regulatory action” as an action that is likely to result in a rule (1) having an annual effect on the economy of \$100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also referred to as “economically significant”); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of the Executive Order, it has been determined that this regulatory action raises novel legal or policy issues arising out of legal mandates and the President’s priorities. Therefore, this action is a “significant regulatory action” and subject to OMB review under section 3(f)(4) of Executive Order 12866. The Department accordingly has undertaken to assess the costs and benefits of this regulatory action in satisfaction of the applicable requirements of the Executive Order.

In accordance with OMB Circular A-4 (available at <http://www.whitehouse.gov/omb/circulars/a004/a-4.pdf>), Table 1 below depicts an accounting statement showing the net cost associated with the provisions of this proposal. The Department believes that some employee benefit plans will see a decrease in costs (e.g., Short Form eligible plans and single-employer defined benefit pension plans) and others might see an increase in costs due to this proposal (e.g., multiemployer defined benefit pension plans).⁶ Further information about the

amount of increase and decrease in costs for particular plan types is displayed in the cost section, below. On aggregate, the Department estimates a cost reduction of up to \$77 million in the first year.

Unless stated otherwise, this analysis describes the increases and decreases in benefits, costs, and burdens that this proposal alone would cause as compared to the costs, benefits, and burdens created by current law. Where this proposal modifies a forms revision included in the July 2006 Proposal, we attempt to explain the nature of the modification, but we have not attempted to quantify any differences in the respective economic analyses.

TABLE 1.—ACCOUNTING STATEMENT: ESTIMATED COST REDUCTION FROM THE CURRENT REPORTING REQUIREMENTS TO THE SUPPLEMENTAL PROPOSED FORMS REVISIONS

Category	Net cost reduction
Annualized Monetized Benefit.	\$77 million. ⁷

Need for Regulatory Action

The Form 5500 Annual Return/Report serves as the primary source of information concerning the operation, funding, assets, and investments of pension and other employee benefit plans. The Form 5500 Annual Return/Report is an important disclosure document for participants and beneficiaries, an enforcement and research tool for the Department, and a source of information and data for use by other federal agencies, Congress, and the private sector in assessing employee benefit, tax, and economic trends and policies. To address changes required by the PPA, the Department has attempted in this supplemental proposal to balance the interests of participants, beneficiaries, the public, and the Department in the protection of ERISA rights and in the availability of information on benefit plans with plan administrators’ and sponsors’ interest in minimizing costs attendant with the reporting of information to the federal government. The Department believes that the proposed supplemental forms revisions’ benefits justify the costs. The

out the amount of savings attributed to plans with fewer than 25 participants from the total savings.

⁷ The \$77 million figure reflects the cost reduction that would occur if this proposal alone were implemented. The \$174 million cost reduction figure from the July 2006 Proposal represents the cost reduction that would occur if the July 2006 Proposal alone were implemented. See July 2006 Proposed Rule, 71 FR at 41396.

basis for this conclusion is explained below.

Regulatory Alternatives

Executive Order 12866 directs federal agencies promulgating rules to evaluate regulatory alternatives. The Department has concluded that its proposal to substitute separate actuarial schedules for single-employer plans and multiemployer plans for the existing Schedule B and to add new questions to the Schedule R is appropriate as a means to collect additional information as required by the PPA. Further, the Department has concluded that the July 2006 Proposal to make available the Short Form 5500 for plans with fewer than 100 participants would be an appropriate way to simplify reporting and reduce filer burden for plans with fewer than 25 participants, as required in section 1103 of the PPA, while still meeting the needs of participants, beneficiaries, the public, and the Department in full and adequate disclosure.

In developing form revisions and implementing regulatory changes, as required by the PPA, the Department considered several alternatives. The Department’s consideration included, for example, different approaches to the Schedule B, R, and H changes as well as the eligibility criteria for the Short Form 5500.

The public is invited to comment specifically on the decision points for the proposed revisions and on the adequacy of the models, assumptions, and data developed to evaluate regulatory burden. In considering these alternatives, the Department weighed the objective of reduced regulatory burden against the need for adequate reporting and disclosure, quantifying impacts where possible.⁸ For example:

- *Change and add new plan funding information on Actuarial Information Schedule (Currently Schedule B):* Schedule B is filed currently by defined benefit pension plans subject to the minimum funding schedules. In developing this proposed supplemental revision, the Department considered how to balance the need for information to help participants, beneficiaries, and the PBGC evaluate the financial solvency of both single and multiemployer defined benefit plans with the potential burden on administrators of those plans of providing the additional information (see discussion in preamble to the July

⁶ The reduction in costs shown in Table 1 for plans with fewer than 25 participants represents a portion of the savings attributed to the Short Form 5500 for plans with fewer than 100 participants in the July 2006 Proposal and supporting documents. This analysis uses the same methodology as used in the July 2006 Proposal to calculate the savings, although this analysis refines the result by breaking

⁸ The Department will take into account all comments received in response to both this proposal and the July 2006 Proposal in connection with finalizing the forms revisions.

2006 Notice). The Department believes that a cost-effective way to gather the information required by the PPA is to replace the existing Schedule B with separate forms specifically tailored for single-employer and multiemployer plans, Schedules SB and MB respectively. Providing each type of plan with its own actuarial schedule will generate cost savings and efficiencies. The Department

entertained the alternative of simply adding the additional questions required by the PPA for both types of plans to the existing Schedule B instead of separating the Schedule B into the Schedules SB and MB. However, differences in the statutory requirements for single-employer and multiemployer plans would cause some questions to have been filled out only by single-employer plans and others only by

multiemployer plans. Plan administrators would have had to spend additional time and effort to distinguish questions relevant for their plans. As can be seen in Table 2 below, collecting the information on a single Schedule B would result in a smaller reduction of burden than adopting the proposed separate Schedules SB and MB.

TABLE 2.—CHANGE IN BURDEN BETWEEN SEPARATE ACTUARIAL INFORMATION SCHEDULES AS PROPOSED IN THE SUPPLEMENTAL PROPOSED FORMS REVISIONS AND ONE EXPANDED SCHEDULE B

	Change in burden if separate Schedule Bs are established (as proposed)	Change in burden if changes are made to single Schedule B (alternative)
Total Change in Hours	– 17,000	– 10,000
Total Change in Costs (in Millions)	– \$1.48	– \$0.84

- *Establishment of a Short Form 5500 for certain plans with fewer than 25 participants:* As discussed in more detail in the preamble of the July 2006 Notice (under the heading “A. Short Form 5500 as New Simplified Report for Certain Small Plans,” 71 FR at 41618), the Department determined that most small plans, by virtue of their assets being held by regulated financial institutions and having a readily determinable fair market value, present reduced risks for their participants and beneficiaries and should be allowed a simplified annual report filing (*i.e.*, the Short Form 5500). The Department estimates that 95% of non-403(b) plans would qualify to file the Short Form 5500, 75% of which are plans with fewer than 25 participants.⁹ In considering how to provide the simplified filing required by the PPA, the Department considered allowing all plans with fewer than 25 participants, regardless of their investments, to file the Short Form 5500. The Department

estimates that this would affect about 29,000 plans.

However, the Department continues to believe, as noted in the July 2006 Proposal, that prohibiting use of the Short Form 5500 by plans with employer securities or other assets that are difficult to value is consistent with important policy objectives. The importance of those policies is underscored by the PPA’s emphasis on increasing plan transparency, accurate measurement of assets, greater participant control over the disposition of employer securities in defined contribution plans, and expanding the annual reporting requirements for multiemployer plans. All plans with fewer than 25 participants will be able to file a simplified annual return. In most cases that simplified return will be the Short Form 5500, but as under the July 2006 Proposal, small plans not eligible to use the Short Form 5500 still will be able to avail themselves of the other simplified reporting options available to small plans under the Form 5500 Annual Return/Report and its schedules.

Benefits and Costs

Benefits—The use of the Short Form 5500 for eligible plans to satisfy the simplified reporting requirement in the PPA and of the Form 5500, Schedules SB and MB, and Annual Return/Report and Schedule R, as modified, to obtain the additional annual reporting required by the PPA, will provide a standardized, streamlined alternative means of compliance with applicable statutory reporting requirements, as well as providing appropriate simplified annual reports and exemptions under section 104(a)(2) and (3) of ERISA. In so doing, they will both ease plan administrators’ burden of compliance with reporting requirements and enhance the utility and accessibility of information reported to the government, participants and beneficiaries, and others. In particular, the regulations and forms, together with the Department’s planned program for assisting filers in the preparation and electronic submission of filings, will give plan administrators clear guidance and a supportive, routine mechanism for satisfying the new reporting obligations. They also will make it possible to efficiently capture and assemble the information into an electronic data system, as also required by the PPA. The data will then be processed and analyzed in the service of many beneficial activities. These include monitoring compliance with ERISA’s reporting and other requirements; targeting and carrying out prompt and effective enforcement actions; informing participants and beneficiaries of the characteristics, operations, and financial status of their benefit plans; producing statistics on the employee benefit system, monitoring

- *Additional data elements reported on Schedule R:* Moving the asset distribution questions to Part VI of Schedule R presents an alternative to the treatment of these items in the July 2006 Proposal, which placed them on Schedule B (now Schedules SB and MB). As noted earlier in the preamble, this proposal’s placement of these items on the Schedule R should not be construed as a determination by the Agencies regarding public comments on the substance of the questions received in response to the July 2006 Proposal.

⁹Previously, in the July 2006 Proposed Rules, the Department estimated that 90% of non-403(b) plans would be eligible for filing the Short Form 5500. 71 FR at 41397. The Department has revised this estimate to conclude that an estimate of 95% eligibility is a more accurate estimate. These numbers do not include any estimate regarding 403(b) plans because this RIA, which is limited only to the changes required by the PPA, is based on current law. Using proposed forms revisions, 403(b) plans are treated as having only limited reporting requirements of current law, but this supplemental notice should not be construed as a substantive determination in response to the comments received on the July 2006 Proposal. As noted before, the Department anticipates combining all changes to the 2008 Form 5500 proposed in the July 2006 Proposal and this supplement and addressing the comments on both comprehensively into a final notice.

trends therein, and informing the public; and assembling information and conducting research that advances knowledge and fosters the formulation of sound public policies toward employee benefits. The Department believes that the benefits of the proposed supplemental revisions justify the costs as further detailed below.

Separate actuarial schedules for single-employer plans and multiemployer plans to reflect PPA changes in funding and annual reporting requirements: As noted below, this revision is expected to decrease reporting costs for single-employer plans and increase reporting costs for multiemployer plans. The Agencies believe, however, that the cost increases for multiemployer plans are justified by the need to better monitor plan funding. This information is needed by participants, beneficiaries, and the PBGC to improve their ability to assess the financial condition of the plan.

Additional data elements reported on Schedule R: As noted below, this revision will increase reporting costs for affected plans. The PPA requires Multiemployer defined benefit plans to report additional information that is needed by participants, beneficiaries, and the PBGC to assess the financial risk posed to the plan by a financial collapse or withdrawal of one or more contributing employers. Some of the additional data elements are already included in the July 2006 Proposal and, as further described in the July 2006 Proposed Rule (see discussion in preamble to the July 2006 Proposed Rule under the heading "Adding

Multiemployer Plan Contributing Employer Information," 71 FR at 41398), where it was stated that the PBGC believes that it is prudent to begin monitoring companies that are major contributors to multiemployer plans, especially because the financial conditions of many multiemployer plans have been deteriorating. Similarly, multiemployer plan mergers, information on withdrawing employers and their withdrawal liability, and information on participants for whom no employer makes contributions are important. Identification of companies and plans affected by such changes and gathering additional information on their impact is essential to making accurate assessments of the potential risks to which these plans are exposed.

Establishment of a Short Form 5500 for certain small plans: The Agencies estimate that this change will result in a reduced burden on the affected small plans. As noted in the July 2006 Proposal and as further described in the July 2006 Proposed Rule (see discussion in the preamble to the July 2006 Proposed Rule under the heading "Establishment of a Short Form 5500 for certain small plans," 71 FR at 41397), the Short Form 5500 was being developed with the specific intent of reducing reporting costs while still collecting sufficient information to preserve ERISA protections and satisfying the enforcement, research, and regulatory needs of the Agencies, and the disclosure needs of participants and beneficiaries. The Agencies determined that less information is needed in the case of small plans that

invest in secure assets issued by regulated financial institutions and having a fair market value that is easily determined. The Agencies believe that the eligibility conditions for Short Form 5500 filers, including the requirements relating to security and valuation of the plan's investments, ensure that the Short Form 5500 will provide adequate disclosure to the participants and beneficiaries in the plan and adequate annual reporting to the Agencies. Small plans that are not eligible to file the Short Form 5500 would continue to be able to file simplified reports as under the current system.

Electronic Filing and Web site Display of Form 5500 Information: This will give participants and beneficiaries an additional option on how to monitor the financial status of their pension plans. They will be able to access important information instantaneously and without any additional costs involved, as plans must be capable of electronic public disclosure beginning with the 2008 reporting years.

*Costs—*The Supplemental Proposed Forms Revisions will reduce the burden for small plans eligible to file the Short Form 5500, but increase the burden for plans that must report additional information on Schedules SB or MB, R and H. As shown in Table 3, the aggregate cost of reporting under the existing rules is estimated to be \$775 million annually,¹⁰ shared across the 780,000 filers subject to the filing requirement. The Department estimates that the supplemental proposed forms revisions, however, reduce the annual cost burden by \$77 million.¹¹

TABLE 3.—SUMMARY OF COSTS: CURRENT REQUIREMENTS VS. REQUIREMENTS UNDER THE SUPPLEMENTAL PROPOSED REVISION

	Total costs (in millions)	Total burden hours (in millions)
Current Reporting Requirements	\$774.8	9.42
Change due to the Supplemental Proposed Revision	- 77	- 0.94
Requirements under the Supplemental Proposed Revision	698	8.48

Note: Number of affected plans: 445,000.
The Requirements under the Supplemental Proposed Revision do not include the reporting requirements that are included in the July 2006 Proposal but not in the Supplemental Proposed Revisions.

Similar to the July 2006 Proposal, the Department assumes that substantial revisions to the existing reporting requirements will entail some one-time transition costs, but that such costs are generally loaded into the prices paid by plans for affected services and products,

spread both across plans and across the expected life of the service and product changes. The Department's estimates provided here are therefore intended to reflect such spreading and loading of these transaction costs.

In addition to estimating the total impact of the proposed revisions on aggregate costs, the Department has broken down the change in costs by individual revisions in the following way:

¹⁰ For reasons explained in footnote 20 and in the technical appendix, the cost of current reporting requirements contained in this proposal is different from the cost calculated for the July 2006 Proposal.

¹¹ These cost estimates take only the PPA changes into account. They take the changes included in the July 2006 Proposal into account only to the extent that the PPA also requires them. As noted before,

the Department intends to consolidate all changes into the final revisions expected to be published in 2007.

1. Separate actuarial schedules for single-employer plans and multiemployer plans to reflect PPA changes in funding and annual reporting requirements. Under the Supplemental Proposed Forms Revisions the Schedule B will be separated into a Schedule SB for single-employer and multiple-employer defined benefit plans and a Schedule MB for multiemployer defined benefit and money purchase plans. Relative to the current filing requirement, the establishment of Schedule SB will reduce the total annual burden for 43,000 affected filers by a little more than 18,000 hours. Applying an hourly labor rate of \$88 for service providers and \$61 for plan sponsors, the Department estimates that this will lower the annual reporting cost by an estimated \$1.59 million.¹² On the other

hand, the establishment of Schedule MB will increase the total annual burden for 1,500 affected filers by 1,200 hours. Applying an hourly labor rate of \$88 for service providers and \$61 for plan sponsors, the Department estimates that this will increase the annual reporting cost by an estimated \$105,000. On aggregate, the separation of the Schedule B will decrease the aggregate total annual burden by 17,000 hours, or by an estimated \$1.48 million.

2. Additional Data Elements on Schedule R. The provision of this information is anticipated to add an estimated additional annual cost of \$1.07 million (13,000 hours) for 20,000 affected filers when applying an hourly rate of \$88 for service providers and \$61 for plan sponsors.¹³

3. Establishment of a Short Form 5500 for certain small plans. A large majority

of small plans, or 425,000 of the 629,000 total small plan filers, are estimated to be eligible to use the Short Form 5500, thereby saving an estimated \$77 million (942,000 hours) annually. Again, the Department is applying an hourly rate of \$88 for service providers and \$61 for plan sponsors.¹⁴

4. Electronic Filing and Web site Display of Form 5500 Information. This requirement is not anticipated to add any additional costs, as plans must be capable of electronic public disclosure beginning with the 2008 reporting year due to the Electronic Filing Rule.

A summary of the changes in costs and burden hours that were allocated to the groups of proposed supplemental changes as outlined above, as well as the number of affected employee benefit plans, can be found in Table 4 below.

TABLE 4.—SUMMARY OF SUPPLEMENTAL PROPOSED CHANGES TO THE REPORTING REQUIREMENTS: COSTS, BURDEN, AND AFFECTED PLANS

Supplemental proposed revisions for 2008	Change in costs (in millions) ¹	Change in burden hours ¹	Number of affected plans ^{1 2}
Separate Schedule Bs	− \$1.48	− 17,000	44,500
Short Form 5500	− 76.75	− 942,000	425,000
Schedule R	+1.07	+13,000	20,000
Total	− 77.17	− 944,000	445,000

¹ Note: The displayed numbers might not sum up to the totals due to rounding.

² Some plans are affected by more than one individual revision. Consequently, the total number of affected plans is lower than the summation of the number of plans affected by the three individual revisions.

Assumptions, Methodology, and Uncertainty

The cost and burden associated with the annual requirement for any given plan will vary according to a variety of factors, including the plan's characteristics, practices, and operations, which in turn determine what information must be provided. A small, single-employer defined contribution pension plan filing a new Short Form 5500 generally will incur far lower costs than a large, multiemployer defined benefit plan that merges with another multiemployer plan and invests in employer securities or other hard to value assets. Therefore, as in the July 2006 Proposal, in arriving at its aggregate cost estimates the Department separately considered the cost to different types of plans of providing

¹² For purpose of the burden analysis, the Department assumes that 4% to 8% of the burden hours of Schedule B are incurred by the plan sponsors and 92% to 96% by service providers. The displayed numbers in the text might not multiply to the totals due to rounding. The labor rates were updated from the rates used in the July 2006 Proposed Notice. See 71 FR at 41399. Please see the Technical Appendix for details.

different types of information. The basis for the Department's estimates is the methodology designed and peer reviewed for the July 2006 Proposal and repeated below.

Assumptions Underlying This Analysis—The Department's analysis of the costs and benefits of these supplemental proposed revisions assumes that all benefits and costs will be realized in the first year of the reporting cycle to which the amendments apply and within each year thereafter. This assumption is based on the nature of the statutory reporting provisions, which require that each plan complete a filing within a yearly period. The Department has used a "status quo" baseline for this analysis, assuming that the world absent this

¹³ For purpose of the burden analysis, the Department assumes that 29% to 32% of the burden hours of Schedule R are incurred by the plan sponsors and 68% to 71% by service providers. The displayed numbers in the text might not multiply to the totals due to rounding.

¹⁴ For purpose of the burden analysis, the Department assumes that 19% to 24% of the burden hours of the Short Form 5500 are incurred by the

proposal and absent the July 2006 Proposal will resemble the present.¹⁵

Methodology—The underlying cost data was developed by Mathematica Policy Research, Inc. (MPR), and has been used by the Agencies in various burden estimates related to the Form 5500 Annual Return/Report during recent years. See, 65 FR 21068, 21077–78 (April 19, 2000); Borden, William S., "Estimates of the Burden for Filing Form 5500: The Change in Burden from the 1997 to the 1999 Forms," Mathematica Policy Research, submitted to the U.S. Dept. of Labor May 25, 1999.¹⁶ It is grounded in surveys of filers and their service providers, which measured the unit cost burden of providing various types of information. Aggregate estimates were produced by interacting these unit cost measures

plan sponsors and 76% to 81% by service providers. The displayed numbers in the text might not multiply to the totals due to rounding.

¹⁵ Further detail can be found in the Technical Appendix.

¹⁶ The Mathematica report can be accessed at the Department's Web site at <http://www.dol.gov/ebssa>. Further detail can be found in the Technical Appendix.

with historical counts of Form 5500 Annual Return/Report filers.

A new burden estimating model, based on the Form 5500 Burden Model that MPR most recently used for estimating burdens in October 2004, was assembled by Actuarial Research Corporation (ARC) for the July 2006 Proposal and subsequent burden estimates. ARC assembled a simplified model, drawing on implied burdens associated with subsets of filer groups represented in the MPR model. The model used the level of detail consistent with reflecting burden differences associated with the various proposed forms revisions. In the following, the ARC model is described in broad terms. Further details about the model are explained in the Technical Appendix that can be accessed at the Department's Web site at <http://www.dol.gov/ebsa>.

To estimate aggregate burdens, the types of plans that have similar reporting requirements were grouped together. Thus, calculations were prepared for different subsets of types of plans as appropriate based on the specifics of the supplemental revisions to the reporting requirements. Table 5 below shows the particular types of plans considered, the number of plans affected by the proposed revisions, as well as the aggregate costs under current and supplemental proposed requirements. As can be seen from the Total line in Table 5, aggregate cost under current and proposed regulations add up to \$775 million and \$698 million, respectively. The universe of filers was divided into three basic plan types: defined benefit pension plans, defined contribution pension plans, and welfare plans, and each of these major plan types was further subdivided into

multiemployer and single-employer plans. Defined contribution Code section 403(b) plans were treated separately from other defined contribution plans. Since the filing requirements differ substantially for small and large plans, the plan types were also divided by plan size. For large plans (100 or more participants), the defined benefit plans were further divided between very large (1000 or more participants) and other large plans (at least 100 participants, but less than 1000 participants). Small plans were divided into very small (less than 25 participants) and small (at least 25 participants, but less than 100 participants). For each of these sets of respondents, burden hours per respondent were estimated for the Form 5500 Annual Return/Report itself and for up to eight schedules.

TABLE 5.—NUMBER OF AFFECTED FILERS AND COST UNDER CURRENT VS. SUPPLEMENTAL PROPOSED REQUIREMENTS

Type of plan	Number affected	Aggregate cost under current requirements (in millions)	Aggregate cost under supplemental proposed requirements (in millions)
5500 Large Plans (> = 100 participants)	151,800		
DB, ME, 100–1,000 participants	600	\$4.67	\$4.78
DB, ME, > 1,000 participants	900	6.53	6.84
DB, SE, 100–1,000 participants	7,000	51.91	51.54
DB, SE, > 1,000 participants	3,400	25.00	25.49
DC, ME, non-403(b)	1,700	8.15	8.15
DC, ME, 403(b)	100	0.0035	0.0035
DC, SE, non-403(b)	57,400	261.97	261.96
DC, SE, 403(b)	7,200	0.31	0.31
Welfare, ME	4,100	7.78	7.78
Welfare, SE	69,200	92.60	92.60
5500 Very Small Short Form Eligible (< 25 participants)	428,700		
DB	28,600	33.40	17.84
DC, non-403(b)	396,200	145.18	83.28
5500 Small Short Form Ineligible	200,000		
DB	7,700	9.91	9.80
DC, non-403(b)	180,500	123.68	123.68
DC, 403(b)	8,900	0.39	0.39
Welfare	6,800	3.30	3.30
Total	780,450	774.8	697.74

Note: The displayed numbers might not sum up to the totals due to rounding.

DB—defined benefit plans.

DC—defined contribution plans.

SE—single-employer plans.

ME—multi employer plans.

Large plans—100 participants or more.

Small plans—less than 100 participants.

In addition to separating plans by type and size, costs were estimated separately for the form and for each schedule. When items on a Form 5500 Annual Return/Report schedule are required by more than one Agency, the estimated burden associated with that schedule is allocated among the Agencies. This allocation is based on whether only a single item on a

schedule is required by more than one agency or whether several or all of the items are required by more than one agency. Filers must read not only the instructions for particular items but also instructions pertaining to the general filing requirements, and the burden associated with reading the instructions is tallied and allocated accordingly.

A plan's reporting burden is estimated in light of the specific items and schedules it must complete as well as its size, funding method, and investment structures. For example, the annual report for a large fully insured welfare plan would consist of only a few questions on the Form 5500, Schedule A, and Schedules C and G, where applicable. The requirement that this

plan provide very limited information on the Form 5500 Annual Return/Report is reflected in the estimates of reporting burden time. By contrast, a large defined benefit pension plan that is intended to be tax-qualified and that uses a trust fund and invests in insurance contracts would be required to submit an annual report completing almost all the line items of the Form 5500, plus Schedule A (Insurance Information), Schedule SB or MB (Actuarial Information), Schedule C (Service Provider Information), Schedule D (DFE/Participating Plan Information), Schedule G where applicable, Schedule H (Financial Information), and Schedule R (Retirement Plan Information), and would be required to submit an IQPA's report and opinion. The Agencies' methodology attempts to capture, through its categorization, these different reporting burdens, thereby providing meaningful estimates of significant differences in the burdens placed on different categories of filers.

Burden estimates for each schedule were adjusted for the proposed revisions, reflecting the numbers of items added or deleted in each schedule, and the average burden currently attributable to items on each of the corresponding current schedules. The burden for the proposed Short Form 5500 was built from the estimated current burden associated with the various line items included in it.

The Department has not attributed a recordkeeping burden to the Form 5500 Annual Return/Report either here or in its Paperwork Reduction Act analysis because it believes that plan administrators' practice of keeping financial records necessary to complete the Form 5500 Annual Return/Report arises from usual and customary management practices that would be used by any financial entity, and does not result from ERISA or Code annual reporting and filing requirements.

The aggregate baseline burden is the sum of the burden per form and schedule filed multiplied by the estimated aggregate number of forms and schedules. The simplified model draws on Form 5500 Annual Return/Report data representing each plan's filing for plan year 2003 (the most recent year for which complete data is available), both for estimating the impact of changes in the numbers of filings associated with the introduction of the Short Form 5500 for most small filers as well as for estimating the impact of changes in filing obligations associated with other schedules.¹⁷ In

summary, the model estimates that due to \$77 million in cost reductions the proposed revisions would lead to aggregate costs of \$698 million. While there is a net reduction in costs, the Department estimates that some large plans might experience cost increases, while small plans will experience cost reductions. The total burden estimates, as well as the burden broken out by type of plan can be found in Table 5 above.

Uncertainty within Estimates—The Department acknowledges that there are several areas of uncertainty that might affect the estimates, in particular the unit cost estimates. While the Department has a good sense for the filing universe and for the number of filers that file the different schedules of the Form 5500, the unit costs under the current requirements as well as the way they would change due to the proposed revisions are more uncertain. The Department has no direct measure for the unit costs, but rather uses a proxy adapted from the existing MPR model, which was developed in the late 1990s. Additional uncertainty is added due to the supplemental proposed revisions. Some of the revisions just move items from the current Schedule B to the single-employer or multiemployer schedule. The impact of these changes can be estimated more accurately than the impact of the revisions that require the reporting of new items. Consequently, the unit cost estimates would benefit from updated information and the Department welcomes comments that would provide information on this matter.

Peer Review

In December 2004, OMB issued a Final Information Quality Bulletin for Peer Review, 70 FR 2664 (January 14, 2005) (Peer Review Bulletin), establishing that important scientific information shall be peer reviewed before it is disseminated by the Federal government. The Peer Review Bulletin applies to original data and formal analytic models used by the Department in Regulatory Impact Analyses. The Department determined that the data and methods employed in the regulatory analysis of the July 2006 Proposal constituted "influential scientific information" as defined in the Peer Review Bulletin. Accordingly, a peer review was conducted under Section II of the Bulletin. The peer review report concluded that the methodology and data generally were sound and produced plausible estimates. The

Form 5500 data has become recently available and is used for making burden estimates for the Supplemental Proposed Revisions.

current proposal uses the same methodology and, accordingly, the Department is relying on the Peer Review Report prepared in connection with the July 2006 Proposal for its proposed use of the Short Form 5500 to satisfy the simplified reporting requirement and additional reporting requirements for defined benefit pension plans contained in the PPA.¹⁸ The Peer Review Report can be accessed at the Department's Web site at <http://www.dol.gov/ebsa>.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) (RFA) imposes certain requirements with respect to Federal rules that are subject to the notice and comment requirements of section 553(b) of the Administrative Procedure Act (5 U.S.C. 551 *et seq.*) and that are likely to have a significant economic impact on a substantial number of small entities. Unless an agency certifies that a proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small entities, section 603 of the RFA requires that the agency present an initial regulatory flexibility analysis at the time of the publication of the notice of proposed rulemaking describing the impact of the rule on small entities and seeking public comment on such impact. Small entities include small businesses, organizations, and governmental jurisdictions.

For purposes of analysis under the RFA, EBSA proposes to continue to consider a small entity to be an employee benefit plan with fewer than 100 participants. The basis of this definition is found in section 104(a)(2) of ERISA, which permits the Secretary to prescribe simplified annual reports for pension plans that cover fewer than 100 participants. Under ERISA section 104(a)(3), the Secretary may also provide for exemptions or for simplified reporting and disclosure for welfare benefit plans. Pursuant to the authority of ERISA section 104(a)(3), the Department has previously issued at 29 CFR 2520.104-20, 2520.104-21, 2520.104-41, 2520.104-46, and 2520.104b-10 certain simplified reporting provisions and limited exemptions from reporting and disclosure requirements for small plans,

¹⁸ The current analysis uses the same methodology as was used in the July 2006 Proposal, except that the Department slightly updated some components. Information about the updates was included in the material given to the peer reviewer. The Department also used a newer data set (2003 Form 5500 data, rather than 2002 data) to estimate the burden. Further information about these updates can be found in the section "Costs" above.

¹⁷ While the July 2006 Proposal used burden estimates drawing from 2002 Form 5500 data, 2003

including unfunded or insured welfare plans, that cover fewer than 100 participants and satisfy certain other requirements.

Further, while some large employers may have small plans, in general small employers maintain most small plans. Thus, EBSA believes that assessing the impact of this proposal on small plans is an appropriate substitute for evaluating the effect on small entities. The definition of small entity considered appropriate for this purpose differs, however, from a definition of small business that is based on size standards promulgated by the Small Business Administration (SBA) (13 CFR 121.201) pursuant to the Small Business Act (15 U.S.C. 631 *et seq.*). EBSA therefore requests comments on the appropriateness of the size standard used in evaluating the impact of this proposal on small entities. EBSA has consulted with the SBA Office of Advocacy concerning use of this participant count standard for RFA purposes. See 13 CFR 121.902(b)(4). The following seven subsections address specific requirements of the RFA.

(1) The Department is proposing to revise the forms relating to the annual reporting and disclosure requirements of section 103 of ERISA to satisfy requirements of the PPA.

The Department continually strives to tailor reporting requirements to minimize reporting costs while ensuring that the information necessary to secure ERISA rights is adequately available. The optimal design for reporting requirements to satisfy these objectives changes over time. Benefit plan designs and practices evolve over time in response to market trends, including trends in labor markets, financial markets, health care and insurance markets, and markets for various services used by plans. Partly as a result of those changes, the nature and mix of compliance issues and risks to ERISA rights change over time. Frequent amendments to ERISA, the Code, and to associated regulations also change the parameters of ERISA rights and the methods needed to protect those rights. In addition, the technologies available to manage and transmit information continually advance. It is incumbent on the Department to revise its reporting requirements from time to time to keep pace with such changes. The Department is proposing these forms revisions to readjust its reporting requirements to take into account the PPA as well as certain recent changes in markets, the law, and technology, many of which are referenced above in this preamble.

(2) Section 103 of ERISA requires every employee benefit plan covered under part 1 of Subtitle B of Title I of ERISA to publish and file an annual report concerning, among other things, the financial conditions and operations of the plan. Section 109 of ERISA authorizes the Secretary to prescribe forms for the reporting of information that is required to be included in the annual report. Section 104(a)(2)(A) of ERISA authorizes the Secretary to prescribe by regulation simplified annual reporting for pension plans that cover fewer than 100 participants. Section 104(a)(3) of ERISA authorizes the Secretary to exempt any welfare plan from all or part of the reporting and disclosure requirements of Title I of ERISA or to provide simplified reporting and disclosure if the Secretary finds that such requirements are inappropriate as applied to such plans. Section 110 of ERISA permits the Secretary to prescribe for pension plans alternative methods of complying with any of the reporting and disclosure requirements if the Secretary finds that: (1) The use of the alternative method is consistent with the purposes of Title I of ERISA, and it provides adequate disclosure to plan participants and beneficiaries and adequate reporting to the Secretary; (2) application of the statutory reporting and disclosure requirements would increase costs to the plan or impose unreasonable administrative burdens with respect to the operation of the plan; and (3) the application of the statutory reporting and disclosure requirements would be adverse to the interests of plan participants in the aggregate.

The Department proposes to find that use of the Form 5500 Annual Return/Report, as revised, along with the proposed Short Form 5500, constitutes an alternative method of compliance, an exemption, and/or a simplified report, as applicable, consistent with these conditions. Generally, the Department believes that use of the revised Form 5500 Annual Return/Report and the proposed Short Form 5500 would relieve plans of all sizes of increased costs and burdens by providing a standard format that facilitates reporting required by the statute, eliminating duplicative reporting requirements, and streamlining the content of the annual return/report.

The objectives of these proposed supplemental forms revisions are to implement applicable provisions of the PPA, as well as to streamline reporting and reduce aggregate reporting costs, particularly for small plans, while preserving and enhancing protection of

ERISA rights. These purposes are detailed above in this preamble.

(3) These supplemental proposed forms revisions do not alter the number of small plans required to comply with the annual reporting requirements, but do implement a new Short Form 5500, which is designed specifically to further streamline the limited reporting requirements presently applicable to small plans. The Department estimates that more than six million small, private-sector employee pension and welfare benefit plans are covered under Title I of ERISA. However, a large majority of these are fully insured or unfunded welfare benefit plans, which currently are exempt from annual reporting requirements and will continue to be exempt under these proposed forms revisions. Approximately 629,000 small plans, including small pension plans and small funded welfare plans, currently are required to file annual reports and will continue to be so required under these supplemental forms revisions. Of these, under the supplemental forms revisions an estimated 425,000 small pension plans will be eligible to use the proposed new Short Form 5500. Use of the Short Form 5500 is expected to reduce these plans' reporting costs while preserving or enhancing the protection of their participants' ERISA rights.

(4) The proposed reporting requirements applicable to small plans are detailed above. For a large majority of the 629,000 small plans subject to annual reporting requirements, or an estimated 396,000 pension plans, submission of the Short Form 5500 alone will fully satisfy their annual reporting requirements. All of these plans are eligible for the waiver of audit requirements, and none are defined benefit pension plans. Therefore, for such plans satisfaction of their applicable annual reporting requirements is not expected to require the services of an IQPA or auditor, but will require the use of a mix of clerical and professional administrative skills. For an additional 29,000 small defined benefit pension plans that would be eligible to use the streamlined Short Form 5500, satisfaction of the reporting requirements also will require services of an actuary and submission of Schedule SB. The remaining 204,000 small plans will not be eligible to use the Short Form 5500 under the PPA and will continue to be required to file the Form 5500 Annual Return/Report. Of these, 8,000 are defined benefit plans that must use an actuary and file Schedule SB or MB. All will require a mix of clerical and professional

administrative skills to satisfy their reporting requirements.

Satisfaction of annual reporting requirements under these proposed forms revisions is not expected to require any additional recordkeeping that would not otherwise be part of normal business practices.

The Table 6 below compares the Department's estimates of small plans' reporting costs under the current requirements with those under the supplemental proposed requirements for various classes of affected plans. As shown, costs under the supplemental

proposed requirements will be lower on aggregate and for most classes of plans. These estimates take account of the quantity and mix of clerical and professional skills required to satisfy the reporting requirements for various classes of plans.

TABLE 6.—SMALL PLAN REPORTING COSTS UNDER CURRENT VS. SUPPLEMENTAL PROPOSED REQUIREMENTS

Class of plan	Number affected	Aggregate cost under current requirements (in millions)	Aggregate cost under supplemental proposed requirements (in millions)
Defined Benefit Pension, Short Form eligible	29,000	\$33.40	\$17.84
Defined Benefit Pension, Short Form ineligible	8,000	9.91	9.80
Code Section 403(b), Short Form ineligible	9,000	0.39	0.39
Other Defined Contribution, Short Form eligible	393,000	145.18	83.28
Other Defined Contribution Pension, Short Form ineligible	180,000	123.68	123.68
Funded Welfare	7,000	3.30	3.30
Total for all affected small plans	629,000	315.85	238.28

Note: The displayed numbers might not sum up to the totals due to rounding.

The Department notes that the estimated reporting costs amount to less than \$400 on average for each of the 629,000 small plans subject to annual reporting requirements. This compares with roughly \$3,000 on average for each of the 152,000 affected large filers.

(5) Except for the July 2006 Proposal, the Department is unaware of any relevant federal rules for small plans that duplicate, overlap, or conflict with these proposed forms revisions. The July 2006 Proposal includes provisions that overlap and duplicate with some of the form changes proposed in this notice of supplemental proposed forms revisions. For example, the July 2006 Proposal proposes the Short Form 5500 not only for certain small pension plans with less than 25 participants, but also for certain small pension and welfare plans with less than 100 participants. As noted above, the Department anticipates combining the forms revisions under the July 2006 Proposal and the supplemental proposed forms revisions when it finalizes the forms revisions.

(6) In developing the forms revisions, the Department considered a number of alternative provisions directed at small plans. For example, as discussed in the July 2006 Proposal, the Department considered both narrower and broader eligibility criteria for use of the Short Form 5500, settling on criteria that limit eligibility to plans holding relatively safe and protected assets, which nonetheless includes a large majority of small plans. The Department also considered the inclusion of more or fewer of the items of information

formerly collected from small plans in the Form 5500 Annual Return/Report, retaining only those items it believes to be necessary and adequate to the protection of small plan participants' ERISA rights.

(7) The Department invites interested persons to submit comments regarding the impact on small plans of these Supplemental Proposed Forms Revisions, and on the Department's assessment thereof. The Department also requests comments on the alternatives it considered and its conclusions regarding those alternatives; on any additional alternatives it should have considered; on what, if any, special problems small plans might encounter if the proposal were to be adopted; and what changes, if any, could be made to minimize those problems.

Paperwork Reduction Act Statement

As part of continuing efforts to reduce paperwork and respondent burden, the general public and Federal agencies are generally invited to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA 95) (44 U.S.C. 3506(c)(2)(A)). This helps to ensure that requested data will be provided in the desired format, reporting burden (time and financial resources) will be minimized, collection instruments will be clearly understood, and the impact of collection requirements on respondents can be properly assessed. Concurrent with publication of the July 2006 Proposal, the Department submitted an

information collection request (ICR) to OMB, in accordance with 44 U.S.C. 3507(d), for its review of the Department's proposed revisions to the information collections previously approved by OMB under OMB Control No. 1210-0110.

On August 29, 2006, OMB issued a notice indicating that it would continue its approval of the information collections under Control No. 1210-0110 as currently in effect, but would not approve the Department's request for approval of the proposed revisions until after the Department considers public comment and promulgates a final rule describing and explaining any changes. The IRS and the PBGC indicated, in the July 2006 Proposal, that they intend to submit separate requests for OMB review and approval based upon the final forms revisions, and the Department now indicates its intention to do so as well. The Department solicits comments on any information collection burdens described in this Notice of Supplemental Proposed Forms Revisions.

Congressional Review Act

The notice of proposed forms revisions being issued here is subject to the Congressional Review Act provisions of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*) and, if finalized, will be transmitted to the Congress and the Comptroller General for review.

Unfunded Mandates Reform Act

For purposes of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4), as well as Executive Order 12875, the proposal does not include any Federal mandate that may result in expenditures by state, local, or tribal governments in the aggregate of more than \$100 million, or increased expenditures by the private sector of more than \$100 million.

Federalism Statement

Executive Order 13132 (August 4, 1999) outlines fundamental principles of federalism and requires adherence to

specific criteria by federal agencies in the process of their formulation and implementation of policies that have substantial direct effects on the States, the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. This proposal does not have federalism implications because they would have no 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. Section 514 of ERISA provides, with certain exceptions specifically enumerated, that the provisions of Titles I and IV of ERISA supersede any and all laws of the States as they relate to any employee benefit plan covered under ERISA. The requirements implemented in this proposal does not alter the fundamental provisions of the statute with respect to employee benefit plans, and as such would have no implications for the States or the relationship or distribution of power between the national government and the States.

Appendix A

DATA ITEMS FOR 2008 (AND LATER) SCHEDULE SB (SINGLE-EMPLOYER DEFINED BENEFIT PLAN ACTUARIAL INFORMATION)

Item	Comparison with 2006 Schedule B
Identifying Information	
Plan year	
A. Name of plan	Same.
B. Plan number	Same.
C. Plan sponsor's name	Same.
D. EIN	Same.
E. Type of plan (Single-Employer, Multiple-Employer)	Similar.
F. Prior year plan size (100 or fewer, 101-500, More than 500)	Similar.
Part I—Basic Information	
1. Valuation date	Same.
2. Assets	
a. Market value	Same.
b. Actuarial value	Similar.
3. Funding target and participant count breakdown (separate participant count and funding target figures for: retired participants and beneficiaries receiving payment; terminated vested participants; active participants by nonvested benefits, vested benefits, and total active; and totals.	
a. Number of participants column	Same.
b. Funding target column	Similar.
4. Additional information for plans that are at-risk	
a. Funding target disregarding prescribed at-risk assumptions	New.
b. Funding target reflecting at-risk assumptions, but disregarding transition rule for plans that have been at risk for fewer than five consecutive years.	New.
5. Effective interest rate	New.
6. Target normal cost	Similar.
Statement by Enrolled Actuary—To the best of my knowledge, the information supplied in this schedule and accompanying schedules, statements and attachments, if any, is complete and accurate. Each prescribed assumption was applied in accordance with applicable law and regulations. In my opinion, each other assumption is reasonable (taking into account the experience of the plan and reasonable expectations) and such other assumptions, in combination, offer my best estimate of anticipated experience under the plan.	Similar.
Signature, Name, Date, Most recent enrolled actuary number, Firm name, Telephone number, Address of firm, and check box to indicate if actuary has not fully reflected any regulation or ruling promulgated under the statute in completing the schedule.	Similar.
Part II—Beginning of Year Carryover/Prefunding Balance Reconciliation	
7. Balance at beginning of prior plan year after applicable adjustments (carryover balance and prefunding balance)	Similar.
8. Portion used to satisfy prior year's funding requirement (carryover balance and prefunding balance)	New.
9. Remaining amount (carryover balance and prefunding balance)	New.
10. Interest earned during prior year (carryover balance and prefunding balance)	New.
11. Prior year's excess contributions to be added to prefunding balance (carryover balance and prefunding balance)	New.
a. Excess contributions	New.
b. Interest on (a) using prior year's effective rate	New.
c. Total available at beginning of current plan year to add to prefunding balance	New.
d. Portion of (c) to be added to prefunding balance	New.
12. Voluntary reduction (carryover balance and prefunding balance)	New.
13. Balance at beginning of current year = Item 9 + item 10 + item 11 - item 12 (carryover balance and prefunding balance)	New.

DATA ITEMS FOR 2008 (AND LATER) SCHEDULE SB (SINGLE-EMPLOYER DEFINED BENEFIT PLAN ACTUARIAL INFORMATION)—Continued

Item	Comparison with 2006 Schedule B
Part III—Funding Percentages	
14. Funding Target Attainment Percentage	New.
15. Adjusted Funding Target Attainment Percentage	New.
16. Prior year's funding percentage for purposes of determining whether carryover/prefunding balance may be used to reduce current year's funding requirement.	New.
17. If the current value of the assets of the plan is less than 70 percent of the funding target, enter such percentage.	Similar.
Part IV—Contributions and Liquidity Shortfalls	
18. Contributions made to the plan for the plan year by employer(s) and employees by (a) date, (b) amount paid by employer, and (c) amount paid by employees.	Same.
19. Discounted plan contributions	New.
a. Contributions allocated toward unpaid minimum required contribution from prior years	New.
b. Contributions made to avoid restrictions adjusted to valuation date	New.
c. Contributions allocated toward minimum required contribution for current year adjusted to valuation date	New.
20. Quarterly contributions and liquidity information	
a. Did the plan have a "funding shortfall" for the prior year?	New.
b. If 20a is yes, were required quarterly installments for the current year made in timely manner	New.
c. If 20a is yes, complete table showing liquidity shortfall as of the end of each quarter of the plan year	Same.
Part V—Assumptions	
21. Discount rate	
a. Segment rate(s) for 1st, 2nd and 3rd segments or indicate that full yield curve is used	New.
b. Applicable month	New.
22. Weighted average retirement age	Same.
23. Mortality table—indicate whether prescribed table(s) or substitute table used	New.
Part VI—Miscellaneous items	
24. Has a change been made in the non-prescribed actuarial assumptions for the current plan year? If yes, see instructions for required attachment.	Same.
25. Has a method change been made for the current plan year? If yes, see instructions for required attachment	Same.
26. Is the plan required to provide a Schedule of Active Participants? If yes, see instructions for required attachment	Same.
27. If the plan is eligible for (and is using) alternative funding rules, enter applicable code. If yes, see instructions for required attachment.	New.
Part VII—Reconciliation of Unpaid Minimum Required Contributions for Prior Years	
28. Unpaid minimum required contribution for all prior years	New.
29. Discounted employer contributions allocated toward unpaid minimum required contribution from prior years (Item 19a)	New.
30. Remaining amount of unpaid minimum required contributions (item 28 minus item 29)	New.
Part VII—Minimum Required Contribution for Current Year	
31. Target normal cost (item 6)	Similar.
32. Amortization charges	
a. Net Shortfall amortization charges (and outstanding balance)	Similar.
b. Waiver amortization charges (and outstanding balance)	Similar.
33. If a waiver has been approved for this plan year, enter the date of the ruling letter granting the approval and the waived amount.	Similar.
34. Total funding requirement before reflecting carryover and prefunding balances (Item 31 + item 32a + item 32b – item 33)	New.
35. Enter Carryover and prefunding balance used to offset funding requirement	New.
36. Additional cash requirement after reflecting carryover and prefunding balances (item 34 minus item 35)	New.
37. Contributions allocated toward minimum required contribution for current year adjusted to valuation date (item 19c)	New.
38. Excess contributions for current year (excess, if any, of item 37 over item 36)	New.
39. Unpaid minimum required contribution for current year (excess, if any, of item 36 over item 37)	New.
40. Unpaid minimum required contribution for all years	New.

Appendix B

DATA ITEMS FOR 2008 (AND LATER) SCHEDULE MB (MULTIEMPLOYER DEFINED BENEFIT PLAN AND MONEY PURCHASE PLAN ACTUARIAL INFORMATION)

Item	Comparison with 2006 Schedule B
Plan year	Same.
A. Plan name	Same as item A.
B. Plan number	Same as item B.
C. Plan sponsor's name	Same as item C.
D. Employer identification number	Same as item D.
E. Type of plan (multiemployer DB plan, money purchase plan)	Similar to item E (item F deleted).
1a Valuation date	Same as line 1a.
1b Assets:	
(1) Current value of assets	Same as line 1b(1).
(2) Actuarial value of assets	Same as line 1b(2).
1c Accrued liability information:	
(1) Accrued liability for plans using immediate gain methods	Same as line 1c(1).
(2) Information for plans using spread gain methods	Same as line 1c(2).
(3) Accrued liability under unit credit method	New.
1d Information on current liabilities:	
(1) Amount excluded attributable to pre-participation service	Same as line 1d(1).
(2) "RPA '94" information	
(a) Current liability	Same as line 1d(2)(a).
(b) Expected increase in current liability due to benefits accruing during the plan year	Same as line 1d(2)(b).
(c) Expected release from "RPA '94" current liability for the plan year	Same as line 1d(2)(d) (line 1d(2)(c) deleted).
(3) Expected release from "RPA '94" current liability for the plan year	Same as line 1d(3).
Statement by Enrolled Actuary—To the best of my knowledge, the information supplied in this schedule and accompanying schedules, statements and attachments, if any, is complete and accurate. Each prescribed assumption was applied in accordance with applicable law and regulations. In my opinion, each other assumption is reasonable (taking into account the experience of the plan and reasonable expectations) and such other assumptions in combination, offer my best estimate of anticipated experience under the plan.	Similar.
2 Operational information as of beginning of the plan year	
2a Current value of assets	Same as line 2a.
2b (column 1). Participant count breakdown by category (terminated vested, retired, active).	Same information as line 2b, column 1 except for amended format.
2b (column 2). "RPA '94" current liability	Amended to incorporate information from line 2b, columns 2 and 3 (column 3 deleted).
2c Current liability funded percentage	Same as line 2c.
3 Contributions (employer(s) and employees)	Same as item 3.
4 Plan status—Code to indicate plan's status in accordance with instructions for attachment of supporting evidence of plan's status. For certain codes, the rest of line 4 is skipped. Funded percentage for monitoring plan's status. Whether the plan is making the schedule progress with any applicable funding improvement or rehabilitation plan. If the plan is in critical status, whether any adjustable benefits were reduced, and if so, the reduction in liability resulting from the reduction in adjustable benefits, measured as of the valuation date.	New (replaces existing item 4).
5 Information on actuarial cost method	
5a–g Actuarial cost method used—Check boxes to identify the actuarial cost method(s) used as the basis for this plan year's funding standard account computations: Attained age normal, entry age normal, accrued benefit (unit credit), aggregate, frozen initial liability, individual level premium, individual aggregate, shortfall, reorganization, other (specify).	Similar to lines 5a–g. Note that multiple boxes may be checked.
5h Shortfall method	New—previously addressed in line 8b and attachments for multiemployer plans.
5i Reorganization	New—previously addressed in line 8b and attachments for multiemployer plans.
5j Other (specify)	Same as line 5h.
5k Period of use, shortfall method	New, required under ERISA section 103(f)(2)(F).
5l–n Change in funding method—Must state if there was a change in funding method for the plan year, and if so, whether it was made pursuant to Revenue Procedure 2000–40. If there was a change in funding method, but it was not made pursuant to Revenue Procedure 2000–40, then the date of the ruling letter (individual or class) approving the change in funding method must be entered.	Same as lines 5i–k except for updated line references.
6 Actuarial assumptions	
6a Interest rate for current liability	Same as line 6a (line 6b deleted).
6b Rates specified in insurance or annuity contracts	Same as line 6c.
6c Mortality table (males, females)	Same as line 6d.
6d Valuation liability interest rate	Same as line 6e.
6e Expense loading	Same as line 6f (line 6g deleted).
6f Salary scale	Same as line 6h.
6g–h Estimated investment return on assets	Same as lines 6i–j.
7 Information on new amortization bases—(1) type of base (2) initial balance (3) amortization charge/credit.	Same as item 7.

DATA ITEMS FOR 2008 (AND LATER) SCHEDULE MB (MULTIEMPLOYER DEFINED BENEFIT PLAN AND MONEY PURCHASE PLAN ACTUARIAL INFORMATION)—Continued

Item	Comparison with 2006 Schedule B
8 Miscellaneous information	
8a Funding waiver—If a waiver of a funding deficiency has been approved for this plan year, enter the date of the ruling letter granting the approval..	Similar to line 8a, amended to apply only to funding waivers (line 8b deleted; information reflected in lines 5h–i).
8b Schedule of Active Participant Data	New for multiemployer plans, same as line 8c for single-employer plans.
8c Amortization extension under 304(d)—Are any of the plan’s amortization bases operating under an extension of time under section 412(e) (as in effect prior to 2008) or section 431(d)(1) of the Code?	New.
8d(1)–(2) Automatically-approved extensions—If yes, was an extension granted automatic approval under section 431(d)(1) of the Code? If yes, enter the number of years by which the amortization period was extended.	New.
8d(3)–(5) IRS-approved extensions—Was an extension approved by the Internal Revenue Service under section 412(e) (as in effect prior to 2008) or 431(d) of the Code? If yes, enter the number of years by which the amortization period was extended (not including the number of years granted automatic approval under section 431(d)(1) of the Code), the date of the ruling letter approving the extension.	New.
8d(6) Pre-PPA extensions—the amortization base eligible for amortization using interest rates applicable under section 6621(b) of the Code for years beginning after 2007.	New.
8e Effect of shortfall method or amortization extension—If the shortfall method is used as the basis for this year’s funding standard account computations or any of the plan’s amortization bases are operating under an extension of time under section 412(e) (as in effect prior to 2008) or section 431(d)(1) of the Code, enter the difference between the minimum required contribution for the year and the minimum that would have been required without using the shortfall method or extending the amortization base(s).	New—required under 103(f)(2) (E) and (F).
9 Funding standard account	
9a Prior year funding deficiency	Same as line 9a.
9b Normal cost	Same as line 9b.
9c Amortization charges	Similar to line 9c, but amended to distinguish between funding waivers and extended bases using the valuation interest rate versus the rate under section 6621(b) of the Code.
9d Interest	Same (lines 9e–f deleted).
9e–n Funding standard account items	Same as lines 9g–p except for updated line references.
9o Accumulated reconciliation account	
9o(1) Due to waived funding deficiencies and extended amortization bases, accumulated prior to the 2008 plan year.	Based on line 9o(3), but amended to distinguish between funding waivers (pre-PPA) and extended amortization bases (lines 9o(1) and (2) deleted).
9o(2) Adjustments for extended amortization bases	Similar to line 9o(3), but amended to apply to extended amortization bases only.
9o(3) Total accumulated reconciliation account	Similar to line 9o(4).
10 Contribution necessary to avoid an accumulated funding deficiency	Similar to line 10.
11 Change in assumptions check box	Same as line 11.
Part II—Additional information for plans other than multiemployer plans	Deleted in its entirety.

Appendix C

ADDITIONAL INFORMATION FOR 2008 (AND LATER) SCHEDULE R (RETIREMENT PLAN INFORMATION)

[Parts I–IV remain as proposed on July 21, 2006. Part V expanded and Part VI added]

Part V—Additional Information for Multiemployer Defined Benefit Pension Plans

13. Enter the following information for each employer who contributed more than 5% of total contributions to the plan during the plan year (measured in dollars). See instructions: Name of contributing employer, EIN, date collective bargaining agreement expires, dollar amount contributed, contribution rate, contribution base unit measure as hourly, weekly, unit of product or other (specify). Complete as many entries as needed to report all applicable employers.
14. Enter the number of participants on whose behalf no contributions were made by an employer for: 14a current year, 14b the plan year immediately preceding the current plan year, and 14c the second preceding plan year.
15. Provide the ratio of (a) item 14a to item 14b and (b) item 14a to item 14c.
16. Information with respect to any employers who withdrew from the plan during the preceding plan year:
 - a. Enter the number of employers who withdrew during the preceding plan year.
 - b. If item 16a is greater than 0, enter the aggregate amount of withdrawal liability assessed or estimated to be assessed against such withdrawn employers.

ADDITIONAL INFORMATION FOR 2008 (AND LATER) SCHEDULE R (RETIREMENT PLAN INFORMATION)—Continued

[Parts I–IV remain as proposed on July 21, 2006. Part V expanded and Part VI added]

17. If assets and liabilities from another plan have been transferred to or merged with this plan during the plan year, check box and see instructions regarding supplemental information to be included as an attachment.

Part VI—Additional Information for Single-Employer and Multiemployer Defined Benefit Pension Plans

18. If any liabilities to participants or their beneficiaries under the plan as of the end of the plan year consist (in whole or in part) of liabilities to such participants and beneficiaries under two or more pension plans as of immediately before such plan year, check box and see instructions regarding supplemental information to be included as an attachment.
19. If the total number of participants is 1,000 or more, complete items (a) through (c).
- Enter the percentage of plan assets held as Stock, Debt, Real Estate, Other.
 - Provide the percentage held of each type of debt security: Government debt, Investment Grade Corporate Debt, and High-Yield Corporate Debt.
 - Provide the Macaulay Duration for the total portfolio.

Statutory Authority

Accordingly, pursuant to the authority in sections 101, 103, 104, 109, 110 and 4065 of ERISA and section 6058 of the Code, the Form 5500 Annual Return/Report and the instructions thereto are proposed to be amended as set forth herein, including the addition of the proposed Short Form 5500.

Signed at Washington, DC, this 6th day of December 2006.

Bradford P. Campbell,

Acting Assistant Secretary, Employee Benefits Security Administration, U.S. Department of Labor.

Joseph H. Grant,

Director, Employee Plans, Tax Exempt and Government Entities Division, Internal Revenue Service.

Vincent K. Snowbarger,

Interim Director, Pension Benefit Guaranty Corporation.

[FR Doc. 06–9633 Filed 12–8–06; 8:45 am]

BILLING CODE 4510–29–P

MILLENNIUM CHALLENGE CORPORATION

[MCC FR 06–22]

Notice of Quarterly Report (July 1, 2006–September 30, 2006)

AGENCY: Millennium Challenge Corporation.

SUMMARY: The Millennium Challenge Corporation (MCC) is reporting for the quarter July 1, 2006 through September 30, 2006 with respect to both assistance provided under Section 605 of the Millennium Challenge Act of 2003 (Pub. L. 108–199, Division D (the Act)), and transfers of funds to other federal agencies pursuant to Section 619 of that Act. The following report shall be made available to the public by means of publication in the **Federal Register** and on the Internet Web site of the MCC (<http://www.mcc.gov>) in accordance with Section 612 (b) of the Act.

ASSISTANCE PROVIDED UNDER SECTION 605

Projects	Obligated	Objectives	Quarterly disbursements	Measures
Country: Madagascar Year: 2006 Quarter 4 Total Obligation: \$109,773,000 Entity to which the assistance is provided: MCA Madagascar Total Quarterly Disbursement: \$0				
Land Tenure Project	\$37,803,000	Increase Land Titling and Security.	\$0	Legislative proposal (“loin de cadrage”) reflecting the PNF submitted to Parliament and passed. Percentage of land documents inventoried, restored, and/or digitized. Average time and cost required to carry out property-related transactions at the local and/or national land services offices. Time/cost to respond to information request, issue titles and to modify titles after the first land right. Number of land disputes reported and resolved in the target zones and sites of implementation. Percentage of land in the zones that is demarcated and ready for titling. Promote knowledge and awareness of land tenure reforms among inhabitants in the zones (surveys).

ASSISTANCE PROVIDED UNDER SECTION 605—Continued

Projects	Obligated	Objectives	Quarterly disbursements	Measures
Finance Project	35,888,000	Increase Competition in the Financial Sector.	0	Submission to Parliament and passage of new laws recommended by outside experts and relevant commissions. CPA Association (CSC) list of accountants registered. Maximum check clearing delay. Volume of funds in payment system and number of transactions. Public awareness of new financial instruments (surveys). Report of credit and payment information to a central database. Number of holders of new denomination T-bill holdings, and T-bill issuance outside Antananarivo as measured by Central Bank report of redemption date. Volume of production covered by warehouse receipts in the zones. Volume of MFI lending in the zones. MFI portfolio-at-risk delinquency rate. Number of new bank accounts in the zones.
Agricultural Business Investment Project.	17,683,000	Improve Agricultural Projection Technologies and Market Capacity in Rural Areas.	0	Number of rural producers receiving or soliciting information from ABCs about the opportunities. Zones identified and description of beneficiaries within each zone submitted. Number of cost-effective investment strategies developed. Number of plans prepared. Number of farmers and business employing technical assistance received.
Program Administration* and Control, Monitoring and Evaluation.	18,399,000	.....	0	
Projects	Obligated	Objective	Disbursements	Measures

Country: Honduras Year: 2006 Quarter 4 Total Obligation: \$215,000,000
 Entity to which the assistance is provided: MCA Honduras Total Quarterly Disbursement: \$1,370,000

Rural Development Project.	\$72,195,000	Increase the productivity and business skills of farmers who operate small and medium-size farms and their employees.	\$898,000	Hours of technical assistance delivered to Program Farmers (thousands). Funds lent by MCA-Honduras to financial institutions (cumulative). Hours of technical assistance to financial institutions (cumulative). Lien Registry equipment installed. Kilometers of farm-to-market road upgraded (cumulative).
Transportation Project	125,700,000	Reduce transportation costs between targeted production centers and national, regional and global markets.	108,000	Kilometers of highway upgraded. Kilometers of secondary road upgraded. Number of weight stations built.
Program Administration* and Control, Monitoring and Evaluation.	17,105,000	.....	364,000	
Projects	Obligated	Objectives	Quarterly disbursements	Measures

Country: Cape Verde Year: 2006 Quarter 4 Total Obligation: \$110,078,000
 Entity to which the assistance is provided: MCA Cape Verde Total Quarterly Disbursement: \$0

Watershed and Agricultural Support.	\$10,848,000	Increase agricultural production in three targeted watershed areas on three islands.	\$0	Productivity: Horticulture (tons per hectare). Value-added for farms and agribusiness (millions of dollars).
-------------------------------------	--------------	--------------------------------------------------------------------------------------	-----	-----------------------------------------------------------------------------------------------------------------

Projects	Obligated	Objectives	Quarterly disbursements	Measures
Infrastructure Improvement.	78,760,000	Increase integration of the internal market and reduce transportation costs.	0	Volume of goods shipped between Praia and other islands (tons). Mobility Ratio: Percentage of beneficiary population who take at least 5 trips per month. Savings on transport costs from improvements (million dollars).
Private Sector Development.	7,200,000	Spur private sector development on all islands through increased investment in the priority sectors and through financial sector reform.	0	Value added in priority sectors above current trends (escudos). Volume of private investment in priority sectors above current trends.
Program Administration* and Control, Monitoring and Evaluation.	13,270,000	.....	0	

Projects	Obligated	Objective	Disbursements	Measures
----------	-----------	-----------	---------------	----------

Country: Nicaragua Year: 2006 Quarter 4 Total Obligation: \$174,925,000
 Entity to which the assistance is provided: MCA Nicaragua Total Quarterly Disbursement: \$668,000

Property Regularization Project.	\$26,400,000	Increase investment by strengthening property rights.	\$67,000	Automated registry—cadastre database installed. Number of parcels with a registered title, rural and urban (total of 21,000 and 22,000, rural and urban, respectively). Projected areas demarcated. Number of projected area management plans implemented. Number of conflicts resolved by program mediation.
Transportation Project	92,800,000	Reduce transportation costs between Leon and Chinandega and national, regional and global markets.	0	N-1 Road: Kilometers of road upgraded. Secondary Roads: Kilometers of secondary road upgraded.
Rural Business Development Project.	33,500,000	Increase the value added of farms and enterprises in the region.	208,000	Rural business development centers: Value of TA and support services delivered to program businesses. Improvement of water supply for farming and forest production: Watershed Management Action Plan.
Program Administration*, Due Diligence, Monitoring and Evaluation.	22,225,000	.....	393,000	Funds disbursed for improvement of water supply for farming and forest production projects.

Projects	Obligated	Objective	Disbursements	Measures
----------	-----------	-----------	---------------	----------

Country: Georgia Year: 2006 Quarter 4 Total Obligation: \$294,693,000
 Entity to which the assistance is provided: MCA Georgia Total Quarterly Disbursement: \$6,509,000

Regional Infrastructure Rehabilitation.	\$211,700,000	Key Regional Infrastructure Rehabilitated.	\$6,189,000	Reduction in journey time: Akhalkalaki-Ninotsminda-Teleti (hours). Reduction in vehicle operating costs (cumulative). Increase in internal regional traffic volumes (cumulative). Decreased technical losses. Reduction in the production of greenhouse gas emissions measured in tons of CO2 equivalent. Increased in collection rate of GGIC. Number of household beneficiaries served by RID projects (cumulative). Actual operations and maintenance expenditures (USD).
-----------------------------------------	---------------	--------------------------------------------	-------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Projects	Obligated	Objective	Disbursements	Measures
Regional Enterprise Development.	47,500,000	Enterprises in Regions Developed.	0	Increase in annual revenue in portfolio companies (in 1,000 USD). Increase in number of portfolio company employees and number of local suppliers. Increase in portfolio companies' wages and payments to local suppliers (in 1,000 USD). Jobs created. Increase in aggregate incremental net revenue to project assisted firms (in 1,000 USD and cumulative over five years). Direct household net income (in 1,000 USD cumulative over five years). Direct household net income for market information initiative beneficiaries (in 1,000 USD cumulative over five years). Number of beneficiaries.
Program Administration*, Due Diligence, Monitoring and Evaluation.	35,493,000	.....	320,000	
Projects	Obligated	Objective	Disbursements	Measures

Country: Vanuatu Year: 2006 Quarter 4 Total Obligation: \$65,690,000
 Entity to which the assistance is provided: MCA Vanuatu Total Quarterly Disbursement: \$448,000

Transportation Infrastructure Project.	\$60,690,000	Facilitate transportation to increase tourism and business development.	\$0	Traffic volume (average annual daily traffic). Days road is closed (number per annum). Number of S-W Bay, Malekula flights cancelled due to flooding (per annum). Time of wharf (hours/vessel).
Program Administration*, Due Diligence, Monitoring and Evaluation.	5,000,000	.....	448,000	
Projects	Obligated	Objective	Disbursements	Measures

Country: Armenia Year: 2006 Quarter 4 Total Obligation: \$235,150,000
 Entity to which the assistance is provided: MCA Armenia Total Quarterly Disbursement: \$0

Irrigated Agriculture Project.	\$145,680	Increase agricultural productivity and improve quality of irrigation.	\$0	Increase in hectares covered by HVA crops (i.e., vegetables, potato, fruits, grapes). Percentage of respondents satisfied with irrigation services. Share of WUA water charges compared WUA annual operations and maintenance cost (percentage). Number of farmers using better on-farm water management: Drip irrigation; ET Gage, and soil moisture monitoring. Loans provided under the project (USD in thousands).
Rural Road Rehabilitation Project.	0	Better access to economic and social infrastructure.	0	Annual increase in irrigated land in project area (hectares). State budget expenditures on maintenance of irrigation system (AMD in millions). Reduction in Kilowatt hours used (thousand KWh). Share of water losses compared to total water intake (percentage). Share of WUA water charges compared to WUA annual operations and maintenance cost (percentage).
Program Administration*, Due Diligence, Monitoring and Evaluation.	22,370,000	.....	0	

* Program administration funds are used to pay items such as salaries, rent, and the cost of office equipment.

619 Transfer funds

U.S. Agency to which funds were transferred	Amount	Country	Description of program or project
N/A	\$0	N/A	N/A

Dated: December 5, 2006.

Frances C. McNaught,

Vice President, Congressional and Public Affairs, Millennium Challenge Corporation.

[FR Doc. E6-20982 Filed 12-8-06; 8:45 am]

BILLING CODE 9210-01-P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before January 10, 2007. Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

ADDRESSES: You may request a copy of any records schedule identified in this notice by contacting the Life Cycle Management Division (NWML) using one of the following means:

Mail: NARA (NWML), 8601 Adelphi Road, College Park, MD 20740-6001.

E-mail: requestschedule@nara.gov.

FAX: 301-837-3698.

Requesters must cite the control number, which appears in parentheses after the name of the agency which

submitted the schedule, and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

FOR FURTHER INFORMATION CONTACT:

Laurence Brewer, Director, Life Cycle Management Division (NWML), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001. Telephone: 301-837-1539. *E-mail:* records.mgt@nara.gov.

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval, using the Standard Form (SF) 115, Request for Records Disposition Authority. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too

includes information about the records. Further information about the disposition process is available on request.

Schedules Pending (Note that the new time period for requesting copies has changed from 45 to 30 days after publication):

1. Department of Agriculture, Agricultural Marketing Service (N1-136-06-1, 1 item, 1 temporary item). Master data file associated with an electronic information system used to collect information and report on the grading of poultry and related billing matters. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

2. Department of Agriculture, Agricultural Marketing Service (N1-136-06-5), 4 items, 4 temporary items). Records of a system used by the Science and Technology Program to provide vital records protection and ready reference assistance. The schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

3. Department of Agriculture, Cooperative State Research, Education, and Extension Service (N1-540-06-4, 11 items, 9 temporary items). Inputs, outputs, master files, and documentation relating to a data warehouse that provides a centralized source of information on research, education, and extension programs of the agency and its partner institutions in the areas of food, agriculture, and natural resources. Scheduled for permanent retention are recordkeeping copies of 4-H enrollment data and the documentation needed to access and maintain those files. Records with significant research value pertaining to related agency programs are scheduled separately for permanent retention.

4. Department of Agriculture, Cooperative State Research, Education, and Extension Service (N1-540-07-1, 6 items, 6 temporary items). Reports on funding and staffing levels for research projects and salary information from institutions which receive agency funding, along with working files and other supporting documentation. Records with significant research value are captured in the Current Research Information System, which has been scheduled as permanent.

5. Department of the Army, Agency-wide (N1-AU-06-2, 1 item, 1 temporary item). Records related to administrative actions taken to correct conduct deficiencies of soldiers. Included are copies of administrative reprimands, admonitions, and censures of a non-punitive nature. This schedule

authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

6. Department of the Army, Agency-wide (N1-AU-06-9, 3 items, 3 temporary items). Records relating to granting and tracking absences from military posts including leave requests, control logs, and military passes. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping.

7. Department of the Army, Agency-wide (N1-AU-06-15, 2 items, 2 temporary items). Records relating to the certification and management of facilities storing arms, ammunition, and explosives. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

8. Department of Defense, Army and Air Force Exchange Service (N1-334-06-1, 4 items, 4 temporary items). Cash count and reconciliation records for routine and surprise audits of cashier drawers and vaults.

9. Department of Defense, Defense Logistics Agency (N1-361-04-1, 12 items, 12 temporary items). Records created by the Environmental Quality Program, including environmental inquiries, environmental training records, records relating to disposal of low-level waste materials, and reports, studies and related correspondence on the agency's Installation Restoration Program.

10. Department of Defense, Office of the Secretary of Defense (N1-330-06-1, 1 item, 1 temporary item). Master files associated with an electronic information system used to review export license requests. Included are export licensing data received from government agencies.

11. Department of Health and Human Services, Administration on Aging (N1-439-06-3, 22 items, 22 temporary items). Records accumulated by the Center for Management including Deputy Assistant Secretary's schedules; executive officer's administrative files; budget formulation files; financial management files; grants award, program support, and working files; copies of personnel files; administrative policies and procedures directives; working copies of organizational analysis files; copies of routine procurement and acquisition files; copies of printing, binding, duplication, and distribution files; HHS University registration files; Work and Life Program files; continuity of operation plan files; and Office of Administrative Services working files.

12. Department of Health and Human Services, Food and Drug Administration

(N1-88-06-4, 5 items, 4 temporary items). Records accumulated by the Center for Drug Evaluation and Research including advertisement and promotional labeling pieces and associated materials received for review; enforcement case files for drug advertisements found to be in violation of the FDA regulations; and master files and outputs associated with electronic tracking systems used during the drug advertisement and promotional labeling review process. Proposed for permanent retention are recordkeeping copies of closeout records of enforcement case files. For all items on this schedule except the master files, the agency is authorized to apply the proposed disposition instructions to any recordkeeping medium.

13. Department of Homeland Security, U.S. Citizenship and Immigration Service (N1-566-06-3, 4 items, 4 temporary items). Inputs, outputs, master files, and documentation associated with an electronic system used to conduct background checks on applicants/petitioners seeking benefits under the Immigration and Nationality Act. The agency proposes a 75 year retention for the master files.

14. Department of Homeland Security, United States Secret Service (N1-87-06-2, 4 items, 2 temporary items). Inputs and outputs associated with an electronic system used to collect and analyze threatening correspondence directed at the President, Vice-President, and other high-ranking government officials. Proposed for permanent retention are the master files and system documentation.

15. Department of Housing and Urban Development, Office of Community Planning and Development (N1-207-07-1, 2 items, 2 temporary items). Case files on appeals and civil cases filed under statutes relating to real estate acquisition and relocation programs.

16. Department of Justice, Federal Bureau of Investigation (N1-65-06-15, 1 item, 1 temporary item). This schedule requests authority to destroy case number 70C-OC-58332, which pertains exclusively to the investigation of the captioned individual and meets the criteria in previous schedule N1-65-88-3 for permanent retention. This request responds to a Federal Pre-Trial Diversion Program court order to delete the records of the captioned individual.

17. Department of Justice, Federal Bureau of Investigation (N1-65-06-16, 1 item, 1 temporary item). This schedule requests authority to destroy within case number 281A-NK-92575 all documents pertaining to a specific individual, who is not the subject of the investigation. The case file meets the criteria in N1-

65-88-3 for permanent retention. This request responds to a Federal Pre-Trial Diversion Program court order to delete the records of the individual.

18. Department of Justice, Federal Bureau of Investigation (N1-65-07-2, 2 items, 2 temporary items). Paper and electronic versions of correspondence with other law enforcement agencies relating to identifying and locating wanted fugitives who are receiving federally funded benefits contrary to law.

19. Department of Justice, National Drug Intelligence Center (N1-523-06-1, 7 items, 3 temporary items). Records relating to the agency's liaison and outreach activities with Congress and other Federal, State, and local organizations. Included are copies of speeches, presentations, and correspondence documenting the agency's public counterdrug efforts. Proposed for permanent retention are recordkeeping copies of records related to the Counterdrug Intelligence Coordinating Group and Counterdrug Intelligence Executive Secretariat and mission-related liaison records of high-ranking agency officials.

20. Department of State, Bureau of Diplomatic Security (N1-59-07-2, 3 items, 3 temporary items). Records associated with emergency security support for overseas posts as well as training records related to overseas security matters and mobile security deployments.

21. Department of Transportation, Federal Aviation Administration (N1-237-06-2, 12 items, 6 temporary items). Records relating to the Aviation and Space Education program including records of meetings with stakeholders, regional partnership case files, inputs and outputs associated with an electronic database tracking outreach activities, and employee volunteer case files. Proposed for permanent retention are the recordkeeping copies of files documenting the program's history, organization and accomplishments; program correspondence; national partnership case files; master files and system documentation associated with an electronic database tracking outreach activities; and records documenting the establishment and operation of national and regional education programs.

22. Department of Transportation, National Highway Traffic Safety Administration (N1-416-05-2, 37 items, 26 temporary items). Records of the Office of Communications and Consumer Information, including newsclips, reading files, staff directories, listserv records, weekly reports, project tracking systems, the Web site, and event planning, exhibit,

and research files. Proposed for permanent retention are recordkeeping copies of the Administrator's speeches and presentations, press releases, audiovisual materials with their finding aids, and newsletters.

23. Department of the Treasury, Office of the Comptroller of the Currency (N1-101-06-2, 4 items, 4 temporary items). Retiree case files and inputs, master files, and system documentation for a database tracking employee retirement benefits.

24. Environmental Protection Agency (N1-412-06-24, 4 items, 4 temporary items). Software, electronic data on participating agencies, e-mail identification and verification data, and supporting documentation associated with a Web-based portal providing public access to Federal regulatory dockets for which the agency is the overall managing partner.

25. Environmental Protection Agency (N1-412-07-1, 25 items, 25 temporary items). This schedule authorizes the agency to apply the existing disposition instructions to a number of records series regardless of recordkeeping medium. Included are special study files, audit, evaluation, and investigation response files, congressional correspondence, Federal facilities monitoring files, requests for correction or reconsideration in regard to information quality, legislation files, quality assurance project plans, intra-agency and internal committee records, state and other entity relations and oversight files, compliance files, ombudsman and citizen complaint files, **Federal Register** notice files, environmental awards files, confidential business information access records, and bid protest appeals files. Paper recordkeeping copies of these files were previously approved for disposal.

26. Environmental Protection Agency (N1-412-07-2, 24 items, 9 temporary items). This schedule authorizes the agency to apply the existing disposition instructions to a number of records series regardless of recordkeeping medium. Included are the following series for which the paper recordkeeping copies have previously been approved for disposal: Summaries of Clean Air Act review and comment files, unpublished regulations and guidelines, routine enforcement action files, staff members' manuscripts that are not mission-related, and records of routine international activities and agreements. Included are the following series for which the paper recordkeeping copies have previously been approved as permanent: FOIA annual reports, management studies, organizational plans, National

Environmental Policy Act preparation files, Clean Air Act review and comment files, published regulations and guidelines, reports to Congress and the President, authorization and approval files for programs run by states and other non-Federal entities, landmark or precedent-setting enforcement action files, administrative records pursuant to the Administrative Procedure Act, final drafts of mission-related manuscripts by agency personnel, and records of significant international activities and agreements.

27. Federal Energy Regulatory Commission, Office of Energy Projects (N1-138-06-1, 1 item, 1 temporary item). Records relating to preliminary filings by companies applying for certificates to operate natural gas pipelines. Included are environmental assessments, public notices, and related correspondence.

28. Securities and Exchange Commission, Office of Inspector General (N1-266-05-2, 11 items, 9 temporary items). Case files and tracking systems pertaining to internal and external audits and investigations. Included are non-substantive case files and master files and outputs of tracking systems. Proposed for permanent retention are recordkeeping copies of final audit reports and investigative case files involving senior agency officials that result in serious disciplinary action, substantive changes in policy, or draw Congressional interest or national media attention.

29. Small Business Administration, Administrative Information Branch (N1-309-05-19, 4 items, 4 temporary items). Inputs, outputs, master files, and documentation associated with an electronic information system used as a repository of success stories based on assistance from the agency.

30. United States Institute of Peace, Education Program (N1-573-07-1, 1 item, 1 temporary item). Entry and evaluation forms for the National Peace Essay Contest.

Dated: December 1, 2006.

Michael J. Kurtz,

*Assistant Archivist for Records Services—
Washington, DC.*

[FR Doc. E6-20995 Filed 12-8-06; 8:45 am]

BILLING CODE 7515-01-P

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act Meeting Notice

TIME AND DATE: 10 a.m., Thursday,
December 14, 2006.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314-3428.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. National Credit Union Share Insurance Fund (NCUSIF) Operating Level for 2007.

2. Final Rule: Part 708a of NCUA's Rules and Regulations, Conversion of Insured Credit Unions to Mutual Savings Banks.

3. Final Rule: Part 703 of NCUA's Rules and Regulations, Permissible Investments for Federal Credit Unions.

RECESS: 11:15 a.m.

TIME AND DATE: 11:30 a.m., Thursday,
December 14, 2006.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314-3428.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. One (1) Insurance Claim. Closed pursuant to Exemption (8).

FOR FURTHER INFORMATION CONTACT:
Mary Rupp, Secretary of the Board,
Telephone: 703-518-6304.

Mary Rupp,

Secretary of the Board.

[FR Doc. 06-9647 Filed 12-7-06; 3:22 pm]

BILLING CODE 7535-01-M

NATIONAL LABOR RELATIONS BOARD

Appointments of Individuals To Serve as Members of Performance Review Boards

5 U.S.C. 4314 (c) (4) requires that the appointments of individuals to serve as members of performance review boards be published in the **Federal Register**. Therefore, in compliance with this requirement, notice is hereby given that the individuals whose names and position titles appear below have been appointed to serve as members of performance review boards in the National Labor Relations Board for the rating year beginning October 1, 2005 and ending September 30, 2006.

Name and Title

Harold J. Datz—Chief Counsel to the
Chairman

David B. Parker—Deputy Executive
Secretary

Gary W. Shinnars—Deputy Chief
Counsel to Board Member

John H. Ferguson—Associate General
Counsel, Enforcement Litigation

Gloria Joseph—Director of
Administration

Barry J. Kearney—Associate General Counsel, Advice

Dated: Washington, DC December 6, 2006.

By Direction of the Board.

Lester A. Heltzer,

Executive Secretary.

[FR Doc. E6-20984 Filed 12-8-06; 8:45 am]

BILLING CODE 7545-01-P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-400]

Carolina Power & Light Company; Notice of Receipt and Availability of Application for Renewal of Shearon Harris Nuclear Power Plant, Unit 1 Facility Operating License No. NPF-63 for an Additional 20-Year Period

The U.S. Nuclear Regulatory Commission (NRC or Commission) has received an application, dated November 14, 2006, from Carolina Power & Light Company, (doing business as Progress Energy Carolinas, Inc.), filed pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, and Title 10 of the Code of Federal Regulations Part 54 (10 CFR Part 54), to renew the operating license for the Shearon Harris Nuclear Power Plant (HNP), Unit 1. Renewal of the license would authorize the applicant to operate the facility for an additional 20-year period beyond the period specified in the current operating license. The current operating license for HNP, Unit 1, (NPF-63), expires on October 24, 2026. HNP, Unit 1, is a pressurized water reactor designed by Westinghouse Electric Corporation that is located in Wake County, North Carolina. The acceptability of the tendered application for docketing, and other matters including an opportunity to request a hearing, will be the subject of subsequent **Federal Register** Notices.

Copies of the application are available to the public at the Commission's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852 or through the internet from the NRC's Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room under Accession Number ML063350262. The ADAMS Public Electronic Reading Room is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. In addition, the application is available at <http://www.nrc.gov/reactors/operating/licensing/renewal/applications.html>. Persons who do not have access to the Internet or who

encounter problems in accessing the documents located in ADAMS should contact the NRC's PDR reference staff at 1-800-397-4209, extension 4737, or via e-mail to pdr@nrc.gov.

A copy of the license renewal application for the HNP, Unit 1, is also available to local residents near the site at the Eva. H. Perry Library, 2100 Shepherd's Vineyard Drive, Apex, North Carolina 27502.

Dated at Rockville, Maryland, this 5th day of December, 2006.

For the Nuclear Regulatory Commission.

Pao-Tsin Kuo,

Acting Director, Division of License Renewal, Office of Nuclear Reactor Regulation.

[FR Doc. E6-20954 Filed 12-8-06; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket No. 72-27; EA-06-276]

In the Matter of Pacific Gas and Electric Company; Humboldt Bay Power Plant; Independent Spent Fuel Storage Installation; Order Modifying License (Effective Immediately)

AGENCY: Nuclear Regulatory Commission.

ACTION: Issuance of Order for Implementation of Interim Safeguards and Security Compensatory Measures.

FOR FURTHER INFORMATION CONTACT: L. Raynard Wharton, Senior Project Manager, Licensing and Inspection Directorate, Division of Spent Fuel Storage and Transportation, Office of Nuclear Material Safety and Safeguards (NMSS), U.S. Nuclear Regulatory Commission (NRC), Rockville, MD 20852. Telephone: (301) 415-1396; fax number: (301) 415-8555; e-mail: LRW@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

Pursuant to 10 CFR 2.106, NRC (or the Commission) is providing notice, in the matter of Humboldt Bay Power Plant Independent Spent Fuel Storage Installation (ISFSI) Order Modifying License (Effective Immediately).

II. Further Information

I

NRC has issued a specific license to Pacific Gas and Electric Company (PG&E), authorizing storage of spent fuel in an ISFSI, in accordance with the Atomic Energy Act of 1954, and Title 10 of the Code of Federal Regulations (10 CFR) Part 72. This Order is being issued to PG&E, which has identified near-term

plans to store spent fuel in an ISFSI under the specific license provisions of 10 CFR Part 72. The Commission's regulations at 10 CFR 72.184 require PG&E to maintain safeguards contingency plan procedures in accordance with 10 CFR Part 73, Appendix C. Specific safeguards requirements are contained in 10 CFR 73.51 or 73.55, as applicable.

II

On September 11, 2001, terrorists simultaneously attacked targets in New York, NY, and Washington, DC, using large commercial aircraft as weapons. In response to the attacks and intelligence information subsequently obtained, the Commission issued a number of Safeguards and Threat Advisories to its licensees, to strengthen licensees' capabilities and readiness to respond to a potential attack on a nuclear facility. The Commission has also communicated with other Federal, State, and local government agencies and industry representatives, to discuss and evaluate the current threat environment, to assess the adequacy of security measures at licensed facilities. In addition, the Commission has been conducting a comprehensive review of its safeguards and security programs and requirements.

As a result of its consideration of current safeguards and security plan requirements, as well as a review of information provided by the intelligence community and other governmental agencies, the Commission has determined that certain compensatory measures are required to be implemented by licensees as prudent, interim measures, to address the current threat environment, in a consistent manner, throughout the nuclear ISFSI community. Therefore, the Commission is imposing requirements, as set forth in Attachment 1¹ of this Order, on PG&E, which has indicated near-term plans to store spent fuel in an ISFSI under the specific license provisions of Part 72. These interim requirements, which supplement existing regulatory requirements, will provide the Commission with reasonable assurance that the public health and safety and common defense and security continue to be adequately protected in the current threat environment. These requirements will remain in effect until the Commission determines otherwise.

The Commission recognizes that some measures may not be possible or necessary, or may need to be tailored to accommodate the specific

¹ Attachment 1 contains Safeguards Information and will not be released to the public.

circumstances existing at PG&E's facility, to achieve the intended objectives and to avoid any unforeseen effect on the safe storage of spent fuel.

To provide assurance that licensees are implementing prudent measures to achieve a consistent level of protection to address the current threat environment, the Commission concludes that security measures must be embodied in an Order consistent with the established regulatory framework. PG&E's specific license, issued pursuant to 10 CFR 72.40, is modified to include the requirements identified in Attachment 1 to this Order. In addition, pursuant to 10 CFR 2.202, the Commission finds that in the circumstances described above, the public health, safety, and interest, require that this Order be effective immediately.

III

Accordingly, pursuant to Sections 103, 104, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and Parts 50, 72, and 73, *it is hereby ordered*, effective immediately, that your specific license is modified as follows:

A. PG&E shall comply with the requirements described in Attachment 1 to this Order, except to the extent that a more stringent requirement is set forth in its security plan. It shall immediately start implementation of the requirements in Attachment 1 to the Order and shall complete implementation before May 30, 2007, or the first day that spent fuel is initially placed in the ISFSI, whichever is earlier.

B.1. PG&E shall, within twenty (20) days of the date of this Order, notify the Commission: (1) If it is unable to comply with any of the requirements described in Attachment 1; (2) if compliance with any of the requirements is unnecessary in its specific circumstances; or (3) if implementation of any of the requirements would cause the licensee to be in violation of the provisions of any Commission regulation or the facility license. The notification shall provide the licensee's justification for seeking relief from, or variation of, any specific requirement.

2. If PG&E considers that implementation of any of the requirements described in Attachment 1 to this Order would adversely impact the safe storage of spent fuel, it must notify the Commission, within twenty (20) days of this Order, of the adverse safety impact, the basis for its determination that the requirement has

an adverse safety impact, and either a proposal for achieving the same objectives specified in the Attachment 1 requirement(s) in question, or a schedule for modifying the facility to address the adverse safety condition. If neither approach is appropriate, PG&E must supplement its response to Condition B.1 of this Order to identify the condition as a requirement with which it cannot comply, with attendant justifications, as required in Condition B.1.

C.1. PG&E shall, within twenty (20) days of the date of this Order, submit to the Commission, a schedule for achieving compliance with each requirement described in Attachment 1.

2. PG&E shall report to the Commission when it has achieved full compliance with the requirements described in Attachment 1.

D. All measures implemented or actions taken, in response to this Order, shall be maintained until the Commission determines otherwise.

PG&E's responses to Conditions B.1, B.2, C.1, and C.2, above, shall be submitted in accordance with 10 CFR 72.4. In addition, submittals that contain Safeguards Information shall be properly marked and handled in accordance with 10 CFR 73.21.

The Director, Office of Nuclear Material Safety and Safeguards, may, in writing, relax or rescind any of the above conditions, for good cause.

IV

In accordance with 10 CFR 2.202, PG&E must, and any other entity adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within twenty (20) days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time in which to submit an answer or request a hearing must be made in writing to the Director, Office of Nuclear Material Safety and Safeguards, and the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically set forth the matters of fact and law on which the licensee or other entity adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, Office of the Secretary of the Commission, U.S. Nuclear Regulatory

Commission, ATTN: Rulemakings and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555; to the Director, Office of Enforcement at the same address; to the Assistant General Counsel for Materials Litigation and Enforcement, at the same address; to the Regional Administrator for NRC Region IV, at 611 Ryan Plaza Drive, Suite 400, Arlington, TX 76011; and to the licensee, if the answer or hearing request is by an entity other than the licensee. Because of potential disruptions in delivery of mail to United States Government offices, it is requested that answers and requests for hearing be transmitted to the Secretary of the Commission, either by means of facsimile transmission, to 301-415-1101, or by e-mail, to hearingdocket@nrc.gov, and also to the Office of the General Counsel (OGC), either by means of facsimile transmission, to 301-415-3725, or by e-mail, to OGCMailCenter@nrc.gov. If an entity other than PG&E requests a hearing, that entity shall set forth, with particularity, the manner in which its interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309.

If a hearing is requested by PG&E or an entity whose interest is adversely affected, the Commission will issue an Order designating the hearing's time and place. If a hearing is held, the issue to be considered at such a hearing shall be whether this Order should be sustained. Pursuant to 10 CFR 2.202(c)(2)(i), PG&E may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the grounds that the Order, including the need for immediate effectiveness, is not based on adequate evidence, but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section III above shall be final twenty (20) days from the date of this Order, without further Order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section III shall be final when the extension expires, if a hearing request has not been received. An answer or a request for hearing shall not stay the immediate effectiveness of this order.

Dated at Rockville, Maryland, this 22nd day of November, 2006.

For the Nuclear Regulatory Commission.

Jack R. Strosnider,

Director, Office of Nuclear Material Safety and Safeguards.

[FR Doc. E6-20958 Filed 12-8-06; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket No. 72-27; EA-06-277]

In the Matter of Pacific Gas and Electric Company; Humboldt Bay Power Plant Independent Spent Fuel Storage Installation Order Modifying License (Effective Immediately)

AGENCY: Nuclear Regulatory Commission.

ACTION: Issuance of Order for Implementation of Additional Security Measures Associated with Access Authorization.

FOR FURTHER INFORMATION CONTACT:

L. Raynard Wharton, Senior Project Manager, Licensing and Inspection Directorate, Division of Spent Fuel Storage and Transportation, Office of Nuclear Material Safety and Safeguards (NMSS), U.S. Nuclear Regulatory Commission (NRC), Rockville, MD 20852. Telephone: (301) 415-1396; fax number: (301) 415-8555; e-mail LRW@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

Pursuant to 10 CFR 2.106, the NRC (or the Commission) is providing notice, in the matter of Humboldt Bay Power Plant Independent Spent Fuel Storage Installation (ISFSI) Order Modifying License (Effective Immediately).

II. Further Information

I

NRC issued a specific license to Pacific Gas and Electric Company (PG&E), authorizing the operation of an ISFSI, in accordance with the Atomic Energy Act of 1954 and Title 10 of the Code of Federal Regulations (10 CFR) Part 72. The Commission's regulations in 10 CFR 72.184 require PG&E to have a safeguards contingency plan to respond to threats of radiological sabotage and to protect the spent fuel against the threat of radiological sabotage, in accordance with 10 CFR Part 73, Appendix C. Specific safeguards requirements are contained in 10 CFR 73.51 or 73.55, as applicable.

Inasmuch as an insider has an opportunity equal to, or greater than,

any other person, to commit radiological sabotage, the Commission has determined these measures to be prudent. This Order has been issued to all licensees that currently store spent fuel or have identified near-term plans to store spent fuel in an ISFSI.

II

On September 11, 2001, terrorists simultaneously attacked targets in New York, NY, and Washington, DC, using large commercial aircraft as weapons. In response to the attacks and intelligence information subsequently obtained, the Commission issued a number of Safeguards and Threat Advisories to its licensees, to strengthen licensees' capabilities and readiness to respond to a potential attack on a nuclear facility. On October 16, 2002, the Commission issued Orders to the licensees of operating ISFSIs to put the actions taken in response to the Advisories in the established regulatory framework and to implement additional security enhancements that emerged from NRC's ongoing comprehensive review. The Commission has also communicated with other Federal, State, and local government agencies and industry representatives to discuss and evaluate the current threat environment, to assess the adequacy of security measures at licensed facilities. In addition, the Commission has been conducting a comprehensive review of its safeguards and security programs and requirements.

As a result of its consideration of current safeguards and security requirements, as well as a review of information provided by the intelligence community, the Commission has determined that certain additional security measures are required to address the current threat environment in a consistent manner throughout the nuclear ISFSI community. Therefore, the Commission is imposing requirements, as set forth in Attachment 1¹ of this Order, on all licensees of these facilities. These requirements, which supplement existing regulatory requirements, will provide the Commission with reasonable assurance that the public health and safety and common defense and security continue to be adequately protected in the current threat environment. These requirements will remain in effect until the Commission determines otherwise.

The Commission recognizes that licensees may have already initiated many of the measures set forth in Attachment 1 to this Order, in response

¹ Attachment 1 contains Safeguards Information and will not be released to the public.

to previously issued advisories, the October 2002 Order, or on their own. It also recognizes that some measures may not be possible or necessary at some sites, or may need to be tailored to accommodate the specific circumstances existing at the licensee's facility, to achieve the intended objectives and avoid any unforeseen effect on the safe storage of spent fuel.

Although the additional security measures implemented by licensees in response to the Safeguards and Threat Advisories have been adequate to provide reasonable assurance of adequate protection of public health and safety, the Commission concludes that these actions must be supplemented further, because the current threat environment continues to persist. Therefore, it is appropriate to require certain additional security measures and these measures must be embodied in an Order, consistent with the established regulatory framework.

To provide assurance that PG&E is implementing prudent measures to achieve a consistent level of protection to address the current threat environment, PG&E's specific license issued pursuant to 10 CFR 72.40 shall be modified to include the requirements identified in Attachment 1 to this Order. In addition, pursuant to 10 CFR 2.202, the Commission finds that in the circumstances described above, the public health, safety, and interest require that this Order be immediately effective.

III

Accordingly, pursuant to Sections 53, 103, 104, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Parts 50, 72, and 73, *It is hereby ordered*, effective immediately, that your site-specific license is modified as follows:

A. PG&E shall comply with the requirements described in Attachment 1 to this Order, except to the extent that a more stringent requirement is set forth in PG&E's security plan. PG&E shall immediately start implementation of the requirements in Attachment 1 to the Order and shall complete implementation no later than May 30, 2007, with the exception of the additional security measure B.4, which shall be implemented no later than November 30, 2007. In any event, PG&E shall complete implementation of all additional security measures before the first day that spent fuel is initially placed in the ISFSI.

B.1. PG&E shall, within twenty (20) days of the date of this Order, notify the

Commission: (1) If it is unable to comply with any of the requirements described in Attachment 1; (2) if compliance with any of the requirements is unnecessary in its specific circumstances; or (3) if implementation of any of the requirements would cause PG&E to be in violation of the provisions of any Commission regulation or the facility license. The notification shall provide PG&E's justification for seeking relief from or variation of any specific requirement.

2. If PG&E considers that implementation of any of the requirements described in Attachment 1 to this Order would adversely impact the safe storage of spent fuel, PG&E must notify the Commission, within twenty (20) days of this Order, of the adverse safety impact, the basis for its determination that the requirement has an adverse safety impact, and either a proposal for achieving the same objectives specified in the Attachment 1 requirements in question, or a schedule for modifying the facility to address the adverse safety condition. If neither approach is appropriate, PG&E must supplement its response to Condition B.1, of this Order, to identify the condition as a requirement with which it cannot comply, with attendant justifications as required under Condition B.1.

C.1. PG&E shall, within twenty (20) days of this Order, submit to the Commission a schedule for achieving compliance with each requirement described in Attachment 1.

2. PG&E shall report to the Commission when it has achieved full compliance with the requirements described in Attachment 1.

D. All measures implemented, or actions taken, in response to this Order, shall be maintained until the Commission determines otherwise.

PG&E's response to Conditions B.1, B.2, C.1, and C.2, above, shall be submitted in accordance with 10 CFR 72.4. In addition, submittals that contain Safeguards Information shall be properly marked and handled in accordance with 10 CFR 73.21.

The Director, Office of Nuclear Material Safety and Safeguards, may, in writing, relax or rescind any of the above conditions, for good cause.

IV

In accordance with 10 CFR 2.202, PG&E must, and any other entity adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within twenty (20) days of the date of this Order. Where good cause is shown,

consideration will be given to extending the time to request a hearing. A request for extension of time in which to submit an answer must be made in writing to the Director, Office of Nuclear Material Safety and Safeguards, and the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically set forth the matters of fact and law on which the licensee or other entity adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, ATTN: Rulemakings and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555; to the Director, Office of Enforcement at the same address; to the Assistant General Counsel for Materials Litigation and Enforcement, at the same address; to the Regional Administrator for NRC Region IV at 611 Ryan Plaza Drive, Suite 400, Arlington, TX 76011; and to the licensee, if the answer or hearing request is by an entity other than the licensee. Because of possible disruptions in delivery of mail to United States Government offices, it is requested that requests for a hearing be transmitted to the Secretary of the Commission, either by means of facsimile transmission, to 301-415-1101, or by e-mail, to hearingdocket@nrc.gov, and also to the Office of General Counsel (OGC), either by means of facsimile transmission, to 301-415-3725, or by e-mail, to OGCMailCenter@nrc.gov. If an entity other than PG&E requests a hearing, that entity shall set forth, with particularity, the manner in which its interest is adversely affected by this Order, and shall address the criteria set forth in 10 CFR 2.309.

If PG&E or an entity whose interest is adversely affected requests a hearing, the Commission will issue an Order designating the hearing's time and place. If a hearing is held, the issue to be considered at such a hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), PG&E may, in addition to demanding a hearing at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the grounds that the Order,

including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing or written approval of an extension of time in which to request a hearing, the provisions specified in Section III above shall be final twenty (20) days from the date of this Order, without further Order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section III shall be final when the extension expires, if a hearing request has not been received, an answer or a request for hearing shall not stay the immediate effectiveness of this order.

Dated at Rockville, Maryland this 22nd day of November 2006.

For the Nuclear Regulatory Commission.

Jack R. Strosnider,

Director, Office of Nuclear Material Safety.

[FR Doc. E6-20959 Filed 12-8-06; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket No. 030-06172]

Notice of Availability of Environmental Assessment and Finding of No Significant Impact for License Amendment to Byproduct Materials License No. 37-07653-02, for Amendment of the License and Unrestricted Release of the Alcoa Inc.'s Facility in New Kensington, PA

AGENCY: Nuclear Regulatory Commission.

ACTION: Issuance of Environmental Assessment and Finding of No Significant Impact for License Amendment.

FOR FURTHER INFORMATION CONTACT:

Kathy Dolce Modes, Health Physicist, Materials Security & Industrial Branch, Division of Nuclear Materials Safety, Region I, 475 Allendale Road, King of Prussia, PA 19406-1415; (610)337-5251; fax number (610)337-5269; or by e-mail: kad@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is considering the issuance of a license amendment to Byproduct Materials License No. 37-07653-02. This license is held by Alcoa, Inc. (Formerly known as the Aluminum Company of America) (the Licensee), for its Alcoa Research Laboratory (the ARL Facility), located at Freeport Road in

New Kensington, Pennsylvania. Issuance of the amendment would authorize release of the ARL Facility for unrestricted use. The Licensee requested this action in a letter dated August 28, 2006. The NRC has prepared an Environmental Assessment (EA) in support of this proposed action in accordance with the requirements of Title 10, Code of Federal Regulations (CFR), Part 51 (10 CFR Part 51). Based on the EA, the NRC has concluded that a Finding of No Significant Impact (FONSI) is appropriate with respect to the proposed action. The amendment will be issued to the Licensee following the publication of this FONSI and EA in the **Federal Register**.

II. Environmental Assessment

Identification of Proposed Action

The proposed action would approve the Licensee's August 28, 2006, license amendment request, resulting in release of the ARL Facility for unrestricted use. License No. 37-07653-02 was issued on April 18, 1958, pursuant to 10 CFR Part 30, and has been amended periodically since that time. This license authorized the Licensee to use unsealed and sealed byproduct material for purposes of conducting research and development activities on laboratory bench tops and in hoods.

The Facility is situated on 14.126 acres in a residential area, and consists of office space and laboratories. Within the Facility, use of licensed materials was confined to 5,889 square feet in Building 29 and 2,320 square feet in Building 44.

On February 10, 2004, the Licensee ceased licensed activities and initiated a survey and decontamination of the ARL Facility. Based on the Licensee's historical knowledge of the site and the conditions of the Facility, the Licensee determined that only routine decontamination activities, in accordance with their NRC-approved, operating radiation safety procedures, were required. The Licensee was not required to submit a decommissioning plan to the NRC because worker cleanup activities and procedures are consistent with those approved for routine operations. The Licensee conducted surveys of the Facility and provided information to the NRC to demonstrate that it meets the criteria in Subpart E of 10 CFR Part 20 for unrestricted release.

Need for the Proposed Action

The Licensee has ceased conducting licensed activities at the Facility, and seeks the unrestricted use of its ARL Facility.

Environmental Impacts of the Proposed Action

The historical review of licensed activities conducted at the Facility shows that such activities involved use of the following radionuclides with half-lives greater than 120 days: Hydrogen-3, sodium-22, aluminum-26, calcium-45, manganese-54, iron-55, cobalt-60, nickel-63, zinc-65, strontium-90, cadmium-109, antimony-125, cesium-137, and thallium-204. Prior to performing the final status survey, the Licensee conducted decontamination activities, as necessary, in the areas of the Facility affected by these radionuclides.

The Licensee conducted final status surveys in Buildings 29 and 44 in 1971, 2004, and 2006 and attached a final status survey report to their amendment request dated August 28, 2006. The Licensee elected to demonstrate compliance with the radiological criteria for unrestricted release as specified in 10 CFR 20.1402 by using the screening approach described in NUREG-1757, "Consolidated NMSS Decommissioning Guidance," Volume 2. The Licensee used the radionuclide-specific derived concentration guideline levels (DCGLs), developed there by the NRC, which comply with the dose criterion in 10 CFR 20.1402. These DCGLs define the maximum amount of residual radioactivity on building surfaces, equipment, and materials, and in soils, that will satisfy the NRC requirements in Subpart E of 10 CFR Part 20 for unrestricted release. The Licensee's final status survey results were below these DCGLs and are in compliance with the As Low As Reasonably Achievable (ALARA) requirement of 10 CFR 20.1402. The NRC thus finds that the Licensee's final status survey results are acceptable.

Based on its review, the staff has determined that the affected environment and any environmental impacts associated with the proposed action are bounded by the impacts evaluated by the "Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Nuclear Facilities" (NUREG-1496) Volumes 1-3 (ML042310492, ML042320379, and ML042330385). The staff finds there were no significant environmental impacts from the use of radioactive material at the Facility. The NRC staff reviewed the docket file records and the final status survey report to identify any non-radiological hazards that may have impacted the environment surrounding the Facility. No such hazards or impacts to the

environment were identified. The NRC has identified no other radiological or non-radiological activities in the area that could result in cumulative environmental impacts.

The NRC staff finds that the proposed release of the Facility for unrestricted use and the amendment of the NRC materials license is in compliance with 10 CFR 20.1402. Based on its review, the staff considered the impact of the residual radioactivity at the Facility and concluded that the proposed action will not have a significant effect on the quality of the human environment.

Environmental Impacts of the Alternatives to the Proposed Action

Due to the largely administrative nature of the proposed action, its environmental impacts are small. Therefore, the only alternative the staff considered is the no-action alternative, under which the staff would leave things as they are by simply denying the amendment request. This no-action alternative is not feasible because it conflicts with 10 CFR 30.36(d), requiring that decommissioning of byproduct material facilities be completed and approved by the NRC after licensed activities cease. The NRC's analysis of the Licensee's final status survey data confirmed that the ARL Facility meets the requirements of 10 CFR 20.1402 for unrestricted release. Additionally, denying the amendment request would result in no change in current environmental impacts. The environmental impacts of the proposed action and the no-action alternative are therefore similar, and the no-action alternative is accordingly not further considered.

Conclusion

The NRC staff has concluded that the proposed action is consistent with the NRC's unrestricted release criteria specified in 10 CFR 20.1402. Because the proposed action will not significantly impact the quality of the human environment, the NRC staff concludes that the proposed action is the preferred alternative.

Agencies and Persons Consulted

NRC provided a draft of this Environmental Assessment to the Commonwealth of Pennsylvania for review on October 12, 2006. On October 27, 2006, Commonwealth of Pennsylvania responded by e-mail (ML063000472). The State agreed with the conclusions of the EA, and otherwise had no comments.

The NRC staff has determined that the proposed action is of a procedural nature, and will not affect listed species

or critical habitat. Therefore, no further consultation is required under Section 7 of the Endangered Species Act. The NRC staff has also determined that the proposed action is not the type of activity that has the potential to cause effects on historic properties. Therefore, no further consultation is required under Section 106 of the National Historic Preservation Act.

III. Finding of No Significant Impact

The NRC staff has prepared this EA in support of the proposed action. On the basis of this EA, the NRC finds that there are no significant environmental impacts from the proposed action, and that preparation of an environmental impact statement is not warranted. Accordingly, the NRC has determined that a Finding of No Significant Impact is appropriate.

IV. Further Information

Documents related to this action, including the application for license amendment and supporting documentation, are available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html>. From this site, you can access the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The documents related to this action are listed below, along with their ADAMS accession numbers.

NUREG-1757, "Consolidated NMSS Decommissioning Guidance;"

Title 10 Code of Federal Regulations, Part 20, Subpart E, "Radiological Criteria for License Termination;"

Title 10, Code of Federal Regulations, Part 51, "Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions;"

NUREG-1496, "Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Nuclear Facilities;"

Licensee letter dated June 21, 2005 and attachments—first request to remove ARL facility from license (ML051920272); and

Licensee letter dated August 28, 2006 and attachments—final request to remove ARL facility from license (ML062550071).

If you do not have access to ADAMS, or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr@nrc.gov. These documents may also be viewed electronically on the public computers located at the NRC's PDR, O 1 F21, One

White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents for a fee.

Dated at U.S. NRC Region I Office located in King of Prussia, Pennsylvania this 4th day of December 2006.

For the Nuclear Regulatory Commission,
Marie Miller,
Chief, Materials Security and Industrial Branch, Division of Nuclear Materials Safety, Region I.

[FR Doc. E6-20957 Filed 12-8-06; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket No. 030-12998]

Notice of Availability of Environmental Assessment and Finding of No Significant Impact for License Amendment to Byproduct Materials License No. 37-07438-15, for the Unrestricted Release of the Philadelphia Health & Education Corporation's Facility in Doylestown, PA

AGENCY: Nuclear Regulatory Commission.

ACTION: Issuance of Environmental Assessment and Finding of No Significant Impact for License Amendment.

FOR FURTHER INFORMATION CONTACT:

Dennis Lawyer, Health Physicist, Commercial and R&D Branch, Division of Nuclear Materials Safety, Region 1, 475 Allendale Road, King of Prussia, Pennsylvania; telephone (610) 337-5366; fax number (610) 337-5393; or by e-mail: drl1@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is considering the issuance of a license amendment to Byproduct Materials License No. 37-07438-15. This license is held by Philadelphia Health & Education Corporation, d/b/a/ Drexel University College of Medicine (the Licensee), for the area leased to the Licensee within the Delaware Valley College of Agriculture and Science's Mandrell Science Building (the Facility), located at 700 E. Butler Avenue in Doylestown, Pennsylvania. Issuance of the amendment would authorize release of the Facility for unrestricted use. The Licensee requested this action in a letter dated August 28, 2006. The NRC has prepared an Environmental Assessment (EA) in support of this proposed action

in accordance with the requirements of Title 10, Code of Federal Regulations (CFR), Part 51 (10 CFR Part 51). Based on the EA, the NRC has concluded that a Finding of No Significant Impact (FONSI) is appropriate with respect to the proposed action. The amendment will be issued to the Licensee following the publication of this FONSI and EA in the **Federal Register**.

II. Environmental Assessment

Identification of Proposed Action

The proposed action would approve the Licensee's August 28, 2006, license amendment request, resulting in release of the Facility for unrestricted use. License No. 37-07438-15 was issued on July 17, 1977, pursuant to 10 CFR Part 30 and has been amended periodically since that time. This license authorized the Licensee to use unsealed byproduct material for purposes of conducting research and development activities on laboratory bench tops and in hoods.

The Facility is a 15,000 square foot leased area, within the 66,300 square foot Mandrell Science Building, located on the 80 acre Delaware Valley College of Agriculture and Science Campus. The Facility consists of office space and laboratories. Within the Facility, use of licensed materials was confined to laboratories totaling 2,680 square feet.

On July 26, 2006, the Licensee ceased licensed activities and initiated a survey and decontamination of the Facility. Based on the Licensee's historical knowledge of the site and the conditions of the Facility, the Licensee determined that only routine decontamination activities, in accordance with their NRC-approved, operating radiation safety procedures, were required. The Licensee was not required to submit a decommissioning plan to the NRC because worker cleanup activities and procedures are consistent with those approved for routine operations. The Licensee conducted surveys of the Facility and provided information to the NRC to demonstrate that it meets the criteria in Subpart E of 10 CFR Part 20 for unrestricted release.

Need for the Proposed Action

The Licensee has ceased conducting licensed activities at the Facility, and seeks release of the Facility for unrestricted use.

Environmental Impacts of the Proposed Action

The historical review of licensed activities conducted at the Facility shows that such activities involved use of hydrogen-3, which has a half-life greater than 120 days. Prior to

performing the final status survey, the Licensee conducted decontamination activities, as necessary, in the areas of the Facility affected by these radionuclides.

The Licensee conducted a final status survey on August 15, 2006. This survey covered areas of material use within the Facility. The final status survey report was attached to the Licensee's amendment request dated August 28, 2006. A previous survey was performed on July 30, 2004, after the use of hydrogen-3 had been completed at the Facility. The Licensee elected to demonstrate compliance with the radiological criteria for unrestricted release as specified in 10 CFR 20.1402 by using the screening approach described in NUREG-1757, "Consolidated NMSS Decommissioning Guidance," Volume 2. The Licensee used the radionuclide-specific derived concentration guideline levels (DCGLs), developed there by the NRC, which comply with the dose criterion in 10 CFR 20.1402. These DCGLs define the maximum amount of residual radioactivity on building surfaces, equipment, and materials, and in soils, that will satisfy the NRC requirements in Subpart E of 10 CFR Part 20 for unrestricted release. The Licensee's final status survey results were below these DCGLs and are in compliance with the As Low As Reasonably Achievable (ALARA) requirement of 10 CFR 20.1402. The NRC thus finds that the Licensee's final status survey results are acceptable. Based on its review, the staff has determined that the affected environment and any environmental impacts associated with the proposed action are bounded by the impacts evaluated by the "Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Nuclear Facilities" (NUREG-1496) Volumes 1-3 (ML042310492, ML042320379, and ML042330385). The staff finds there were no significant environmental impacts from the use of radioactive material at the Facility. The NRC staff reviewed the docket file records and the final status survey report to identify any non-radiological hazards that may have impacted the environment surrounding the Facility. No such hazards or impacts to the environment were identified. The NRC has identified no other radiological or non-radiological activities in the area that could result in cumulative environmental impacts.

The NRC staff finds that the proposed release of the Facility for unrestricted use and the termination of the NRC materials license is in compliance with

10 CFR 20.1402. Based on its review, the staff considered the impact of the residual radioactivity at the Facility and concluded that the proposed action will not have a significant effect on the quality of the human environment.

Environmental Impacts of the Alternatives to the Proposed Action

Due to the largely administrative nature of the proposed action, its environmental impacts are small. Therefore, the only alternative the staff considered is the no-action alternative, under which the staff would leave things as they are by simply denying the amendment request. This no-action alternative is not feasible because it conflicts with 10 CFR 30.36(d), requiring that decommissioning of byproduct material facilities be completed and approved by the NRC after licensed activities cease. The NRC's analysis of the Licensee's final status survey data confirmed that the Facility meets the requirements of 10 CFR 20.1402 for unrestricted release. Additionally, denying the amendment request would result in no change in current environmental impacts. The environmental impacts of the proposed action and the no-action alternative are therefore similar, and the no-action alternative is accordingly not further considered.

Conclusion

The NRC staff has concluded that the proposed action is consistent with the NRC's unrestricted release criteria specified in 10 CFR 20.1402. Because the proposed action will not significantly impact the quality of the human environment, the NRC staff concludes that the proposed action is the preferred alternative.

Agencies and Persons Consulted

NRC provided a draft of this Environmental Assessment to the Commonwealth of Pennsylvania's Department of Environmental Protection, Bureau of Radiation Protection, for review on November 13, 2006. On November 14, 2006, the Commonwealth responded by e-mail. The Commonwealth agreed with the conclusions of the EA and otherwise had no comments.

The NRC staff has determined that the proposed action is of a procedural nature, and will not affect listed species or critical habitat. Therefore, no further consultation is required under Section 7 of the Endangered Species Act. The NRC staff has also determined that the proposed action is not the type of activity that has the potential to cause effects on historic properties. Therefore,

no further consultation is required under Section 106 of the National Historic Preservation Act.

III. Finding of No Significant Impact

The NRC staff has prepared this EA in support of the proposed action. On the basis of this EA, the NRC finds that there are no significant environmental impacts from the proposed action, and that preparation of an environmental impact statement is not warranted. Accordingly, the NRC has determined that a Finding of No Significant Impact is appropriate.

IV. Further Information

Documents related to this action, including the application for license amendment and supporting documentation, are available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html>. From this site, you can access the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The documents related to this action are listed below, along with their ADAMS accession numbers.

1. NUREG-1757, "Consolidated NMSS Decommissioning Guidance;"
2. Title 10 Code of Federal Regulations, Part 20, Subpart E, "Radiological Criteria for License Termination;"
3. Title 10, Code of Federal Regulations, Part 51, "Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions;"
4. NUREG-1496, "Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Nuclear Facilities;"
5. Philadelphia Health & Education Corp. d/b/a/ Drexel University College of Medicine, Amendment Request Letter dated August 28, 2006. (ML062550419)
6. Philadelphia Health & Education Corp. d/b/a/ Drexel University College of Medicine, Deficiency Response Letter dated October 10, 2006. (ML062960347)
7. Philadelphia Health and Education Corporation d/b/a/ Drexel University College of Medicine, RAI, Previous Transfer of Location of Use of the Mandell Science Building located in Doylestown, PA, telephone log dated October 30, 2006. (ML063060010)
8. Thomas Jefferson University Hospital, additional information facsimile dated July 30, 2004. (ML042190441)

If you do not have access to ADAMS, or if there are problems in accessing the documents located in ADAMS, contact

the NRC Public Document Room (PDR) Reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to *pdr@nrc.gov*. These documents may also be viewed electronically on the public computers located at the NRC's PDR, O 1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents for a fee.

Dated at Region 1, 475 Allendale Road, King of Prussia, Pennsylvania, this 4th day of December 2006.

For the Nuclear Regulatory Commission.

James P. Dwyer,

Chief, Commercial and R&D Branch, Division of Nuclear Materials Safety, Region 1.

[FR Doc. E6-20955 Filed 12-8-06; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[EA-06-290]

In the Matter of All Licensees Identified in Attachment 1 to Order EA-06-289 and all Other Persons Who Seek or Obtain Access to Safeguards Information Described Herein; Order Imposing Fingerprinting and Criminal History Records Check Requirements for Access to Safeguards Information; (Effective Immediately)

I

The Licensees identified in Attachment 1¹ to Order EA-06-289 hold licenses issued in accordance with the Atomic Energy Act (AEA) of 1954, as amended, by the U.S. Nuclear Regulatory Commission (NRC or Commission) or Agreement States, authorizing them to engage in an activity subject to regulation by the Commission or Agreement States. On August 8, 2005, the Energy Policy Act of 2005 (EPAct) was enacted. Section 652 of the EPAct amended Section 149 of the AEA to require fingerprinting and a Federal Bureau of Investigation (FBI) identification and criminal history records check of any person who is to be permitted to have access to Safeguards Information (SGI)². The NRC's implementation of this requirement cannot await the completion of the SGI rulemaking, which is underway, because the EPAct fingerprinting and criminal history records check requirements for access to

SGI were immediately effective upon enactment of the EPAct. Although the EPAct permits the Commission by rule to except certain categories of individuals from the fingerprinting requirement, which the Commission has done [see 10 CFR 73.59, 71 FR 33,989 (June 13, 2006)], it is unlikely that licensee employees or others are excepted from the fingerprinting requirement by the "fingerprinting relief" rule. Individuals relieved from fingerprinting and criminal history records checks under the relief rule include Federal, State, and local officials and law enforcement personnel; Agreement State inspectors who conduct security inspections on behalf of the NRC; members of Congress and certain employees of members of Congress or Congressional Committees, and representatives of the International Atomic Energy Agency (IAEA) or certain foreign government organizations. In addition, individuals who have a favorably-decided U.S. Government criminal history records check within the last five (5) years, or individuals who have active federal security clearances (provided in either case that they make available the appropriate documentation), have satisfied the EPAct fingerprinting requirement and need not be fingerprinted again. Therefore, in accordance with Section 149 of the AEA, as amended by the EPAct, the Commission is imposing additional requirements for access to SGI, as set forth by this Order, so that affected licensees can obtain and grant access to SGI. This Order also imposes requirements for access to SGI by any person, from any person³, whether or not a Licensee, Applicant, or Certificate Holder of the Commission or Agreement States.

II

The Commission has broad statutory authority to protect and prohibit the unauthorized disclosure of SGI. Section 147 of the AEA grants the Commission explicit authority to issue such Orders as necessary to prohibit the unauthorized disclosure of SGI. Furthermore, Section 652 of the EPAct

³ Person means (1) any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, government agency other than the Commission or the Department of Energy, except that the Department of Energy shall be considered a person with respect to those facilities of the Department of Energy specified in section 202 of the Energy Reorganization Act of 1974 (88 Stat. 1244), any State or any political subdivision of, or any political entity within a State, any foreign government or nation or any political subdivision of any such government or nation, or other entity; and (2) any legal successor, representative, agent, or agency of the foregoing.

amended Section 149 of the AEA to require fingerprinting and an FBI identification and criminal history records check of each individual who seeks access to SGI. In addition, no person may have access to SGI unless the person has an established need-to-know the information and satisfies the trustworthy and reliability requirements described in Attachment 3 to Order EA-06-289.

In order to provide assurance that the Licensees identified in Attachment 1 to Order EA-06-289 are implementing appropriate measures to comply with the fingerprinting and criminal history records check requirements for access to SGI, all Licensees identified in Attachment 1 to Order EA-06-289 shall implement the requirements of this Order. In addition, pursuant to 10 CFR 2.202, I find that in light of the common defense and security matters identified above, which warrant the issuance of this Order, the public health, safety and interest require that this Order be effective immediately.

III

Accordingly, pursuant to Sections 81, 147, 149, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, 10 CFR Parts 30 and 73, *it is hereby ordered*, effective immediately, that all licensees identified in attachment 1 to order ea-06-289 and all other persons who seek or obtain access to safeguards information, as described above, shall comply with the requirements set forth in this order and its attachment.

A. 1. No person may have access to SGI unless that person has a need-to-know the SGI, has been fingerprinted or who has a favorably-decided FBI identification and criminal history records check, and satisfies all other applicable requirements for access to SGI. Fingerprinting and the FBI identification and criminal history records check are not required, however, for any person who is relieved from that requirement by 10 CFR 73.59 [71 FR 33,989 (June 13, 2006)], or who has a favorably-decided U.S. Government criminal history records check within the last five (5) years, or who has an active federal security clearance, provided in the latter two cases that the appropriate documentation is made available to the Licensee's NRC-approved reviewing official.

2. No person may have access to any SGI if the NRC has determined, based on fingerprinting and an FBI identification and criminal history

¹ Attachment 1 to Order EA-06-289 contains sensitive information and will not be released to the public.

² Safeguards Information is a form of sensitive, unclassified, security-related information that the Commission has the authority to designate and protect under section 147 of the AEA.

records check, that the person may not have access to SGI.

B. No person may provide SGI to any other person except in accordance with Condition III.A. above. Prior to providing SGI to any person, a copy of this Order shall be provided to that person.

C. All Licensees identified in Attachment 1 to Order EA-06-289 shall comply with the following requirements:

1. The Licensee shall, within twenty (20) days of the date of this Order, establish and maintain a fingerprinting program that meets the requirements of Attachment 1 to this Order.

2. The Licensee shall, within twenty (20) days of the date of this Order, submit the fingerprints of one (1) individual who (a) the Licensee nominates as the "reviewing official" for determining access to SGI by other individuals, and (b) has an established need-to-know the information and has been determined to be trustworthy and reliable in accordance with the requirements described in Attachment 3 to Order EA-06-289. The NRC will determine whether this individual (or any subsequent reviewing official) may have access to SGI and, therefore, will be permitted to serve as the Licensee's reviewing official.⁴ The Licensee may, at the same time or later, submit the fingerprints of other individuals to whom the Licensee seeks to grant access to SGI. Fingerprints shall be submitted and reviewed in accordance with the procedures described in Attachment 1 of this Order.

3. The Licensee shall, in writing, within twenty (20) days of the date of this Order, notify the Commission: (1) If it is unable to comply with any of the requirements described in this Order, including Attachment 1 to this Order, or (2) if compliance with any of the requirements is unnecessary in its specific circumstances. The notification shall provide the Licensee's justification for seeking relief from or variation of any specific requirement.

Licensee responses to C.1., C.2., and C.3. above shall be submitted to the Director, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555. In addition, Licensee responses shall be marked as "Security-Related Information—Withhold Under 10 CFR 2.390."

⁴ The NRC's determination of this individual's access to SGI in accordance with the process described in Enclosure 5 to the transmittal letter of this Order is an administrative determination that is outside the scope of this Order.

The Director, Office of Federal and State Materials and Environmental Management Programs, may, in writing, relax or rescind any of the above conditions upon demonstration of good cause by the Licensee.

IV

In accordance with 10 CFR 2.202, the Licensee must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within twenty (20) days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time in which to submit an answer or request a hearing must be made in writing to the Director, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically set forth the matters of fact and law on which the Licensee or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, Office of the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Rulemakings and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the Assistant General Counsel for Materials Litigation and Enforcement at the same address, and to the Licensee if the answer or hearing request is by a person other than the Licensee. Because of possible delays in delivery of mail to United States Government offices, it is requested that answers and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301-415-1101 or by e-mail to hearingdocket@nrc.gov and also to the Office of the General Counsel either by means of facsimile transmission to 301-415-3725 or by e-mail to OGCMailCenter@nrc.gov. If a person other than the Licensee requests a hearing, that person shall set forth with particularity the manner in which his/her interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309.

If a hearing is requested by the Licensee or a person whose interest is adversely affected, the Commission will

issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), the Licensee may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error. In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions as specified above in Section III shall be final twenty (20) days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions as specified above in Section III shall be final when the extension expires if a hearing request has not been received.

An answer or a request for hearing shall not stay the immediate effectiveness of this order.

Dated this 1st day of December 2006.

For The Nuclear Regulatory Commission.

Charles L. Miller,

Director, Office of Federal and State Materials and Environmental Management Programs.

Attachment 1: Requirements for Fingerprinting and Criminal History Records Checks of Individuals When Licensee's Reviewing Official Is Determining Access to Safeguards Information

General Requirements

Licensees shall comply with the requirements of this attachment.

A. 1. Each Licensee subject to the provisions of this attachment shall fingerprint each individual who is seeking or permitted access to Safeguards Information (SGI). The Licensee shall review and use the information received from the Federal Bureau of Investigation (FBI) and ensure that the provisions contained in the subject Order and this attachment are satisfied.

2. The Licensee shall notify each affected individual that the fingerprints will be used to secure a review of his/her criminal history record and inform the individual of the procedures for revising the record or including an explanation in the record, as specified in the "Right to Correct and Complete Information" section of this attachment.

3. Fingerprints need not be taken if an employed individual (e.g., a Licensee employee, contractor, manufacturer, or

supplier) is relieved from the fingerprinting requirement by 10 CFR 73.59, has a favorably-decided U.S. Government criminal history records check within the last five (5) years, or has an active federal security clearance. Written confirmation from the Agency/ employer which granted the federal security clearance or reviewed the criminal history records check must be provided. The Licensee must retain this documentation for a period of three (3) years from the date the individual no longer requires access to SGI associated with the Licensee's activities.

4. All fingerprints obtained by the Licensee pursuant to this Order must be submitted to the Commission for transmission to the FBI.

5. The Licensee shall review the information received from the FBI and consider it, in conjunction with the trustworthy and reliability requirements included in Attachment 3 to this Order, in making a determination whether to grant access to SGI to individuals who have a need-to-know the SGI.

6. The Licensee shall use any information obtained as part of a criminal history records check solely for the purpose of determining an individual's suitability for access to SGI.

7. The Licensee shall document the basis for its determination whether to grant access to SGI.

B. The Licensee shall notify the NRC of any desired change in reviewing officials. The NRC will determine whether the individual nominated as the new reviewing official may have access to SGI based on a previously-obtained or new criminal history check and, therefore, will be permitted to serve as the Licensee's reviewing official.

Prohibitions

A Licensee shall not base a final determination to deny an individual access to SGI solely on the basis of information received from the FBI involving: an arrest more than one (1) year old for which there is no information of the disposition of the case, or an arrest that resulted in dismissal of the charge or an acquittal.

A Licensee shall not use information received from a criminal history check obtained pursuant to this Order in a manner that would infringe upon the rights of any individual under the First Amendment to the Constitution of the United States, nor shall the Licensee use the information in any way which would discriminate among individuals on the basis of race, religion, national origin, sex, or age.

Procedures for Processing Fingerprint Checks

For the purpose of complying with this Order, Licensees shall, using an appropriate method listed in 10 CFR 73.4, submit to the NRC's Division of Facilities and Security, Mail Stop T-6E46, one completed, legible standard fingerprint card (Form FD-258, ORIMDNRCOOOZ) or, where practicable, other fingerprint records for each individual seeking access to Safeguards Information, to the Director of the Division of Facilities and Security, marked for the attention of the Division's Criminal History Check Section. Copies of these forms may be obtained by writing the Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, by calling (301) 415-5877, or by e-mail to forms@nrc.gov. Practicable alternative formats are set forth in 10 CFR 73.4. The Licensee shall establish procedures to ensure that the quality of the fingerprints taken results in minimizing the rejection rate of fingerprint cards due to illegible or incomplete cards.

The NRC will review submitted fingerprint cards for completeness. Any Form FD-258 fingerprint record containing omissions or evident errors will be returned to the Licensee for corrections. The fee for processing fingerprint checks includes one re-submission if the initial submission is returned by the FBI because the fingerprint impressions cannot be classified. The one free re-submission must have the FBI Transaction Control Number reflected on the re-submission. If additional submissions are necessary, they will be treated as initial submissions and will require a second payment of the processing fee.

Fees for processing fingerprint checks are due upon application. Licensees shall submit payment with the application for processing fingerprints by corporate check, certified check, cashier's check, money order, or electronic payment, made payable to "U.S. NRC." [For guidance on making electronic payments, contact the Facilities Security Branch, Division of Facilities and Security, at (301) 415-7404]. Combined payment for multiple applications is acceptable. The application fee (currently \$27) is the sum of the user fee charged by the FBI for each fingerprint card or other fingerprint record submitted by the NRC on behalf of a Licensee, and an NRC processing fee, which covers administrative costs associated with NRC handling of Licensee fingerprint submissions. The Commission will

directly notify Licensees who are subject to this regulation of any fee changes.

The Commission will forward to the submitting Licensee all data received from the FBI as a result of the Licensee's application(s) for criminal history records checks, including the FBI fingerprint record.

Right to Correct and Complete Information

Prior to any final adverse determination, the Licensee shall make available to the individual the contents of any criminal records obtained from the FBI for the purpose of assuring correct and complete information. Written confirmation by the individual of receipt of this notification must be maintained by the Licensee for a period of one (1) year from the date of the notification. If, after reviewing the record, an individual believes that it is incorrect or incomplete in any respect and wishes to change, correct, or update the alleged deficiency, or to explain any matter in the record, the individual may initiate challenge procedures. These procedures include either direct application by the individual challenging the record to the agency (i.e., law enforcement agency) that contributed the questioned information, or direct challenge as to the accuracy or completeness of any entry on the criminal history record to the Assistant Director, Federal Bureau of Investigation Identification Division, Washington, DC 20537-9700 (as set forth in 28 CFR 16.30 through 16.34). In the latter case, the FBI forwards the challenge to the agency that submitted the data and requests that agency to verify or correct the challenged entry. Upon receipt of an official communication directly from the agency that contributed the original information, the FBI Identification Division makes any changes necessary in accordance with the information supplied by that agency. The Licensee must provide at least ten (10) days for an individual to initiate an action challenging the results of an FBI criminal history records check after the record is made available for his/her review. The Licensee may make a final SGI access determination based upon the criminal history record only upon receipt of the FBI's ultimate confirmation or correction of the record. Upon a final adverse determination on access to SGI, the Licensee shall provide the individual its documented basis for denial. Access to SGI shall not be granted to an individual during the review process.

Protection of Information

1. Each Licensee who obtains a criminal history record on an individual pursuant to this Order shall establish and maintain a system of files and procedures for protecting the record and the personal information from unauthorized disclosure.

2. The Licensee may not disclose the record or personal information collected and maintained to persons other than the subject individual, his/her representative, or to those who have a need to access the information in performing assigned duties in the process of determining access to Safeguards Information. No individual authorized to have access to the information may re-disseminate the information to any other individual who does not have a need-to-know.

3. The personal information obtained on an individual from a criminal history record check may be transferred to another Licensee if the Licensee holding the criminal history record check receives the individual's written request to re-disseminate the information contained in his/her file, and the gaining Licensee verifies information such as the individual's name, date of birth, social security number, sex, and other applicable physical characteristics for identification purposes.

4. The Licensee shall make criminal history records, obtained under this section, available for examination by an authorized representative of the NRC to determine compliance with the regulations and laws.

5. The Licensee shall retain all fingerprint and criminal history records received from the FBI, or a copy if the individual's file has been transferred, for three (3) years after termination of employment or determination of access to SGI (whether access was approved or denied). After the required three (3) year period, these documents shall be destroyed by a method that will prevent reconstruction of the information in whole or in part.

[FR Doc. E6-20967 Filed 12-8-06; 8:45 am]

BILLING CODE 7590-01-P

POSTAL RATE COMMISSION

Sunshine Act Meetings Notice

AGENCY: Postal Rate Commission.

TIME AND DATE: Thursday, December 14, 2006, at 10 a.m.

PLACE: Commission conference room 901 New York Avenue, NW., Suite 200, Washington, DC 20268-0001.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Decision in Docket No. N2006-1, Evolutionary Network Realignment.

CONTACT PERSON FOR MORE INFORMATION: Stephen L. Sharfman, General Counsel, Postal Rate Commission, 202-789-6820 or ssharfman@prc.gov.

Dated: December 7, 2006.

Steven W. Williams,
Secretary.

[FR Doc. 06-9640 Filed 12-7-06; 12:38 pm]

BILLING CODE 7710-FW-M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review, Request for Comments

Summary: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) will be sending an Information Collection Request (ICR) to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB) to propose an extension to the following collection of information: 3220-0192, Voluntary Customer Surveys in Accordance with E.O. 12862, consisting of RRB Form(s) G-201, Customer Assessment Survey.

In accordance with Executive Order 12862, the Railroad Retirement Board (RRB) conducts a number of customer surveys designed to determine the kinds and quality of services our beneficiaries, claimants, employers and members of the public want and expect, as well as their satisfaction with existing RRB services. The information collected is used by RRB management to monitor customer satisfaction by determining to what extent services are satisfactory and where and to what extent services can be improved. The surveys are limited to data collections that solicit strictly voluntary opinions, and do not collect information which is required or regulated. The information collection, which was first approved by the Office of Management and Budget (OMB) in 1997, provides the RRB with a *generic clearance authority*. This generic authority allows the RRB to submit a variety of new or revised customer survey instruments (needed to timely implement customer monitoring activities) to the Office of Management and Budget (OMB) for expedited review and approval. Our ICR describes the information we seek to collect from the public.

The RRB invites comments on the proposed collection of information to determine (1) The practical utility of the collection; (2) the accuracy of the

estimated burden of the collection; (3) ways to enhance the quality, utility and clarity of the information that is the subject of collection; and (4) ways to minimize the burden of collections on respondents, including the use of automated collection techniques or other forms of information technology. Comments to RRB or OIRA must contain the OMB control number of the ICR. For proper consideration of your comments, it is best if RRB and OIRA receive them within 30 days of publication date.

Previous Requests for Comments: The RRB has already published the initial 60-day notice (71 FR 51236 on August 29, 2006) required by 44 U.S.C. 3506(c)(2). That request elicited no comments.

Information Collection Request (ICR)

Title: Voluntary Customer Surveys in Accordance with E.O. 12862.

OMB Control Number: 3220-0192.

Form(s) submitted: G-201, Customer Assessment Survey.

Type of request: Extension of a currently approved collection.

Affected public: Individuals or households, Business-or-other-for profit.

Obligation to Respond: Voluntary.

Abstract: The Railroad Retirement Board (RRB) utilizes voluntary customer surveys to ascertain customer satisfaction with the RRB in terms of timeliness, appropriateness, access, and other measures of quality service. Surveys involve individuals that are direct or indirect beneficiaries of RRB services as well as railroad employers who must report earnings.

Changes Proposed: The RRB proposes no changes to the information collection.

The burden estimate for this ICR is unchanged as follows:

Estimated annual number of respondents: 1,750.

Total annual responses: 1,750.

Total annual reporting hours: 735

For Further Information Contact:

Copies of the form and supporting documents can be obtained from Charles Mierzwa, the agency clearance officer at (312-751-3363) or Charles.Mierzwa@rrb.gov.

Comments: Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611-2092 or Ronald.Hodapp@rrb.gov and to the OMB Desk Officer for the RRB, Karen Matsuoka at kmatsuoka@omb.eop.gov, FAX (202) 395-6974.

Charles Mierzwa,
RRB Clearance Officer.

[FR Doc. E6-20937 Filed 12-8-06; 8:45 am]

BILLING CODE 7905-01-P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting Notice

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meeting during the week of December 11, 2006:

An Open Meeting will be held on Wednesday, December 13, 2006 at 10 a.m. in Room L-002, the Auditorium.

The subject matters of the Open Meeting scheduled for Wednesday, December 13, 2006, will be:

1. The Commission will consider whether to propose, jointly with the Board of Governors of the Federal Reserve System, new rules under the Securities Exchange Act of 1934 ("Exchange Act") to implement the Gramm-Leach-Bliley Act bank exceptions to the definition of "broker." The Commission will also consider extending the temporary exemption of banks from the definition of "broker." In addition, the Commission will consider whether to propose additional related rules, including rules exempting banks from the definition of "dealer" under the Exchange Act.

2. The Commission will consider whether to repropose a new rule that would enable a foreign private issuer meeting specified conditions to terminate permanently its Exchange Act registration and reporting obligations under Section 12(g) regarding a class of equity securities and its Section 15(d) reporting obligations regarding a class of equity or debt securities. The Commission will also consider whether to repropose a rule amendment that would apply the exemption from Exchange Act registration under Rule 12g3-2(b) to a class of equity securities immediately upon the effective date of the issuer's termination of registration and reporting obligations under the reproposed new exit rule.

3. The Commission will consider whether to propose interpretive guidance to assist the management of an Exchange Act reporting company, other than an investment company registered under Section 8 of the Investment Company Act of 1940, in planning and performing its annual evaluation of internal control over financial reporting. The Commission will also consider whether to propose amendments to Rules 13a-15 and 15d-15 under the Exchange Act that would make it clear that a company choosing to perform an evaluation of internal control in accordance with the interpretive guidance would satisfy the annual evaluation required by those rules.

4. The Commission will consider whether to adopt amendments to the proxy rules under Section 14 of the Exchange Act. The amendments would provide an alternative for Internet-based disclosure. Companies conducting proxy solicitations could satisfy the Rule 14a-3 requirement to furnish proxy materials by posting those proxy materials on an Internet Web site and providing shareholders with notice of the Internet

availability of the materials. Other soliciting persons also would be permitted to follow the Internet alternative. The Commission also will consider whether to propose mandating Internet disclosure of proxy materials.

5. The Commission will consider whether to propose a new antifraud rule under Section 206 of the Investment Advisers Act of 1940. The Commission will also consider whether to propose a new rule under the Securities Act of 1933 to revise the criteria for natural persons to be considered "accredited investors" for purposes of investing in certain privately offered investment vehicles.

6. The Commission will consider whether to re-open the comment period on proposed Rule 0-1(a)(7) under the Investment Company Act of 1940 to enhance the independence and effectiveness of investment company directors, and in connection therewith, to publish economic analyses of mutual fund governance and independence issues by the Office of Economic Analysis.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 551-5400.

Dated: December 6, 2006.

Nancy M. Morris,

Secretary.

[FR Doc. 06-9638 Filed 12-7-06; 10:48 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-54870; File No. SR-OPRA-2006-02]

Options Price Reporting Authority; Notice of Filing of Proposed Amendment to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information To Provide That Classes of Foreign Currency Options Newly Introduced for Trading by Any of the Parties to the Plan Be Treated Under the Provision "Special Temporary Provision for Newly Traded FCO Securities" During a Temporary Period Ending on December 31, 2007

December 5, 2006.

Pursuant to Section 11A of the Securities Exchange Act of 1934 ("Act")¹ and Rule 608 thereunder,² notice is hereby given that on November 17, 2006, the Options Price Reporting Authority ("OPRA") submitted to the Securities and Exchange Commission

¹ 15 U.S.C. 78k-1.

² 17 CFR 242.608.

("Commission") an amendment to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information ("OPRA Plan").³ The proposed OPRA Plan amendment would provide that classes of Foreign Currency Options ("FCO Securities" or "FCOs"), newly introduced for trading in the securities markets maintained by any of the parties to the OPRA Plan, will be treated by OPRA under the provision "Special Temporary Provision for Newly Traded FCO Securities" during a temporary period ending on December 31, 2007. The Commission is publishing this notice to solicit comments from interested persons on the proposed OPRA Plan amendment.

I. Description and Purpose of the Amendment

Under the terms of the OPRA Plan, subject to the exception described in Section VIII(c)(iii), FCOs traded on any of the exchanges that are parties to the Plan are ordinarily assigned to a separate "FCO service" rather than OPRA's "basic service" to which equity and index options are assigned. As a result, subject to the exception described below, separate fees and charges are imposed for access to the FCO service, and all revenues and expenses pertaining to the FCO service are allocated to a separate "FCO Accounting Center" established under Section VIII(c) of the OPRA Plan.

To date, FCOs have been traded only on the Phlx. In late 2005, at the request of the Phlx and with the Commission's approval, OPRA amended Section VIII(c) of the ORPA Plan by adding a new subparagraph (iii) thereto, which provides that during a temporary period ending on December 31, 2007, new classes of FCO Securities introduced for trading on Phlx (such classes are defined as "New FCO Securities") will be included in OPRA's basic service and not in its FCO service.⁴ The effect of the amendment is to treat New FCO

³ The OPRA Plan is a national market system plan approved by the Commission pursuant to Section 11A of the Act and Rule 608 thereunder (formerly Rule 11Aa3-2). See Securities Exchange Act Release No. 17638 (March 18, 1981), 22 S.E.C. Docket 484 (March 31, 1981). The full text of the OPRA Plan is available at <http://www.opradata.com>.

The OPRA Plan provides for the collection and dissemination of last sale and quotation information on options that are traded on the participant exchanges. The six participants to the OPRA Plan are the American Stock Exchange LLC, the Boston Stock Exchange, Inc., the Chicago Board Options Exchange, Inc., the International Securities Exchange, Inc. ("ISE"), the NYSE Arca, Inc., and the Philadelphia Stock Exchange, Inc. ("Phlx").

⁴ See Securities Exchange Act Release No. 52901 (December 6, 2005), 70 FR 74061 (December 14, 2005).

Securities as if they were equity options and not FCO Securities, with the result that during the period when subparagraph (c)(iii) of Section VIII is in effect, access to market information pertaining to New FCO Securities is not subject to the separate fees and charges that apply to OPRA's FCO service, and revenues and expenses pertaining to market information pertaining to New FCO Securities are not allocated to OPRA's FCO accounting center, but instead are allocated to its basic accounting center.

The ISE recently advised OPRA that it intends to commence trading in certain classes of FCOs, and it represented that none of the FCOs it intends to trade will be fungible with classes of FCOs traded on the Phlx. Since by its terms Section VIII(c)(iii) of the OPRA Plan currently applies only to new classes of FCOs that are listed on the Phlx, in response to the ISE's request, OPRA now proposes to amend that Section to make it apply to all classes of FCOs newly listed by any exchange that is a party to the OPRA Plan while that Section remains in effect. This will assure that all classes of newly listed FCOs will be treated the same by being included in OPRA's basic service, rather than in its FCO service regardless of the exchange on which those classes are traded.

The text of the proposed amendment to the OPRA Plan is set forth below. Text additions are in *italics*; deletions are bracketed.

* * * * *

VIII. Financial Matters

(a)–(b) No Change.

(c) FCO Accounting Center Costs and Revenues

(i)–(ii) No Change.

(iii) Special Temporary Provision for Newly Traded FCO Securities.

This paragraph (c)(iii) applies only to FCO Securities that are introduced for trading *in the securities markets maintained by any of the parties to the Plan* [on the Philadelphia Stock Exchange (“PHLX”)] during the period while this paragraph is in effect. FCO Securities introduced for trading by *any of the parties* [PHLX] during this period are referred to as “New FCO Securities.”

Notwithstanding anything in the Plan to the contrary, effective during a temporary period ending on December 31, 2007, or on such earlier date as may be established by the party or parties trading New FCO Securities, written notice of which shall be given to the other parties (“period of effectiveness”), access to information and facilities pertaining to New FCO Securities shall not be subject to the separate fees and

charges that would otherwise apply to such access pertaining to FCO Securities, but instead shall be subject to those fees and charges that apply to Eligible Securities other than FCO Options and Index Options. During the period of effectiveness, revenues derived from New FCO Securities shall be allocated to OPRA's basic accounting center and shall be further allocated among the parties as described in section VIII(a)(iv), and trades in New FCO Securities shall be treated as trades in Eligible Securities other than FCO Options and Index Options and not as trades in FCO Securities. At the close of business on the last day of the period of effectiveness, this section VIII(c)(iii) shall automatically terminate and cease to be of any further effect.

* * * * *

II. Implementation of the OPRA Plan Amendment

The proposed amendment will be effective upon its approval by the Commission pursuant to Section 11A of the Act⁵ and Rule 608 thereunder.⁶

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed OPRA Plan amendment is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File No. SR-OPRA-2006-02 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-OPRA-2006-02. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed plan

amendment that are filed with the Commission, and all written communications relating to the proposed plan amendment between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of OPRA. 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-OPRA-2006-02 and should be submitted on or before January 2, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁷

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E6-20964 Filed 12-8-06; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-54866; File No. SR-Amex-2006-111]

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Odd-Lot Rejections by Away Markets in the AEMI-One Pilot

December 4, 2006.

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 November 29, 2006, the American Stock Exchange LLC (“Amex” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the Exchange. Amex has filed this proposal pursuant to Section 19(b)(3)(A) of the Act³ and Rule 19b-4(f)(5) thereunder,⁴ which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit

⁷ 17 CFR 200.30-3(a)(29).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(5).

⁵ 15 U.S.C. 78k-1.

⁶ 17 CFR 242.608.

comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to adopt changes to its AEMI-One rules to provide for the execution of an unexecuted odd-lot balance on an aggressing order as the result of an unexecuted odd-lot balance on an away market obligation that was routed to another market by the AEMI platform to access a better-priced protected quotation.

The text of the proposed rule change is available on the Amex's Web site at <http://www.amex.com>, the Exchange's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Amex has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange has recently adopted new rules to implement an initial version of AEMI, its proposed new hybrid market trading platform for equity products and exchange-traded funds.⁵ This initial version of AEMI is referred to as AEMI-One and is operational on a pilot basis through February 4, 2007. Under the AEMI-One pilot, the AEMI platform will route orders to better-priced protected quotations of away markets. Such "away market obligations" (as defined in Exchange Rule 131-AEMI-One) are sent only in round lots. Although the quotation of an away market that AEMI is attempting to execute against is also expressed in a round lot, the possibility exists that fills at certain away markets may include odd lots since AEMI uses private linkages instead of ITS to access

such quotations in the AEMI-One pilot. For example, if Nasdaq is displaying a better bid than Amex for 200 shares of XYZ Corp. and there is an aggressing sell order in AEMI, Amex will send an away market obligation to Nasdaq (in the form of an immediate or cancel order or an intermarket sweep order) and could receive back an execution in the form of two trades for 160 shares and 40 shares, respectively.

Consequently, the possibility exists that, under unusual circumstances, AEMI might receive only a partial fill on a round-lot order and be left with a rejected odd-lot portion of a round-lot order that was suspended on the AEMI Book. In the example cited above, it is possible that 160 shares out of the 200 shares routed away would be filled but that the balance of 40 shares would be rejected. The Exchange's current Rule 205-AEMI-One addresses odd-lot orders that are submitted to AEMI as such, but it is not applicable to a rejected odd-lot portion of an order submitted for a round lot, since the latter was not intentionally for an odd lot but became an odd lot due to the action of another market.

The Exchange believes that the situation described above, in which the Exchange would be left with a rejected odd-lot portion of an away market obligation that was transmitted to another market as a round-lot order, will be a rare event. However, it is necessary to make appropriate changes to the AEMI platform and to the Exchange's AEMI-One rules to provide for this possibility.

The Exchange is therefore proposing to add language to Rule 205-AEMI-One (Manner of Executing Odd-Lot Orders) to distinguish such occurrences from the treatment of odd-lot orders that are submitted as such and to provide for the proper treatment of such odd-lot rejections by other markets. Proposed new paragraph (b)(viii) of the rule would provide that, if a partial-lot trade is received from an away market in response to an away market obligation sent by AEMI, resulting in an unexecuted balance which comprises an odd lot, then any unexecuted odd-lot balance on the aggressing order (including the unexecuted odd-lot balance from the away market obligation) shall be traded immediately against the Specialist at the last trade price of the away market obligation, and any remaining unexecuted round-lot balance shall reaggregate the AEMI Book in accordance with Rule 126A-AEMI-One.⁶

The following examples illustrate how the proposed additional rule provision would operate:

Example 1: Assume an incoming client order to buy 100 shares of XYZ Corp. AEMI routes the entire order to Nasdaq to access a better-priced offer. If the Exchange receives back a trade for only 80 shares at the limit price and a rejection for 20 shares, that 20-share odd-lot balance would trade against the Specialist at the same price as the 80-share execution on Nasdaq.

Example 2: Assume an incoming client order to buy 130 shares of XYZ Corp. AEMI routes 100 shares to Nasdaq to access a better-priced offer. If the Exchange receives back a trade for only 80 shares at the limit price and a rejection for 20 shares, the unexecuted odd-lot balance on the order of 50 shares (including the unexecuted odd-lot balance of 20 shares from the away market obligation) would trade against the Specialist at the same price as the 80-share execution on Nasdaq. This is the same outcome for the order that would have resulted if the execution at the away market had been for the entire 100 shares that was routed to that market.

Example 3: Assume an incoming client order to buy 280 shares of XYZ Corp. AEMI routes 200 shares to Nasdaq to access a better-priced offer. If the Exchange receives back a trade for 70 shares at the limit price, followed by a trade for 100 shares at the limit price and a rejection for 30 shares, the remaining unexecuted 110-share balance of the order would include an odd-lot balance of 10 shares that would trade against the Specialist at the same price as the 100-share execution on Nasdaq and a round-lot balance of 100 shares that would reaggregate the AEMI Book.

The Exchange asserts that the proposal to effect the foregoing change to the AEMI trading system does not significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and does not have the effect of limiting the access to or availability of the system.

2. Statutory Basis

The proposed rule change is designed to be consistent with Regulation NMS,⁷ as well as consistent with Section 6(b) of the Act,⁸ in general, and furthers the objectives of Section 6(b)(5),⁹ in

the aforementioned unexecuted odd-lot balance from the away market obligation could not be traded against the Specialist at the last trade price of the away market obligation without violating the Exchange's short sale tick test (Amex Rule 7), the Exchange would need to have received exemptive or no-action relief from the Commission from the requirements of Rule 10a-1 under the Act and the Exchange's related short sale rule in order to avoid leaving that odd-lot balance unexecuted. The Exchange has prepared a request for such relief and is submitting it to the Commission separately.

⁷ 17 CFR 242.600 *et seq.*

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(5).

⁵ See Securities Exchange Act Release No. 54709 (November 3, 2006), 71 FR 65847 (November 9, 2006).

⁶ In a situation where the original aggressing order in AEMI was a non-exempt short sale and the

particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not: (1) Significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; and (3) have the effect of limiting the access to or availability of an existing order entry or trading system of the Exchange, the foregoing rule change has become effective immediately pursuant to Section 19(b)(3)(A)(iii) of the Act¹⁰ and Rule 19b-4(f)(5)¹¹ thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in the furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form at <http://www.sec.gov/rules/sro.shtml>; or
- Send an e-mail to rule-comments@sec.gov. Please include File No. SR-Amex-2006-111 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 No. SR-Amex-2006-111. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site. (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR-Amex-2006-111 and should be submitted on or before January 2, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹²

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E6-20966 Filed 12-8-06; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-54873; File No. SR-NASD-2006-123]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Regarding Guidance for Adjudicating Clearly Erroneous Transactions Under NASD Rule 11890

December 5, 2006.

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 November 7, 2006, the National Association of Securities Dealers, Inc. ("NASD"), through its subsidiary, The Nasdaq Stock Market, Inc. ("Nasdaq"), filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by Nasdaq. On November 30, 2006, Nasdaq filed Amendment No. 1.³ Nasdaq filed the proposal as a "non-controversial" rule change pursuant to Section 19(b)(3)(A) of the Act,⁴ and Rule 19b-4(f)(6) thereunder,⁵ 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

Nasdaq is providing guidance regarding factors it generally considers in adjudicating clearly erroneous transactions under NASD Rule 11890.

The text of the proposed rule change is below. Proposed new language is in italics.

* * * * *

IM-11890-4. Clearly Erroneous Transaction Guidance for Filings Under Rule 11890(a) and Single Stock Events Under Rule 11890(b)(1)

Nasdaq is providing the following guidance on how it generally considers:

- *All complaints filed by market participants under Rule 11890(a); and*

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Amendment No. 1 replaced the text of the original filing in its entirety in order to make several clarifying edits to the rule text and the description thereof.

⁴ 15 U.S.C. 78s(b)(3)(A).

⁵ 17 CFR 240.19b-4(f)(6).

¹⁰ 15 U.S.C. 78s(b)(3)(A)(iii).

¹¹ 17 CFR 240.19b-4(f)(5).

¹² 17 CFR 200.30-3(a)(12).

• Many events involving a single security considered on Nasdaq's own motion pursuant to Rule 11890(b)(1).

Nasdaq generally considers a transaction to be clearly erroneous when the print is substantially inconsistent with the market price at the time of execution. In making such a determination, Nasdaq takes into account the circumstances at the time of

the transaction, the maintenance of a fair and orderly market, and the protection of investors and the public interest. Participants in Nasdaq are responsible for ensuring that the appropriate price and type of order are entered into Nasdaq's systems. Simple assertion by a firm that it made a mistake in entering an order or a quote, or that it failed to pay attention or to

update a quote, may not be sufficient to establish that a transaction was clearly erroneous.

Numerical Factors for Review

Nasdaq primarily considers the execution price of a trade in determining whether it is clearly erroneous.

Execution price	Range away from reference price
\$1.75 and under	Equal to or greater than the minimum threshold required for adjudication under Rule 11890(a)(2)(C)(ii).
Over \$1.75 and up to \$25	10%.
Over \$25 and up to \$50	5%.
Over \$50	3%.

Nasdaq uses different Reference Prices based on the time of the trade of the security in order to establish an

appropriate comparison point. These Reference Prices are detailed below. In unusual circumstances, however,

Nasdaq may use a different Reference Price.

Time of trade	Reference price
Non-Nasdaq-listed securities for trades executed between 9:30 am and 4 pm Eastern Time ("Regular Session") and after primary market has posted first two-sided quote.	The national BBO at the time of execution of first share of the disputed order.
Non-Nasdaq-listed securities for trades executed during Regular Session and before primary market has posted first two-sided quote.	The national BBO at the time of execution of first share of the disputed order. If national BBO does not appear substantially related to market, Nasdaq may consider other Reference Prices including the opening trade, indication of interest and first two-sided quote in the primary market (which may occur after the execution) and the closing price for the prior Regular Session for the security's primary market.
Non-Nasdaq-listed securities for trades executed after 4 pm and before 9:30 am Eastern Time.	Closing price of security for the last Regular Session on the security's primary market.

Additional Factors

In occasional circumstances, Nasdaq may consider additional factors in determining whether a transaction is clearly erroneous. These include:

- Material news released for the security
- Suspicious trading activity
- System malfunctions or disruptions
- Locked or crossed markets
- Trading in the security was recently halted/resumed
- The security is an initial public offering
- Volume and volatility for the security
- Stock-split, reorganization or other corporate action
- Validity of consolidated tape trades and quotes and Nasdaq BBO comparison to national BBO
- General volatility of market conditions
- Reason for the error

Additional Information Concerning Rule 11890(b)(1)

Nasdaq may on its own motion review transactions in any security in the event of:

• A disruption or malfunction in the use or operation of any quotation, execution, communication, or trade reporting system owned or operated by Nasdaq and approved by the SEC;

• Extraordinary market conditions or other circumstances in which the nullification or modification of transactions may be necessary for the maintenance of a fair and orderly market or the protection of investors and the public interest.

Consequently, Rule 11890(b)(1) is focused on systemic problems that involve large numbers of parties or trades, or market conditions where it would not be in the best interests of the market to proceed under the processes set forth in Rule 11890(a). Sometimes events involving a single security will meet the standards of Rule 11890(b)(1). However, market participants should not assume that Rule 11890(b)(1) will be available where, for example, they failed to file a complaint within the time periods specified in Rule 11890(a). The rule could be available, however, in cases where a trade not eligible for adjudication under Rule 11890(a)

nevertheless could present systemic risks if permitted to stand.

The guidance set forth in IM-11890-4 applies to many events involving a single security adjudicated pursuant to Rule 11890(b)(1). However, Nasdaq may apply the guidance set forth in IM-11890-5 to some events involving a single security, such as some situations where trading activity occurs in multiple market centers and Nasdaq is acting in consultation with other markets.

IM-11890-4 applies solely to transactions in non-Nasdaq exchange listed securities with respect to which Nasdaq exercises regulatory authority on behalf of NASD. Accordingly, IM-11890-4 will expire when Nasdaq is no longer exercising such regulatory authority.

IM-11890-5. Clearly Erroneous Transaction Guidance for Multi-Stock Events Under Rule 11890(b)(1)

Nasdaq is providing the following guidance on how it generally considers multi-stock events adjudicated on Nasdaq's own motion pursuant to Rule 11890(b)(1).

Nasdaq generally considers a transaction to be clearly erroneous when the print is substantially inconsistent with the market price at the time of execution. In making such a determination, Nasdaq takes into account the circumstances at the time of the transaction, the maintenance of a fair and orderly market, and the protection of investors and the public interest. Participants in Nasdaq are responsible for ensuring that the appropriate price and type of order are entered into Nasdaq's systems. Simple assertion by a firm that it made a mistake in entering an order or a quote, or that it failed to pay attention or to update a quote, may not be sufficient to establish that a transaction was clearly erroneous.

Nasdaq may on its own motion review transactions in any security in the event of:

- A disruption or malfunction in the use or operation of any quotation,

execution, communication, or trade reporting system owned or operated by Nasdaq and approved by the SEC; or

- Extraordinary market conditions or other circumstances in which the nullification or modification of transactions may be necessary for the maintenance of a fair and orderly market or the protection of investors and the public interest.

Consequently, Rule 11890(b)(1) is focused on systemic problems that involve large numbers of parties or trades, or market conditions where it would not be in the best interests of the market to proceed under the processes set forth in Rule 11890(a). Even in cases involving multiple securities, however, market participants should not assume that Rule 11890(b)(1) will be available where, for example, they failed to file a complaint within the time periods specified in Rule 11890(a). The rule could be available, however, in cases where a trade not eligible for

adjudication under Rule 11890(a) nevertheless could present systemic risks if permitted to stand.

The determination of whether to adjudicate an event under Rule 11890(b)(1) is made by Nasdaq in its sole discretion pursuant to the terms of the rule.

Numerical Factors for Review

Nasdaq primarily considers the execution prices of the trades in question in determining whether trades should be nullified in a multi-stock event pursuant to Rule 11890(b)(1). Generally all trades more than 10% away from the Reference Price would be clearly erroneous.

NASDAQ uses different Reference Prices based on time of the trade in order to establish an appropriate comparison point. These Reference Prices are detailed below. In unusual circumstances, however, Nasdaq may use a different Reference Price.

Time of trade	Reference price
All trades executed after the opening of trading during regular market hours and until the end of regular market hours. All securities for trades executed: <ul style="list-style-type: none"> • after 4:00 p.m., Eastern Time (ET). • before 9:30 a.m., ET. • during the market opening process for regular market hours. 	The national BBO at the time of execution of first share of the disputed order. The closing price of the security for regular market hours on the security's primary market.

In occasional circumstances, Nasdaq may consider additional factors in determining whether the transactions are clearly erroneous. These include:

- Material news released for individual securities
- Suspicious trading activity

Nasdaq may also apply the guidance set forth in IM-11890-5 to some events involving a single security, such as some situations where trading activity occurs in multiple market centers and Nasdaq is acting in consultation with markets.

IM-11890-5 applies solely to transactions in non-Nasdaq exchange listed securities with respect to which Nasdaq exercises regulatory authority on behalf of NASD. Accordingly, IM-11890-5 will expire when Nasdaq is no longer exercising such regulatory authority.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements

may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Nasdaq is adopting Interpretive Material under NASD Rule 11890 to provide guidance with regard to its consideration of transactions that may be clearly erroneous. Paragraph (a) of NASD Rule 11890 allows market participants to petition Nasdaq to nullify or modify trades in non-Nasdaq exchange-listed securities that they allege to be clearly erroneous. Paragraph (b)(1) allows Nasdaq to nullify or modify trades on its own motion in the event of a disruption or malfunction in the use or operation of Nasdaq systems or extraordinary market conditions or other circumstances in which the nullification or modification of transactions may be necessary for the maintenance of a fair and orderly market or the protection of investors and the public interest. Nasdaq is

providing one set of Interpretive Material relating to NASD Rule 11890(a) and many events involving a single stock under NASD Rule 11890(b)(1), and a second set of Interpretive Material relating to events involving multiple stocks under NASD Rule 11890(b)(1). In each case, the Interpretive Material is intended to provide market participants with insights into the factors generally considered by Nasdaq in determining whether to nullify or modify trades under the rule.⁶

At its basic level, NASD Rule 11890 is intended to allow Nasdaq to adjudicate disputes between firms as to the status of a trade, with a goal of

⁶The Interpretive Material relates solely to trades in non-Nasdaq exchange-listed securities, with respect to which Nasdaq continues to exercise regulatory authority on behalf of NASD. Thus, the trades subject to Nasdaq's authority under Rule 11890(a) include transactions executed through the ITS/CAES System and Nasdaq's Inet facility ("System Trades"), and trades subject to Nasdaq's authority under Rule 11890(b)(1) include both System Trades and over-the-counter trades in non-Nasdaq exchange-listed securities reported to the ACT System operated by Nasdaq. By its terms, the Interpretive Material will expire when Nasdaq is no longer exercising regulatory authority on behalf of NASD. The NASDAQ Stock Market LLC is also filing a version of the Interpretive Material as a Nasdaq Exchange Rule. See SR-NASDAQ-2006-046 (November 7, 2006).

preventing unjust enrichment of one market participant at the expense of another in circumstances where the terms of a trade are clearly out of line with objective market conditions for a security. Thus, NASD Rule 11890(a) allows the party that believes it made a significant error to petition for an adjudication, and in appropriate circumstances, to be relieved of the obligation to settle the trade. The rule may not be used as an insurance policy against trades that merely lose money, however. Accordingly, the rule was amended in 2005⁷ to establish a conclusive presumption that a trade is not eligible for review under NASD Rule 11890(a) unless its price deviates from the inside market for the security by an amount in excess of certain bright-line numerical thresholds. This aspect of the rule reflects the view that it is preferable to promote market certainty and accountability by market participants by allowing all trades close to the inside market to stand, even if a particular trade may arguably have been caused by a market participant error.

Nevertheless, in an environment of continual increases in the scope and speed of electronic trading, NASD Rule 11890(b)(1) provides an important safeguard against market disruptions caused by trader errors or system malfunctions that result in executions affecting multiple market participants and/or securities. Thus, NASD Rule 11890(b)(1) mitigates systemic risk by providing a mechanism to break erroneous trades that may have a serious detrimental effect on one or more market participants. NASD Rule 11890(b)(1) has been used both with

respect to events affecting a single stock, as where an erroneous order causes a large number of trades involving multiple market participants to execute, and events affecting multiple stocks, as where a system malfunction results in a more widespread problem. Because of its focus on system malfunctions and overall market integrity, market participants should not assume that NASD Rule 11890(b)(1) will be used where, for example, they failed to file a complaint within the time periods specified in NASD Rule 11890(a). However, the rule could be available in cases where a trade not eligible for adjudication under NASD Rule 11890(a) nevertheless could present systemic risks if permitted to stand. Thus, for example, if a firm's erroneous trades had the potential to cause a firm's insolvency but its petition was untimely, Nasdaq might consider using NASD Rule 11890(b)(1)(ii) to prevent the insolvency.⁸

Thus, under both parts of the rule, Nasdaq strives to strike a balance between certainty and flexibility, to ensure that (i) Similar situations are addressed in a similar manner, (ii) market participants do not attempt to use the rule to attain unfair advantage, and (iii) the rule is not written or construed in a way that may prevent action necessary to protect market quality or prevent systemic problems and thereby maintain a fair and orderly market and protect investors and the public interest. With these considerations in mind, Nasdaq believes that the Interpretive Material allows market participants to achieve a better understanding of Nasdaq's application

of the rule without limiting its adaptability. In effect, the Interpretive Material describes Nasdaq's understanding of the precedents that have emerged through years of adjudications under the rule; as with judicial precedents, they serve as a guide to future cases without constricting adaptability to new or unique fact patterns.

Both sets of Interpretive Material reflect that Nasdaq generally considers a transaction to be clearly erroneous when the print is substantially inconsistent with the market price at the time of execution. In making such a determination, Nasdaq takes into account the circumstances at the time of the transaction, the maintenance of a fair and orderly market, and the protection of investors and the public interest. The Interpretive Material also stresses that participants in Nasdaq are responsible for ensuring that the appropriate price and type of order are entered into Nasdaq's systems. Simple assertion by a firm that it made a mistake in entering an order or a quote, or that it failed to pay attention or to update a quote, may not be sufficient to establish that a transaction was clearly erroneous.

IM-11890-4 concerns all complaints filed by market participants under NASD Rule 11890(a), as well as many events involving a single security considered on Nasdaq's own motion pursuant to NASD Rule 11890(b)(1). Nasdaq primarily considers the execution price of a trade in determining whether it is clearly erroneous. Specifically, Nasdaq generally uses the following guidelines:

Execution price	Range away from reference price
\$1.75 and under	Equal to or greater than the minimum threshold required for adjudication under Rule 11890(a)(2)(C)(ii).
Over \$1.75 and up to \$25	10%.
Over \$25 and up to \$50	5%.
Over \$50	3%.

Thus, the degree of deviation from a specified reference price needed for a trade to be declared clearly erroneous depends on the execution price: securities trading at lower prices require a higher percentage deviation before they will be considered clearly erroneous, since the normal daily trading ranges for these securities generally involve larger percentage movements. In the case of securities priced at \$1.75 or below, a trade will

generally be considered clearly erroneous if it is eligible for adjudication at all under the minimum thresholds under NASD Rule 11890(a)(2)(C)(ii), since these thresholds require significant percentage deviation before a low-priced trade is eligible. Thus, in all cases, the threshold under which a trade will generally be considered clearly erroneous is equal to or greater than the eligibility threshold under Rule 11890(a)(2)(C)(ii).

Nasdaq uses different Reference Prices based on time of the trade of the security in order to establish an appropriate comparison point. These Reference Prices are detailed below. In unusual circumstances, however, Nasdaq may use a Reference Price not specifically described in the Interpretive Material. For example, in a case where material news about a security was released after market close for the security and a trade occurring after 4

⁷ Securities Exchange Act Release No. 52141 (July 27, 2005), 70 FR 44709 (August 3, 2005) (SR-NASD-2004-009).

⁸ As is the case in all instances where a firm's erroneous trades raise questions as to the adequacy

of its internal controls, Nasdaq would also refer the firm for investigation by the NASD.

p.m. and before 9:30 a.m. is at issue, it may be more appropriate to use a Reference Price derived from after-hours trading activity than to use the closing price of the security. Similarly, in the case of several large orders that execute at multiple prices, a Reference Price based on a weighted average of the BBO at relevant times may be more appropriate than a Reference Price based solely on the BBO immediately prior to the execution of the first share of the order.

Time of trade	Reference price
Non-Nasdaq-listed securities for trades executed between 9:30 a.m. and 4 p.m. Eastern Time ("Regular Session") and after primary market has posted first two-sided quote.	The national BBO at the time of execution of first share of the disputed order.
Non-Nasdaq-listed securities for trades executed during Regular Session and before primary market has posted first two-sided quote.	The national BBO at the time of execution of first share of the disputed order. If national BBO does not appear substantially related to market, Nasdaq may consider other Reference Prices including the opening trade, indication of interest and first two-sided quote in the primary market (which may occur after the execution) and the closing price for the prior Regular Session for the security's primary market.
Non-Nasdaq-listed securities for trades executed after 4 p.m. and before 9:30 a.m. Eastern Time..	Closing price of security for the last Regular Session on the security's primary market.

In occasional circumstances, Nasdaq may consider additional factors in determining whether a transaction is clearly erroneous. These include:

- Material news released for the security
- Suspicious trading activity
- System malfunctions or disruptions
- Locked or crossed markets
- Trading in the security was recently halted/resumed
- The security is an initial public offering

- Volume and volatility for the security
- Stock-split, reorganization or other corporate action
- Validity of consolidated tape trades and quotes and Nasdaq BBO comparison to national BBO
- General volatility of market conditions
- Reason for the error

IM-11890-5 concerns multi-stock events adjudicated on Nasdaq's own motion pursuant to NASD Rule 11890(b)(1). In such cases, Nasdaq

primarily considers the numerical factors of the execution prices in determining whether trades should be nullified. Generally all trades more than 10% away from the Reference Price would be clearly erroneous.⁹

Nasdaq uses different Reference Prices based on time of the trade in order to establish an appropriate comparison point. These Reference Prices are detailed below. In unusual circumstances, however, Nasdaq may use a different Reference Price.

Time of trade	Reference price
All trades executed after the opening of trading during regular market hours and until the end of regular market hours. All securities for trades executed: <ul style="list-style-type: none"> • after 4 p.m., Eastern Time (ET). • before 9:30 a.m., ET. • during the market opening process for regular market hours. 	The national BBO at the time of execution of first share of the disputed order. The closing price of the security for regular market hours on the security's primary market.

In occasional circumstances, Nasdaq may consider additional factors in determining whether the transactions in a multi-stock event are clearly erroneous, including material news released for individual securities or suspicious trading activity.

The guidance set forth in IM-11890-4 will apply to many events involving a single security adjudicated pursuant to NASD Rule 11890(b)(1). However, Nasdaq may apply the guidance set forth in IM-11890-5 to some events involving a single security, such as some situations where trading activity occurs in multiple market centers and Nasdaq is acting in consultation with other markets.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 15A of the Act,¹⁰ in general, and with Section 15A(b)(6) of the Act,¹¹ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to a free and open market and a national market system, and, in general, to protect investors and the public interest. The Interpretive Material will promote market participants' understanding of Nasdaq's application of NASD Rule 11890, thereby promoting greater certainty and accountability.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

⁹Nasdaq generally uses 10% threshold in these cases, in contrast to the sliding scale of percentages described in IM-11890-4, because multi-stock events adjudicated under Rule 11890(b) generally

require coordination with other venues trading the stock in order to ensure consistent treatment of trades across all venues affected by the event. Nasdaq has found that the 10% threshold is

generally used by other venues and therefore facilitates a coordinated and timely response.

¹⁰ 15 U.S.C. 78o-3.

¹¹ 15 U.S.C. 78o-3(b)(6).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change is subject to Section 19(b)(3)(A)(iii) of the Act¹² and Rule 19b-4(f)(6) thereunder¹³ because the proposal: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative prior to 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; provided that the self-regulatory organization has given the Commission notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

Nasdaq provided the Commission with written notice of its intent to file this proposed rule change at least five business days prior to the date of filing the proposed rule change. Nasdaq has requested that the Commission waive the 30-day operative delay. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because the filing promotes market participants' understanding of Nasdaq's application of NASD Rule 11890, thereby promoting greater certainty with regard to the administration of the rule. For these reasons, the Commission designates the proposal to be effective upon filing with the Commission.¹⁴

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.¹⁵

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-NASD-2006-123 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-NASD-2006-123. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the NASD. 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-NASD-2006-123 and should be submitted on or before January 2, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁶

Florence E. Harmon,
Deputy Secretary.

[FR Doc. E6-20965 Filed 12-8-06; 8:45 am]

BILLING CODE 8011-01-P

¹⁶ 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-54859; File No. SR-Phlx-2006-51]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing of Proposed Rule Change Relating to Performance Evaluations for Streaming Quote Traders and Remote Streaming Quote Traders

December 1, 2006.

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 November 22, 2006, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III, below, which Items have been substantially prepared by the Phlx. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx, pursuant to Section 19(b)(1) of the Act³ and Rule 19b-4 thereunder,⁴ proposes to adopt Phlx Rule 510, SQT and RSQT Performance Evaluation, to establish performance requirements for Streaming Quote Traders ("SQTs")⁵ and Remote Streaming Quote Traders ("RSQTs").⁶ The text of the proposed rule change is available on the Phlx's

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(1).

⁴ 17 CFR 240.19b-4.

⁵ An SQT is an Exchange Registered Options Trader ("ROT") who has received permission from the Exchange to generate and submit option quotations electronically through an electronic interface with AUTOM via an Exchange approved proprietary electronic quoting device in eligible options to which such SQT is assigned. See Phlx Rule 1014(b)(ii)(A). AUTOM is the Exchange's electronic order delivery, routing, execution and reporting system, which provides for the automatic entry and routing of equity option and index option orders to the Exchange trading floor. Orders delivered through AUTOM may be executed manually, or certain orders are eligible for AUTOM's automatic execution features, AUTO-X, Book Sweep and Book Match. AUTOM is today more commonly referred to as Phlx XL. See Securities Exchange Act Release No. 50100 (July 27, 2004), 69 FR 46612 (August 3, 2004) (SR-Phlx-2003-59) and Phlx Rule 1080.

⁶ An RSQT is a participant in Phlx XL who has received permission from the Exchange to trade in options for his own account, and to generate and submit option quotations electronically from off the floor of the Exchange through AUTOM in eligible options to which such RSQT has been assigned. See Phlx Rule 1014(b)(ii)(B).

¹² 15 U.S.C. 78s(b)(3)(A)(iii).

¹³ 17 CFR 240.19b-4(f)(6).

¹⁴ For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹⁵ See Section 19(b)(3)(C) of the Act, 15 U.S.C. 78s(b)(3)(C). For purposes of calculating the 60-day abrogation period, the Commission considers the proposed rule change, as amended, to have been filed on November 30, 2006, when Amendment No. 1 was filed.

Web site at <http://www.phlx.com>, at the Phlx's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Phlx included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Phlx has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to adopt new Phlx Rule 510 to (1) Establish performance requirements for SQTs and RSQTs, (2) authorize the Exchange to conduct performance evaluations periodically, and (3) authorize the Exchange's Options Allocation, Evaluation and Securities Committee ("OAESC")⁷ to take corrective action where minimum requirements are not met.

Proposed Phlx Rule 510 provides for monthly performance evaluations of SQTs and RSQTs to determine whether they have fulfilled performance standards relating to, among other things, quality of markets, efficient quote submission to the Exchange (including quotes submitted through a third party vendor), competition, observance of ethical standards, and administrative factors.

The proposal would permit the Exchange to consider requests for relief from established quote spread parameters on the Exchange⁸ and efficiency of quote submission through the Specialized Quote Feed ("SQF"), as defined in Phlx Rule 1080, Commentary .01. Failure to meet established minimum performance requirements could result in restriction by the OAESC of additional options assignments; suspension, termination, or restriction of an existing assignment on one or more options; or suspension,

termination, or restriction of an SQT's or RSQT's status as such.

New Phlx Rule 510 would establish specific criteria for each option assigned to an SQT or RSQT that would be regularly evaluated by the Exchange. First, the Exchange would evaluate the percentage of total quotes submitted by the SQT or RSQT that represent the NBBO. If the percentage of the total quotes that represent the NBBO is in the lowest quartile of all SQTs or RSQTs for two or more consecutive months, this may be considered sub-standard performance.

Second, the Exchange would evaluate the SQT or RSQT's adherence to the Exchange's established quoting requirements pursuant to Phlx Rule 1014.⁹ If an SQT or RSQT fails to meet the quoting requirements as prescribed by the rule, this may be considered sub-standard performance.

Third, the Exchange would consider the number of requests for quote spread parameter¹⁰ relief for the purposes of evaluating performance standards.

Finally, to evaluate efficient quote submission to the Exchange, the Exchange will consider how an SQT or RSQT optimizes the submission of quotes through the SQF, as defined in Phlx Rule 1080, by evaluating the number of individual quotes per quote "block" received by the Exchange.

A quote "block" is a component of the Exchange's SQF application that allows for delivery of a set of multiple quotations from the SQT or RSQT to the Exchange. Within a single "block," the SQT or RSQT can deliver quotes for any number of option series ranging from 1 to 99.

An SQT or RSQT is assigned a number of ports or lines on which they can send quote blocks. The number of lines assigned dictates the number of blocks that may be sent simultaneously by the SQT or RSQT. The number of lines assigned to an SQT or RSQT is generally a function of the number of products being quoted, taking into

account the throughput required to minimize quote latency risk.

The Exchange intends to evaluate the average number of quotes (1–99) submitted within the SQT or RSQT's quote blocks. The number of quotes delivered in each block would generally be a measure of the SQT or RSQT's quoting efficiency. For example, a firm sending an average of 1 quote in each block may be considered inefficient while a firm sending an average of 99 quotes in each block would be considered very efficient.

In general, the expenditure of systemic resources required to process an inefficient block is nearly equal to the expenditure of systemic resources required to process an efficient block. Therefore, an efficient SQT or RSQT can achieve a much higher level of quote submission than an inefficient SQT or RSQT using nearly the same amount of exchange system resources. The Exchange believes that the regular monitoring of quoting efficiency in this fashion will result in more efficient quoting on the Exchange (*i.e.*, more quotes submitted per block), thus preserving and maximizing Exchange system capacity for handling quote traffic.

In conclusion, the Exchange believes that the proposed performance requirements for SQTs and RSQTs should, among other things, promote quoting efficiency and preserve system capacity, increase competition, minimize requests for relief from quote spread parameters, and encourage efficient adherence to quoting obligations, to the benefit of customers and the marketplace in general.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act¹¹ in general, and furthers the objectives of Section 6(b)(5) of the Act¹² in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, by establishing performance standards for SQTs and RSQTs, which should, in turn, improve the quality of markets on the Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not

⁷ See Phlx By-Law Article X, Section 10–7. OAESC has jurisdiction over, among other things: the appointment of specialists on the options and foreign currency options trading floors; allocation, retention and transfer of privileges to deal in options on the trading floors; and administration of the 500 series of the Phlx rules.

⁸ See Phlx Rule 1014(c)(i)(A).

⁹ Phlx Rule 1014(b)(ii)(D)(1) provides that an SQT and an RSQT shall be responsible to quote continuous, two-sided markets in not less than 60% of the series in each option in which such SQT or RSQT is assigned, provided that, on any given day, a Directed SQT ("DSQT") or a Directed RSQT ("DRSQT") (as defined in Phlx Rule 1080(l)(i)(C)) shall be responsible to quote continuous, two-sided markets in not less than 99% of the series listed on the Exchange in at least 60% of the options in which such DSQT or DRSQT is assigned. Whenever a DSQT or DRSQT enters a quotation in an option in which such DSQT or DRSQT is assigned, such DSQT or DRSQT must maintain continuous quotations for not less than 99% of the series of the option listed on the Exchange until the close of that trading day.

¹⁰ Phlx Rule 1034 establishes maximum allowable bid/ask differentials on the Exchange.

¹¹ 15 U.S.C. 78f(b).

¹² 15 U.S.C. 78f(b)(5).

necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Phlx 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-Phlx-2006-51 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-Phlx-2006-51. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the

proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing also will be available for inspection and copying at the principal office of the Phlx. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-Phlx-2006-51 and should be submitted on or before January 2, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹³

Florence E. Harmon,
Deputy Secretary.

[FR Doc. E6-20963 Filed 12-8-06; 8:45 am]

BILLING CODE 8011-01-P

DEPARTMENT OF STATE

[Public Notice 5638]

Culturally Significant Objects Imported for Exhibition; Determinations: "Defining Modernity: European Drawings 1800-1900"

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition "Defining Modernity: European Drawings 1800-1900", imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at The J. Paul Getty Center, Los Angeles, California, from on or about June 5, 2007, until on or about September 9, 2007, and at possible additional venues yet to be determined, is in the national interest. Public Notice

of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Wolodymyr Sulzynsky, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: (202) 453-8050). The address is U.S. Department of State, SA-44, 301 4th Street, SW., Room 700, Washington, DC 20547-0001.

Dated: December 1, 2006.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E6-20999 Filed 12-8-06; 8:45 am]

BILLING CODE 4710-05-P

DEPARTMENT OF STATE

[Public Notice 5637]

Culturally Significant Objects Imported for Exhibition; Determinations: "George Stubbs (1724-1806): British Painter"

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition "George Stubbs (1724-1806): British Painter", imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at The Frick Collection, New York, New York, from on or about February 14, 2007, until on or about May 27, 2007, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Wolodymyr Sulzynsky, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: (202) 453-8050). The address is U.S. Department of State, SA-44, 301 4th Street, SW., Room 700, Washington, DC 20547-0001.

¹³17 CFR 200.30-3(a)(12).

Dated: December 1, 2006.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E6-20996 Filed 12-8-06; 8:45 am]

BILLING CODE 4710-05-P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway in California

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Limitation on Claims for Judicial Review of Actions by FHWA and Other Federal Agencies.

SUMMARY: This notice announces actions taken by the FHWA and other Federal agencies that are final within the meaning of 23 U.S.C. 139(I)(1). The actions relate to a proposed highway project, U.S. Highway 101 Prunedale Improvement Project between Kilo Posts R146.8 to 161.6 (Post Miles R91.2 to 100.4) north of the City of Salinas in Monterey County, State of California. Those actions grant approvals for the project.

DATES: By this notice, the FHWA is advising the public of final agency actions subject to 23 U.S.C. 139(I)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before June 11, 2007. If the Federal law that authorizes judicial review of a claim provides a time period of less than 180 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: Dominic Hoang, Project Development Engineer, Federal Highway Administration, 650 Capitol Mall, #4-100, Sacramento, CA 95814; weekdays 7 a.m. to 4 p.m. (Pacific time); telephone (916) 498-5002; e-mail: dominic.hoang@fhwa.dot.gov. Bobi Lyon-Ritter, Senior Environmental Planner, California Department of Transportation (Caltrans), 2015 E. Shields Avenue #100, Fresno, CA 93726; weekdays 7 a.m. to 4 p.m. (Pacific time); telephone (559) 243-8178; e-mail: bobi_lyon@dot.ca.gov.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the FHWA and other Federal agencies have taken final agency actions by issuing approvals for the following highway project in the State of California. The U.S. Highway 101 Prunedale Improvement Project would

improve safety and operations within the project limits of 9.2 miles along U.S. Highway 101 north of Salinas in Monterey County. This would be accomplished by: constructing two new interchanges; improving an existing interchange; constructing a four-lane access controlled freeway on a new alignment between 0.18 miles north of Boronda Road interchange and the intersection of Martines Road; placing median barrier at various locations; and constructing local roads including the addition of one new local-road overcrossing and one new local-road undercrossing. FHWA project reference number is PPNO 0058G. The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Environmental Assessment (EA)/Finding of No Significant Impact (FONSI) for the project, approved on March 13, 2006, and in other documents in the FHWA administrative record. The EA/FONSI, and other documents are available by contacting FHWA or Caltrans at the addresses provided above. The FHWA EA/FONSI can be viewed and downloaded from the project Web site at <http://www.dot.ca.gov/dist05/prunedale/index.htm>.

This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. General: National Environmental Policy Act (NEPA) [42 U.S.C. 4321-4351]; and Federal-Aid Highway Act [23 U.S.C. 109 and 23 U.S.C. 128].
2. Air: Clean Air Act [42 U.S.C. 7401-7671(q)].
3. Land: Landscape and Scenic Enhancement (Wildflowers) [23 U.S.C. 319].
4. Wetlands and Water Resources: Safe Drinking Water Act [42 U.S.C. 300(f)-300(j)(6)]; and Wetlands Mitigation [23 U.S.C. 103(b)(6)(m) and 133(b)(11)].
5. Wildlife: Endangered Species Act [16 U.S.C. 1531-1544 and Section 1536]; Fish and Wildlife Coordination Act [16 U.S.C. 661-667(d)]; and Migratory Bird Treaty Act [16 U.S.C. 703-712].
6. Historic and Cultural Resources: Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(f) *et seq.*]; Archaeological and Historic Preservation Act [16 U.S.C. 469-469c]; Archaeological Resources Protection Act of 1979 [16 U.S.C. 470aa *et seq.*]; and Native American Graves Protection and Repatriation Act [25 U.S.C. 3001-3013].
7. Social and Economic: Civil Rights Act of 1964 [42 U.S.C. 2000(d)-

2000(d)(1)]; Farmland Protection Policy Act [7 U.S.C. 4201-4209]; and The Uniform Relocation Assistance and Real Property Acquisition Act of 1970, as amended.

8. Hazardous Materials: Comprehensive Environmental Response, Compensation, and Liability Act [42 U.S.C. 9601-9675]; Superfund Amendments and Reauthorization Act of 1986; and Resource Conservation and Recovery Act [42 U.S.C. 6901-6992(k)].

9. Executive Orders: E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898 Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 11593 Protection and Enhancement of the Cultural Environment; E.O. 13007 Indian Sacred Sites; E.O. 13287 Preserve America; 13175 Consultation and Coordination with Indian Tribal Governments; E.O. 11514 Protection and Enhancement of Environmental Quality; and E.O. 13112 Invasive Species.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(I)(1).

Issued on: December 4, 2006.

Maiser Khaled,

Director, Project Development & Environment, Sacramento, California.

[FR Doc. E6-20949 Filed 12-8-06; 8:45 am]

BILLING CODE 4910-22-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34959]

Iowa Interstate Railroad, Ltd.— Trackage Rights Exemption—BNSF Railway Company

Pursuant to a trackage rights agreement dated November 13, 2006, between Iowa Interstate Railroad, Ltd. (IAIS) and BNSF Railway Company (BNSF), IAIS has agreed to grant BNSF overhead trackage rights on IAIS's main line between milepost 170.2, at Colona, IL, and milepost 175.4, at East Moline, IL, a distance of 5.2 miles, and over various meeting or passing tracks connecting with IAIS's main line, as IAIS may designate (the Joint Trackage).

The transaction is scheduled to be consummated on or after December 22, 2006.

The purpose of the trackage rights is to allow BNSF use of the Joint Trackage

only for overhead freight operations, involving trains, locomotives, cars and equipment operated by BNSF. Under the agreement, BNSF shall not perform any local freight service at or to any point or station located on the Joint Trackage (except for interchange with IAIS at Silvis, IL, which is covered by separate agreement). The overhead trackage rights will terminate on December 31, 2025, but the agreement will remain in effect until cancelled by either party upon 60 days' written notice.¹

As a condition to this exemption, any employee affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34959, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Jake P. DeBoever, BNSF Railway Company, 2500 Lou Menk Drive, 3rd Floor, Fort Worth, TX 76131-2828.

Board decisions and notices are available on our Web site at <http://www.stb.dot.gov>.

Decided: December 4, 2006.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,
Secretary.

[FR Doc. E6-20902 Filed 12-8-06; 8:45 am]

BILLING CODE 4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-290 (Sub-No. 286)]

Norfolk Southern Railway Company— Adverse Abandonment—St. Joseph County, IN

On November 21, 2006, the City of South Bend, IN (the City), the Brothers

¹ The trackage rights agreement provides for an initial term of 19 years. The parties must seek appropriate Board authority for the trackage rights to expire at the end of the period covered by the agreement.

of Holy Cross, Inc. (the Brothers), and the Sisters of the Holy Cross, Inc. (the Sisters) (collectively, applicants), filed an application under 49 U.S.C. 10903, requesting that the Surface Transportation Board authorize the third-party or adverse abandonment of approximately 3.7 miles of railroad lines (the Lines) owned by Norfolk Southern Railway Company (NSR).¹ The Lines are located between milepost UV 0.0 and milepost UV 2.8 and between milepost Z0 9.6 and milepost Z0 10.5, and include an industrial spur that extends from milepost Z0 9.6 to the University of Notre Dame (the University), all in St. Joseph County, IN. The Lines traverse United States Postal Service Zip Codes 46601, 46616, 46617, 46628, 46629, and 46556 and include no stations.

According to applicants, the Lines traverse properties owned by the Brothers and the Sisters. The Brothers' property is the site of Holy Cross College, Holy Cross Village (a retirement community), and other improvements and uses furthering the Brothers' charitable mission. The Sisters' property is the site of a motherhouse, the international headquarters of the Congregation of the Sisters of the Holy Cross, and the Inn at St. Mary's, and it is adjacent to St. Mary's College, which the Sisters sponsor.

Applicants state that there has been no rail service or requests for service on the Lines for at least 10 years and claim that there is no foreseeable need for rail service. Additionally, applicants claim that sections of the Lines have been paved over and removed at numerous locations and that the Lines are physically severed from the national rail system as a result of previous abandonments.²

Applicants state that the line between milepost UV 0.0 and milepost UV 2.8 crosses 17 streets in the City, two of which carry significant vehicular traffic, creating a public nuisance and significant safety and environmental concerns. They add that the City plans to acquire or condemn the portion of the right-of-way within its jurisdiction for

¹ The Chicago, Lake Shore and South Bend Railway Company (CLS&SB) filed a petition to reject applicants' notice of intent to file this adverse abandonment application on November 13, 2006, and applicants filed a reply on November 16, 2006. Applicants filed this adverse abandonment application on November 21, 2006, and CLS&SB filed a petition to reject the application on December 4, 2006. A ruling on the petitions to reject will be made in a separate decision.

² See *Conrail Abandonment in South Bend Between Milepost 10.5 and Milepost 11.8*, St. Joseph County, IN, Docket No. AB-167 (Sub-No. 407N) (ICC served Apr. 22, 1982) and *Conrail Abandonment in Berrien County, MI and St. Joseph County, IN*, Docket No. AB-167 (Sub-No. 672N) (ICC served Aug. 31, 1984).

public use in the form of a sewer system and a trail. Additionally, applicants claim that a portion of that line and of the line between milepost Z0 9.6 and milepost Z0 10.5 are adversely affecting the Brothers' ability to plan for the future because they run through the heart of its property. The Brothers and the Sisters also assert a claim under Indiana law to a reversionary interest in this section of the right-of-way.

In a decision served in this proceeding on October 26, 2006, applicants were granted waivers from some of the requirements of the Board's regulations at 49 CFR 1152 that were not relevant to their adverse abandonment application or that sought information not available to them. Specifically, applicants were granted a fee waiver; waivers from the notice requirements at 49 CFR 1152.20(a)(2)(i) and (2)(xii), 49 CFR 1152.20(a)(3), and 49 CFR 1152.21; waivers from the application requirements at 49 CFR 1152.10-14, 49 CFR 1152.22(a)(5), (b)-(d), and (i), and 49 CFR 1152.24(e)(1); and waivers from the offer of financial assistance (OFA) and public use procedures at 49 CFR 1152.27-28.

Based on the information in their possession, applicants state that the Lines do not contain any federally granted rights-of-way. Any documentation in applicants' possession will be made available promptly to those requesting it. Applicants state that they filed their entire case for abandonment with their application.

NSR has no employees on the Lines. Accordingly, there are no railroad employee interests that require labor protection.

Any interested person may file written comments concerning the proposed abandonment or protests (including the protestant's entire opposition case) by January 5, 2007. Applicants' reply is due on January 22, 2007. Because this is an adverse abandonment proceeding, OFA's and public use requests are not appropriate and will not be entertained.

The Board has not yet had occasion to decide whether the issuance of a certificate of interim trail use in an adverse abandonment would be consistent with the grant of such an application. Accordingly, any request for a trail use condition under 16 U.S.C. 1247(d) (49 CFR 1152.29) must be filed by January 5, 2007, and should address that issue. Each trail use request must be accompanied by a \$200 filing fee. See 49 CFR 1002.2(f)(27).

Persons opposing the proposed adverse abandonment who wish to participate actively and fully in the

process should file a protest. Persons who may oppose the abandonment but who do not wish to participate fully in the process by submitting verified statements of witnesses containing detailed evidence should file comments. Persons seeking information concerning the filing of protests should refer to 49 CFR 1152.25.

All filings in response to this notice must refer to STB Docket No. AB-290 (Sub-No. 286) and must be sent to: (1) Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001; and (2) Richard H. Streeter, Barnes & Thornburg LLP, 750 17th Street, NW., Suite 900, Washington, DC 20006-4657. Filings may be submitted either via the Board's e-filing format or in the traditional paper format. Any person using e-filing should comply with the instructions found on the Board's <http://www.stb.dot.gov> Web site, at the "E-FILING" link. Any person submitting a filing in the traditional paper format should send the original and 10 copies of the filing to the Board with a certificate of service. Except as otherwise set forth in 49 CFR 1152, every document filed with the Board must be served on all parties to this adverse abandonment proceeding. 49 CFR 1104.12(a).

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by Board's Section of Environmental Analysis (SEA) will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Any other persons who would like to obtain a copy of the EA (or EIS) may contact SEA. EAs in abandonment or discontinuance proceedings normally will be made available within 33 days of the filing of the application. The deadline for submission of comments on the EA will generally be within 30 days of its service. The comments received will be addressed in the Board's decision. A supplemental EA or EIS may be issued where appropriate.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565-1592 or refer to the full abandonment/discontinuance regulations at 49 CFR 1152. Questions concerning environmental issues may be directed to SEA at (202) 565-1539. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.]

Board decisions and notices are available on our Web site at <http://www.stb.dot.gov>.

Decided: December 5, 2006.

By the Board, David M. Konschnik,
Director, Office of Proceedings.

Vernon A. Williams,
Secretary.

[FR Doc. E6-21002 Filed 12-8-06; 8:45 am]

BILLING CODE 4915-01-P

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

Proposed Collection: Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently the Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Subscription For Purchase and Issue of U.S. Treasury Securities, State and Local Government Series.

DATES: Written comments should be received on or before February 12, 2007, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Vicki S. Thorpe, 200 Third Street, Parkersburg, WV 26106-1328, or Vicki.Thorpe@bpd.treas.gov.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Vicki S. Thorpe, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106-1328, (304) 480-8150.

SUPPLEMENTARY INFORMATION:

Title: Subscription For Purchase And Issue Of U.S. Treasury Securities—State And Local Government Series.

OMB Number: 1535-0092.

Form Number: PD F 4144.

Abstract: The information is requested to establish accounts for the owners of securities of State and Local Government Series.

Current Actions: None.

Type of Review: Extension.

Affected Public: State or Local Government.

Estimated Number of Respondents: 5,000.

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 2500.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: December 5, 2006.

Vicki S. Thorpe,

Manager, Graphics, Printing and Records Branch.

[FR Doc. E6-20991 Filed 12-8-06; 8:45 am]

BILLING CODE 4810-39-P

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

Proposed Collection: Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently the Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning Regulations governing the offering of United States Mortgage Guaranty Insurance Company Tax and Loss Bonds.

DATES: Written comments should be received on or before February 12, 2007, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Vicki S. Thorpe, 200 Third Street, Parkersburg, WV 26106-1328, or Vicki.Thorpe@bpd.treas.gov.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies should be directed to Vicki S. Thorpe, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106-1328, and (304) 480-8150.

SUPPLEMENTARY INFORMATION:

Title: Regulations Governing The Offering Of United States Mortgage Guaranty Insurance Company Tax and Loss Bonds.

OMB Number: 1535-0127.

Abstract: The information is requested to establish an investor account, issue and redeem securities.

Current Actions: None.

Type of Review: Extension.

Affected Public: Business.

Estimated Number of Respondents: 80.

Estimated Time Per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 20.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: December 5, 2006.

Vicki S. Thorpe,

Manager, Graphics, Printing and Records Branch.

[FR Doc. E6-20990 Filed 12-8-06; 8:45 am]

BILLING CODE 4810-39-P

DEPARTMENT OF THE TREASURY**Bureau of the Public Debt****Proposed Collection: Comment Request**

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent

burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently the Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Special Bond Of Indemnity to the United States of America.

DATES: Written comments should be received on or before February 12, 2007, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Vicki S. Thorpe, 200 Third Street, Parkersburg, WV 26106-1328, or Vicki.Thorpe@bpd.treas.gov.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of the form and instructions should be directed to Vicki S. Thorpe, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106-1328, (304) 480-8150.

SUPPLEMENTARY INFORMATION:

Title: Special Bond of Indemnity By Purchaser of United States Bonds/Notes Involved in a Chain Letter Scheme.

OMB Number: 1535-0062.

Form Number: PD F 2966.

Abstract: The information is requested to support a request for refund of the purchase price of savings bonds purchased in a chain letter scheme.

Current Actions: None.

Type of Review: Extension.

Affected Public: Individuals.

Estimated Number of Respondents: 2,400.

Estimated Time Per Respondent: 8 minutes.

Estimated Total Annual Burden Hours: 320.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection

techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: December 5, 2006.

Vicki S. Thorpe,

Manager, Graphics, Printing and Records Branch.

[FR Doc. E6-20992 Filed 12-8-06; 8:45 am]

BILLING CODE 4810-39-P

DEPARTMENT OF THE TREASURY**Bureau of the Public Debt****Proposed Collection: Comment Request**

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently the Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Request To Reissue United States Savings Bonds.

DATES: Written comments should be received on or before February 12, 2007, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Vicki S. Thorpe, 200 Third Street, Parkersburg, WV 26106-1328, or Vicki.Thorpe@bpd.treas.gov.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of the form and instructions should be directed to Vicki S. Thorpe, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106-1328, (304) 480-8150.

SUPPLEMENTARY INFORMATION:

Title: Request To Reissue United States Savings Bonds.

OMB Number: 1535-0023.

Form Number: PD F 4000.

Abstract: The information is requested to support a request for reissue and to indicate the new registration required.

Current Actions: None.

Type of Review: Extension.

Affected Public: Individuals.

Estimated Number of Respondents: 540,000.

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden

Hours: 270,000.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on:

- (a) Whether the collection of information is necessary for the proper performance of the functions of the

- agency, including whether the information shall have practical utility;
- (b) the accuracy of the agency's estimate of the burden of the collection of information;
- (c) ways to enhance the quality, utility, and clarity of the information to be collected;
- (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information

- technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: December 5, 2006.

Vicki S. Thorpe,

Manager, Graphics, Printing and Records Branch.

[FR Doc. E6-20993 Filed 12-8-06; 8:45 am]

BILLING CODE 4810-39-P

Reader Aids

Federal Register

Vol. 71, No. 237

Monday, December 11, 2006

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	202-741-6000
Laws	741-6000
Presidential Documents	
Executive orders and proclamations	741-6000
The United States Government Manual	741-6000
Other Services	
Electronic and on-line services (voice)	741-6020
Privacy Act Compilation	741-6064
Public Laws Update Service (numbers, dates, etc.)	741-6043
TTY for the deaf-and-hard-of-hearing	741-6086

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: <http://www.gpoaccess.gov/nara/index.html>

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access are located at: http://www.archives.gov/federal_register

E-mail

FEDREGTOC-L (Federal Register Table of Contents LISTSERV) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to <http://listserv.access.gpo.gov> and select *Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings)*; then follow the instructions.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to <http://listserv.gsa.gov/archives/publaws-l.html> and select *Join or leave the list (or change settings)*; then follow the instructions.

FEDREGTOC-L and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: fedreg.info@nara.gov

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATE, DECEMBER

69429-70274.....	1
70275-70456.....	4
70457-70642.....	5
70643-70850.....	6
70851-71036.....	7
71037-71462.....	8
71462-74450.....	11

CFR PARTS AFFECTED DURING DECEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

2 CFR	70860, 70862, 70865, 70868, 71475, 71478, 71480
901.....	70457 71.....69438, 70302, 70465, 70650
3 CFR	73.....70466
Proclamations:	97.....69438
8087.....	70455
8088.....	70851
8089.....	70853
Executive Orders:	
12866 (See EO	
13416).....	71033
13415.....	70641
13416.....	71033
13417.....	71459
5 CFR	
Proposed Rules:	
3201.....	70325
7 CFR	
33.....	70643
981.....	70646
1220.....	69429
1792.....	70275
Proposed Rules:	
51.....	69497
272.....	71075
273.....	71075
319.....	70330
981.....	70683
8 CFR	
1003.....	70855
10 CFR	
70.....	69430
72.....	71463
430.....	71340
431.....	71340
433.....	70275
434.....	70275
435.....	70275
600.....	70457
606.....	70457
11 CFR	
Proposed Rules:	
104.....	71084
111.....	71088, 71090, 71093
12 CFR	
205.....	69430
215.....	71472
Proposed Rules:	
205.....	69500
14 CFR	
13.....	70460
25.....	70646
39.....	70284, 70286, 70294, 70297, 70300, 70648, 70857,
	70860, 70862, 70865, 70868,
	71475, 71478, 71480
71.....	69438, 70302, 70465, 70650
73.....	70466
97.....	69438
Proposed Rules:	
39.....	70908, 71096, 71099, 71101, 71103, 71492, 71494, 71497, 71499
71.....	70909, 70911
145.....	70254
399.....	71106
17 CFR	
200.....	71037
Proposed Rules:	
240.....	71109
18 CFR	
50.....	69440
380.....	69440
Proposed Rules:	
2.....	70692
33.....	70692
40.....	70695
365.....	70692
366.....	70692
19 CFR	
12.....	69447
Proposed Rules:	
210.....	71113
21 CFR	
2.....	70870
80.....	70873
520.....	70302, 71038
558.....	70304
1301.....	69478
Proposed Rules:	
2.....	70912
1312.....	69504
25 CFR	
Proposed Rules:	
292.....	70335
502.....	71115
546.....	71115
547.....	71115
26 CFR	
1.....	70875, 70877, 71039, 71040, 71045
301.....	71040
602.....	71039, 71040, 71045
Proposed Rules:	
1.....	71116, 71241
301.....	70335
27 CFR	
Proposed Rules:	
9.....	70472

40.....70476	682.....71117	67.....70894, 70904	214.....70590
41.....70476	685.....71117	Proposed Rules:	215.....70590
44.....70476	37 CFR	67.....70930	217.....70590
45.....70476	253.....69486	47 CFR	218.....70590
28 CFR	40 CFR	2.....70671	219.....70590
61.....71047	52.....69486, 70312, 70315,	27.....70906	220.....70590
Proposed Rules:	70468, 70880, 70883, 71486,	87.....70671	221.....70590
570.....70696	71489	Proposed Rules:	222.....70590
29 CFR	63.....70651	Ch. I.....70709	223.....70590
4022.....69480	70.....70468, 70665	2.....70710	224.....70590
4044.....69481	81.....71489	87.....70710	225.....70590
Proposed Rules:	122.....69622	48 CFR	228.....70590
825.....69504	180.....70667, 70670, 71052	201.....69488	229.....70590
30 CFR	239.....71241	208.....69489	230.....70590
3.....71430	258.....71241	212.....69489, 71072	231.....70590
48.....71430	300.....70318	215.....69492	232.....70590
50.....71430	799.....71058	222.....71072	233.....70590
75.....71430	Proposed Rules:	230.....69492	234.....70590
31 CFR	52.....69519, 70338, 70339,	232.....69489	235.....70590
1.....69482	70476, 70699, 70914, 70915	252.....69489, 69492, 71072	236.....70590
Proposed Rules:	70.....70476, 70702	253.....69492	238.....70590
538.....71500	81.....70915	1802.....71072	239.....70590
560.....71500	180.....70703	1805.....71072	240.....70590
32 CFR	42 CFR	1819.....71072	241.....70590
626.....71051	405.....69624, 71062	1825.....71072	571.....70477
627.....71051	410.....69624, 71062	1827.....71072	50 CFR
656.....71051	411.....69624, 71062	1828.....71072	229.....70319, 70321
33 CFR	414.....69624, 71062	1852.....71072	622.....70680
117.....70305, 70467, 70468,	415.....69624, 71062	Proposed Rules:	648.....70682, 70906, 71073
70877	424.....69624, 71062	23.....70937	665.....69495
165.....69484, 71483	460.....71244	36.....70937	679.....70323
Proposed Rules:	462.....71244	52.....70937	Proposed Rules:
165.....69514, 69517	466.....71244	719.....70939	17.....70479, 70483, 70715,
401.....70336	473.....71244	49 CFR	70717
34 CFR	476.....71244	Proposed Rules:	229.....70339
674.....71117	482.....71378	171.....69527	622.....70492
Proposed Rules:	Proposed Rules:	172.....69527	648.....70493
	1001.....71501	173.....69527	660.....70939, 70941
44 CFR	44 CFR	174.....69527	665.....69527
65.....70885	65.....70885	178.....69527	679.....70943
		213.....70590	

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT DECEMBER 11, 2006**ENVIRONMENTAL PROTECTION AGENCY**

Air quality implementation plans; approval and promulgation; various States:

Alabama; published 10-11-06

FEDERAL COMMUNICATIONS COMMISSION

Common carrier services:

Telecommunications service providers; biennial regulatory review; published 11-9-06

FEDERAL RESERVE SYSTEM

Loans to executive officers, directors, and principal shareholders of member banks (Regulation O):

Reporting requirements; published 12-11-06

INTERIOR DEPARTMENT Fish and Wildlife Service

Endangered and threatened species:

Critical habitat designations—

Canada lynx; contiguous United States distinct population segment; published 11-9-06

NUCLEAR REGULATORY COMMISSION

Special nuclear material; domestic licensing:

Items relied on for safety; facility change process; published 9-27-06

POSTAL SERVICE

Postage meters:

Manufacture and distribution; authorization—

Postage Evidencing Systems; revisions to requirements; published 11-9-06

TRANSPORTATION DEPARTMENT**Federal Aviation Administration**

Airworthiness directives:

Airbus; published 11-6-06
Boeing; published 11-6-06

Raytheon Aircraft Co.; published 12-4-06

COMMENTS DUE NEXT WEEK**COMMERCE DEPARTMENT****National Oceanic and Atmospheric Administration**

Fishery conservation and management:

Alaska; fisheries of Exclusive Economic Zone—

Pacific halibut and sablefish; comments due by 12-18-06; published 11-1-06 [FR 06-09009]

ENERGY DEPARTMENT**Federal Energy Regulatory Commission**

Natural gas companies (Federal Power Act):

Business practice standards and communication protocols for public utilities; comments due by 12-18-06; published 11-3-06 [FR E6-18336]

ENVIRONMENTAL PROTECTION AGENCY

Air pollution; standards of performance for new stationary sources:

Industrial-commercial-institutional steam generating units; comments due by 12-18-06; published 11-16-06 [FR E6-19386]

Air quality implementation plans; approval and promulgation; various States:

Louisiana; comments due by 12-21-06; published 11-21-06 [FR E6-19642]

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

Flumioxazin; comments due by 12-18-06; published 10-18-06 [FR E6-17138]

Novaluron; comments due by 12-19-06; published 10-20-06 [FR E6-17566]

Solid wastes:

State municipal solid waste landfill permit programs— Missouri; comments due by 12-18-06; published 11-16-06 [FR E6-19383]

Missouri; comments due by 12-18-06; published 11-16-06 [FR E6-19384]

Nebraska; comments due by 12-18-06; published 11-16-06 [FR E6-19387]

Nebraska; comments due by 12-18-06; published 11-16-06 [FR E6-19388]

Toxic substances:

Hazardous substances priority list; chemical testing requirements; comments due by 12-19-06; published 10-20-06 [FR E6-17569]

FEDERAL TRADE COMMISSION

Telemarketing sales rules:

Prerecorded telemarketing calls, etc.; seller and telemarketer compliance; comments due by 12-18-06; published 11-9-06 [FR E6-19012]

HEALTH AND HUMAN SERVICES DEPARTMENT**Centers for Medicare & Medicaid Services**

Medicare:

Part D prescription drugs; data collection; comments due by 12-18-06; published 10-18-06 [FR 06-08750]

HEALTH AND HUMAN SERVICES DEPARTMENT**Food and Drug Administration**

Animal drugs, feeds, and related products:

Minor Use and Minor Species Act of 2004; implementation—

Legally marketed unapproved drugs for minor species; index; comments due by 12-20-06; published 8-22-06 [FR 06-07070]

Legally marketed unapproved drugs for minor species; index; comments due by 12-20-06; published 10-2-06 [FR E6-16208]

HOMELAND SECURITY DEPARTMENT**Customs and Border Protection Bureau**

Merchandise, special classes:

Canada; softwood lumber products; special entry requirements; comments due by 12-18-06; published 10-18-06 [FR 06-08761]

HOMELAND SECURITY DEPARTMENT**Coast Guard**

Anchorage regulations:

New York; comments due by 12-18-06; published 11-16-06 [FR E6-19314]

Drawbridge operations:

Iowa and Illinois; comments due by 12-18-06; published 11-16-06 [FR E6-19311]

Ports and waterways safety; regulated navigation areas, safety zones, security zones, etc.:

San Carlos Bay, FL; comments due by 12-21-06; published 11-21-06 [FR E6-19680]

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Public and Indian housing:

Indian Housing Block Grant Program; minimum funding extension; comments due by 12-18-06; published 10-19-06 [FR E6-17518]

INTERIOR DEPARTMENT**Indian Affairs Bureau**

Economic enterprises:

Gaming on trust lands acquired after October 1988; determination procedures

Correction; comments due by 12-19-06; published 12-4-06 [FR E6-20494]

INTERIOR DEPARTMENT**Fish and Wildlife Service**

Endangered and threatened species:

Critical habitat designations—

Suisun thistle and soft bird's-beak; comments due by 12-20-06; published 4-11-06 [FR 06-03343]

Suisun thistle and soft bird's-beak; comments due by 12-20-06; published 11-20-06 [FR E6-19572]

Yadon's piperia; comments due by 12-18-06; published 10-18-06 [FR 06-08600]

JUSTICE DEPARTMENT**Drug Enforcement Administration**

Controlled substances;

importation and exportation: Reexportation; comments due by 12-18-06; published 10-18-06 [FR E6-17275]

LABOR DEPARTMENT**Employment and Training Administration**

Trade Adjustment Assistance Program:

Alternative trade adjustment assistance for older workers; comments due by 12-18-06; published 10-18-06 [FR 06-08752]

LEGAL SERVICES CORPORATION

Client grievance procedures; comments due by 12-22-06;

published 8-21-06 [FR E6-13700]
LIBRARY OF CONGRESS
Copyright Office, Library of Congress

Copyright office and procedures:
 Retransmission of digital broadcast signals pursuant to the cable statutory license; comments due by 12-18-06; published 11-22-06 [FR E6-19794]

NATIONAL TRANSPORTATION SAFETY BOARD

Practice and procedure:
 Public availability of information; comments due by 12-22-06; published 11-22-06 [FR 06-09289]

NUCLEAR REGULATORY COMMISSION

Production and utilization facilities; domestic licensing:
 Fuel within dry storage casks or transportation packages in spent fuel pool; criticality control; comments due by 12-18-06; published 11-16-06 [FR E6-19372]

PEACE CORPS

Governmentwide debarment and suspension (nonprocurement); Federal agency guidance; comments due by 12-22-06; published 11-22-06 [FR 06-09369]

SECURITIES AND EXCHANGE COMMISSION

Securities:
 Covered securities; designation of certain securities listed on NASDAQ Stock Market LLC; comments due by 12-22-06 [FR E6-19740]

STATE DEPARTMENT

Passports:
 Card format passport; fee schedule changes; comments due by 12-18-06; published 10-17-06 [FR E6-17237]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration
 Airworthiness directives:

Airbus; comments due by 12-18-06; published 10-19-06 [FR E6-17426]

Boeing; comments due by 12-18-06; published 10-19-06 [FR E6-17428]

Bombardier; comments due by 12-20-06; published 11-20-06 [FR E6-19539]

EADS SOCATA; comments due by 12-18-06; published 11-17-06 [FR E6-19443]

Empresa Brasileira de Aeronautica S.A. (EMBRAER); comments due by 12-20-06; published 11-20-06 [FR E6-19532]

EXTRA

Flugzeugproduktions-und Vertriebs GmbH; comments due by 12-22-06; published 11-22-06 [FR E6-19762]

Fokker; comments due by 12-20-06; published 11-20-06 [FR E6-19538]

MD Helicopters, Inc.; comments due by 12-18-06; published 10-17-06 [FR E6-17186]

Raytheon; comments due by 12-18-06; published 10-17-06 [FR E6-17188]

SOCATA - Groupe AEROSPATIALE; comments due by 12-22-06; published 11-22-06 [FR E6-19801]

Turbomeca; comments due by 12-18-06; published 10-19-06 [FR E6-17328]

Airworthiness standards:

Special conditions—
 General Electric Co. GENx turbofan engine models; Open for comments until further notice; published 11-17-06 [FR 06-09230]

General Electric Co. GENx turbofan engine models; Open for comments until further notice; published 11-17-06 [FR 06-09230]

Class D airspace; comments due by 12-18-06; published 11-17-06 [FR 06-09248]

Class E airspace; comments due by 12-18-06; published 11-17-06 [FR 06-09246]

TRANSPORTATION DEPARTMENT
Pipeline and Hazardous Materials Safety Administration

Hazardous materials:
 Security plan requirements; public meeting; comments due by 12-20-06; published 9-21-06 [FR 06-07930]

TREASURY DEPARTMENT
Internal Revenue Service

Income taxes:
 Elimination of country-by-country reporting to shareholders of foreign taxes paid by regulated investment companies; comments due by 12-18-06; published 9-18-06 [FR 06-07731]

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P.L.U.S." (Public Laws Update Service) on 202-741-6043. This list is also available online at <http://www.archives.gov/federal-register/laws.html>.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202-512-1808). The text will also be made available on the Internet from GPO Access at <http://www.gpoaccess.gov/plaws/index.html>. Some laws may not yet be available.

H.R. 409/P.L. 109-375

Sierra National Forest Land Exchange Act of 2006 (Dec. 1, 2006; 120 Stat. 2656)

H.R. 860/P.L. 109-376

To provide for the conveyance of the reversionary interest of the United States in certain lands to the Clint Independent School District, El Paso County, Texas. (Dec. 1, 2006; 120 Stat. 2659)

H.R. 1129/P.L. 109-377

Pitkin County Land Exchange Act of 2006 (Dec. 1, 2006; 120 Stat. 2660)

H.R. 3085/P.L. 109-378

To amend the National Trails System Act to update the feasibility and suitability study originally prepared for the Trail of Tears National Historic Trail and provide for the inclusion of new trail segments, land components, and campgrounds associated with that trail, and for other purposes. (Dec. 1, 2006; 120 Stat. 2664)

H.R. 5842/P.L. 109-379

Pueblo of Isleta Settlement and Natural Resources Restoration Act of 2006 (Dec. 1, 2006; 120 Stat. 2666)

S. 101/P.L. 109-380

To convey to the town of Frannie, Wyoming, certain land withdrawn by the Commissioner of Reclamation. (Dec. 1, 2006; 120 Stat. 2671)

S. 1140/P.L. 109-381

To designate the State Route 1 Bridge in the State of Delaware as the "Senator William V. Roth, Jr. Bridge". (Dec. 1, 2006; 120 Stat. 2672)

S. 4001/P.L. 109-382

New England Wilderness Act of 2006 (Dec. 1, 2006; 120 Stat. 2673)

Last List November 29, 2006

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to <http://listserv.gsa.gov/archives/publaws-l.html>

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The CFR is available free on-line through the Government Printing Office's GPO Access Service at <http://www.access.gpo.gov/nara/cfr/index.html>. For information about GPO Access call the GPO User Support Team at 1-888-293-6498 (toll free) or 202-512-1530.

The annual rate for subscription to all revised paper volumes is \$1195.00 domestic, \$298.75 additional for foreign mailing.

Mail orders to the Superintendent of Documents, Attn: New Orders, P.O. Box 371954, Pittsburgh, PA 15250-7954. All orders must be accompanied by remittance (check, money order, GPO Deposit Account, VISA, Master Card, or Discover). Charge orders may be telephoned to the GPO Order Desk, Monday through Friday, at (202) 512-1800 from 8:00 a.m. to 4:00 p.m. eastern time, or FAX your charge orders to (202) 512-2250.

Title	Stock Number	Price	Revision Date
1	(869-060-00001-4)	5.00	4 Jan. 1, 2006
2	(869-060-00002-0)	5.00	Jan. 1, 2006
3 (2005 Compilation and Parts 100 and 102)	(869-060-00003-8)	35.00	1 Jan. 1, 2006
4	(869-060-00004-6)	10.00	Jan. 1, 2006
5 Parts:			
1-699	(869-060-00005-4)	60.00	Jan. 1, 2006
700-1199	(869-060-00006-2)	50.00	Jan. 1, 2006
1200-End	(869-060-00007-1)	61.00	Jan. 1, 2006
6	(869-060-00008-9)	10.50	Jan. 1, 2006
7 Parts:			
1-26	(869-060-00009-7)	44.00	Jan. 1, 2006
27-52	(869-060-00010-1)	49.00	Jan. 1, 2006
53-209	(869-060-00011-9)	37.00	Jan. 1, 2006
210-299	(869-060-00012-7)	62.00	Jan. 1, 2006
300-399	(869-060-00013-5)	46.00	Jan. 1, 2006
400-699	(869-060-00014-3)	42.00	Jan. 1, 2006
700-899	(869-060-00015-1)	43.00	Jan. 1, 2006
900-999	(869-060-00016-0)	60.00	Jan. 1, 2006
1000-1199	(869-060-00017-8)	22.00	Jan. 1, 2006
1200-1599	(869-060-00018-6)	61.00	Jan. 1, 2006
1600-1899	(869-060-00019-4)	64.00	Jan. 1, 2006
1900-1939	(869-060-00020-8)	31.00	Jan. 1, 2006
1940-1949	(869-060-00021-6)	50.00	Jan. 1, 2006
1950-1999	(869-060-00022-4)	46.00	Jan. 1, 2006
2000-End	(869-060-00023-2)	50.00	Jan. 1, 2006
8	(869-060-00024-1)	63.00	Jan. 1, 2006
9 Parts:			
1-199	(869-060-00025-9)	61.00	Jan. 1, 2006
200-End	(869-060-00026-7)	58.00	Jan. 1, 2006
10 Parts:			
1-50	(869-060-00027-5)	61.00	Jan. 1, 2006
51-199	(869-060-00028-3)	58.00	Jan. 1, 2006
200-499	(869-060-00029-1)	46.00	Jan. 1, 2006
500-End	(869-060-00030-5)	62.00	Jan. 1, 2006
11	(869-060-00031-3)	41.00	Jan. 1, 2006
12 Parts:			
1-199	(869-060-00032-1)	34.00	Jan. 1, 2006
200-219	(869-060-00033-0)	37.00	Jan. 1, 2006
220-299	(869-060-00034-8)	61.00	Jan. 1, 2006
300-499	(869-060-00035-6)	47.00	Jan. 1, 2006
500-599	(869-060-00036-4)	39.00	Jan. 1, 2006
600-899	(869-060-00037-2)	56.00	Jan. 1, 2006

Title	Stock Number	Price	Revision Date
900-End	(869-060-00038-1)	50.00	Jan. 1, 2006
13	(869-060-00039-9)	55.00	Jan. 1, 2006
14 Parts:			
1-59	(869-060-00040-2)	63.00	Jan. 1, 2006
60-139	(869-060-00041-1)	61.00	Jan. 1, 2006
140-199	(869-060-00042-9)	30.00	Jan. 1, 2006
200-1199	(869-060-00043-7)	50.00	Jan. 1, 2006
1200-End	(869-060-00044-5)	45.00	Jan. 1, 2006
15 Parts:			
0-299	(869-060-00045-3)	40.00	Jan. 1, 2006
300-799	(869-060-00046-1)	60.00	Jan. 1, 2006
800-End	(869-060-00047-0)	42.00	Jan. 1, 2006
16 Parts:			
0-999	(869-060-00048-8)	50.00	Jan. 1, 2006
1000-End	(869-060-00049-6)	60.00	Jan. 1, 2006
17 Parts:			
1-199	(869-060-00051-8)	50.00	Apr. 1, 2006
200-239	(869-060-00052-6)	60.00	Apr. 1, 2006
240-End	(869-060-00053-4)	62.00	Apr. 1, 2006
18 Parts:			
1-399	(869-060-00054-2)	62.00	Apr. 1, 2006
400-End	(869-060-00055-1)	26.00	6 Apr. 1, 2006
19 Parts:			
1-140	(869-060-00056-9)	61.00	Apr. 1, 2006
141-199	(869-060-00057-7)	58.00	Apr. 1, 2006
200-End	(869-060-00058-5)	31.00	Apr. 1, 2006
20 Parts:			
1-399	(869-060-00059-3)	50.00	Apr. 1, 2006
400-499	(869-060-00060-7)	64.00	Apr. 1, 2006
500-End	(869-060-00061-5)	63.00	Apr. 1, 2006
21 Parts:			
1-99	(869-060-00062-3)	40.00	Apr. 1, 2006
100-169	(869-060-00063-1)	49.00	Apr. 1, 2006
170-199	(869-060-00064-0)	50.00	Apr. 1, 2006
200-299	(869-060-00065-8)	17.00	Apr. 1, 2006
300-499	(869-060-00066-6)	30.00	Apr. 1, 2006
500-599	(869-060-00067-4)	47.00	Apr. 1, 2006
600-799	(869-060-00068-2)	15.00	Apr. 1, 2006
800-1299	(869-060-00069-1)	60.00	Apr. 1, 2006
1300-End	(869-060-00070-4)	25.00	Apr. 1, 2006
22 Parts:			
1-299	(869-060-00071-2)	63.00	Apr. 1, 2006
300-End	(869-060-00072-1)	45.00	7 Apr. 1, 2006
23	(869-060-00073-9)	45.00	Apr. 1, 2006
24 Parts:			
0-199	(869-060-00074-7)	60.00	Apr. 1, 2006
200-499	(869-060-00075-5)	50.00	Apr. 1, 2006
500-699	(869-060-00076-3)	30.00	Apr. 1, 2006
700-699	(869-060-00077-1)	61.00	Apr. 1, 2006
1700-End	(869-060-00078-0)	30.00	Apr. 1, 2006
25	(869-060-00079-8)	64.00	Apr. 1, 2006
26 Parts:			
§§ 1.0-1.160	(869-060-00080-1)	49.00	Apr. 1, 2006
§§ 1.61-1.169	(869-060-00081-0)	63.00	Apr. 1, 2006
§§ 1.170-1.300	(869-060-00082-8)	60.00	Apr. 1, 2006
§§ 1.301-1.400	(869-060-00083-6)	47.00	Apr. 1, 2006
§§ 1.401-1.440	(869-060-00084-4)	56.00	Apr. 1, 2006
§§ 1.441-1.500	(869-060-00085-2)	58.00	Apr. 1, 2006
§§ 1.501-1.640	(869-060-00086-1)	49.00	Apr. 1, 2006
§§ 1.641-1.850	(869-060-00087-9)	61.00	Apr. 1, 2006
§§ 1.851-1.907	(869-060-00088-7)	61.00	Apr. 1, 2006
§§ 1.908-1.1000	(869-060-00089-5)	60.00	Apr. 1, 2006
§§ 1.1001-1.1400	(869-060-00090-9)	61.00	Apr. 1, 2006
§§ 1.1401-1.1550	(869-060-00091-2)	58.00	Apr. 1, 2006
§§ 1.1551-End	(869-060-00092-5)	50.00	Apr. 1, 2006
2-29	(869-060-00093-3)	60.00	Apr. 1, 2006
30-39	(869-060-00094-1)	41.00	Apr. 1, 2006
40-49	(869-060-00095-0)	28.00	Apr. 1, 2006
50-299	(869-060-00096-8)	42.00	Apr. 1, 2006

Title	Stock Number	Price	Revision Date	Title	Stock Number	Price	Revision Date
300-499	(869-060-00097-6)	61.00	Apr. 1, 2006	63 (63.6580-63.8830)	(869-060-00150-6)	32.00	July 1, 2006
500-599	(869-060-00098-4)	12.00	⁵ Apr. 1, 2006	63 (63.8980-End)	(869-060-00151-4)	35.00	July 1, 2006
600-End	(869-060-00099-2)	17.00	Apr. 1, 2006	64-71	(869-060-00152-2)	29.00	July 1, 2006
27 Parts:				72-80	(869-060-00153-1)	62.00	July 1, 2006
1-399	(869-060-00100-0)	64.00	Apr. 1, 2006	81-85	(869-060-00154-9)	60.00	July 1, 2006
400-End	(869-060-00101-8)	18.00	Apr. 1, 2006	86 (86.1-86.599-99)	(869-060-00155-7)	58.00	July 1, 2006
28 Parts:				86 (86.600-1-End)	(869-060-00156-5)	50.00	July 1, 2006
0-42	(869-060-00102-6)	61.00	July 1, 2006	87-99	(869-060-00157-3)	60.00	July 1, 2006
43-End	(869-060-00103-4)	60.00	July 1, 2006	100-135	(869-060-00158-1)	45.00	July 1, 2006
29 Parts:				136-149	(869-060-00159-0)	61.00	July 1, 2006
0-99	(869-060-00104-2)	50.00	July 1, 2006	150-189	(869-060-00160-3)	50.00	July 1, 2006
100-499	(869-060-00105-1)	23.00	July 1, 2006	190-259	(869-060-00161-1)	39.00	July 1, 2006
500-899	(869-060-00106-9)	61.00	July 1, 2006	260-265	(869-060-00162-0)	50.00	July 1, 2006
900-1899	(869-060-00107-7)	36.00	July 1, 2006	266-299	(869-060-00163-8)	50.00	July 1, 2006
1900-1910 (§§ 1900 to 1910.999)	(869-060-00108-5)	61.00	July 1, 2006	300-399	(869-060-00164-6)	42.00	July 1, 2006
1910 (§§ 1910.1000 to end)	(869-060-00109-3)	46.00	July 1, 2006	400-424	(869-060-00165-4)	56.00	July 1, 2006
1911-1925	(869-060-00110-7)	30.00	July 1, 2006	425-699	(869-060-00166-2)	61.00	July 1, 2006
1926	(869-060-00111-5)	50.00	July 1, 2006	700-789	(869-060-00167-1)	61.00	July 1, 2006
1927-End	(869-060-00112-3)	62.00	July 1, 2006	790-End	(869-060-00168-9)	61.00	July 1, 2006
30 Parts:				41 Chapters:			
1-199	(869-060-00113-1)	57.00	July 1, 2006	1, 1-1 to 1-10		13.00	³ July 1, 1984
200-699	(869-060-00114-0)	50.00	July 1, 2006	1, 1-11 to Appendix, 2 (2 Reserved)		13.00	³ July 1, 1984
700-End	(869-060-00115-8)	58.00	July 1, 2006	3-6		14.00	³ July 1, 1984
31 Parts:				7		6.00	³ July 1, 1984
0-199	(869-060-00116-6)	41.00	July 1, 2006	8		4.50	³ July 1, 1984
200-499	(869-060-00117-4)	46.00	July 1, 2006	9		13.00	³ July 1, 1984
500-End	(869-060-00118-2)	62.00	July 1, 2006	10-17		9.50	³ July 1, 1984
32 Parts:				18, Vol. I, Parts 1-5		13.00	³ July 1, 1984
1-39, Vol. I		15.00	² July 1, 1984	18, Vol. II, Parts 6-19		13.00	³ July 1, 1984
1-39, Vol. II		19.00	² July 1, 1984	18, Vol. III, Parts 20-52		13.00	³ July 1, 1984
1-39, Vol. III		18.00	² July 1, 1984	19-100		13.00	³ July 1, 1984
1-190	(869-060-00119-1)	61.00	July 1, 2006	1-100	(869-060-00169-7)	24.00	July 1, 2006
191-399	(869-060-00120-4)	63.00	July 1, 2006	101	(869-060-00170-1)	21.00	⁸ July 1, 2006
400-629	(869-060-00121-2)	50.00	July 1, 2006	102-200	(869-060-00171-9)	56.00	July 1, 2006
630-699	(869-060-00122-1)	37.00	July 1, 2006	201-End	(869-060-00172-7)	24.00	July 1, 2006
700-799	(869-060-00123-9)	46.00	July 1, 2006	42 Parts:			
800-End	(869-060-00124-7)	47.00	July 1, 2006	1-399	(869-056-00173-8)	61.00	Oct. 1, 2005
33 Parts:				400-429	(869-056-00174-6)	63.00	Oct. 1, 2005
1-124	(869-060-00125-5)	57.00	July 1, 2006	430-End	(869-060-00175-1)	64.00	Oct. 1, 2006
125-199	(869-060-00126-3)	61.00	July 1, 2006	43 Parts:			
200-End	(869-060-00127-1)	57.00	July 1, 2006	1-999	(869-056-00176-2)	56.00	Oct. 1, 2005
34 Parts:				1000-end	(869-060-00178-6)	62.00	Oct. 1, 2006
1-299	(869-060-00128-0)	50.00	July 1, 2006	44	(869-060-00179-4)	50.00	Oct. 1, 2006
300-399	(869-060-00129-8)	40.00	July 1, 2006	45 Parts:			
400-End & 35	(869-060-00130-1)	61.00	⁸ July 1, 2006	1-199	(869-060-00180-8)	60.00	Oct. 1, 2006
36 Parts:				200-499	(869-060-00181-6)	34.00	Oct. 1, 2006
1-199	(869-060-00131-0)	37.00	July 1, 2006	500-1199	(869-060-00182-4)	56.00	Oct. 1, 2006
200-299	(869-060-00132-8)	37.00	July 1, 2006	1200-End	(869-060-00183-2)	61.00	Oct. 1, 2006
300-End	(869-060-00133-6)	61.00	July 1, 2006	46 Parts:			
37	(869-060-00134-4)	58.00	July 1, 2006	1-40	(869-056-00183-5)	46.00	Oct. 1, 2005
38 Parts:				*41-69	(869-060-00185-9)	39.00	¹⁰ Oct. 1, 2006
0-17	(869-060-00135-2)	60.00	July 1, 2006	70-89	(869-060-00186-7)	14.00	Oct. 1, 2006
18-End	(869-060-00136-1)	62.00	July 1, 2006	90-139	(869-060-00187-5)	44.00	Oct. 1, 2006
39	(869-060-00137-9)	42.00	July 1, 2006	140-155	(869-060-00188-3)	25.00	Oct. 1, 2006
40 Parts:				156-165	(869-060-00189-1)	34.00	Oct. 1, 2006
1-49	(869-060-00138-7)	60.00	July 1, 2006	166-199	(869-060-00190-5)	46.00	Oct. 1, 2006
50-51	(869-060-00139-5)	45.00	July 1, 2006	200-499	(869-060-00191-3)	40.00	Oct. 1, 2006
52 (52.01-52.1018)	(869-060-00140-9)	60.00	July 1, 2006	500-End	(869-060-00192-1)	25.00	Oct. 1, 2006
52 (52.1019-End)	(869-060-00141-7)	61.00	July 1, 2006	47 Parts:			
53-59	(869-060-00142-5)	31.00	July 1, 2006	0-19	(869-056-00192-4)	61.00	Oct. 1, 2005
60 (60.1-End)	(869-060-00143-3)	58.00	July 1, 2006	20-39	(869-060-00194-8)	46.00	Oct. 1, 2006
60 (Apps)	(869-060-00144-7)	57.00	July 1, 2006	40-69	(869-056-00194-1)	40.00	Oct. 1, 2005
61-62	(869-060-00145-0)	45.00	July 1, 2006	70-79	(869-056-00195-9)	61.00	Oct. 1, 2005
63 (63.1-63.599)	(869-060-00146-8)	58.00	July 1, 2006	*80-End	(869-060-00197-2)	61.00	Oct. 1, 2006
63 (63.600-63.1199)	(869-060-00147-6)	50.00	July 1, 2006	48 Chapters:			
63 (63.1200-63.1439)	(869-060-00148-4)	50.00	July 1, 2006	1 (Parts 1-51)	(869-056-00197-5)	63.00	Oct. 1, 2005
63 (63.1440-63.6175)	(869-060-00149-2)	32.00	July 1, 2006	1 (Parts 52-99)	(869-056-00198-3)	49.00	Oct. 1, 2005
				2 (Parts 201-299)	(869-060-00200-6)	50.00	Oct. 1, 2006
				3-6	(869-060-00201-4)	34.00	Oct. 1, 2006
				7-14	(869-060-00202-2)	56.00	Oct. 1, 2006
				15-28	(869-056-00202-5)	47.00	Oct. 1, 2005

Title	Stock Number	Price	Revision Date
29-End	(869-060-00204-9)	47.00	Oct. 1, 2006
49 Parts:			
*1-99	(869-060-00205-7)	60.00	Oct. 1, 2006
100-185	(869-056-00205-0)	63.00	Oct. 1, 2005
186-199	(869-056-00206-8)	23.00	Oct. 1, 2005
200-299	(869-056-00207-6)	32.00	Oct. 1, 2005
300-399	(869-056-00208-4)	32.00	Oct. 1, 2005
400-599	(869-056-00209-2)	64.00	Oct. 1, 2005
600-999	(869-056-00210-6)	19.00	Oct. 1, 2005
1000-1199	(869-060-00212-0)	28.00	Oct. 1, 2006
1200-End	(869-056-00212-2)	34.00	Oct. 1, 2005
50 Parts:			
1-16	(869-060-00214-6)	11.00	⁹ Oct. 1, 2006
17.1-17.95(b)	(869-056-00214-9)	32.00	Oct. 1, 2005
17.95(c)-end	(869-056-00215-7)	32.00	Oct. 1, 2005
17.96-17.99(h)	(869-060-00217-1)	61.00	Oct. 1, 2006
17.99(i)-end and 17.100-end	(869-060-00218-9)	47.00	⁹ Oct. 1, 2006
18-199	(869-056-00218-1)	50.00	Oct. 1, 2005
200-599	(869-056-00218-1)	45.00	Oct. 1, 2005
600-End	(869-056-00219-0)	62.00	Oct. 1, 2005
CFR Index and Findings			
Aids	(869-060-00050-0)	62.00	Jan. 1, 2006
Complete 2006 CFR set		1,398.00	2006
Microfiche CFR Edition:			
Subscription (mailed as issued)		332.00	2006
Individual copies		4.00	2006
Complete set (one-time mailing)		325.00	2005
Complete set (one-time mailing)		325.00	2004

¹ Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

² The July 1, 1985 edition of 32 CFR Parts 1-189 contains a note only for Parts 1-39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1-39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

³ The July 1, 1985 edition of 41 CFR Chapters 1-100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

⁴ No amendments to this volume were promulgated during the period January 1, 2005, through January 1, 2006. The CFR volume issued as of January 1, 2005 should be retained.

⁵ No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2006. The CFR volume issued as of April 1, 2000 should be retained.

⁶ No amendments to this volume were promulgated during the period April 1, 2005, through April 1, 2006. The CFR volume issued as of April 1, 2004 should be retained.

⁷ No amendments to this volume were promulgated during the period April 1, 2005, through April 1, 2006. The CFR volume issued as of April 1, 2005 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 October 1, 2005, through October 1, 2006. The CFR volume issued as of October 1, 2005 should be retained.